

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING is entered into this ____ day of _____, 2020, by and between the City of Norman, Oklahoma, a municipal corporation, the Norman Utilities Authority, a public trust having the City of Norman as its sole beneficiary, (hereinafter collectively referred to as “City”), and the Cleveland County Health Department (hereinafter collectively referred to as “County”) to memorialize the commitments and obligations of the parties for the design, planning and construction of the Project as defined below.

WHEREAS, County owns property at the northwest corner of James Garner Avenue and Eufaula Avenue in Norman, Cleveland County, Oklahoma (the “Property”) upon which it intends to construct a healthy living block, known as the Cleveland County Wellness Square, or “The Well”, a mixed use civic project for the public as a public facility (the “Project”); and

WHEREAS, through development improvements in conjunction with The Well, a public building with public infrastructure, such as, but not limited to, improvements to sidewalks, streetscapes, landscaping, open spaces, a public building for public uses and services such as, but not limited to, Norman Regional Health System clinic, an event space, teaching kitchen, meeting space, multi-purpose classrooms that may be used for a wide variety of educational and community-based programming, and a flexible hall that will house the Cleveland County Farmer’s Market; and

WHEREAS, the location of the Project within Center City and adjacent to planned City improvements to James Garner Avenue puts the Project in the unique position to serve as a catalyst to encourage additional investment and revitalization of the area; and

WHEREAS, the County seeks to establish a walkable campus environment across the County Complex including pedestrian oriented design around The Well and the James Garner Corridor as well as pedestrian connections between The Well, downtown Norman, the Walker Arts District, and other County facilities in the immediate area; and

WHEREAS, as part of the Project, the County proposes to utilize areas within the platted alley as part of their development that would inhibit the ability for the City to properly operate, maintain, repair or replace the existing sanitary sewer line; and

WHEREAS, the County has requested the vacation of the platted easements within the alley located generally west of James Garner Avenue and between West Comanche Street and West Eufaula Street to facilitate their development; and

WHEREAS, in recognition of the Project’s potential contribution to the revitalization and redevelopment of the Center City area of Norman, the location of the Project as the entry point into James Garner Avenue from the South, and its status as a public building owned by the County, a political subdivision independent of the City, with amenities accessible to the general public, the Parties desire to enter into this Agreement pertaining to the design, planning, construction and inspection of the Project.

NOW, THEREFORE, in consideration of the respective covenants below, the parties agree as follows:

1. Development Issues.

- a. Zoning: The parties recognize that the Property is located within the City of Norman's Center City Form Based Code zoning district and that the historical relationship of the parties, such as to the plans for the Project, will not necessitate any procedures of rezoning or platting of the Property and does not need to meet the standards of the Center City Form Based Code zoning district.
- b. Platting: The County does not intend to plat the property but does intend to file of record all easements, dedications, etc.
- c. Plan Review, Permits and Inspections. The City agrees to review building plans, issue earth change and building permits, as appropriate, and perform the normal inspections during the construction process. The City's review of all design, planning and construction specifications of the Project will be advisory in nature, for compliance with City Ordinances and adopted building codes. City construction standards will be utilized by the County. The City will charge the usual and customary permit and inspection fees for the Project as determined by adopted ordinance. The schedule of City fees for all such review, building permits (which shall not include any utility fees per 3.b. below), and inspections shall be as set forth in Section 5-105 of the City Code. Notwithstanding the above, the County retains the right in the County's sole discretion to utilize third party contract services, instead of City services, as necessary to provide building permit review and/or inspections for the Project.
- d. Certificate of Occupancy. A Certificate of Occupancy will be issued by the City to use the Project upon completion of all building code and building permit requirements, provided however, the failure to receive a Certificate of Occupancy will not prevent the County from occupying or using the Project. Pursuant to Section (1)(a) above, any alteration, variance, or exception from the Center City Form Based Code zoning district for the Project shall not result in any delay or refusal for the issuance of the Certificate of Occupancy.

2. Transportation and Traffic.

- a. James Garner Avenue Improvements. The County acknowledges that the City is in the design phase of a significant transportation improvement project on James Garner Avenue between Gray Street and Eufaula Street including along the frontage of the Project. In order to assure seamless coordination between the Project and the transportation improvements, the Parties agree to the following:
 - i. The City shall determine the road section for James Garner Avenue. This road section currently anticipates a two-lane roadway with a center

landscaped median, parallel parking meeting Section 4017 of the Engineering Design Criteria, and sidewalks as applicable. It is anticipated that the final design of James Garner Avenue will be informed by a collaborative project stakeholder engagement process, including but not limited to the County and other abutting property owners, as well as a public engagement process. The City shall keep the County informed throughout the James Garner Avenue design process as to its effect on the Project.

- ii. The City shall be solely responsible for the cost of design, engineering, planning, permitting, surveying, and construction for James Garner Avenue. No recoupment or assessments shall be applied to the County.
- iii. The City shall construct all improvements to a point fifty (50) feet from the centerline of James Garner Avenue and one-hundred and forty (140) feet from the centerline of the BNSF Railroad right of way. This location corresponds to the west edge of the landscaping beds shown and referenced on the attached **EXHIBIT A**. All aspects of the James Garner Avenue plans such as shown on **EXHIBIT A**, as they touch and concern the County Property and its frontage on James Garner Avenue and other public right of ways abutting the Project shall be provided to the County for review of its conformity to the County Project plans. If such plans conflict with the County Project plans, the City and the County agree to review such conflicts and endeavor to find a solution together. Moreover, the City agrees, at City expense, to design, engineer, plan, permit, survey, install and construct all applicable City improvements behind the west curb line of James Garner Avenue.
- iv. Upon completion of installation of improvements by the City as contemplated herein, the County shall maintain the landscape areas west of James Garner Avenue and abutting the Property.

3. Utilities.

- a. Vacation of Platted Easements within Alley. The Parties acknowledge that the County has, by separate application, asked that the platted easements in the alley located generally west of James Garner Avenue and between West Comanche Street and West Eufaula Street be vacated to facilitate the development of the Project. Because of inhibited access to the sanitary sewer facilities should the easement be vacated, the City and County have developed a solution as set forth below, to allow the platted easements in the alley to be vacated.
 - i. City Responsibilities.

1. Relocate existing sanitary sewer service for the Train Depot, located at 200 South Jones Avenue, solely at the City's cost within ninety (90) days of the effective date of this agreement.
2. Retain ownership of the sanitary sewer system downstream of and including Manhole 211122, located at approximately Northing 686,727 and Easting 2,134,707 per the Oklahoma State Plane Coordinates South Zone – NAD 1983 HARN.
3. Transfer ownership of the existing sanitary sewer line and appurtenances upstream of Manhole 211122, located at approximately Northing 686,727 and Easting 2,134,707 per the Oklahoma State Plane Coordinates South Zone – NAD 1983 HARN upon completion of Train Depot sanitary sewer service relocation which will be confirmed in a letter to the County upon completion. The date of the letter shall act as the date of the transfer.

ii. County Responsibilities.

1. Accept ownership of the existing sanitary sewer line and appurtenances upstream of Manhole 211122, located at approximately Northing 686,727 and Easting 2,134,707 per the Oklahoma State Plane Coordinates South Zone – NAD 1983 HARN in as is condition. The County acknowledges that the City makes no implied or express warranty or statement as to the condition of said line and appurtenances.
2. Operate, maintain, repair and/or replace said sanitary sewer line and appurtenances in accordance with City, State, and Federal regulations.
3. Upon completion of any work on said sanitary sewer line and appurtenances that disturbs areas within the public right-of-way for James Garner Avenue and Jones Avenue, restore areas in a timely manner to conditions as good or better than existing conditions in accordance with current City ordinances, specifications and design criteria in effect at the time of the work.
4. As to any claims that arise from acts or omissions that occurred after acceptance of the line and appurtenances, hold the City harmless for any failures of the accepted sanitary sewer line or appurtenances upstream of Manhole 211122, located at approximately Northing 686,727 and Easting 2,134,707 per the Oklahoma State Plane Coordinates South Zone – NAD 1983 HARN.

b. Fees and Taxes Related to Utility Connections.

- i. Wastewater Excise Tax: The Parties agree that no additional Wastewater Excise Tax is owed for the Project due to prior development on these parcels, such as the Food and Shelter's daily commercial food service and dining operations and residence housing with restroom and bathing facilities.
 - ii. Other Rates and Fees. Except as stated elsewhere herein, the parties agree that no other fees associated with utility connections, zoning, platting, or otherwise are due as part of the development of the Project; however, the County will be required to pay all monthly sanitary sewer, water, and sanitation fees and charges for services provided by the City in accordance with current City ordinances, specifications and design criteria in effect at the time of service.
4. Application for Tax Increment Finance Funds. The parties acknowledge that the County has made application for funding from the ad valorem Center City Tax Increment Finance District. The parties shall continue to work toward resolution of such funding and the City shall promptly process the County's application forward for review and hearing. Nothing in this agreement shall be construed as a determination of the amount of funding to be authorized through such application.
5. Assignability. The Project is being developed on land owned by the Cleveland County Health Department. The Cleveland County Health Department reserves the right to assign, in part or whole, its rights and obligations under this Agreement to affiliated entities of the County, such as but not limited to the Board of County Commissioners of Cleveland County Oklahoma.

[Remainder of page left blank intentionally]

IN WITNESS WHEREOF, the City and the County, as parties to this Agreement, have caused this Agreement to be duly executed and delivered as of the date first written.

The City of Norman, Oklahoma

By: _____
Breea Clark, Mayor

ATTEST:

By: _____
Brenda Hall, City Clerk

Norman Utilities Authority

By: _____
Breea Clark, Chairperson

ATTEST:

By: _____
Brenda Hall, Secretary

Approved as to form and legality this ____ day of _____, 2020.

City Attorney/General Counsel

Cleveland County Health Department

By: _____
Darry Stacy, Chairperson
Cleveland County Health Dept. Board

EXHIBIT A

James Garner Avenue as related to the County project.
The red dashed line below roughly represents the west edge of the landscaping beds as discussed in Section 2.a.iii.



