

THIRD AMENDMENT TO ECONOMIC DEVELOPMENT AGREEMENT

This Third Amendment to Economic Development Agreement (the “Third Amendment”) made effective 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, “BAEDA”), 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 area within the territorial limits of the City), and STONEY CREEK INVESTORS OF BROKEN ARROW, L.L.C., AN IOWA LIMITED LIABILITY COMPANY as successor in interest to STONEY CREEK HOSPITALITY CORPORATION, an Iowa Corporation (together with its successors and assigns, “Developer”). Terms used and not otherwise defined in this Third Amendment shall be defined in the 2014 Agreement.

WITNESSETH:

WHEREAS, on November 4, 2014, BAEDA, the City and the Developer entered into an Economic Development Agreement (“2014 Agreement”) whereby the Developer proposed a Phased Community Convention Center Complex Development to be undertaken by the Developer at its cost (except as provided in the 2014 Agreement, referred to as the Project’s First Phase in the 2014 Agreement). The second phase called for the City and the Developer to establish an adjacent exposition center and additional parking and related facilities approximately three (3) years after completion of the Project’s First Phase, known as the Project’s Second Phase under the 2014 Agreement, all on lands to be owned by the City and leased to Developer; and

WHEREAS, advancement of the Project resulted in the need to amend the 2014 Agreement in order to more fully document the intent of the parties and to resolve issues necessitated by construction of the Project (as defined in Article I of the 2014 Agreement); and

WHEREAS, the First Amendment to Economic Development Agreement (“First Amendment”) was approved by BAEDA and the City on October 20, 2015, and provided for, among other things, payment of the City’s proportional share of construction of a Mutual Access Drive and funding sources; and

WHEREAS, the Second Amendment to Economic Development Agreement (“Second Amendment”) was approved by BAEDA and the City on March 1, 2016, and provided for reimbursement of significant cost overruns for rock excavation on the site in excess of \$579,100.00; and

WHEREAS, amendment of the 2014 Agreement will advance the goals of the City and BAEDA 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 BAEDA deem it appropriate to approve the execution and delivery of this Third 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 Agreement, as amended, 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 2014 AGREEMENT

A.1 Amendment to Section 5.9 of the Agreement: Section 5.9 Traffic Impact Analysis, Traffic Signalization and Development fees, is hereby amended to read in its entirety as follows:

5.9 Traffic Impact Analysis, Albany Street Corridor Improvements, Traffic Signalization, and Development Fees: At its sole cost, the City shall be responsible for obtaining a Traffic Impact Analysis for West Albany Street from North Elm Place to North 9th Street. The City shall be responsible for constructing all Albany Street Corridor Improvements and Traffic Signalization, including constructing or modifying left turn lanes at Stone Wood Drive, and the main entrance and east entrance to the Development, traffic signal installation at Stone Wood Drive, and a pedestrian signal and sidewalks at Bass Pro Drive, all in accordance with the project bid awarded by the City to Magnum Construction, Inc., on April 18, 2017. All City Development Fees for the Project's First Phase under the 2014 Agreement shall be waived.

A.2 Addition to Section 5.10 to the Agreement: Section 5.10, Zoning, shall read in its entirety as follows:

5.10 Zoning: The City and BAEDA represent and warrant to the Developer that the Project is and will be in full compliance with the City zoning and use requirements.

ARTICLE B

CONTINUING TERMS OF AGREEMENT

B.1 Except as amended hereby, all terms of the 2014 Agreement, as amended, remains in full force and effect without modification or change. The 2014 Agreement, as amended by this Amendment and prior amendments, 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 has caused this Third Amendment to be executed by its duly authorized officials and its official seal to be impressed hereon, as of the date first above written.

THE CITY OF BROKEN ARROW,
a municipal corporation

ATTEST: (S E A L)

By: _____
Mayor

By: _____
City Clerk

Reviewed as to form and legality this ____5th day of _____September, 2017.

Municipal Counselor

BROKEN ARROW ECONOMIC
DEVELOPMENT AUTHORITY,
an Oklahoma public trust

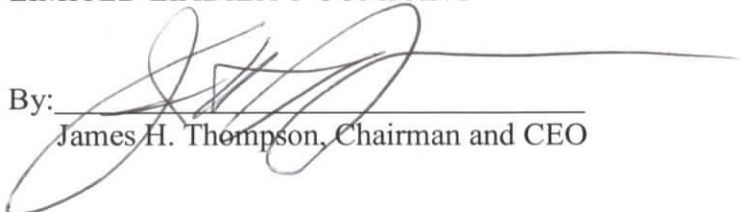
ATTEST: (S E A L)

By: _____
Chairman

By: _____
Secretary

STONE CREEK INVESTORS OF
BROKEN ARROW, L.L.C., AN IOWA
LIMITED LIABILITY COMPANY

By: _____
James H. Thompson, Chairman and CEO



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 Craig Thurmond, Mayor of THE CITY OF BROKEN ARROW, a municipal corporation, 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 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:

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 Craig Thurmond, the Chairman, and Liza Bryce, the Secretary of BROKEN ARROW ECONOMIC DEVELOPMENT AUTHORITY, a public trust, to me known to be the identical persons who executed the within and foregoing instrument for and on behalf of said public trust and acknowledged to me that they executed the same as their free and voluntary acts and deeds, and as the free and voluntary act and deed of said public trust for the uses and purposes therein set forth.

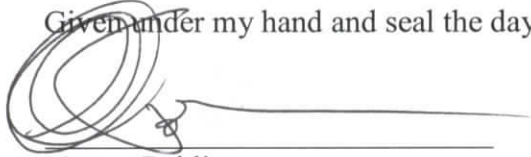
Given under my hand and seal the day and year above written.
(S E A L)

Notary Public
My commission expires:
My number is:

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 Jim Thompson, 2017, personally appeared Jim Thompson the Chairman and CEO of Stoney Creek Investors of Broken Arrow, L.L.C., an Iowa Limited Liability Company, 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 corporation for the uses and purposes therein set forth.

Given under my hand and seal the day and year above written.



Notary Public

My commission expires: August 10, 2019
My number is: #15007427

(S E A L)



WY Commission Expires Aug 10, 2018
Commission # 15007431
State of Oklahoma
Notary Public
LINDSEY C. JOHNSON