

FIRST AMENDMENT TO ECONOMIC DEVELOPMENT AGREEMENT

The **FIRST AMENDMENT TO ECONOMIC DEVELOPMENT AGREEMENT** (the "First Amendment") made effective as of this 5th day of September, 2017, by and between **BROKEN ARROW ECONOMIC DEVELOPMENT AUTHORITY**, an Oklahoma public trust (together with its successors and assigns, the "Authority"), **THE CITY OF BROKEN ARROW, OKLAHOMA**, an Oklahoma municipal corporation (together with its successors and assigns, the "City", which term, when used in such context, shall also mean and refer to the areas within the territorial limits of the City), and **Milestone Capital L.L.C.**, an Oklahoma limited liability company (together with its successors and assigns, "Developer"). Terms used and not otherwise defined in the First Amendment shall be defined in the August 1, 2017 Agreement.

WITNESSETH:

WHEREAS, on August 11, 2017, the Authority, the City and the Developer entered into an Economic Development Agreement ("Agreement") and a Lease Agreement and Option to Purchase (the "Lease") whereby the Developer agreed to undertake a Project that will consist of approximately 31,660 Square Feet of retail, restaurant and office space and approximately 89,420 Square Feet of ninety (90), one (1) and two (2) bedroom residential units on property owned by the Authority and located at 305 North Main Street in Broken Arrow, Oklahoma; and

WHEREAS, the Agreement required the Authority to construct or cause to be constructed certain infrastructure improvements including a waterline and also to relocate certain utilities; and

WHEREAS, amendment of the Agreement is necessary to clarify the intent of the parties and specifically to provide for use of a booster pump for the provision of water and relocation of a sanitary sewer line; and

WHEREAS, amendment of the Agreement will advance the goals of the City and the Authority to retain and expand employment, attract private investment, enhance the tax base of the City, stimulate economic growth and improve the quality of life in the City, strengthen the community and permit the City to expand the type and scope of its services, including enhancing public improvements, and expanding the provision of police and fire protection therein; and

WHEREAS, both the City and the Authority deem it appropriate to approve the execution and delivery of this First Amendment in the interest of providing for the implementation of the Project and have determined such actions are in the best interest of the City and the health, safety, and welfare of the City and residents within and near the City; and

NOW, THEREFORE, in consideration of the covenants and mutual obligations set out herein and in the Agreement, and other consideration, the sufficiency of which the parties hereby acknowledge, the parties hereto hereby covenant and agree to the following Amendments:

**ARTICLE A
AMENDMENTS TO AGREEMENT**

A.1 Amendment to Section 4.4 of the Agreement: Section 4.4, Infrastructure Improvements by Authority, is hereby amended to read in its entirety as follows:

- (a) Streetscape. The Authority shall construct or cause to be constructed improvements on Main Street from Detroit Street to south side of Elgin Street consistent with the streetscape improvements previously constructed in the Rose District ("Streetscape"). Subject to the foregoing requirement, the Streetscape shall be constructed under the control of the City Manager, but in cooperation with Developer's representatives. The Streetscape shall be completed on or before the Substantial Completion Date.
- (b) Waterline. The Authority shall construct or cause to be constructed a 12" waterline from Greely Street to Detroit Street, with the precise location to be determined by the City's Director of Engineering and Construction. The waterline shall be completed on or before March 31, 2018.
- (c) Relocation Aerial Power, Cable Lines and Sanitary Sewer Line. The Authority shall re-route or cause to be re-routed existing aerial power, cable lines, and sanitary sewer line within the Real Property to an acceptable location to be determined by the City's Director of Engineering and Construction. It is contemplated that the sewer line will be located east of the Developer's facilities which will necessitate the line being located under a portion of the Developer's parking lot. The aerial power, cable lines, and sanitary sewer line shall be relocated by a date mutually agreed upon by the Authority and the Developer.
- (d) Easements. The Authority shall obtain and cause the preparation and recording of appropriate easements providing access in, over, across and above the Real Property as may be reasonably necessary for immediately contiguous utility improvements in the interest of making all utility connections efficient, convenient, accessible and available to Developer.

**ARTICLE B
CONTINUING TERMS OF AGREEMENT**

B.1 Except as amended hereby, all terms of the Agreement remain in full force and effect without modification or change. The Agreement, as amended by this Amendment, is in all respects ratified and confirmed, and the Agreement, as so amended by this Amendment, shall be read, taken and construed as one and the same instrument.

IN WITNESS WHEREOF, each of the parties have caused this Agreement to be executed by its duly authorized officials and its official seal to be impressed hereon, as of the date first above written.

DATED this 5th day of September, 2017.

THE CITY OF BROKEN ARROW,
a municipal corporation

ATTEST: (S E A L)

By: _____
Mayor

By: _____
City Clerk

Reviewed as to form and legality.

Assistant City Attorney

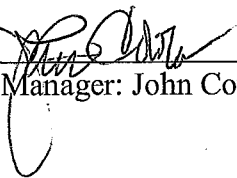
BROKEN ARROW ECONOMIC
DEVELOPMENT AUTHORITY,
an Oklahoma public trust

ATTEST: (S E A L)

By: _____
Chairman

By: _____
Secretary

MILESTONE CAPITAL, L.L.C.

By:  _____
Manager: John Cowen

STATE OF OKLAHOMA)
) ss.
COUNTY OF TULSA)

Before me, the undersigned, a Notary Public in and for said County and State, on the _____ day of _____, 2017, personally appeared John Cowen, Manager of Milestone Capital, LLC., to me known to be 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, and as the free and voluntary act and deed of said municipal corporation for the uses and purposes therein set forth.

Given under my hand and seal the day and year above written.
(S E A L)

Notary Public
My commission expires:
My number is: