

As further consideration the Brazoria County Historical Museum further agrees that it will use the funds provided by the City hereunder to seek to achieve economic benefit for the City of Angleton through all of such activities, and to provide tourist-related information about the City of Angleton upon request, and that it will serve as an advisory body to the City, on request, in matters related to expanding the tourist-derived economy.

Section III. Independent Contractor

It is expressly understood and agreed by and between the parties that the Brazoria County Historical Museum is hired and engaged as an independent contractor and is not an officer, agent or employee of the City of Angleton. The City of Angleton shall not be responsible for the day to day supervision of the Museum or its employees, but the money donated must be used for the specific purposes stated herein.

Section IV. Employees

The Brazoria County Historical Museum shall secure sufficient numbers of employees, or independent contractors, to accomplish this Agreement. The Brazoria County Historical Museum shall further provide such office space, equipment, supplies and other materials as may be necessary to accomplish the purposes of this Agreement.

Section V. Use of Funds

The Brazoria County Historical Museum agrees that any local hotel occupancy tax funds paid to it under this Agreement by the City of Angleton shall be expended in a manner that complies with State law. State Law requires that all expenditures meet criteria no. 1 and one of the additional criteria listed in numbers 2 through 7 to qualify as a “legal expenditure”.

- (1) Directly enhances and promotes tourism and the convention and hotel industry; **AND**
- (2) Funds the establishment, improvement, or maintenance of a convention center or visitor information center; **OR**
- (3) Pays the administrative costs for facilitating convention registration; **OR**
- (4) Pays for advertising, solicitations, and promotions that attract tourists and convention delegates to the City or its vicinity; **OR**
- (5) Pays for expenditures that promote the arts; **OR**
- (6) Pays for expenditures related to historical restoration or preservation programs.
- (7) Pays for expenditures to hold sporting events that substantially increases hotel activity.

At no time shall any funds donated under this agreement be used for any political purpose, nor shall any event sponsored by funds under this agreement be used to promote a political candidate or in support of a political purpose.

The Brazoria County Historical Museum must expend said funds in the following manner:

- a) Advertising outside of the local area: at least 14.28% of the funds provided through the hotel occupancy tax shall be expended on advertising and promotion of the city and its vicinity. In order for expenditure to qualify under this restriction, the advertisement must be placed in a newspaper, newsletter, magazine, or other like publication with a majority of its distribution area being located further than 75 miles from the City of Angleton.
- b) Local Event/Festival and/or advertising: at least 35.72% of the funds must be spent on a “legally qualifying” local event or festival whose purpose includes the attraction of tourists to the City of Angleton. For each event/festival on which hotel tax funds are expended the Museum must provide information to the City on the projected impact of the event on local hotels and follow up information once the event/festival is finished. These funds may also be used to advertise a local event/festival or other advertising as described in paragraph “a” above, provided said advertising has a majority of its distribution area located further than 75 miles from the City of Angleton.
- c) Visitor Information Center and/or all other legally qualifying expenditures: the remaining 50% of the funds provided may be spent for administrative expenses in support of a visitor information center and/or any other legally qualifying expenditure. Administrative expenditures shall include supplies, salaries, utilities, travel expenses, and administrative costs associated with a Visitor Information Center. However, the portion of administrative costs that are covered should not exceed the percentage of the cost that is attributable to the activity funded by the hotel occupancy tax.

Section VI. Management of Funds

The Museum agrees to maintain a separate financial account of the hotel occupancy tax funds received from the City and may not commingle the funds with any other account. It is understood and agreed by and between the parties that, upon budget approval by the City, a fiduciary duty is created in the Brazoria County Historical Museum to the City of Angleton with respect to expenditure of the revenue provided.

The Brazoria County Historical Museum agrees to maintain complete and accurate financial records of each receipt and expenditure of the hotel occupancy funds and, upon request of the City Council or other person, shall make the records available for inspection and review during the normal business hours in accordance with the Texas Public Information Act.

Section VII. Reporting Requirements

Regardless of any other provision, this section VII applies only to funds provided by the City to the Museum and the use of those funds, and not to any other finances of the Museum. Audit - For the 2007/2008 City Fiscal Year, the Museum shall provide an audit detailing the activities and actual line item expenditures to the City Council for approval that will include operational costs, advertising and promotional costs, event/festival costs and capital outlay expenses that have been paid from hotel tax revenues. Such audit shall be provided no later than January 1, 2009 to be eligible for future funding for the 2008/2009 Fiscal year. For the First Quarter of the 2008/2009 City Fiscal Year, no audit shall be required, but the Museum shall provide to the City a detailed description of actual expenses including copies of checks and/or receipts. Said detailed description is due on or before February 1, 2009 in order for the Museum to be eligible for future funding.

Audit - At the Museum's option, the Museum may request that the City's auditor perform the audit required by this paragraph; and shall reimburse the City for the additional cost of such audit. However, this option shall be null and void if for any reason the City's auditor is unable to perform the audit.

Section VIII. Transfer of Funds

The City Finance Director shall remit to the Museum a quarterly check within thirty days following the date on which hotel occupancy taxes are received by the City.

Section IX. Term and Renewal of Agreement

This Agreement shall be effective as of the date this agreement is executed by both parties and shall remain effective through December 31, 2008 (with the exception that the audit or reports due from Museum to City after December 31, 2008 will still be required). It is understood and agreed that the Brazoria County Historical Museum is not entitled to any right of automatic renewal of this Agreement for the ensuing year, or years, since such option under the Act rests exclusively with the City Council, subject to the right of either party to terminate this agreement.

Section X. Notification

Any notice necessary or appropriate relative to this Agreement shall be effective when deposited in the United States mails, either certified or registered mail, postage prepaid and addressed to the following locations:

City of Angleton
121 South Velasco
Angleton, Texas 77515

Brazoria County Historical Museum

100 East Cedar
Angleton, Texas 77515

Section XI. Assignment or Delegation

No part of this Agreement may be assigned or delegated without the prior written consent of the other party, and any attempted assignment of benefits or rights or delegation of duties or obligations shall be a breach of this Agreement. However, nothing in this Agreement shall prohibit the Brazoria County Historical Museum from participating with regional or state tourism programs or to contract for joint promotion with other agencies.

Section XII. Controlling Law

This Agreement shall be subject to the laws and statutes of the State of Texas. It is understood and agreed that in the event any provision of this Agreement is inconsistent with the requirements of the Act, or any other applicable State law, the requirements of the law will control.

Section XIII. Indemnity and Insurance Clause

To the extent allowed by law, each party agrees to and shall indemnify and hold harmless the other party, its officers, agents, and employees from any and all claims, losses, causes of action and damages, suits, and liability of every kind including all expenses of litigation, court costs, and attorney fees, for injury to or death to any person, or for damage to any property, arising from or in connection with the operations of the other party, its officers, agents and employees carried out in furtherance of this Agreement. [The Brazoria County Historical Museum shall carry or cause to be carried public liability insurance (including but not limited to hired and non-owned automobile coverage), bodily injury insurance in the amount of not less than Two Hundred Fifty Thousand and No/100 (\$250,000) for each person and Five Hundred Thousand and No/100 (\$500,000) for each occurrence, and Fifty Thousand and No/100 (\$50,000) property damage liability insurance for each occurrence. Said policies or duplicate originals thereof, must be filed with the Angleton City Secretary before any operations contemplated by this Agreement are begun.

Section XIV Prohibition against Discrimination

In the performance of this Agreement, the Brazoria County Historical Museum shall not discriminate against any employee or applicant for employment because of an individual's race, color, religion, national origin, sex, or mental or physical disability. Proven breach of this provision may be regarded as a material breach of this Agreement allowing for termination.

Section XV. Entire Agreement

This Agreement constitutes the entire agreement between the parties, relative to the hotel occupancy tax funds made the basis hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first above written.

City of Angleton, Texas

Brazoria County Historical Museum

By: _____
J. Patrick Henry, Mayor

By: _____
Morris Pachall, President, Board of Trustees

Attest:

By: _____
Jackie Haynes, Executive Director

City Secretary

Attest:

Museum Secretary