

## **MURAL AGREEMENT BETWEEN THE CITY OF BROKEN ARROW AND ARTIST**

This Agreement is entered \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between the Broken Arrow Historical Society, doing business as The Museum Broken Arrow, an Oklahoma Not for Profit Corporation (**Museum**), City of Broken Arrow, Oklahoma, a municipal corporation (**City**), and Carlos Barboza, an individual of Oklahoma County, Oklahoma (**Artist**) for the purposes of setting forth the agreement of the City and Artist concerning the painting of a mural on the side of the building located at 400 South Main Street, Broken Arrow, OK.

Recognizing that the painting of a mural on the side of the City's building will be of benefit to the Museum, City and Artist, the parties agree as follows:

1. City and Museum authorizes Artist to paint a mural on the outside South wall of the building located at 400 South Main Street, Broken Arrow, OK. Prior to painting of the mural, the parties will agree on modifications or improvements that will be made to the wall, and, if necessary, other structures of the building to accommodate the mural. Museum will undertake these modifications or improvements, with the cost being paid by the Museum. All modifications to the property shall be agreed on in writing by the City. The City shall have the absolute final decision in approving the mural.
2. The mural will relate to the project goal of installing a historical public art mural, with the theme and design of the mural being within the discretion of the City of Broken Arrow.
3. Artist agrees that the mural may be maintained on the building wall for ten (10) years. During that time, Artist, Museum and City agree not to interfere with the appearance or artistic impression of the mural by placing obstructions in front, above or below the mural in a way that detracts from the appearance of the mural.
4. The Artist's fee shall be \$33,789 inclusive of all costs associated with the mural, including but not limited to the Artist's design fee, presentation of mock-up expenses, materials and equipment, scaffolding, installation labor, travel to and from the site, per diem expenses, project documentation, insurance, contingency to cover unexpected expenses and any other costs related to the mural. Said fee shall be solely paid by Museum.
5. Artist agrees to complete the mural no later than May 25, 2021. Artist agrees to use only materials of the highest quality, designed and fabricated for durability and low maintenance and including the application of an anti-graffiti protective coating/sealant.
6. Artist will provide all necessary insurance for any aspect of creation, installation or exhibition of this project.
7. Museum retains all ownership rights to the mural as artistic work, including marketing, copyright, and exhibition rights. Artist irrevocably grants Museum, its officers, agents and employees the unconditional right and permission to use, reproduce, copy, sell, exhibit, publish or distribute in whole or in part, in any medium now or later developed, photographs and any other two or three dimensional reproductions of the artwork for informational, educational, promotional, public relations, advertising, tourism, art, commercial, or non-commercial purposes without charge to Museum and without payment to the Artist of any compensation, fee, royalty or damages. Museum, has express, unlimited, approval and right to market and distribute copies, photographs, or other depictions of the mural. Museum irrevocably grants City, its officers, agents and employees the unconditional right and permission to use, reproduce, copy, exhibit, publish, market or

distribute in whole or in part photographs or any other two dimensional reproductions of the artwork for informational, educational, promotional, public relations, advertising, tourism, or other non-commercial purposes without charge or payment of any compensation, fee, royalty or damages. Artist shall retain the right to include the mural in photographs, films, or videotapes only for use in advertising the business of Artist.

8. Artist will not make any modifications to the mural without the express written consent of both the Museum and the City of Broken Arrow. City shall have the sole right and responsibility to maintain the mural, and Artist grants City and Museum a license to do so. During the ten (10) year period of this agreement, City and Museum shall have the right and license to replace the mural with a different mural based upon the same, or a different historical theme as the original mural.
9. In exchange for City and Museum's permitting Artist to participate in the mural project, Artist releases, discharges, holds harmless and will not make a claim against nor sue and waives any right against recovery from Museum or the City of Broken Arrow or their respective representatives, beneficiaries or assigns arising out of the Artist's participation in the mural project for any bodily injury or personal injury, Museum or City's use of Artist's artwork, including but not limited to any and all claims or lawsuits for invasion of privacy, defamation, infringement of copyright or damage or vandalism to, or loss of Artist's artwork, however caused.
10. Artist agrees to indemnify, defend and hold harmless Museum and City, and their respective representatives, beneficiaries or assigns from an against all claims, demands, lawsuits, causes of action, proceedings, losses, damages, costs, fees and expenses arising out of the Artist's infringement on a patent, copyright, trademark, trade name, or other proprietary right of a third party.
11. This agreement shall not be assigned by the Artist.
12. This agreement represents the entire agreement between Artist, Museum and City of Broken Arrow. The invalidity, in whole or in part, of any term of this agreement shall not affect the remaining terms' validity.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2021.

**BROKEN ARROW HISTORICAL SOCIETY**  
D/B/A The Museum Broken Arrow

---

By Ina Dilldine, Board President

THE CITY OF BROKEN ARROW

---

Michael Spurgeon, City Manager

---

Attest

Approved as to form:

---

Deputy City Attorney

ARTIST

---

Artist – Carlos Barboza