

**LOCAL GOVERNMENT CODE CHAPTER 381 – MUSEUM AGREEMENT BETWEEN
HARRIS COUNTY AND ADVOCATES OF A LATINO MUSEUM OF CULTURAL AND
VISUAL ARTS & ARCHIVE COMPLEX IN HOUSTON, HARRIS COUNTY
(ALMAAHH)**

This Agreement (the “Agreement”) is entered into by and between **Harris County** (“County”), a body corporate and politic under the laws of the State of Texas, acting by and through Harris County Commissioner Precinct Two (“Precinct”), and **Advocates of a Latino Museum of Cultural and Visual Arts & Archive Complex in Houston, Harris County** (“ALMAAHH”), a non-profit. The County and ALMAAHH are referred herein collectively as the “Parties” and individually as a “Party.”

RECITALS

WHEREAS, pursuant to Tex. Loc. Gov’t Code Ann. § 381.004, as amended, the Commissioners Court of the County desires to award a certain sum to ALMAAHH in support of its museum project (“Museum”) for one or more of the following purposes: (i) for local economic development; (ii) for small or disadvantaged business development; (iii) to stimulate, encourage, and develop business location and commercial activity in the County; (iv) to improve the extent to which women and minority businesses are awarded County contracts; (v) to support comprehensive literacy programs for the benefit of County residents; and (vi) for the encouragement, promotion, improvement, and application of the arts;

WHEREAS, the Museum will showcase and accelerate Latino culture and arts by creating opportunities locally and nationally, while promoting understanding of Latinos, elevating Houston as the national center of Latino culture, education, and economic prosperity; and

WHEREAS, the County finds that the Museum will support local economic development, including by (1) stimulating, encouraging, and developing business location and commercial activity in the County and (2) encouraging, promoting, improving, and applying the arts.

NOW, THEREFORE, in consideration of the mutual promises herein, the Parties agree to the following terms and conditions:

TERMS

1. RESPONSIBILITIES OF PRECINCT:

- a) Precinct will provide Eight Hundred Thousand and 00/100 Dollars (\$800,000.00) in one up-front installment from general funds to support the Museum.
- b) Precinct will, at no additional cost, participate in up to four events (either fund-raising or artistic display & promotion) hosted by ALMAAHH throughout

the Term hereof, with the scope of such participation to be determined through mutual agreement between the Precinct and ALMAAHH.

- c) Precinct will jointly publicize events with ALMAAHH using appropriate means, including social media and printed flyers, at no additional cost to the Precinct.
- d) Precinct shall be responsible for County employees, including salary, benefits, supervision, and discipline.
- e) Precinct shall have the right to unilaterally substitute or change the employees provided to ALMAAHH.
- f) Precinct will comply with all applicable federal, state, and municipal laws, ordinances, rules, and regulations.
- g) Precinct will notify the Texas State Comptroller of this Agreement within fourteen (14) days of its mutual execution and provide a direct link on Precinct's website to the location of the agreement information published on the comptroller's website, as well as any other statutory requirements under Texas Loc. Gov't Code § 381.

2. RESPONSIBILITIES OF ALMAAHH:

- a) ALMAAHH will deliver the Feasibility Study for the Museum before the expiration of the Term;
- b) ALMAAHH will provide a yearly performance report with utilization of funds, financial statements, and account balance;
- c) ALMAAHH will make reasonable efforts to promote Latino arts and culture consistent with the themes and mission of ALMAAHH for purposes of encouragement, promotion, improvement, and application of the arts and with a goal of enhancing the quality of life for all citizens residing or working within the County.
- d) ALMAAHH will be responsible for all portions of any events, including securing all workers, vendors, sponsors, and partners for the event.
- e) ALMAAHH will provide Precinct premier logo placement in signage, print, and digital materials for events hosted by ALMAAHH.
- f) ALMAAHH will acknowledge Precinct's support in all print and digital promotions for program activities, including but not limited to social media, and press releases.
- g) ALMAAHH will be responsible for acquiring all necessary permits and approvals

for any events.

- h) ALMAAHH will host all activities and programs for any events which shall be mutually agreed upon by the Parties in advance of the event.
- i) ALMAAHH will comply with all applicable federal, state, and municipal laws, ordinances, rules, and regulations.

3. LIMITATION ON APPROPRIATION:

- a) ALMAAHH understands and agrees, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum contribution that ALMAAHH may become entitled to for the Museum under this Agreement, and the total maximum sum that the County shall become liable to pay to ALMAAHH under this Agreement, shall not under any conditions, circumstances, or interpretations thereof exceed the sum of **Eight Hundred Thousand and 00/100 Dollars (\$800,000.00)**. Notwithstanding anything to the contrary, or that may be construed to the contrary, the County's liability under the terms and provisions of this Agreement is limited to this sum.
- b) ALMAAHH understands and agrees, said understanding and agreement also being of the absolute essence of this Agreement, that failure of the Harris County Auditor to certify funds or to certify sufficient funding for any reason shall not be considered a breach of this Agreement.

4. TERM AND TERMINATION:

- a) This Agreement shall become effective on the date of execution by all Parties (the "Effective Date") and remain in full force and effect for one (1) year, unless earlier terminated by either Party (the "Term").
- b) This Agreement may be terminated by either Party with ten (10) days' written notice to the other Party, or as otherwise provided under this Agreement.

5. INDEMNIFICATION

THE PROVISIONS OF THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT HOWEVER CAUSED, AND NO PAYMENT, PARTIAL PAYMENT, OR COMPLETION OF SERVICES IN WHOLE OR IN PART SHALL WAIVE OR RELEASE ANY OF THE PROVISIONS OF THIS ARTICLE.

ALMAAHH SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY ITS OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, SUCCESSORS AND ASSIGNS ("INDEMNIFIED PARTIES") FROM AND AGAINST ALL CLAIMS AND LIABILITY DUE TO THE ACTIVITIES OF

ALMAAHH, OR ANOTHER ENTITY OVER WHICH ALMAAHH EXERCISES CONTROL, PERFORMED UNDER THIS AGREEMENT AND WHICH RESULT FROM ANY NEGLIGENT ACT, ERROR, OR OMISSION; INTENTIONAL TORT; INTELLECTUAL PROPERTY INFRINGEMENT; OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER; COMMITTED BY ALMAAHH OR ANOTHER ENTITY OVER WHICH ALMAAHH EXERCISES CONTROL.

ALMAAHH SHALL ALSO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY FROM AND AGAINST ANY AND ALL EXPENSES, INCLUDING BUT NOT LIMITED TO, REASONABLE ATTORNEY'S FEES AND EXPERT WITNESS FEES, WHICH MIGHT BE INCURRED BY THE COUNTY, IN LITIGATION OR OTHERWISE RESISTING SAID CLAIMS OR LIABILITIES WHICH MIGHT BE IMPOSED ON THE COUNTY AS THE RESULT OF SUCH ACTIVITIES BY ALMAAHH OR ANOTHER ENTITY OVER WHICH ALMAAHH EXERCISES CONTROL.

COUNTY RESERVES THE RIGHT, AT ITS OWN EXPENSE, TO BE INDEPENDENTLY REPRESENTED BY COUNSEL OF ITS OWN CHOICE IN CONNECTION WITH ANY SUCH SUIT OR PROCEEDING.

ALMAAHH SHALL INDEMNIFY, DEFEND, AND HOLD THE COUNTY HARMLESS FROM ANY AND ALL LIABILITY, EXPENSE, JUDGMENT, SUIT, CAUSE OF ACTION, OR DEMAND FOR PERSONAL INJURY, DEATH, OR DIRECT DAMAGE TO TANGIBLE PROPERTY WHICH MAY ACCRUE AGAINST THE COUNTY TO THE EXTENT IT IS CAUSED BY THE NEGLIGENCE OF ALMAAHH OR ANOTHER ENTITY OVER WHICH ALMAAHH EXERCISES CONTROL, WHILE PERFORMING SERVICES UNDER THIS AGREEMENT. COUNTY WILL GIVE ALMAAHH PROMPT, WRITTEN NOTICE OF ANY SUCH CLAIM OR SUIT. COUNTY SHALL COOPERATE WITH ALMAAHH IN ITS DEFENSE OR SETTLEMENT OF SUCH CLAIM OR SUIT.

6. INSURANCE REQUIREMENTS

- a) ALMAAHH shall, at all times during the term of this Agreement, maintain insurance coverage with not less than the type and requirements in this Article. Such insurance is to be provided at the sole cost of ALMAAHH. These requirements do not establish limits of ALMAAHH's liability.
 - i) All policies of insurance shall waive all rights of subrogation against the County, its officers, employees, and agents.

- ii) Upon request, certified copies of original insurance policies shall be furnished to the County.
 - iii) The County reserves the right to require additional insurance as it deems it necessary.
- b) ALMAAHH shall maintain at a minimum:
- i) Commercial General Liability Occurrence Form including, but not limited to, Premises and Operations, Products Liability Broad Form Property Damage, Contractual Liability, Personal and Advertising Injury Liability and where the exposure exists, coverage for watercraft, blasting collapse and explosions, blowout, cratering and underground damage.

One Million Dollars (\$1,000,000.00) each occurrence Limit Bodily Injury; Products-Completed/Operations Limit One Million Dollars (\$1,000,000.00); One Million Dollars Personal and Advertising Injury Limit (\$1,000,000.00); General Aggregate Two Million Dollars (\$2,000,000.00) per project; Umbrella/Excess Liability One Million Dollars (\$1,000,000.00) Each Occurrence, Two Million Dollars (\$2,000,000.00) Aggregate.

The County shall be named as an “additional insured” on the commercial general liability policy and any separate policies, where applicable, covering the requirements of this Article.
 - ii) Professional/Errors and Omissions Liability, One Million Dollars (\$1,000,000.00) Each Occurrence, One Million Dollars (\$1,000,000.00) Aggregate.
 - iii) Workers’ Compensation (with Waiver of subrogation to the County) Employer’s Liability, including all states, U.S. Longshoremen, Harbor Workers and other endorsements, if applicable to the Project, and in accordance with Texas state law.
 - iv) Automobile Liability Coverage: Combined single limit of One Million Dollars (\$1,000,000.00) Combined Liability Limits for Bodily Injury and Property Damage Combined. The County shall be named as an “additional insured” on the automobile policy.
 - v) Proof of insurance with proof of waiver of subrogation and County designated as an “additional insured” must be returned attached to the signed Agreement as Exhibit C, which is attached hereto and incorporated herein by reference.

7. TEXAS PUBLIC INFORMATION ACT

- a) The Parties expressly acknowledge that this Agreement is subject to the Texas Public Information Act, Tex. Gov't Code Ann. §§ 552.001 et seq., as amended (the "Act"). ALMAAHH expressly understands and agrees that the County shall release any and all information necessary to comply with Texas law without the prior written consent of ALMAAHH.
- b) It is expressly understood and agreed that the County, its officers and employees may request advice, decisions and opinions of the Attorney General of Texas ("Attorney General") in regard to the application of the Act to any software, or any part thereof, or other information or data furnished to the County, whether or not the same are available to the public. It is further understood that the County, its officers and employees shall have the right to rely on the advice, decisions, and opinions of the Attorney General, and that the County, its officers, and employees shall have no liability or obligations to ALMAAHH for the disclosure to the public, or to any person or persons, of any software, or a part thereof, or other information or data furnished to the County in reliance on any advice, decision or opinion of the Attorney General.
- c) In the event the County receives a written request for information pursuant to the Act that affects ALMAAHH's rights, title to, or interest in any information or data or a part thereof, furnished under this Agreement, then the County will promptly notify ALMAAHH of such request. ALMAAHH may, at its own option and expense, prepare comments and submit information directly to the Attorney General stating why the requested information is exempt from disclosure pursuant to the requirements of the Act. ALMAAHH is solely responsible for submitting the memorandum brief and information to the Attorney General within the time period prescribed by the Act. ALMAAHH is solely responsible for seeking any declaratory or injunctive relief regarding the disclosure of information that it deems confidential or privileged.

Electronic Mail Addresses. ALMAAHH acknowledges any e-mail addresses it provides to the County, including any agency or department of the County, are subject to disclosure under the Texas Public Information Act without prior notification of, or permission from, ALMAAHH. This acknowledgement shall apply to e-mail addresses provided by ALMAAHH and agents acting on behalf of ALMAAHH and shall apply to any e-mail address provided in any form for any reason whether related to this Agreement or otherwise. This provision shall survive termination of this Agreement.

8. **NOTICES:** Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been delivered in person or deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to ALMAAHH or Precinct at the following addresses. If mailed, any notice or communication shall be deemed to be received three (3) days after the date of deposit in the United States Mail. Any notices under this Agreement may also be provided via email

at the email addresses listed below as well as via DocuSign. Unless otherwise provided in this Agreement, all notices will be delivered to the following addresses:

ALMAAHH: Advocates of a Latino Museum of Cultural and Visual Arts
& Archive Complex In Houston, Harris County
9801 Westheimer Road, Suite 803
Houston, Texas 77042
Attention: Carlos Duarte

County: Harris County Precinct Two
14350 Wallisville Road, Suite 101
Houston, Texas 77049
Attention: Jose Jimenez

9. NO PERSONAL LIABILITY; NO WAIVER OF IMMUNITY

- a) Nothing in the Agreement is construed as creating any personal liability on the part of any officer, director, employee, or agent of any public body that may be a Party to the Agreement, and the Parties expressly agree that the execution of the Agreement does not create any personal liability on the part of any officer, director, employee, or agent of the County.
- b) The Parties agree that no provision of this Agreement extends the County's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas.
- c) Neither the execution of this Agreement nor any other conduct of either Party relating to this Agreement shall be considered a waiver by the County of any right, defense, or immunity under the Texas Constitution or the laws of the State of Texas.
- d) The County does not agree to binding arbitration, nor does the County waive its right to a jury trial.

10. ORAL REPRESENTATIONS: No oral representations of any officer, agent, or employee of ALMAAHH or the County shall affect or modify any obligations of either Party under this Agreement.

11. AUDIT RIGHTS

- b) Audit Rights. ALMAAHH shall cooperate to the fullest extent with any and all federal, state, local, or County audits related to this Agreement. ALMAAHH's cooperation shall include, but not be limited to access to the Records, in whatever

form, that are applicable to this Agreement and requested by any federal, state, local, or County entity that has rights or jurisdiction over any part of this Agreement or the funds applicable to this Agreement.

- b) **Record Retention.** ALMAAHH agrees to retain within the boundaries of Harris County, for six (6) years after the expiration of this Agreement, all Records. ALMAAHH will retain and make available, and insert the requisite clause in each applicable subcontract requiring its subcontractors to retain and make available, the Records.
12. **MODIFICATION:** The terms and conditions of this Agreement may be modified upon mutual written consent of the Parties at any time.
13. **AMENDMENT:** No amendment to this Agreement shall be valid unless it is reduced to writing and signed by the authorized representatives of the Parties.
14. **CAPTIONS:** The captions are solely for the convenience of the Parties and shall not be used in the construction of this Agreement.
15. **DISPUTE RESOLUTION:** The Parties agree to use good-faith efforts to resolve all questions, difficulties, or disputes of any nature that may arise under or by this Agreement. However, nothing in this paragraph shall preclude either Party from pursuing any remedies available under Texas law.
16. **APPLICABLE LAW AND VENUE:** This Agreement shall be construed and enforced in accordance with the laws of the State of Texas and venue for any and all claims or actions arising out of or relating to this Agreement shall be the district courts of Harris County, Texas.
17. **INDEPENDENT PARTIES.** It is expressly understood and agreed by the Parties that nothing contained in this Agreement shall be construed to constitute or create a joint venture, partnership, association or other affiliation or like relationship between the Parties, it being specifically agreed that their relationship is and shall remain that of independent parties to a contractual relationship as set forth in this Agreement. The County is an independent contractor and neither it, nor its employees or agents shall be considered to be an employee, agent, partner, or representative of ALMAAHH for any purpose. ALMAAHH, nor its employees, officers, or agents shall be considered to be employees, agents, partners or representatives of the County for any purposes. Neither Party has the authority to bind the other Party.
18. **NO THIRD-PARTY BENEFICIARIES:** This Agreement shall be for the sole and exclusive benefit of the Parties and their legal successors and assigns. The County is not obligated or liable to any party other than ALMAAHH for the performance of this Agreement. Nothing in the Agreement is intended or shall be deemed or construed to

create any additional rights or remedies upon any third party. Further, nothing contained in the Agreement shall be construed to or operate in any manner whatsoever to confer or create rights or remedies upon any third party, increase the rights or remedies of any third party, or the duties or responsibilities of County with respect to any third party.

19. **DISCRIMINATION:** Neither ALMAAHH nor the County shall discriminate on the basis of race, color, sex (including pregnancy), gender identity or expression, sexual orientation, religion, national origin, age, disability, veteran status, genetic information, or any other characteristic protected by applicable law in the performance of this Agreement.
20. **ASSIGNMENT; BINDING EFFECT:** Neither Party may assign any rights, duties, or obligations under this Agreement to an unaffiliated entity, in whole or in part, without the prior written consent of the other Party. This Agreement shall inure to the benefit of, and be binding upon, the Parties to this Agreement and their respective successors and permitted assigns.
21. **SEVERABILITY:** If any provision or part of the Agreement or its application to any person, entity, or circumstance is ever held by any court of competent jurisdiction to be invalid for any reason, the remainder of the Agreement and the application of such provision or part of the Agreement to other persons, entities, or circumstances are not affected.
22. **WAIVER OF BREACH:** Waiver by either Party of a breach or violation of any provision of the Agreement is not a waiver of any subsequent breach.
23. **SURVIVAL OF TERMS:** Any provision of this Agreement that, by its plain meaning, is intended to survive the expiration or earlier termination of this Agreement including, but not limited to the indemnification provision, shall survive such expiration or earlier termination. If an ambiguity exists as to survival, the provision shall be deemed to survive.
24. **ENTIRE AGREEMENT:** This Agreement supersedes all previous contracts or agreements between the parties and constitutes the entire understanding and agreement among the parties hereto with respect to the subject matter hereof. No waiver of any provision of this Agreement shall be valid unless such waiver is in writing and signed by the parties hereto. Any oral or written representations or modifications concerning this instrument shall not be effective excepting a subsequent written modification signed by both Parties.
25. **EXECUTION, MULTIPLE COUNTERPARTS:** This Agreement may be executed in several counterparts. Each counterpart is deemed an original. All counterparts together constitute one and the same instrument. Each Party warrants that the undersigned is a duly authorized representative with the power to execute this Agreement.

[EXECUTION PAGE FOLLOWS]

HARRIS COUNTY, TEXAS

**ADVOCATES OF A LATINO MUSEUM
OF CULTURAL AND VISUAL ARTS &
ARCHIVE COMPLEX IN HOUSTON,
HARRIS COUNTY (ALMAAHH)**

By: _____
Lina Hidalgo
County Judge

By: Carlos Duarte 9/5/2024
Carlos Duarte
President

APPROVED AS TO FORM:

CHRISTIAN D. MENEFEE
Harris County Attorney

By: Stanley Sun
Stanley Sun
Assistant County Attorney
CAO File Number: 24GEN2182

ORDER OF COMMISSIONERS COURT
Authorizing execution of an Agreement

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on _____, 2024, with all members present except _____.

A quorum was present. Among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF A LOCAL GOVERNMENT CODE
CHAPTER 381 - MUSEUM AGREEMENT BETWEEN HARRIS COUNTY AND
ADVOCATES OF A LATINO MUSEUM OF CULTURAL AND VISUAL ARTS & ARCHIVE
COMPLEX IN HOUSTON, HARRIS COUNTY (ALMAAHH)**

Commissioner _____ introduced an order and moved that Commissioners Court adopt the order. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

Vote of the Court	Yes	No	Abstain
Judge Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Briones	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order adopted follows:

IT IS ORDERED that pursuant to Texas Local Government Code Ann. §381.004, as amended, and in accordance with the Guidelines and Criteria for entering into a 381 Agreement in Harris County, the County Judge of Harris County or her designee, is hereby authorized to execute for and on behalf of Harris County a Local Government Code Chapter 381 – Museum Agreement with ALMAAHH to fund its Museum, whereby the Museum will stimulate commercial activity in the County and promote the arts, among other purposes under Local Government Code Chapter 381, for which Harris County will appropriate a maximum amount of **Eight Hundred Thousand and 00/100 Dollars (\$800,000.00)**. The 381 Agreement is incorporated herein as though fully set forth word for word.

All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purposes of this order.