

RESOLUTION NO. 17-R-03

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ALVIN, TEXAS, APPROVING THE ALVIN MUSEUM AGREEMENT ESTABLISHING THE ALVIN MUSEUM SOCIETY'S UTILIZATION OF THE FORMER ALVIN POST OFFICE BUILDING.

WHEREAS, the City of Alvin owns the former federal Alvin Post Office building located at 300 W. Sealy Street, Alvin; and

WHEREAS, the City Council of the City of Alvin finds and determines that allowing the Alvin Museum Society (the "Museum Society") to utilize the former post office building (the "Building") for office space, exhibits, storage, functions and other events would be in the best interest of the residents of Alvin and visitors to the City of Alvin; and

WHEREAS, the City Council of the City of Alvin therefore authorizes the Museum Society to occupy and utilize the Building with certain conditions set forth in the Alvin Museum Agreement, attached hereto and incorporated herein by reference as Exhibit "A", **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALVIN, TEXAS, THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Proceedings. That the Alvin Museum Agreement attached hereto as Exhibit "A" is approved and the Mayor is authorized to execute the Agreement.

Section 3. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't Code*.

Section 4. Effective Date. This resolution shall take effect upon its adoption.

PASSED AND APPROVED on this the _____ day of _____, 2017.

ATTEST:

CITY OF ALVIN, TEXAS

By: _____
Dixie Roberts, City Clerk

By: _____
Paul A. Horn, Mayor

THE STATE OF TEXAS §

§ KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF BRAZORIA §

ALVIN MUSEUM AGREEMENT

This Agreement (the “Agreement”) is made and entered into on this the _____ day of _____, 2017 by and between the City of Alvin, a home–rule city and municipal corporation of the State of Texas (the “City”), and the Alvin Museum Society (the “Museum Society”), a non-profit organization under Section 501 (c) (3) of the Internal Revenue Code.

WITNESSETH:

WHEREAS, the City is the owner of a facility located at 300 W. Sealy, Alvin, Texas; and

WHEREAS, the City adopted Resolution No. 98-R-18 which stated its commitment to the establishment of the Alvin Historical Museum and defined provisions between the City and the Museum Society; and

WHEREAS, the citizens of Alvin voted a bond issue to renovate 300 W. Sealy, Alvin, Texas (the old post office building) for use as a Museum; and

WHEREAS, the Museum Society offers the preservation of Alvin’s historical past; and

WHEREAS, the City adopted Resolution 16-R-15 authorizing the Museum Society to occupy and utilize the old Alvin Post Office building with certain conditions; and

WHEREAS, both the City and the Museum Society agree that it would be mutually beneficial for the Museum Society to collect, maintain, preserve and showcase documentation, artifacts and relics of Alvin’s past for current and future generations to enjoy in the old Alvin Post Office building located at 300 W. Sealy, Alvin, Texas; and

WHEREAS, the parties desire to establish the terms of their agreement; and

WHEREAS, Resolution 17-R-03, approving this agreement, supersedes any and all previous agreements entered into between the City and Museum Society;

NOW, THEREFORE, for and in consideration of the promises and mutual covenants herein contained, the City and the Museum Society hereby covenant and agree as follows:

ARTICLE I.
DEFINITIONS

“**Alvin Museum Society**” (“**Museum Society**”) is a non-profit organization under Section 501 (c)(3) of the Internal Revenue Code, which has been established to collect, preserve and display relics of Alvin’s past history.

“**City**” is defined in the preamble hereof and includes its successors and assigns.

“**City Manager**” means the City Manager of the City of Alvin or designee.

“**Alvin Historical Museum**” (“**Museum**”) means the City’s facility located at 300 W. Sealy, Alvin, Texas.

ARTICLE II.
USE OF THE MUSEUM

2.01 Permitted Uses.

The Museum Society shall utilize the ground and second floor (mezzanine) of the Museum to collect, preserve, hold and display documentation, artifacts and relics of Alvin’s history. The Museum Society shall determine regular hours of operation for the public to view and tour the museum. The Museum Society shall establish and post entry or event fees for visitors.

The Museum Society shall be allowed use of the Museum to provide a place to:

- a. hold meetings
- b. office space
- c. storage
- d. functions
- e. exhibits
- f. serve alcohol at private events; and
- g. other related purposes.

The Museum Society shall utilize the same square footage as of the effective date of this Agreement. If the Museum Society desires to use additional space, an amendment to this Agreement shall be required. The City shall continue to utilize the basement area of the Museum for City purposes.

2.02 Quarterly Report

The Museum Society shall submit an Operational Report to the City Manager by the 10th day of January, April, July and October of each year.

2.03 Maintenance.

The Museum Society agrees to accept the Museum in its present condition and confirms its suitability and sufficiency for the use proposed by the Museum Society. The Museum Society agrees to maintain the Museum in a clean condition. The Museum Society shall not make any improvements in or changes to the Museum building without written approval of the City Manager.

Responsibilities of the Museum Society:

- Notifying the City Manager before any event or function scheduled to occur outside of normal city business hours
- The Museum Society agrees to be the sole responsible party for patrons attending any event or function serving alcohol
- Creation and maintenance of all displays including any changes in the electrical or lighting required for the displays
- Telephone service
- Security systems
- Furniture and equipment not part of the building
- Volunteers or paid staff to enable the public entry and the operation of the Museum
- Supplies
- Front sign

Responsibilities of the City:

- Utilities including electricity, water, sewer, garbage collection, and fire equipment monitoring
- Janitorial service two times a month or in response to special situations
- Maintenance of the exterior of the building and grounds, including lighting, mowing, edging, trimming, cleaning, landscaping, and repair
- Maintenance of the interior of the building including all portions of the original building or parts of the renovation of the building
- Internet service

In the event that the building and/or infrastructure (i.e.: electrical, plumbing, roofing, pipes, etc.) should require maintenance and/or repairs which costs exceed the City budget for the

Museum and the City does not have funds during the fiscal year to make such repairs, the City shall not be held liable to make such repairs until funding shall become available unless repairs or alternative measures are required to protect the assets of the Museum Society. During such an interim period, the Museum may be required to close to the public if such issues are a risk to public health and safety.

2.04 No Waste, Nuisance or Unlawful Use.

The Museum Society shall not permit, or allow to be permitted, any waste on or at the Museum, nor shall the Museum Society create or allow any nuisance or unsafe condition to exist on or at the Museum. The Museum Society shall not allow the Museum to be used for any unlawful purpose.

2.05 Right-of-Entry.

The City may enter the Museum at any time for any purpose necessary, incidental to, or connected with, the Museum Society or in the exercise of the City's governmental functions. Any such entry or re-entry shall not constitute a trespass or create a case of action for damages against the City. The Museum Society shall provide to the City Manager or his designee a master key to the building and codes to all alarm systems.

2.06 Security Measures.

The Museum Society shall comply with the City's security requirements with respect to the Museum building.

- All alarm systems shall be activated and the building secured when the building is not occupied.
- When alcohol is served at private events, the Museum Society shall comply with all state, county or local rules.
- In the event alcohol is to be present for rental of the Museum premises, an Alvin Police Officer is required for security purposes. The City Manager shall be the point of contact for any specific requirements.

This shall also include meeting all City codes and regulations unless waived in writing by the City Manager.

ARTICLE III.
TERM AND TERMINATION

3.01 Term.

The term of this Agreement shall commence on _____, 2017, and shall end on _____, 2022. Either party may send written notice to the other not less than one-hundred eighty (180) days prior to expiration of the Agreement indicating its

desire to end this Agreement. This Agreement shall continue in force until such time that it is terminated by either party according to the requirements stated above.

3.02 Modification of Agreement.

Terms of the Agreement may be renegotiated from time to time. Any changes to this Agreement shall require the City Council's and the Museum Society's approval.

3.03 Termination of Agreement.

- (a) Termination of this Agreement by the City, shall be by Resolution adopted by the City Council. Before any such Resolution is adopted, Museum Society shall be given at least thirty (30) days advance written notice. Notice shall set forth the causes and reasons for the proposed termination, shall advise Museum Society that it will be provided an opportunity to be heard by City Council regarding such proposed action before any such action is taken, and shall set forth the time, date, and place of the meeting where Council will consider the termination of this agreement.

In the event of termination for default, the City shall have the right to retain possession of the museum building, subject to the provisions of this agreement.

- (b) In the event that the Museum Society can no longer operate and maintain the Museum in a manner acceptable to the City, the Museum Society will relinquish control of the museum building to the City, terminating this agreement.
- (c) In the event of a natural or man-made disaster causing substantial damage to the museum building, the City, at its option, may select another site to locate the Museum. Should insurance not provide ample funds to repair the existing building and/or a construct a new building, the City, at its option, may elect to transfer such insurance monies to the Museum Society to proceed on its own to renovate an existing building or to construct a new facility and then terminate this Agreement.

ARTICLE IV.
INSURANCE

- 4.01 The City agrees that at its sole cost, it will procure and maintain in full place and effect during the term hereof, a policy of insurance to cover damages of the physical building and shall include general liability insurance.

- 4.02 The Museum Society shall provide insurance for its contents and personal property under its care, custody and control and liability insurance for any and all visitors and its volunteers in an amount satisfactory to the City. The Museum Society shall indemnify and hold the City harmless for any and all claims that arise during the Museum Society’s utilization of the museum building.
- 4.03 The Museum Society shall reimburse the City for any deductible amount(s) charged by the insurance carrier for the City charged as a result of damages to the physical building caused by the Museum Society.

ARTICLE V.
MISCELLANEOUS PROVISIONS

- 5.01 Modifications.
This Agreement cannot be modified except upon written authorization of the City Council. No officer or employee shall have the right to extend, modify, or change the terms hereof except by written authority of the City Council and the Museum Society.
- 5.02 Assignment.
This Agreement cannot be assigned without prior written approval of the City Council and the Museum Society.
- 5.03 Notice.
All notices required or provided pursuant to this Agreement shall be in writing and includes electronic communication. Notice by electronic communication shall be effective with a ‘read receipt’ confirmation. Notice by mail shall be effective when deposited in the United States mail, either certified or registered mail. All notices shall be addressed or emailed to the respective party at the addresses set forth below:

City of Alvin City Manager 216 W. Sealy Alvin, Texas 77511 sbreland@cityofalvin.com	Alvin Museum Society President P.O. Box 1902 Alvin, Texas 77512-1902 _____ (email address)
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- 5.04 Applicable Laws.
The Museum Society covenants and agrees that it will fully comply with all laws, ordinances, rules and regulations of the City, the State of Texas, and the United States applicable to, related to, or touching upon its operations within the Museum building located at 300 W. Sealy.

5.05 Licenses and Permits.

The Museum Society shall obtain and pay for all licenses, permits and certificates required by any statute, ordinance, rule, or regulation of any regulatory body having jurisdiction over the conduct of its operation, unless waived in writing or covered by the City.

5.06 Entire Agreement.

This Agreement contains all the agreements of the parties relating to the subject matter hereof and is the full and final expression of the agreement between the parties.

5.07 Severability.

In the event any covenant, condition or provision contained herein is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision contained herein, provided that the invalidity of any such covenant, condition or provision does not materially prejudice either the City or the Museum Society in its respective rights and obligation contained in the valid covenants, conditions and provisions of the Agreement.

5.08 Remedies Cumulative.

The City's right to terminate the Agreement under Section 3.03 is not exclusive, and the City's termination of the Agreement shall not constitute an election of remedies. Instead, it shall be in addition to any and all other legal and equitable rights and remedies which the City may have.

5.09 Place or Performance.

This Agreement shall be performable and enforceable in Brazoria County, Texas and shall be construed in accordance with the laws of the State of Texas.

5.10 Benefits.

This Agreement is made for the sole and exclusive benefit of the City of Alvin and the Museum Society and is not made for the benefit of any third party.

5.11 Ambiguities.

In the event of any ambiguity in any of the terms of this Agreement, it shall not be construed for or against any party hereto on the basis that such party did or did not authorize the same.

5.12 Successors and Assigns.

This Agreement may not extend to any successor of the Museum Society without the written consent of the Alvin City Council.

ALVIN MUSEUM SOCIETY

CITY OF ALVIN

By: _____

Name: Katheryn Mattes

Title: President

By: _____

Paul A. Horn

Mayor

ATTEST/SEAL

ATTEST/SEAL

By: _____

Name: Barbara Passmore

Title: President-Elect

By: _____

Dixie Roberts

City Clerk