

**SERVICES CONTRACT BETWEEN THE CITY OF BROKEN ARROW AND  
ARTS OK THE REGIONAL ARTS ALLIANCE OF BROKEN ARROW**

This Agreement is entered by and between the City of Broken Arrow, Oklahoma, a municipal corporation (**City**) and the Arts OK The Regional Arts Alliance of Broken Arrow, a 501c3 organization, (**ARTSOK**). The **City** has determined there is a continuing need for educational, artistic and art-advancing programs for citizens in the **City** area. The **City** further finds that **ARTSOK** is comprised of knowledgeable people having many years' experience in this field, whose expertise can supplement the activities of the **City**. **City** desires to support the future downtown Creative Arts Center by providing funding to **ARTSOK** for a professional consultant in assisting with development and programming of the Creative Arts Center. In general, the scope of the professional consultant will be to work on the Creative Arts Center design and layout with a professional design firm, the creation of a Creative Arts Center Board of Directors, filing for 501c3 Creative Arts Center status as a not for profit organization, development of an operating and capital budgets for the facility, seek out funding for the operation of the facility, and development of a business plan for the Creative Arts Center.

The term of this Agreement commences on **November 21, 2017**, and expires **May 21, 2018**.

The **City** shall pay two payments of seven thousand five hundred dollars (\$7,500.00) to **ARTSOK** for disbursement to their professional consultant, Mark Frie, as compensation for meeting the needs described above. The first installment shall occur in **January, 2018** and the second installment shall occur in **March, 2018** In exchange for this compensation, **ARTSOK** has no authority to make any commitments that bind the **City**.

The **City** shall also reimburse **ARTSOK** for marketing materials and travel expenses incurred by Mark Frie, not to exceed fifteen thousand dollars (\$15,000.00).

The **City** shall be allowed to review **ARTSOK's** books and receive a copy of its Form 990.

**ARTSOK** is an independent contractor under this Agreement. This Agreement shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association as between the **City** and **ARTSOK** or its officers, employees, contractors or representatives for any purpose. **ARTSOK** understands that all persons furnishing services in implementing this Agreement are contractors solely of **ARTSOK**.

As partial consideration for this Agreement, **ARTSOK** agrees to indemnify, defend (at the **City's** option), and hold harmless the **City**, its employees, officials, agents, representatives and volunteers from and against any and all liabilities, damages, injuries (including death), property damage (including loss of use), claims, liens, judgments, costs, expenses, suits, actions, or proceedings, reasonable attorney's fees, and actual damages of any kind or nature, arising out of or in connection with any aspect of the acts, omissions, negligence or misconduct of **ARTSOK**, its competitors, guests, invitees, licensees, members, volunteers, representatives, employees, agents, officers, contractors or subcontractors, including but not limited to any injury or damage that occurs relating to **ARTSOK** activities, or **ARTSOK'S** performance or failure to perform the terms and conditions of this Agreement. Such obligation shall exclude only such liability actions as arise directly out of

the sole negligence or willful misconduct of the **City** and in accordance with the terms, conditions and exceptions in the Governmental Tort Claims Act. The indemnification and defense obligations set forth herein shall survive the termination of this Agreement.

This Agreement shall be subject to termination upon the failure of **ARTSOK** to keep, perform and observe all promises, covenants, conditions and agreements set forth in this Agreement. The right to terminate this Agreement upon default of **ARTSOK** is not exclusive and is in addition to any other rights and remedies provided by law or under this Agreement. Any waiver of any breach of any one or more of the covenants, conditions, terms and agreements herein contained shall not be construed to be a waiver of any subsequent or other breach of the same or of any other covenant, condition, term or agreement herein contained, nor shall failure to require exact, full, and complete compliance with any of the covenants, conditions, terms or agreements herein contained be construed as in any manner changing the terms of this Agreement or stopping the **City** from enforcing the full provisions thereof.

Neither this Agreement, nor any of the rights hereunder, shall be sold, assigned or encumbered by **ARTSOK**.

This Agreement is not a waiver of any permit or other legal requirements, and does not assure approval based upon any circumstances other than compliance with the law.

This Agreement shall be construed under the laws of the State of Oklahoma. Exclusive Original Jurisdiction and venue for any action relating to this Agreement shall be solely in the Tulsa County District Courts of Oklahoma. **ARTSOK** shall conform to and abide by all Federal, State and local laws and regulations, including, but not limited to all laws regarding employment of aliens, and that no person shall be subjected to discrimination under a project, program or activity supported by this Agreement.

This Agreement constitutes the entire agreement and understanding between the parties, and supersedes all proposals, oral or written, and all other communications between the parties with respect to the subject matter of this Agreement.

This document may be modified only by further written agreement between the parties. Any such modification shall not be effective unless and until executed by the parties.

The parties have caused this Agreement to be executed on the dates hereinafter set forth.

As approved to form:

City of Broken Arrow

\_\_\_\_\_  
Assistant City Attorney

By \_\_\_\_\_  
Michael Spurgeon, City Manager

Attested:

\_\_\_\_\_  
City Clerk / Seal

Date of Execution:

\_\_\_\_\_

BROKEN ARROW ARTS COUNCIL

By: \_\_\_\_\_

President

Printed Name: \_\_\_\_\_

Mailing Address (other than the premises address): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

State of Oklahoma )

) ss.

County of Wagoner )

Before me, a Notary Public, on this \_\_\_\_ day of \_\_\_\_\_, 2017 personally appeared \_\_\_\_\_, known to me to be the identical person who executed the within and foregoing instrument, and as President of the Broken Arrow Arts and Humanities Council, acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

My Commission Expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public