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SEABROOK ECONOMIC DEVELOPMENT CORPORATION (EDC)	§	
	§	**KNOW ALL MEN BY THESE PRESENTS:**
BAY AREA HOUSTON ECONOMIC PARTNERSHIP (BAHEP)	§	

THIS CONTRACT is made and entered into by and between the CITY OF SEABROOK, TEXAS, ECONOMIC DEVELOPMENT CORPORATION ("EDC"), and the BAY AREA HOUSTON ECONOMIC PARTNERSHIP ("BAHEP").

WITNESSETH:

WHEREAS, EDC desires to promote the development of business and commerce within the City of Seabrook ("City"), including the location and development of new business and the retention and expansion of existing business, specifically including the retention of business and jobs associated with the National Aeronautics and Space Administration ("NASA") and its vendors; and

WHEREAS, EDC finds and determines that the development of business within the region promotes the economic welfare and well-being of City and its residents by, among other things, expanding the tax and employment bases of City and, therefore, enhancing the health, safety, welfare and quality of life of the residents; and

WHEREAS, BAHEP was formed for the purpose of, among others, promoting and encouraging, or causing to be promoted and encouraged, the formation of new businesses and the retention and expansion of existing businesses that create or retain primary jobs, the relocation of existing businesses, and the general diversification of the economy of and in all or a portion of Harris County and the surrounding area, which area includes the City and EDC; and

WHEREAS, the EDC desires to contract with the BAHEP to provide, or cause to be provided, economic development services as herein described for and on behalf of EDC; and

WHEREAS, BAHEP is willing to provide, or cause to be provided, in exchange for the consideration herein expressed, the economic development services desired by EDC; and

WHEREAS, EDC and BAHEP agree that, in order to foster and promote competition, to assure the integrity of the competitive process, and to protect proprietary or innovative business strategies and concepts, information and data developed, generated, or received by BAHEP should remain privileged and confidential, except as herein provided or where inconsistent with the provisions of the Texas Public Information Act that are applicable to information held by EDC; now, therefore,

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For and in consideration of the premises and mutual covenants herein contained, it is hereby agreed as follows:

ARTICLE I

QUALIFICATIONS OF BAHEP

SECTION 1.01. Representations and Warranties of BAHEP.

BAHEP hereby represents and warrants as follows:

A. BAHEP will engage in an on-going effort to attract new business to the City and to encourage the retention and expansion of existing businesses that create or retain primary jobs within the region.

B. BAHEP will coordinate its activities with other area economic development organizations within Harris County and seek to enhance cooperation throughout the area in furtherance of efforts on City's and EDC's behalves hereunder.

C. BAHEP is a nonprofit economic development organization having as its principal purpose the promotion of economic development Harris County, including the City.

ARTICLE II

SCOPE OF SERVICES

Section 2.01. Services to be Provided.

BAHEP will provide the following basic services:

A. Consulting and Ancillary Economic Development Services: BAHEP shall provide ongoing consulting and ancillary economic development services by promoting and encouraging the retention and expansion of existing City businesses, while encouraging the location of new businesses into the City that create or retain primary jobs. BAHEP personnel shall be available to assist the EDC, its staff and consultants, and EDC or City committees or volunteer groups, to develop economic development strategies and incentives for proposed projects.

B. Advisory Services: BAHEP shall provide its expertise and staff to assist and advise staff as identified by EDC and the City who are assigned to economic development functions.

C. NASA/ Retention and Recruitment of Selected Industries. BAHEP shall continue to work to enhance the development of the NASA Johnson Space Center, which will also benefit Seabrook's economic vitality. The following targeted economic clusters have been identified for Seabrook: aerospace and aviation, healthcare, and tourism and recreation. BAHEP shall work towards recruiting such companies to the City.

DocuSign Envelope ID: 04BA6CC7-565B-494E-9616-D2CA1E5ABE41

D. Healthcare Industry Recruitment: BAHEP shall also work with the EDC to recruit healthcare institutions to the city. BAHEP, through its Healthcare Committee, will provide opportunities for the City to collaborate with "health care provider" members.

E. To provide means to measure the accomplishment of the Economic Development Services provided to EDC, the following specific services shall be provided:

1. Attendance at two trade shows as related to targeted economic clusters;

2. Inclusion of Board members in the annual Citizens for Space Exploration trip to Washington D.C.;

3. Provide eight project leads to Seabrook;

4. Inclusion of staff or Board members in developing regional economic development strategies;

5. Two meetings by BAHEP, with appropriate staff or Board members, with site selectors representing companies seeking to expand or relocate;

6. Participate in two broker events every other year;

7. Assist in developing best practices and expertise in developing an economic development strategy for the City;

8. Participate in EDC meetings as requested by EDC;

9. Collaborate with the City and other regional organizations to protect and grow Ellington Airport, Ellington Field, and Houston Spaceport;

10. BAHEP shall collaborate with San Jacinto College and the Houston Airport System to continue development of aviation, aerospace and technology curricula for the EDGE Center at the Houston Spaceport;

    BAHEP's International Maritime Advisory Committee shall work with the Clear Creek Independent School District, local colleges and universities, and the Port Houston to continue development of curriculum for new maritime classes to be offered at the high school and college levels to meet the growing workforce demand by the region's maritime industry;

11. Provide a semi-annual activities report, an annual written report, and presentation relating to performance to the agreement; and

12. Provide copies of annual reports, and initiatives undertaken by BAHEP.

DocuSign Envelope ID: 04BA6CC7-565B-494E-9616-D2CA1E5ABE41

ARTICLE III

TIME OF PERFORMANCE

Section 3.01. Time of Performance.

A. This Agreement shall be in effect for the period beginning October 1, 2020 and ending September 30, 2023 in accordance with the current fiscal year's budget (FY 2019-2020) and may be funded in the next three budget years, subject to the annual approval of the EDC budgets for fiscal years 2020-2021, 2021-2022 and 2022-2023.

B. Upon approval of the EDC budgets for fiscal years 2020-2021, 2021-2022, and 2022-2023 by EDC Board and City Council, this agreement shall be automatically extended to include the next annual cycle, subject to the limitations provided in Article 5.01.

ARTICLE IV

PAYMENT FOR SERVICES

Section 4.01. Fees.

A. For and in consideration of the services to be performed by BAHEP, and subject to compliance with the terms of this Contract; EDC shall pay to BAHEP a base amount not to exceed TWENTY THOUSAND AND NO/100ths DOLLARS ($20,000) annually for the performance of services provided herein, subject to budget approval in each budget year as noted above.

B. BAHEP shall submit quarterly billing statements to EDC, describing the services performed and EDC shall promptly process such statements, and upon certification and review, make payment to BAHEP within thirty (30) days of EDC's receipt of such statements.

ARTICLE V

TERMINATION

Section 5.01.

Either party may terminate this Agreement upon thirty (30) days written notice for any reason or upon default by the other party. "Default" by a party occurs if the party fails to perform or observe any of the terms and conditions of this Agreement required to be performed or observed by that party. Should a default occur, the party against whom the default has occurred shall have the right to terminate all or any part of its duties under this Agreement, as of the 30th day following the receipt by the defaulting party of a notice describing such default and intended termination, provided, however, (i) such termination is ineffective if, within the 30-day period, the defaulting party cures the default,

DocuSign Envelope ID: 04BA6CC7-565B-494E-9616-D2CA1E5ABE41

or (ii) the termination may be stayed, at the sole option of the party against whom the default has occurred, pending cure of the default.

Section 5.02.

The parties hereto specifically acknowledge that the funds allocated for payment to BAHEP by EDC are derived from tax revenues collected pursuant to the authority of Texas Local Government Code Chapters 501, 502, and 505, and that this Agreement is based on the estimated tax revenues to be collected during the term of this Agreement for Fiscal Year 2020-2021 and subsequent years. BAHEP further understands, acknowledges, and agrees that expenditures must be approved on an annual basis by the Board of the EDC and the City Council of the City, and that if the tax revenues estimated or actually collected are less than the annual payment described in Section 4.01.A., EDC shall be under no obligation to reimburse BAHEP for the full amount set forth in such section and the Parties may terminate or renegotiate this Agreement. BAHEP and EDC further acknowledge that this Agreement is anticipated to extend into fiscal years 2021-2022 and 2022-2023, but funds may not be available in the future. Alternatively, EDC or the City of Seabrook may elect to fund this Agreement at any time from any lawful source.

Section 5.03.

Any party desiring to terminate this Contract may do so, with or without cause, upon thirty (30) days' notice thereof, as provided in Section 6.05 hereof.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.01 Independent Contractor.

The relationship of BAHEP to EDC hereunder shall be that of an independent contractor. EDC shall have no authority to direct the day-to-day activities of any of BAHEP's employees, shall have no authority over BAHEP's decisions, and shall have no rights to ownership of internal working papers or other information or data of BAHEP, except as otherwise specifically authorized or required herein.

Without in any way limiting the generality of the foregoing, it is specifically acknowledged and agreed that BAHEP has bargained for the confidentiality of all internal information and data that it generates other than that required to be submitted to EDC pursuant to Article II and Section 6.06 hereof. The parties agree that such confidentiality is necessary to foster and to promote competition, to assure the integrity of the competitive process, and to protect proprietary or innovative business strategies and concepts. Subject to the provisions of the Texas Public Information Act, Texas Government Code Chapter 552 that may be applicable to such documents, EDC agrees that it shall endeavor to protect and hold confidential all information submitted to EDC, to the extent that such information satisfies any exception to the Texas Public Information Act.

DocuSign Envelope ID: 04BA6CC7-565B-494E-9616-D2CA1E5ABE41

Section 6.02. Parties in Interest.

This Contract shall be binding on and inure to the benefit EDC and BAHEP and shall not bestow any rights upon any third parties.

Section 6.03. Nonwaiver.

Failure of either party hereto to insist on the strict performance of any of the provisions hereof, or to exercise any rights or remedies accruing hereunder upon default or failure of performance, shall not be considered a waiver of the right to insist on and enforce, by an appropriate remedy, strict compliance with any other obligation hereunder, or to exercise any right or remedy occurring as a result of any future default or failure of performance.

Section 6.04. Applicable Laws.

This Contract shall be subject to and construed in accordance with the laws of the State of Texas, the laws of the federal government of the United States of America, and all rules and regulations of any regulatory body or officer having jurisdiction hereover. This Contract is performable and venue is exclusive in Harris County, Texas.

Section 6.05. Notices.

All notices required or permitted hereunder shall be given in writing and shall be deemed delivered when actually received or on the third day following deposit into a United States Postal Service post office or receptacle with proper postage affixed thereto, sent Certified Mail, Return Receipt Requested, addressed to the respective other party at the address set forth below, or at such other address the receiving party may have theretofore prescribed by written notice to the sending party:

EDC	Paul Dunphey President, EDC 1700 First Street Seabrook, Texas 77586
BAHEP	Bob Mitchell Bay Area Houston Economic Partnership P.O. Box 58724 Houston, Texas 77258

Section 6.06. Audits.

BAHEP shall provide to City, within ninety (90) days following the close of Contractor's fiscal year, its audited financial statements for the preceding year prepared by an independent certified public accountant.

DocuSign Envelope ID: 04BA6CC7-565B-494E-9616-D2CA1E5ABE41

Section 6.07. Entire Agreement.

This Contract contains the entire agreement of the parties relating to the subject matter hereof and is the full and final expression of the agreement between the parties. Any changes of amendments to the rights or obligations of the parties hereunder must be made in writing and signed by both parties.

Section 6.08. Ambiguities.

In the event of any ambiguity in any of the terms of this contract, it shall not be construed for or against any party hereto on the basis that such party did or did not author the same.

Section 6.09. Effective Date.

This Agreement shall become effective October 1, 2020 and conclude on September 30, 2023, covering a 3-year term.

Section 6.10.

The City Council of the City of Seabrook has approved this Agreement as required by law, but is not a party hereto, and is not liable for any obligations or agreements made hereunder.

EXECUTED IN DUPLICATE ORIGINALS, in Seabrook, Harris County, Texas;

(SIGNATURE PAGE FOLLOWS)

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APPROVED BY THE SEABROOK ECONOMIC DEVELOPMENT CORPORATION on the 13th day of August, 2020.

SEABROOK ECONOMIC DEVELOPMENT CORPORATION

By: Paul Dunphey
Paul Dunphey, President

ATTEST:

Ernie Davis
Ernie Davis, Secretary

BAY AREA HOUSTON ECONOMIC PARTNERSHIP

Bob Mitchell, President

ATTEST:

Bob Payne
Bob Payne, Director of Contracts

APPROVED BY CITY COUNCIL on the _____ day of _____, 2020.

CITY OF SEABROOK

By: _____
Thomas G. Kolupski, Mayor

ATTEST:

_____
Robin Hicks, City Secretary