

**CONTRACT FOR ECONOMIC DEVELOPMENT SERVICES BETWEEN THE
BROKEN ARROW ECONOMIC DEVELOPMENT AUTHORITY AND THE BROKEN
ARROW ECONOMIC DEVELOPMENT CORPORATION**

This Contract is made and entered into this 19th day of July 2022, by and between the Broken Arrow Economic Development Corporation, an Oklahoma non-profit corporation, hereinafter referred to as "BAEDC," and the Broken Arrow Economic Development Authority, hereinafter referred to as "BAEDA" a public trust, whose sole beneficiary is the City of Broken Arrow.

WHEREAS, BAEDA has adopted an economic development strategy for the City of Broken Arrow; and

WHEREAS, this strategy specifically outlines activities and efforts needed to encourage and facilitate economic development in the community by attracting new retail sales businesses, commercial businesses and industries to the Broken Arrow area, and by promoting the economic health and expansion of existing retail sales businesses, commercial businesses and industries within Broken Arrow and diversifying the City's economy; and

WHEREAS, BAEDA is an Oklahoma public trust, the sole beneficiary of which is the City of Broken Arrow (the "City" which term, when used in such context, shall also mean and refer to the area within the territorial limits of the City); and

WHEREAS, BAEDA was created under a certain Trust Indenture dated November 19, 1973, as amended March 11, 1982, August 4, 1983, and March 18, 2014 (the "Authority Trust Indenture"), as a public trust for the use and benefit of its sole beneficiary, the City, under authority of and pursuant to Title 60, Oklahoma Statutes, §§176, *et seq.*; and

WHEREAS, among the Authority Trust Indenture's stated purposes are those of promoting and encouraging development of industry and commerce within and without the territorial limits of the City by instituting, furnishing, providing, and supplying property, improvements and services for the City and for the inhabitants, owners and occupants of the property, and governmental, industrial, commercial and mercantile entities, establishments, and enterprises within and without the City; promoting the general convenience, general welfare and public safety of the residents of the City; acquiring by purchase real property useful in instituting, furnishing, providing, or supplying any of the aforementioned property, improvements and services; complying with the terms and conditions of contracts made in connection with or for the acquiring of any of said properties; receiving funds, property and otherthings of value from, among others, the City; and participating in State and other programs which are to the advantage of BAEDA and the City; and BAEDA has determined that its undertakings and the performance of its obligations under this Agreement are authorizing and proper functions of the BAEDA's Trust Indenture; and

WHEREAS, a declared goal of BAEDA is to encourage and facilitate economic development within and near the City by attracting new industry and commercial businesses to the Broken Arrow area, and to promote the economic health and expansion of existing industry and commercial businesses within the City; and

WHEREAS, BAEDA recognizes that the BAEDC's fulfillment of the provisions of this Contract will have additional and indirect economic benefits within and near the City, in Tulsa

and Wagoner Counties and in the State through, including without limitation, diversifying the local, economy, providing economic stimulus for additional employment and other development, and predicating and/or providing training and employment opportunities in services, sales and management skills; and

WHEREAS, the Oklahoma Supreme Court has held that Economic Development is a legitimate public purpose for which public funds may be expended and that economic development in the City will allow the City to expand the type and scope of its services, including enhanced public improvements, police protection, fire protection and recreational facilities; and

WHEREAS, BAEDA desires, through the Contract with the BAEDC, to increase the revenue of the community of Broken Arrow and of its inhabitants and to provide employment for the inhabitants of the community of Broken Arrow; and

WHEREAS, it is in the best interest of the City for the BAEDC to continue certain programs and services including expansion and creation of programs and incentives supporting expansion and retention of existing industries; and

WHEREAS, as established by the monthly reports of the BAEDC, the marketing efforts of the BAEDC have resulted in significant interest from developers both within and outside of the state, as well as the expansion and retention of existing businesses and jobs; and

WHEREAS, services to be performed are contractual services of a professional nature for valid consideration.

WHEREAS, both the City and the BAEDA deem it appropriate to approve the execution and delivery of this Agreement in the interest of providing for the implementation of economic development activities and the program contained in this Contract and have determined such actions are in the best interests of the City and the health, safety, and welfare of the City and residents within and near the City;

NOW, THEREFORE, in consideration of the covenants and mutual obligations set forth and other consideration, the sufficiency of which the parties hereby acknowledge, the parties hereto hereby covenant and agree as follows:

**SECTION 1: PARAMETERS OF CONTRACT AND
RESPONSIBILITIES OF THE BAEDC**

It is expressly understood that the remuneration paid by BAEDA to the BAEDC shall be compensation for specific professional services rendered pursuant to the terms of this Contract. No BAEDA funds shall be used for any other purpose. The BAEDC shall perform certain Economic Development services for the benefit of the BAEDA and the City of Broken Arrow and shall strive toward the fulfillment of the Economic goals and objectives it has adopted. As a result, it is understood that the BAEDA is not providing the full amount of funding necessary to fulfill all the services outlined in this contract. The BAEDA will be required to seek private investments to fully fund all the services outlined. Should the BAEDC not be able to obtain the additional funding necessary it is understood that BAEDC will not be able to meet all of the services outlined in Section V: Workforce Development. Specifically, the BAEDC shall perform the following:

I. Research Analysis / Strategic Planning / Economic Outlook

The BAEDC shall continually monitor trends within the economy, as well as external economic trends. Through these efforts BAEDC will:

- a) Review and revise the economic strategic plan, including target industries for recruitment.
- b) Review and revise the Broken Arrow labor survey, that will help clarify the City's workforce, as well as promote it to others.
- c) Perform local market analysis and research to ensure specific retailers needs ensuring the feasibility of location within the city. This includes utilizing sales tax gap analysis.
- d) Develop a target list of retail gaps that will be actively recruited to Broken Arrow area for City staff to utilize in the combined effort of retail recruitment. The City of Broken Arrow will be responsible for retail recruitment.
- e) Provide property searches, relevant data analysis and research material to City in efforts of retail recruitment.
- f) Create and maintain a print and electronic inventory of available commercial buildings and properties for retail, industrial and office prospects.
- g) Professional staff will attend conferences as well as other industry groups to keep Broken Arrow apprised of national and global trends.
- h) Create and maintain a website that promotes the community and provides the relevant data for business recruitment.
- i) Facilitate regular industry roundtables on relevant topics to ensure the City and BAEDC are abreast of the needs, opportunities and challenges of our businesses.
- j) Facilitate discussions around housing development to ensure the Broken Arrow market has offerings in every economic sector to further develop a stronger workforce pipeline.

II. BUSINESS RETENTION & EXPANSION

There are more than 300 manufacturers currently located within the City resulting in the third largest concentration of manufacturers in the state, behind Oklahoma City and Tulsa. In order to retain and grow these and our other City employers, the BAEDC in conjunction with the Economic Development Manager shall:

- a) Conduct business retention visits, compile data resulting from visits, logs all relevant data, and reports annually on trends with recommendations as to programs or policies to assist in business support in coordination with the City of Broken Arrow staff by utilizing a shared CRM system.
- b) BAEDC will act as point of contact for the generation of state incentive analysis, economic impact analysis as well as labor market data request made to any state or regional agency including the Oklahoma Department of Commerce, Tulsa Regional Chamber or State Chamber of Commerce on behalf of Broken Arrow.

- c) Ensure Broken Arrow has a strong relationship with the leadership of the headquarters of major employers located in the area to help ensure retention and facilitate expansion opportunities.
- d) Connect existing employers with resources, partners, government agencies and educational opportunities that assist in wealth generation and accelerated growth.
- e) Advocate for business-friendly legislation at the federal, state and local levels.
- f) Ensure local businesses have the state and federal resources they need to connect them with incentives, tax credits, and hiring resources.
- g) Assist City of Broken Economic Development Staff with development of existing property, promotion of available business location options, business retention and expansion visits as well as incentive review.

III. BUSINESS ATTRACTION

The BAEDC shall pursue an economically responsible recruitment strategy that focuses on companies that offer high paying jobs that have an overall positive impact on the City of Broken Arrow.

- a) Maintain a website with information relevant to business relocation to Broken Arrow for marketing. Develop a brand, including website, printed materials and social media presence that communicates Broken Arrow's quality of life and economic growth opportunities.
- b) Create marketing pieces to distribute to site selectors and commercial retail brokers.
- c) Develop relationships with site selectors and commercial retail brokers by attending trade shows and call trips with the Oklahoma Department of Commerce, Tulsa's Future (Tulsa Regional Chamber), and the Oklahoma Governor's Economic Development Marketing Team.
- d) Respond to state, national and international Request for Proposals (RFP) from companies directly seeking to relocated, site consultants and all state and federal agencies. Through the RFP process BAEDC will promote all sites in the city limits of that fit the project and will keep the City of Broken Arrow economic development staff fully informed of all submittals and projects under development via monthly reporting.
- e) Maintain partnership and memberships that will elevate Broken Arrow on a national and international level providing greater capacity to advocate on the behalf of existing business and aid in recruitment efforts including and not limited to: Oklahoma Department of Commerce, Oklahoma State Chamber, Select Oklahoma, Tulsa's Future (Tulsa Regional Chamber), and the International Economic Development Council, Oklahoma Chapter of CCIM, and NAIOP. BAEDC will serve as the primary point of contact on behalf of the City of Broken Arrow.

IV. INNOVATION / ENTREPRENEURSHIP / SMALL BUSINESS DEVELOPMENT

The BAEDC will strive to promote the health and growth of local entrepreneurs and develop a strong entrepreneurial ecosystem.

- a) Connect entrepreneurs with resources (state and national) as well as develop a toolbox of resources for small businesses and entrepreneurs.

- b) Promote entrepreneurial resource partner events, for start-up and existing companies, to facilitate communication and consultation with seasoned business executives and experts in business development.
- c) Provide quarterly seminars for small business on topics that will assist business development to reduce closer and layoffs.
- d) Create programs and initiatives that support the creation and maintenance of an entrepreneurial community in Broken Arrow.
- e) Staff will work to identify local, regional, state-wide and national sources of capital.
- f) Maintain a relationship with the business incubators in the region, so that upon completion, businesses will look to Broken Arrow to establish their businesses.
- g) BAEDC will drive in development phase of Broken Arrow's Innovation District through the entire process of land purchase/plan/program development.

V. WORKFORCE DEVELOPMENT:

Review and revise the Broken Arrow labor market survey, that will help clarify the City's workforce, as well as promote Broken Arrow to future talent.

- a) Implement and created of a shared vision, strategic plan and goals of an employer-led, industry sector-focused workforce development model.
- b) Generate local data on workforce availability as well as provide state and national trends.
- c) Develop a national and regional campaign to attract and retain talent to Broken Arrow based on employer needs.
- d) Institute a summer internship program for smaller Broken Arrow employers focused on recruiting and retaining talent that highlights Broken Arrow to the next generation for a place to live and work and grow a family.
- e) Collaborate with the two public schools' systems to ensure pipeline programs are integrated into Broken Arrow business sectors. Work with K-12 to on the development of new programs to ensure Broken Arrow businesses labor needs are being met.
- f) Manage an HR professionals task force that will ensure business needs are being met and trends are being discovered. Create and facilitate workforce advisory groups for existing companies.
- g) Convene, develop and manage highly collaborative relationships with key stakeholders related to workforce development to promote business competitiveness and individual success in jobs and careers.
- h) Promote career awareness with job seekers and students focusing on the in-demand occupations in Broken Arrow including manufacturing, hospitality, medical, financial services, and IT. Facilitate tours and awareness program aimed pipeline development.
- i) Maintain and provide resource sharing physical and virtual platform providing direction for jobseekers for upskilling and assistance under the brand of Work IN BA.

- j) Maintain a web-based platform and marketing campaign to promote open positions in Broken Arrow. www.workinba.com
- k) Facilitate and maintain Broken Arrow's Workforce Center of Excellence designation as determined in November 2020.

VI. TOURISM

The BAEDC recognizes that tourism is an important part of the City's economic development program. To assist the city with tourism for the City, the BAEDC shall:

- a) Work cooperatively with the City's Tourism Director to advance the City's tourism program.
- b) Research, facilitate and advocate for tourism opportunities in the City.
- c) Research, facilitate and advocate for the development of additional tourism assets in Broken Arrow to attract more visitors annually.

VII. COMPLIANCE

On or before February 28 and August 30 of each year the President and Chair of the BAEDC shall provide a written report on the activities of Corporation's activities including a summary of the accomplishment of its goals to the BAEDA and present the report to BAEDA.

SECTION 2: INDEPENDENT CONTRACTOR STATUS OF BAEDC

It is expressly understood that the BAEDC is retained by BAEDA to perform Economic Development services on behalf of BAEDA and that the BAEDC is an independent contractor of BAEDA for the purposes of carrying out its obligations under this Contract. The BAEDC understands and agrees that its performance under this Contract is to serve the general public for the promotion of Economic Development for the City of Broken Arrow, Oklahoma. Both parties agree that this is a fee-for-services contract.

The parties agree that all persons working for the BAEDC under this agreement shall be employees of the BAEDC and shall not be considered employees of the City or BAEDA. This agreement shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association between BAEDA and the BAEDC nor any officer, employee, contractor or representative of the BAEDC. No joint employment is created by this Agreement, and each BAEDC employee shall be so advised. The hiring, discharge, supervision and management of all employees of the BAEDC, including, but not limited to the determination of the numbers and qualifications of employees required to perform the duties of the BAEDC under this agreement, the establishment and administration of wage scales, rates of compensation, provision of benefits including, but not limited to Workers' Compensation and retirement, conditions of employment and job descriptions with respect to all employees shall be the right and obligation of the BAEDC.

SECTION 3: FILING OF TAX DOCUMENTS

The BAEDC shall be responsible for maintaining its designation as a non-profit corporation in accordance with U.S. Internal Revenue Service regulations and guidelines. The BAEDC shall also be responsible for and obligated to prepare and file all returns and documents required under the Federal Insurance Contribution Act and the Federal Unemployment Act, any other federal or state legislation, and of all withholding tax returns required for employees of the BAEDC engaged in this Economic Development Contract. The BAEDC shall be responsible for the payment of all amounts required to be paid under any federal or state legislation and for all applicable taxes.

SECTION 4: RECORDS AND AUDIT

The BAEDC shall be responsible for the maintenance of full books of accounts with correct entries of all expenditures in the administration of this Economic Development Contract, shall ensure that expenses be substantiated by documentary evidence that reflects the actual itemized expenses and the purpose as applicable, and shall be compliant with the recommendations submitted to the Chamber of Commerce. BAEDC will conduct an audit annually by an independent auditor of the financial statements. Books of accounts and related invoices shall be the property of the BAEDC, but shall be open to the inspection of BAEDA upon responsible notice. The parties agree that the BAEDA shall have the right to annually cause an audit by an independent auditor to be made of the records of the BAEDC to the extent that they involve directly or indirectly the expenditure of funds appropriated to the BAEDC by BAEDA pursuant to this agreement.

SECTION 5: PAYMENT AND ACTIVITY REPORTS

On or before the 30th day of each month, the BAEDC shall submit to BAEDA a Monthly Activity Report detailing services and activities that accurately state the progress made in implementing the terms, conditions and scope of work required by this Contract. This Monthly Activity Report shall accompany an invoice requesting payment not to exceed \$32,292.00 per month.

Beginning on July 1, 2022 and continuing each month thereafter until June 30, 2024, BAEDC shall receive a fee not to exceed \$36,459.00 per month. The yearly total paid to BAEDC for the above time periods shall not exceed \$437, 508.00 per year. On or before the 30th day of each month, the BAEDC shall submit to BAEDA a Monthly Activity Report detailing services and activities that accurately state the progress made in implementing the terms, conditions and scope of work required under this Contract. The Monthly Activity Report shall accompany an invoice requesting payment as outlined herein.

SECTION 6: NONDISCRIMINATION

The BAEDC, for themselves and their successors, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, creed, color, age, sex, handicap, or national origin shall be excluded from participation in, denied the benefit of, this Contract; and (2) that in carrying out the terms and conditions of this Contract, no otherwise qualified person, with or without reasonable accommodation, shall be subjected to discrimination on the grounds of handicap.

SECTION 7: COMPLIANCE WITH LAWS

The BAEDC agrees to conduct its business under the terms of this Contract in such a manner that it does not violate any federal, state, or local laws or regulations applicable to the conduct of its operations under the terms of this Contract.

SECTION 8: TERM AND TERMINATION OF CONTRACT

This Contract shall be in full force and effect from July 1, 2021, through June 30, 2024, subject to annual budgetary appropriations by BAEDA. It is the intent of BAEDA that this Contract shall remain in effect for the term specified unless modified by mutual consent of the parties or unavailability of budgetary funding. It shall be a default and cause for termination if the BAEDC fails to keep, observe or perform any material agreements, terms or provisions of this Contract and such default continues for a period of thirty (30) days after written notice by BAEDA to the BAEDC. In the event of default, BAEDA has no further obligations under the terms of this Contract. This Contract, however, be terminated by either party by thirty (30) days written notice.

SECTION 9: LOBBYIST

If BAEDA should become interested in utilizing the services of the lobbyist employed by the BAEDC, that matter will be negotiated separately from this Agreement.

SECTION 10: BIDDING

The BAEDC is encouraged to institute a policy of seeking competitive bids relating to the expenditure of funds whenever possible. It is recognized that bidding is not always possible or practical, but to the extent that the BAEDC finds it advantageous, it is encouraged to seek competitive bids.

SECTION 11: RIGHT TO SUBCONTRACT

It is understood and agreed that the BAEDC may itself perform its obligations and duties relating to economic development or that it may subcontract certain portions of its duties and responsibilities to other parties. However, in the event that certain duties are subcontracted, the BAEDC will remain responsible to BAEDA for the results.

SECTION 12: NOTICES

Whenever a notice is required to be given under the terms of this Contract, such notice shall either be personally delivered or mailed by certified mail, return receipt requested, to the following addresses:

City Manager
City of Broken Arrow
P. O. Box 610
Broken Arrow, Oklahoma 74013-0610

President
Broken Arrow Economic Development Corporation
210 North Main Street, Suite C
Broken Arrow, Oklahoma 74012

SECTION 13: INTERPRETATION OF LAW

This Contract shall be construed in accordance with the laws of the State of Oklahoma. Exclusive Original Jurisdiction and venue for any action relating to this Contract shall exclusively vest in the District Court of Tulsa County, State of Oklahoma.

SECTION 14: ASSIGNMENT

Neither party shall assign this Contract or any interest herein without the express written consent of the other party.

SECTION 15: CONSTRUCTION

Captions and headings in this Contract are for reference and identification purposes only and in no way alter, modify, amend, limit or restrict the contractual obligations of the parties. This Agreement constitutes the entire understanding between the parties, and supersedes all proposals and all other communications with respect to this Contract.

SECTION 16: AMENDMENTS

Amendments to this Contract shall only be made upon the written approval of the parties.

SECTION 17: SEVERABILITY

If any part of this Contract is found to be unenforceable by a court, the balance of this Contract will be unaffected.

BROKEN ARROW ECONOMIC DEVELOPMENT AUTHORITY

CHAIRWOMAN

APPROVED AS TO FORM:

ATTEST:

Deputy City Attorney

Secretary (Seal)

BROKEN ARROW ECONOMIC DEVELOPMENT CORPORATION

PRESIDENT

State of Oklahoma)
)
County of Tulsa)

Before me this ____ day of _____, 2022, personally appeared _____, President of the Broken Arrow Economic Development Corporation and acknowledged to me that they executed this document as their free and voluntary act and deed for the uses and purposes set forth herein.

NOTARY PUBLIC

My commission no.

My commission expires:

