

## **FIRST AMENDMENT TO GROUND LEASE**

This First Amendment to GROUND LEASE (the "First Amendment") is made and effective as of this 18<sup>th</sup> day of October, 2016, by and between **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), **BROKEN ARROW ECONOMIC DEVELOPMENT AUTHORITY**, an Oklahoma Public Trust of which the City is sole Beneficiary (together with its successors and assigns "BAEDA"), and **STONEY CREEK INVESTORS OF BROKEN ARROW, L.L.C., an Iowa Limited Liability Company**, being firstly assigned from **STONEY CREEK HOSPITALITY CORPORATION**, an Iowa corporation (together, with its successors and assigns, "Stoney Creek").

### **WITNESSETH:**

**WHEREAS**, on November 4, 2014, the City, BAEDA, and Stoney Creek entered into an Economic Development Agreement ("2014 Agreement") and a Ground Lease ("2014 Lease") whereby certain Premises were made available to Stoney Creek for location of a conference/convention center and an accompanying hotel; and

**WHEREAS**, advancement of the Project has resulted in the need to amend the 2014 Lease in order to more effectively document the intent of the parties and to resolve an issue necessitated by construction of the Project (as defined in Article I of the 2014 Lease); and

**WHEREAS**, Exhibit A to the, 2014 Lease has been modified to more fully reflect the intent of the parties and, as such, is addressed by this First Amendment and incorporated into the 2014 Lease (as amended by this First Amendment, the "Lease"), i.e. the legal description attached as **Exhibit 1** hereto, to be substituted in whole for Exhibit A to the 2014 Lease; and

**WHEREAS**, both the City and BAEDA 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 2014 Lease, and other consideration, the sufficiency of which the parties hereby acknowledge, the parties hereto hereby covenant and agree to the following Amendment:

### **ARTICLE A EXHIBITS AND SCHEDULES**

**A.1 Legal Description of the Land.** Following the execution and delivery of the 2014 Lease, it was necessary to refine and revise the legal description of the land and the parties agree that **Exhibit 1**, as attached hereto and made a part hereof, shall become and be Exhibit A to the 2014 Lease.

## **ARTICLE B**

### **CONTINUING TERMS OF AGREEMENT**

B.1 Except as hereby amended, all terms of the 2014 Lease remain in full force and effect without modification or change. The 2014 Lease, as amended herein, is in all respects ratified and confirmed and shall be read, taken and construed as one in the same instrument.

**IN WITNESS WHEREOF**, each of the parties has caused this First Amendment to Ground Lease to be executed by its duly authorized officials and its official seal to be impressed hereon, as of the date of the first above written.

## The City:

# THE CITY OF BROKEN ARROW, OKLAHOMA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF OKLAHOMA )  
 ) ss:  
COUNTY OF TULSA )

Notary Public \_\_\_\_\_ [SEAL]

My Commission No. is \_\_\_\_\_ and expires \_\_\_\_\_.

*(Signatures continue on the following page)*

## BAEDA:

# **BROKEN ARROW ECONOMIC DEVELOPMENT AUTHORITY, an Oklahoma public trust**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF OKLAHOMA )  
 ) ss:  
COUNTY OF TULSA )

Notary Public \_\_\_\_\_ [SEAL]

My Commission No. is \_\_\_\_\_ and expires \_\_\_\_\_.

*(Signatures continue on the following page)*

Stoney Creek:

**STONEY CREEK INVESTORS OF BROKEN  
ARROW, L.L.C.,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF IOWA )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Jeff Mould, the President of Stoney Creek Investors of Broken Arrow, L.L.C., a Delaware limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such \_\_\_\_\_, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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Notary Public

My Commission Expires:

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EXHIBIT 1

**TRACT 1**

A TRACT OF LAND LYING IN THE NORTHWEST QUARTER (NW1/4) OF SECTION TWO (2), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN MERIDIAN, CITY OF BROKEN ARROW, TULSA COUNTY, OKLAHOMA AND FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NW1/4;  
THENCE N88°42'33"E ALONG THE NORTH LINE OF SAID NW1/4 FOR A DISTANCE OF 1112.21 FEET TO THE EAST LINE OF A GENERAL WARRANTY DEED RECORDED WITH THE TULSA COUNTY CLERK'S OFFICE AS DOCUMENT NO. 2014083357 ON SEPTEMBER 19, 2014;  
THENCE S01°11'31"E ALONG SAID EAST LINE FOR A DISTANCE OF 184.38 FEET TO THE **POINT OF BEGINNING** SAID POINT ALSO BEING AT A CURVE TO THE RIGHT;  
THENCE SOUTHEASTERLY ALONG SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 9°46'34", A RADIUS OF 178.00 FEET FOR AN ARC LENGTH OF 30.37 FEET AND A LONG CHORD DISTANCE OF 30.33 FEET, BEARING S66°10'44"E;  
THENCE S61°17'27"E FOR A DISTANCE OF 199.19 FEET;  
THENCE S43°09'48"E FOR A DISTANCE OF 182.42 FEET;  
THENCE N63°38'37"E FOR A DISTANCE OF 79.88 FEET;  
THENCE S28°00'25"E FOR A DISTANCE OF 569.33 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF WEST ALBANY STREET AS ESTABLISHED BY A SPECIAL WARRANTY DEED RECORDED WITH THE TULSA COUNTY CLERK'S OFFICE IN BOOK 7306, PAGES 2462-2464 ON JUNE 02, 2004 AND LATER AMENDED TO RETURN PORTIONS OF THE RIGHT-OF-WAY BY THE CITY OF BROKEN ARROW'S ORDINANCE NO. 2814, PASSED AND APPROVED AUGUST 21, 2006, AND RECORDED AS DOCUMENT NO. 2006098464 WITH THE TULSA COUNTY CLERK'S OFFICE;

(THE FOLLOWING 4 COURSES ARE ALONG SAID NORTHERLY RIGHT-OF-WAY)

1. THENCE S24°59'37"E FOR A DISTANCE OF 75.60 FEET;
2. THENCE S65°00'23"W FOR A DISTANCE OF 29.74 FEET TO A CURVE TO THE RIGHT;
3. THENCE NORTHWESTERLY ALONG SAID CURVE TO THE RIGHT WITH A CENTRAL ANGLE OF 81°51'26", A RADIUS OF 530.00 FEET FOR AN ARC LENGTH OF 757.20 FEET AND A LONG CHORD DISTANCE OF 694.43 FEET, BEARING N74°03'54"W;

4. THENCE N33°08'11"W FOR A DISTANCE OF 195.73 FEET;  
THENCE N58°19'15"E FOR A DISTANCE OF 63.66 FEET;  
THENCE S51°32'54"E FOR A DISTANCE OF 40.65 FEET;  
THENCE N53°03'12"E FOR A DISTANCE OF 25.18 FEET;  
THENCE N20°00'08"E FOR A DISTANCE OF 329.91 FEET;  
THENCE N61°14'14"W FOR A DISTANCE OF 119.72 FEET TO A CURVE TO THE LEFT;  
THENCE SOUTHWESTERLY ALONG SAID CURVE TO THE LEFT HAVING A  
CENTRAL ANGLE OF 60°03'06", A RADIUS OF 142.00 FEET FOR AN ARC LENGTH OF  
148.83 FEET AND A LONG CHORD DISTANCE OF 142.11 FEET, BEARING S88°41'00"W;  
THENCE S58°39'27"W FOR A DISTANCE OF 188.51 FEET TO A POINT ON SAID  
NORTHERLY RIGHT-OF-WAY LINE LINE OF WEST ALBANY STREET;  
THENCE N33°08'11"W ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR A  
DISTANCE OF 36.02 FEET TO A POINT ON THE SOUTHERLY LINE OF A GENERAL  
WARRANTY DEED RECORDED WITH THE TULSA COUNTY CLERK'S OFFICE AS  
DOCUMENT NO. 2014083357 ON SEPTEMBER 19, 2014;

(THE FOLLOWING 2 COURSES ARE ALONG SAID SOUTHERLY LINE)

1. THENCE N58°39'27"E FOR A DISTANCE OF 189.64 FEET TO A CURVE TO THE  
RIGHT;
2. THENCE NORTHEASTERLY ALONG SAID CURVE TO THE RIGHT HAVING A  
CENTRAL ANGLE OF 50°16'32", HAVING A RADIUS OF 178.00 FEET FOR AN  
ARC LENGTH OF 156.19 FEET AND A LONG CHORD DISTANCE OF 151.23  
FEET, BEARING N83°47'43"E TO THE **POINT OF BEGINNING**;

THE ABOVE DESCRIPTION CONTAINING 8.128 ACRES MORE OR LESS.

AND

**TRACT 2**

A TRACT OF LAND LYING IN THE NORTHWEST QUARTER (NW1/4) OF SECTION  
TWO (2), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FOURTEEN (14) EAST OF THE  
INDIAN MERIDIAN, CITY OF BROKEN ARROW, TULSA COUNTY, OKLAHOMA AND  
FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NW1/4;  
THENCE N88°42'33"E ALONG THE NORTH LINE OF SAID NW1/4 FOR A DISTANCE OF  
1112.21 FEET TO THE **POINT OF BEGINNING**;  
THENCE CONTINUING N 88°42'33"E ALONG SAID NORTH LINE FOR A DISTANCE OF  
575.19 FEET TO A POINT ON THE EAST LINE OF A QUIT-CLAIM DEED RECORDED

WITH THE TULSA COUNTY CLERK'S OFFICE AS DOCUMENT NO. 2011000490 ON JANUARY 03, 2011;

(THE FOLLOWING 3 COURSE ARE ALONG SAID EAST LINE)

1. THENCE S46°14'38"E FOR A DISTANCE OF 70.65 FEET;
2. THENCE S01°11'51"E FOR A DISTANCE OF 347.76 FEET;
3. THENCE S17°19'28"E FOR A DISTANCE OF 472.79 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF WEST ALBANY STREET AS ESTABLISHED BY A SPECIAL WARRANTY DEED RECORDED WITH THE TULSA COUNTY CLERK'S OFFICE IN BOOK 7306, PAGES 2462-2464 ON JUNE 02, 2004;

THENCE S61°03'07"W ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 119.00 FEET;

THENCE N28°00'25"W FOR A DISTANCE OF 569.33 FEET; THENCE S63°38'37"W FOR A DISTANCE OF 79.88 FEET;

THENCE N43°09'48"W FOR A DISTANCE 182.42 FEET;

THENCE N61°17'27"W FOR A DISTANCE OF 199.19 FEET TO A CURVE TO THE LEFT;

THENCE NORTHWESTERLY ALONG SAID CURVE TO THE LEFT WITH A CENTRAL ANGLE OF 9°46'34", A RADIUS OF 178.00 FEET, FOR AN ARC LENGTH OF 30.37 FEET AND A LONG CHORD DISTANCE OF 30.33 FEET, BEARING N66°10'44"W TO THE EAST LINE OF A GENERAL WARRANTY DEED RECORDED WITH THE TULSA COUNTY CLERK'S OFFICE AS DOCUMENT NO. 2014083357 ON SEPTEMBER 19, 2014;

THENCE N01°11'31"W ALONG SAID EAST LINE FOR A DISTANCE OF 184.38 FEET TO THE **POINT OF BEGINNING**;

THE ABOVE DESCRIPTION CONTAINING 6.875 ACRES MORE OR LESS.

BEARINGS ARE BASED ON A GRID BEARING ALONG THE NORTH LINE OF THE NW1/4 OF SECTION 2, TOWNSHIP 18 NORTH, RANGE 14 EAST (N88°42'33"E) BASED ON THE OKLAHOMA STATE PLANE COORDINATE SYSTEM, NORTH ZONE, U.S. SURVEY FEET.

THIS DESCRIPTION WAS PREPARED ON JANUARY 16, 2015 FROM THE BENEFIT OF A BOUNDARY SURVEY COMPLETED ON JANUARY 15, 2015 FOR AND ON BEHALF OF COWAN GROUP ENGINEERING, LLC. BY JUSTIN SMITH, PLS 1868, CERTIFICATE OF AUTHORIZATION NUMBER CA6414, EXPIRES ON JUNE 30, 2016.