

## **FIRST AMENDMENT TO ECONOMIC DEVELOPMENT AGREEMENT**

This First Amendment to Economic Development Agreement (the “Amendment”) made effective of this 17<sup>th</sup> day of April, 2018, 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 area within the territorial limits of the City), and Alfa Laval Inc., a New Jersey corporation (together with its successors and assigns, “Alfa Laval”). Terms used and not otherwise defined in this First Amendment shall be defined in the Agreement.

### **WITNESSETH:**

**WHEREAS**, on August 1, 2017, the City and Alfa Laval entered into an Economic Development Agreement (“Agreement”) whereby Alfa Laval proposed expanding its industrial manufacturing operations, generally located at 1201 South 9<sup>th</sup> Street; and

**WHEREAS**, advancement of this project has resulted in the need to amend the Agreement in order to more fully document the intent of the parties and to resolve issues necessitated by construction of an Access Road and waterline; and

**WHEREAS**, amendment of the Agreement will advance the goals of the City 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; and

**WHEREAS**, the City deems it appropriate to approve the execution and delivery of this First Amendment in the interest of providing for the implementation of this 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, 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**

#### **AMENDMENT TO AGREEMENT**

**A.1 Amendment to Article I, Definition of Access Road, of the Agreement:** Article I, Definitions, Definition of Access Road, is hereby amended to read in its entirety as follows:

“Access Road” means an industrial road approximately 1,472 feet east of the centerline of Lynn Lane (9<sup>th</sup> Street), ending approximately 375 east of the Alfa Laval’s east most driveway as shown on the attached **Exhibit B**. The Access Road shall be constructed in accordance with the State Competitive Contracting Requirements. The City will actively work with the State of Oklahoma to secure additional funding for the next fiscal year to complete construction of an extension to the Access Road to the east end of the Alfa Laval property line by the end of calendar year 2019. Said

construction shall be expressly subject to appropriation and encumbrance of available funds.

**A.2 Amendment to Section 3.1 of the Agreement:** Article III, Obligations of the City, Section 3.1, Access Road, is hereby amended to read in its entirety as follows:

3.1 Access Road and Waterline. At its sole cost, except as otherwise provided herein, the City shall design and construct, or cause to be designed and constructed, the Access Road and a water line, in conformity with the State Competitive Contracting Requirements and all other City codes, manuals and ordinances. To the extent that any Infrastructure Improvements are made on or in public rights-of-way or any other lands owned by Alfa Laval, title to the same, upon the completion thereof, shall vest in the City, and Alfa Laval shall furnish to the City all requested instruments of release or conveyance necessary to perfect the City's title thereto, provided such instruments are in a form reasonably acceptable to Alfa Laval.

***Notwithstanding any provision of this Agreement to the contrary, in the event the Project is not timely commenced and completed for any reason or if the State of Oklahoma fails to provide its portion of the funding required for the construction of the Access Road, the City may terminate this Agreement and all of the terms and conditions hereof upon written notice to Alfa Laval, and, in such case, this Agreement would no longer be of any force and effect as between the parties.***

**A.3 Addition of Section 3.2 to the Agreement:** Article III, Obligations of the City, Section 3.2, Development Fees, shall be added to the Agreement and the Agreement shall be amended to read in its entirety as follows:

3.2 Development and Stormwater Fees: The City will waive development and stormwater fees up to \$25,000.00

**A.4 Substitution of Exhibit B:** The attached *Exhibit 1* shall be substituted for *Exhibit B* attached to this First Amendment.

## **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 has caused this First 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

Approved as to Form:

\_\_\_\_\_  
Assistant City Attorney

ALFA LAVAL, INC.,  
a New Jersey Corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

) ss:

COUNTY OF \_\_\_\_\_)

Before me, the undersigned, a Notary Public in and for said County and State on the \_\_\_\_ day of \_\_\_\_\_, 2018, personally appeared \_\_\_\_\_, of ALFA LAVAL, INC., a New Jersey 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 limited partnership 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: