

SERVICES CONTRACT BETWEEN THE CITY OF BROKEN ARROW AND KEEP BROKEN ARROW BEAUTIFUL

This Agreement is entered by and between the City of Broken Arrow, Oklahoma, a municipal corporation (**City**), and Keep Broken Arrow Beautiful, (**KBAB**). The **City** has determined there is a continuing need for assistance with the Rose Festival. The **City** further finds that **KBAB** is comprised of knowledgeable people having many years of experience in this field, whose expertise can supplement the activities of the **City**. The **City** desires to support the 2024 Rose Festival event in Broken Arrow, subject to annual appropriations.

The **City** shall pay Keep Broken Arrow Beautiful through Visit Broken Arrow funding, an amount not to exceed Seven Thousand Five Hundred Dollars and 00/100ths (\$7,500.00), subject to annual appropriations, to help offset the costs for porta johns, stage, sound system, entertainment, security, trash service, and miscellaneous event costs for the 2024 festival year.

The **City** shall be allowed to review **KBAB**'s income and expenses for the Rose Festival and receive a copy of its Form 990.

KBAB 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 **KBAB** or its officers, employees, contractors, or representatives for any purpose. **KBAB** understands that all persons furnishing services in implementing this Agreement are contractors solely of **KBAB**.

As partial consideration for this Agreement, **KBAB** 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 **KBAB**, 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 **KBAB** activities, or **KBAB**'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 **KBAB** 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 **KBAB** 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 breaches of the same or 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 **KBAB**.

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. **KBAB** shall conform to and abide by all Federal, State, and local laws and regulations, including, but not limited to all laws regarding the employment of aliens, and 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

Keep Broken Arrow Beautiful

Attested:

City Clerk/Seal