



City of Broken Arrow

Meeting Agenda Broken Arrow Economic Development Authority

Chairperson Craig Thurmond

Vice Chair Scott Eudey

Trustee Mike Lester

Trustee Johnnie Parks

Trustee Debra Wimpee

Tuesday, May 1, 2018

Council Chambers

TIME: Follows City Council meeting which begins at 6:30 p.m. and the Broken Arrow Municipal Authority meeting which follows City Council.

1. Call to Order

2. Roll Call

3. Consideration of Consent Agenda

- A. [18-494](#) Approval of Broken Arrow Economic Development Authority Meeting Minutes of April 17, 2018

Attachments: [4-17-2018 BAEDA Minutes](#)

- B. [18-30](#) Approval of the Broken Arrow Economic Development Authority Claims List for May 01, 2018

Attachments: [05-01-BAEDA CL](#)

4. Consideration of Items Removed from Consent Agenda

5. General Authority Business

- A. [18-530](#) Consideration, discussion and possible directive authorizing the City Manager to initiate negotiations to renew the Contract for Economic Development Services between the Broken Arrow Economic Development Authority (BAEDA) and the Broken Arrow Economic Development Corporation (BAEDC) and possible directive regarding any action allowed by BAEDA under any and all provisions of the Economic Development Services Contract and the Downtown Redevelopment Services Contract between BAEDA and BAEDC

Attachments: [Economic Development Service Contract.pdf](#)
[Downtown Redevelopment Service Contract.pdf](#)

6. Executive Session - NONE

7. Adjournment

NOTICE:

If you wish to speak at this evening's meeting, please fill out a "Request to Speak" form. The forms are available from the City Clerk's table or at the entrance door. Please turn in your form prior to the start of the meeting. Topics are limited to items on the currently posted agenda, or relevant business.

All cell phones and pagers must be turned OFF or operated SILENTLY during meetings.

Exhibits, petitions, pictures, etc., shall be received and deposited in case files to be kept at the Broken Arrow City Hall. If you are a person with a disability and need some accommodation in order to participate in this meeting, please contact the City Clerk at 918-259-2400 Ext. 5418 to make arrangements.

POSTED this ____ day of _____, _____, at _____ a.m./p.m.

City Clerk



City of Broken Arrow

Fact Sheet

File #: 18-494, Version: 1

**Broken Arrow City Council
Meeting of: 05-01-2018**

Title:

Approval of Broken Arrow Economic Development Authority Meeting
Minutes of April 17, 2018

Background:

Minutes recorded for the Broken Arrow Economic Development Authority Meeting.

Cost: \$0

Funding Source: Source

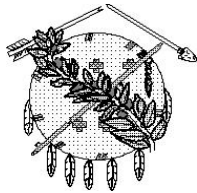
Requested By: Russell Gale, Assistant City Manager Administration

Approved By: Michael L. Spurgeon, City Manager

Attachments: 04-17-2018 BAEDA Minutes

Recommendation:

Approve the minutes of April 17, 2018 for the Broken Arrow Economic Development Authority meeting.



City of Broken Arrow

Minutes Broken Arrow Economic Development Authority

City Hall
220 S 1st Street
Broken Arrow OK
74012

Chairperson Craig Thurmond
Vice Chair Scott Eudey
Trustee Mike Lester
Trustee Johnnie Parks
Trustee Debra Wimpee

Tuesday, April 17, 2018

Council Chambers

1. Call to Order

Chairman Craig Thurmond called the meeting to order at approximately 7:59 p.m.

2. Roll Call

Present: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

3. Consideration of Consent Agenda

Chairman Thurmond asked if there were any items to be removed from the Consent Agenda. There were none.

MOTION: A motion was made by Mike Lester, seconded by Debra Wimpee.

Move to approve the Consent Agenda

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

A. 18-436 **Approval of Broken Arrow Economic Development Authority Meeting Minutes of April 3, 2018**

B. 18-27 **Approval of the Broken Arrow Economic Development Authority Claims List for April 17, 2018**

4. Consideration of Items Removed from Consent Agenda

There were no items removed from the Consent Agenda. No action was required or taken.

5. General Authority Business

There was no General Authority Business.

6. Executive Session

There was no Executive Session.

7. Adjournment

The meeting adjourned at approximately 7:59 p.m.

MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey.

Move to adjourn

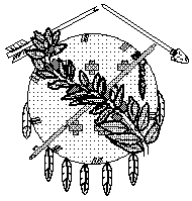
The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

Attest:

Chairman

Secretary



City of Broken Arrow

Fact Sheet

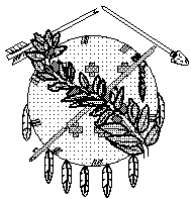
File #: 18-30, Version: 1

PREPARED 4/27/18, 8:32:56
PROGRAM GM314L
CITY OF BROKEN ARROW

ACCOUNTS PAYABLE BY FUND/ DUE DATE

PAGE 50

FUND	087	BAEDA					
DATE	VENDOR	VENDOR	VOUCHER	I NVOI CE	ACCOUNT		
DUE	NO	NAME	NO	NO	NO		AMOUNT
4/19/2018	9744	SIG-BROKEN ARROW, LTD	008921	12/31/17	087-1700-419.50-72		58,694.59
					4/19/2018 TOTAL -		58,694.59
					FUND 087 TOTAL -		58,694.59



City of Broken Arrow

Fact Sheet

File #: 18-530, Version: 1

Broken Arrow Economic Development Authority Meeting of: 05-1-18

Title:

Consideration, discussion and possible directive authorizing the City Manager to initiate negotiations to renew the Contract for Economic Development Services between the Broken Arrow Economic Development Authority (BAEDA) and the Broken Arrow Economic Development Corporation (BAEDC) and possible directive regarding any action allowed by BAEDA under any and all provisions of the Economic Development Services Contract and the Downtown Redevelopment Services Contract between BAEDA and BAEDC

Background:

On December 18, 2006, the City of Broken Arrow entered into a contract with the Broken Arrow Economic Development Corporation to obtain a comprehensive Economic Development Strategic Plan to assist both entities in making educated, informed decisions about economic development for the overall good of the Broken Arrow community.

On May 21, 2007, the City of Broken Arrow contracted with the BAEDC to perform certain specified functions in exchange for a sum of \$125,000. Specifically, the BAEDC was to obtain a fundraising feasibility plan to evaluate the prospects for raising private resource for economic development and, initiate a fundraising project.

On July 21, 2009, the Broken Arrow Economic Development Authority began contracting with the Broken Arrow Economic Development Corporation 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 and sales businesses, commercial businesses and industries within Broken Arrow and diversifying the City's economy.

Broken Arrow Economic Development Authority continued to Contract with the Broken Arrow Economic Development Corporation for economic development, up to and including the current Contract.

The current contract between the BAEDA and BAEDC took effect on July 1, 2015 and ends on June 30, 2018. The current Contract specifies on or before the 30th day of each month, the BAEDC will provide an invoice requesting reimbursement of actual expenses not to exceed \$387,504 annually.

On May 1, 2012, the Broken Arrow Economic Development Authority began contracting with the Broken Arrow Economic Development Corporation in the amount of \$250,000 annually in support of Downtown Redevelopment, including but not limited to; preparing a Downtown Redevelopment Plan, hiring or retaining a specialist in the field of downtown revitalization and focusing on sales and ad valorem tax growth. On May 1, 2012, BAEDA approved the First Amendment to the Contract, reducing the annual payment to \$225,000. The current Contract for Downtown Redevelopment Services between the BAEDA and the BAEDC is for the sum not to exceed \$210,000 annually and expires on April 30, 2019.

Cost: Not to exceed \$12,000.00

Funding Source: Source

Requested By: Norman Stephens, Economic Development Coordinator

Approved By: Michael L. Spurgeon, City Manager

Attachments: Contract for Economic Development Services between the BAEDA and the BAEDC;
Contract for Downtown Redevelopment Services between the BAEDA and BAEDC

Recommendation:

As directed by the Authority

**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 17th day of March, 2015, 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 other things 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 predicated 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. Specifically, the BAEDC shall perform the following:

I. RETAIL & RESTAURANT DEVELOPMENT

The BAEDC shall proactively recruit retail establishments, including restaurants, for which the City is a feasible location and which fill sales tax gaps and address areas of significant sales tax leakage. The BAEDC shall also actively work to retain and assist in the expansion of existing retailers that serve the City. Specifically, the BAEDC shall perform the following functions:

1. Target recruitment of suitable retailers for whom Broken Arrow is a fit and that fill sales tax gaps and address areas of sale tax leakage. Specifically, the BAEDC shall perform the following functions:
 - a. Perform local market analyses and research retailers to ensure specific retailer needs prior to contact to ensure the feasibility of location within the City.
 - b. Utilize sales tax gap analyses to ensure the proposed retailers fill a sales tax gap.
 - c. Develop a targeted list of retail and restaurant venues that will be actively recruited to the Broken Arrow area through direct contact, collaboration with developers and the City's economic development staff.
 - d. Utilize ICSC resources (e.g. Value Retail Directory, conferences, etc.) to target and recruit viable retailers.
2. Build relationships with retail site consultants and real estate professionals. Specifically the BAEDC shall:
 - a. Attend retail conferences to network with site location consultants & real estate professionals and inform them of the benefits of the City for their businesses.
 - b. Create local developer committees to build relationships and collaborate on upcoming developments.
 - c. Ensure site location consultants have quick and easy access to information on retail incentives and TIF districts.
3. Market the City as a retail growth hub to retail professionals, developers, and restaurants. Specifically, the BAEDC shall:
 - a. Create a strong web presence, including information on the website that will assist retail site consultants in locating stores in the City.

- b. Continue to build a social media presence, including “following” and “liking” appropriate developers and real estate professionals and posting latest accolades for the City.
 - c. Create collateral pieces when appropriate to be used as mailers, at conferences, and sent to retail professionals (i.e. Grounds for Development).
 - d. Create an Economic Development e-newsletter that will have retail-specific information for presentation to retail site selectors, real estate professionals, and developers.
 - e. Attend retail conferences to recruit retailers and market the City.
4. Collaborate with City Staff to ensure most effective recruitment efforts. Specifically, the BAEDC shall:
- a. Collaborate with the City's Economic Development Coordinator on retail recruitment efforts.
 - b. Maintain and strengthen relationships with local business owners in the Tulsa area in order to recruit second and third locations of their boutique businesses to the City.
 - c. Review Sales Tax leakage studies and work to address areas of weakness.
 - d. Maintain strong relationships with partners and resource providers in order to better assist area retailers.
 - e. Connect Broken Arrow companies and consumers with Broken Arrow vendors, in order to retain as much business as possible within the City's economy.
 - f. Provide Broken Arrow-specific workforce resources, in addition to regional and state resources.
 - g. Provide educational opportunities to help existing companies maintain their competitiveness and attract new customers.

II. BUSINESS RETENTION & EXPANSION

There are more than 250 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 shall:

- 1. Regularly meet and work with existing businesses.
- 2. Maintain strong relationships with partners and resource providers in order to better assist area employers.

3. Connect City companies with City suppliers, in order to retain as much business as possible within the City's economy.
4. Provide Broken Arrow-specific workforce resources, in addition to regional and state resources.
5. Provide educational opportunities to help existing companies maintain their competitive edge.
6. Create and facilitate C-level peer advisory groups for existing companies.
7. Advocate for business friendly legislation at the state and local levels.
8. Provide appropriate communication/marketing to existing businesses about resources and opportunities.

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. Specifically, the BAEDC shall:

1. Build and maintain good relationships with the Oklahoma Department of Commerce and the Tulsa Regional Chamber of Commerce.
2. Build and maintain good relationships with area commercial realtors.
3. Create a website specifically for the BAEDC and its market.
4. Join and participate in the events of the Oklahoma Governor's Economic Development Team.
5. Continue membership in Tulsa's Future.
6. Build and maintain working relationships with site location consultants, via conferences, networking events, and trade shows.
7. Ensure the City of Broken Arrow is fully informed about potential projects.
8. Create a Broken Arrow Labor Study with information on under-employed as well as unemployed.

IV. ENTREPRENEURIALISM

The BAEDC will strive to promote the healthy growth of local entrepreneurs. Specifically, the BAEDC shall:

1. Connect entrepreneurs with resources.

2. Host SCORE events, for start-up and existing companies to facilitate communication and consultation with seasoned business executives.
3. Maintain a relationship with the business incubators in the region, so that upon completion, businesses will look to Broken Arrow to establish their businesses.
4. Provide appropriate learning opportunities for start-up companies.

V. ECONOMIC OUTLOOK

The BAEDC shall continually monitor trends within the economy, as well as external economic trends. Specifically, the BAEDC shall develop a Feasibility Study for new Economic Outlook analyses and:

1. Review and revise the Economic Development strategic plan, including target industries for recruitment.
2. Review and revise the Broken Arrow labor survey, that will help clarify the City's workforce, as well as promote it to others.

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:

1. Work cooperatively with the City's Tourism Director to advance the City's tourism program.
2. Join and actively participate in the VisitTulsa, the Tulsa Metropolitan Area's regional tourism initiative.
3. Research, facilitate and advocate for tourism opportunities in the City.

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 reimbursement-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. 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: REIMBURSEMENT 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 reimbursement of actual expenses not to exceed \$32,292.00 per month.

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, 2015, through June 30, 2018. 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. It is acknowledged that the reimbursement provided for herein for fiscal years 2017 and 2018 are on a year-to-year basis subject to annual appropriation. 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

Wesley Smithwick, President
Broken Arrow Economic Development Corporation
210 North Main Street, Suite C

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 be solely in Tulsa County District Court 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.

Approved as to Form:

Lesli Myers
Deputy City Attorney

Date:

March 17, 2015

Broken Arrow Economic Development
Authority

By: [Signature]
Chairman

Attest:

[Signature]
City Clerk (Seal)



Broken Arrow Economic Development
Corporation

By: [Signature]
President

State of Oklahoma)
) ss:
County of Tulsa)

Before me, a Notary Public, on this 17th day of March, 2015, personally appeared Wes Smithwick, known to me to be the President of the Broken Arrow Economic Development Corporation and the identical person who executed the within and foregoing instrument, and 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:

Jan 19, 2016

[Signature]
Notary Public

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

This Contract is made and entered into this 3rd day of May, 2016, by and between the Broken Arrow Economic Development Corporation, an Oklahoma not-for-profit corporation, hereinafter referred to as the "BAEDC," and the Broken Arrow Economic Development Authority hereinafter referred to "BAEDA," a public trust, whose sole beneficiary is the City of Broken Arrow, Oklahoma, hereinafter referred to as "City," which term, when used in such context, shall also mean and refer to the area within the territorial limits of the City of Broken Arrow.

WHEREAS, the City through the BAEDA has requested the BAEDC provide services related to the City's economic and redevelopment objectives in accordance with various downtown redevelopment programs, including the Broken Arrow FlightSafety and Downtown Economic Development Project Plan ("Project Plan," the various plans and programs, including the Project Plan are collectively referred to as "Downtown Redevelopment"); and

WHEREAS, Downtown Redevelopment is part of an overall economic development program of the BAEDA and the City; and

WHEREAS, the Broken Arrow City Council adopted and approved Ordinance No. 3127 on October 19, 2010, thereby approving the Project Plan and Increment District No. 1, City of Broken Arrow, said Plan having been amended by Resolutions in accordance with applicable laws; and

WHEREAS, BAEDA is the entity authorized by the city to assist in carrying out the Project Plan; and

WHEREAS, the BAEDC has proposed an implementation and administrative plan for implementing the objectives of Downtown Redevelopment ("BAEDC Administrative Plan"); and

WHEREAS, the BAEDC Administrative Plan specifically outlines activities and efforts needed to encourage and facilitate Downtown Redevelopment by attracting and expanding businesses and cultural arts within the downtown area of the City; and

WHEREAS, the BAEDA and the BAEDC wish to promote Downtown Redevelopment in Broken Arrow for the specific purpose of expanding economic development, creating employment opportunities, enhancing the tax base and providing the citizens of Broken Arrow more comprehensive services, including enhanced public improvements, police protection, and recreational facilities; and

WHEREAS, after several years of contracting for downtown redevelopment services, significant progress has been made, including the creation of the Rose District, the completion of the Streetscape, and numerous new businesses have located downtown; and

WHEREAS, since the 2015 Renewal, the BAEDC has continued to promote and attract new events in the Rose District and new development in the downtown area; and

WHEREAS, it is in the best interest of BAEDA and the City for the BAEDC to maintain the growth and momentum of the previous years; and

WHEREAS, the Oklahoma Supreme Court has held that economic development is a legitimate public purpose for which public funds may be expended; and

WHEREAS, BAEDA desires to increase the tax base and tax receipts of the City, to improve the quality of life for the citizens of the City, and to attract and expand businesses and employment opportunities within the City by carrying out the provisions of this Contract and the BAEDC Administrative Plan for Downtown Redevelopment; and

WHEREAS, both Downtown Redevelopment and this Contract are determined to be for the public purpose of promoting the general health, safety and welfare of the citizens of the City; and

WHEREAS, it is concluded that the services to be performed pursuant to the BAEDC Administrative Plan and this Contract are professional and contractual services to be performed in support of Downtown Redevelopment and certain costs and consideration may be funded pursuant to and in accordance with the Project Plan, as amended; and

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions herein and the mutual benefits, which will accrue, the receipt and sufficiency of which consideration is hereby acknowledged, the parties 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 for specific professional services rendered pursuant to the terms of this Contract and in support of Downtown Redevelopment, including the Project Plan. No BAEDA funds paid to the BAEDC pursuant to this agreement shall be used for any other purpose. BAEDC understands and acknowledges that BAEDA may only use tax increment revenues generated by Increment District No. 1 to pay for those activities and costs authorized by the Project Plan, as amended. Any payments made to BAEDC using tax increment revenues shall be at the sole discretion of the BAEDA for services rendered in furtherance of the Project Plan and in accordance with the project costs authorized therein. Any payment of tax increment revenues used by the BAEDC for any cost or purpose other than those specifically authorized in the Project Plan shall upon discovery be immediately reimbursed to the BAEDA along with any damages and BAEDC shall be considered to be in default of this Contract.

In support of Downtown Redevelopment and the Project Plan objectives, the BAEDC shall perform certain services for the benefit of BAEDA, including the performance of the following:

- Promote and Market the Rose District
- Attract and Promote events that bring people to the Rose District
- Maintain and update a web presence for the Rose District
- Maintain an inventory of available real estate
- Recruit and promote new residential development in the Rose District and adjacent area
- Recruit and promote new mixed-use development in the Rose District
- Provide resources as required to carry out the agreed upon activities
- Provide proposed structure based on best practices

Implementation will be defined as the following critical activities:

- Assist in the Economic Development Program for Downtown Redevelopment by working with prospective businesses and formulating a request for assistance
- Thoroughly vet and analyze requests for incentives
- Serve as point of contact for business owners desiring to locate in the Rose District and provide assistance and referrals as needed
- Identify and recommend additional improvements to the Rose District streetscape program
- Identify and recommend public infrastructure, improvements and support that further the objectives of Downtown Redevelopment
- Create and execute the marketing strategy as developed
- Develop marketing materials to promote the objectives
- Measure success of marketing and promotional activities
- Create and oversee implementation of the Rose District marketing plan as follows:
 - Media events such as press conferences and familiarization tours
 - Promotional events
 - Utilization of paid advertising as funding allows
 - Development of marketing collateral
 - Identification of strategic partnership
 - Implementation of organic and “guerilla” marketing tactics
- Public Relations Management as follows:
 - Seek out and pitch Rose District stories to maintain media presence
 - Act as point of contact for Rose District media inquiries
- Serve as intermediary between merchants, the public, Downtown Advisory Board (DAB), the City, and the Chamber as follows:
 - Represent Rose District to all parties for the sake of cohesive communication and strategic problem solving
- Manage Website and Social Media Program as follows:
 - Keep information current
 - Generate content for website and all social media platforms
 - Attend Rose District events for live tweeting/social media posting;

- Promote the Farmer's Market Pavilion as follows:
 - Assist city resources as an active "salesperson" for the Rose District Farmers Market Pavilion facility
 - Provide information on rules/guidelines/policies for use
 - Response to RFPs
 - Streamline the application process
- Partner with the Chamber or other entities to ensure Rose District promotional merchandise is available for sale
- Examine the benefits, best practices, methods, and implementation process of creating a Business Improvement District in the Rose District in order to ensure ongoing funding for the creation of events, marketing collateral, and other expenses that will benefit the district as a whole.

SECTION 2: INDEPENDENT CONTRACTOR STATUS OF BAEDC

It is expressly understood that the BAEDC is retained by BAEDA to perform Downtown Redevelopment 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 Downtown Redevelopment and Economic Development of the City. Both parties agree that this is a reimbursement-for-services contract.

The parties agree that all persons working for the BAEDC under this Contract shall be employees of the BAEDC and shall not be considered employees of BAEDA or the City. This Contract shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association between BAEDA or the City and the BAEDC nor any officer, employee, contractor or representative of the BAEDC. No joint employment is created by this Contract, 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 Contract, 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 seeking designation as a not-for-profit corporation in accordance with U.S. Internal Revenue Service regulations and guidelines. 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 or any other federal or state legislation, and of all withholding tax returns required for employees of the BAEDC. 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 Contract. Books of accounts and related invoices shall be the property of the BAEDC, but shall be open to the inspection of BAEDA or the City upon responsible notice. The parties agree that annually an audit by an independent auditor is to be made of the records of the BAEDC to the extent that they involve directly or indirectly the expenditure of City or BAEDA funds appropriated by the BAEDC pursuant to this Contract.

SECTION 5: REIMBURSEMENT AND ACTIVITY REPORTS

1. On or before the 30th day of each month, the BAEDC shall submit to BAEDA a claim detailing those services provided pursuant to this Contract during the prior calendar month, requesting reimbursement of actual expenses not to exceed \$17,500.00 per month.
2. The BAEDC shall submit quarterly activity reports, which accurately state the progress made in implementing the terms, conditions and scope of work required by this Contract.

SECTION 6: RESPONSIBILITIES OF THE CITY

The BAEDA agrees that it will pay the BAEDC a sum not to exceed \$210,000.00 for fulfillment of the BAEDC's obligations under this Contract.

SECTION 7: 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 8: 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 9: TERM AND TERMINATION OF CONTRACT

This Contract shall be in full force and effect from May 1, 2016, through April 30, 2019. 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 by BAEDC, neither BAEDA nor the City has any further obligations to perform under this Contract.

It may, however, be terminated by either party by thirty (30) days written notice.

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:

BAEDA – City of Broken Arrow
Attn: City Manager
P. O. Box 610
Broken Arrow, Oklahoma 74013-0610

Wes Smithwick, 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 be solely in the Tulsa County District Court 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 Contract 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.

Approved as to Form:



Assistant City Attorney

BROKEN ARROW ECONOMIC
DEVELOPMENT AUTHORITY
(BAEDA), a public trust

By: 

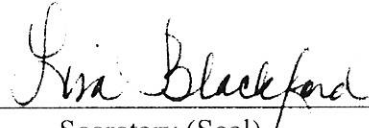
Chairman

Date:

May 3, 2016

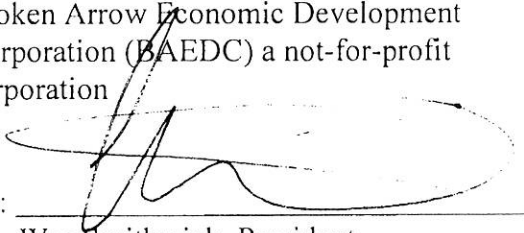


Attest:



Secretary (Seal)

Broken Arrow Economic Development
Corporation (BAEDC) a not-for-profit
corporation

By: 

Wes Smithwick, President

State of Oklahoma)
) ss:
County of Tulsa)

Before me, a Notary Public, on this ____ day of ____, 2016, personally appeared Wes Smithwick, known to me to be the President of the Broken Arrow Economic Development Corporation and the identical person who executed the within and foregoing instrument, and 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