

Contract Principles Implementing Municipal Purpose

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Public Purpose. The term "public purpose" is a fluid concept which has eluded precise definition. *Wolper v. City of Charleston*, 336 S.E. 2d 871,875 (S.C. 1985). A public purpose is a purpose which: 1) is effected with a public interest; and 2) is performed by the public body in the exercise of its governmental functions. *Board of County Commissioners of Marshall County v. Shaw*, 85 P.2d 507 (Okl. 1947).

The courts have been unable to establish hard and fast rules by which to determine which purposes are public and which are deemed private. It has been noted that any attempt to establish such a fixed definition would result "in confusion and contradictions." 15 McQuillin, *Municipal Corporations*, (3rd Ed.) Section 44.35.

In *Marshall County v. Shaw*, 182 P.2d 507, 515 (1947), the Oklahoma Supreme Court held that the term "public purpose" should not be construed in a narrow or restricted sense and that a determination by the legislative body of what is a proper public purpose for the expenditure of funds should not be held unconstitutional unless the facts clearly establish a violation. Similarly, in *Rural Water District No. 3, Pushmatah County v. Antlers Public Works Authority*, 866 P.2d 458 (Okl. App. 1993), the Oklahoma Court of Appeals noted that, as a general rule, any public purpose associated with a municipality will be sufficient to defeat a claim of constitutional infirmity under Article 10, Section 17.

Economic Development. Economic Development has been determined by the Oklahoma Supreme Court to be a proper municipal public purpose under the Oklahoma Constitution at Article 10, Section 14. There are two cases which set out the parameters of the legal requirements in this arena. They are *Burkhardt v. the City of Enid*, 1989 OK 45 and *State of Oklahoma, ex. rel. Brown v. The City of Warr Acres*, 1997 OK 117.

The *Burkhardt* court discussed the need for consideration and accountability in the economic development relationship with outside entities. The *Warr Acres* case contains further guidance on the particulars of these key concepts in contract law.

While recognizing that the details of the plan matter, the courts have recognized the need for flexibility in crafting economic development plans. The *Warr Acres* court held that the "structure of economic development arrangements must change and grow over time to reflect and respond to increased commercial competition and complexities. An economic development plan, in whatever form it takes, will be upheld so long as it serves a public purpose and otherwise meets constitutional requirements."

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