

**PURCHASE AND SALE AGREEMENT**

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2020 (the "Effective Date"), between UNIVERSITY TOWN CENTER, LLC, an Oklahoma limited liability company (hereinafter referred to as "Seller"), and the NORMAN TAX INCREMENT FINANCE AUTHORITY, an Oklahoma public trust having the City of Norman, a municipal corporation, as its sole beneficiary, and the CITY OF NORMAN (hereinafter referred to collectively as "Buyer").

R E C I T A L S:

A. Seller and Buyer are parties to an Amended and Restated Master Operating and Development Agreement dated effective June 30, 2019 (the "2019 Master Agreement"), regarding, among other things, the purchase, sale, and development of certain real property located in the City of Norman, Cleveland County, Oklahoma for the construction of a multi-generational recreation complex with an indoor competitive pool facility and an indoor multi-sport facility (hereinafter referred to collectively as "Recreation Facility Project").

B. In Section 12 of the 2019 Master Agreement, Seller agreed to donate two (2) acres as a Cultural Facility land donation (a.k.a. recreation facility tract) and sell ten (10) acres of land owned by Seller and located generally within the University North Park Increment District on property north of the Embassy Suites hotel and bordering the Max Westheimer airport to a public trust designated by the City of Norman ("City") for the construction of the Recreation Facility Project (for convenience herein the 2 acres of Cultural Facility land being donated and conveyed in this transaction and the 10 acres being purchased and conveyed in this transaction are collectively referred to as the "Land") pursuant to a mutually acceptable Purchase and Sale Agreement no later than either June 30, 2020 or upon closing of the issuance of bonds to finance construction of the Recreation Facilities, whichever is later. Under the terms of the 2019 Master Agreement, the final site was to be mutually determined by the City and UTC no later than March 31, 2020.

C. Section 12 of the 2019 Master Agreement contemplated the Seller having a right to repurchase the Land should the City not commence construction of the Recreation Facility Project by January 1, 2021. Such repurchase right set forth that UTC shall have the right to repurchase the Recreation Facility Site at the same price for which the City purchased such land, and the City shall convey the Recreation Facility Site back to UTC, free and clear of any encumbrances other than those to which the Recreation Facility Site was subject when conveyed to the City. Buyer and Seller acknowledge the impacts of the coronavirus and attempts to obtain additional funding authorizations for the construction of the Recreation Facility Project had previously delayed the purchase of the Land by the Buyer and desire to modify the construction commencement deadline to reflect this delay. No further delays are reasonably anticipated whether due to coronavirus or otherwise and the parties seek to move forward without any further delay.

D. In Section 12 of the 2019 Master Agreement, the parties thereto committed that the Recreation Facilities are intended to create a regional attraction to encourage a regional draw of customers and hotel patrons from outside of Norman. To do so, the 2019 Project Plan authorized the expenditure of up to \$5,154,762 of the remaining UNP TIF tax increment revenues for Recreation Facilities Costs. Such funds shall be utilized as follows:

i. NPS Aquatic Contribution. Recreation Facilities funds in the amount of \$350,000 will be used to supplement the anticipated annual contributions by Norman Public Schools to the operation of the indoor aquatic facility.

ii. Construction Supplement. Any remaining Recreation Facilities funds may be made available for the construction and equipping of the Recreation Facilities projects to ensure they will serve as a regional draw for larger tournaments, swim meets and other events.

#### A G R E E M E N T S:

NOW, THEREFORE, in consideration of the covenants contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. Purchase and Sale of Land. On the Closing Date, Seller shall sell the Land, the legal description for which will be developed upon receipt of a final survey, subject to final approval of Seller, and as generally depicted on Exhibit A (the “Land”), surface rights only, less and except all interests in oil, gas, shale, hydrocarbons, subsurface rights and other minerals therein, thereon, or thereunder, to Buyer, and Buyer shall purchase the Land from Seller, subject to the terms and conditions of this Agreement and the 2019 Master Agreement.

1.1 Fulfillment of Certain Obligations of the 2019 Master Agreement. Buyer and Seller agree that all material terms contained in Section 12(b)(i) of the 2019 Master Agreement will be met and fulfilled in full upon the closing as contemplated herein.

2. Purchase Price. Of the 12-acre Land, Buyer remains committed to donating two (2) acres. Subject to the adjustments and prorations herein described, the price to be paid by Buyer to Seller for the remaining ten (10) acres of the Land shall be Two Million, Sixty-Nine Thousand Nine-Hundred Seventy-One and no/100 dollars (US\$2,069,971.00) (the “Purchase Price”). The Purchase Price shall be paid as follows:

2.1 Cash at Closing. On the Closing Date, Buyer shall pay to Seller the Purchase Price in cash, or cashier’s check or other immediately available funds, subject to the prorations set forth below.

3. Survey, Title, and Inspection Matters. Buyer shall have the right to review the Survey, Title Commitment and inspect the Land in accordance with the terms and provisions hereinafter set forth:

3.1 Survey. Prior to Closing, Buyer shall obtain a current ALTA survey of the Land (the “Survey”). The Survey shall be prepared by a licensed surveyor selected by the Buyer in accordance with the Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys.

3.2 Title Matters. Prior to Closing, Seller shall deliver to Buyer, at Buyer’s expense, the following items:

3.2.1 Title Commitment. A title commitment (the “Title Commitment”) covering the Land and Appurtenances which binds the title insurer, acting through a title company of Buyer’s choice in Buyer’s sole discretion (the “Title Company”), to issue at Closing the current form of an ALTA Owner’s Policy of Title Insurance (the “Title Policy”) in the full amount of the Purchase Price, at Buyer’s expense, with said policy to provide survey coverage for the Land.

3.2.2 Title Documents. True and correct copies of all instruments referenced in the Title Commitment and as shown on the Survey that constitute exceptions or restrictions upon the title of the Land (the “Title Documents”).

3.3 Title Review. At least one month prior to Closing, Buyer shall notify Seller of any objections to title or survey matters (“Objections”), and Seller shall notify Buyer prior to Closing of its choice of whether to cure the Objections or its unwillingness or inability to cure the same. In the event Seller is unable or unwilling to cure one or more of the Objections by Closing, Buyer may: (i) waive any such uncured Objections, close the Transaction without reduction in Purchase Price, and accept such title and Survey condition as Seller is able to convey, and by such waiver and acceptance Buyer shall be deemed to have waived any and all claims, damages, lawsuits, injuries, and/or causes of action against Seller for damages or any other remedies for any and all defects in and/or exceptions to the title and Survey to the Land; (ii) extend the period of time and the Closing Date for up to thirty (30) days, if necessary, to enable Seller to cure those Objections that Seller has indicated it is willing and able to cure, at Seller's expense; or (iii) terminate the Agreement, as amended, by notifying Seller and Title Company in writing, and on such termination, the parties will be discharged from any further obligations and liabilities under this Agreement.

3.4 Confidentiality of Inspection Matters. Buyer acknowledges that in the course of Buyer’s inspection of the Land, Seller may provide to Buyer information that is nonpublic, confidential or proprietary in nature. Buyer agrees to maintain the confidence of all information delivered by Seller to Buyer and not to disclose or use any information provided by Seller to Buyer for any purpose other than evaluating the Land. Buyer agrees that no such information will be accepted into the possession of Buyer in any form or means that would make the information a public record and publicly available. Further, Buyer agrees to waive, discharge, release, and hold harmless, Seller, its shareholders, officers, members, directors, owners, partners, managers, employees, agents, consultants, contractors, attorneys, brokers, and representatives (collectively with Seller, the “Seller Covered Parties”), harmless from and against any and all losses, costs, damages, demands, liens, claims, liabilities, injuries, deaths, or expenses (including, but not limited to, attorneys’ fees incurred, regardless of whether litigation is ever commenced) incurred by any Seller Covered Party arising from or related to any of Buyer’s due diligence or inspections hereunder. If the transaction does not close, Buyer shall reimburse Seller for the cost of any inspection materials which the Seller provided at Buyer’s request.

3.5 Seller’s Representations and Warranties. Seller’s representations, warranties, and covenants to Buyer are based on the actual, direct, first-hand, and non-investigated knowledge of Seller’s Manager only, who is acting solely in his capacity as Manager, and not in any personal capacity whatsoever, and, consequently, the Manager shall have no personal liability arising out of any representations or warranties set forth herein. No constructive or actual knowledge of any agent, employee, representative, or other person affiliated with Seller shall be imputed to said Manager. Therefore, subject to the two immediately preceding sentences, Seller hereby makes the following representations and warranties:

- (a) Seller is not aware of having been notified, orally or in writing, and is not aware of any instances in which the Land is in violation of any codes, statutes, ordinances, or regulations;
- (b) All bills, invoices, and claims have been or will be paid prior to Closing, such as any amounts due that could result in a lien against the Land if not paid;
- (c) Seller has full authority and right to convey good marketable title to the Land to Buyer;

- (d) Seller is not aware of being subject to or bound by any judgment, decree, injunction, or other court order in respect to the Land; and
- (e) Seller is not aware of any action, suit or proceeding before any court or governmental agency or authority pending, or threatened against Seller in written correspondence to Seller that would adversely affect any of the Land or the ability of Seller to convey good and marketable title to the Land, or that would limit Buyer's ownership and control or rights to use the Land after the Closing.

Seller's representations and warranties herein, subject to knowledge qualifications of above paragraph in this Section 3.5, shall survive for the benefit of Buyer for a period of two (2) years after the Closing.

3.6 Buyer's Representations and Warranties. Buyer hereby represents and warrants to the best of Buyer's City Manager's actual firsthand knowledge and belief, the following:

- (a) This Agreement has been authorized by all necessary action of the governing body of Buyer and Buyer has full authority and right to enter into this Agreement and proceed to fulfill its terms.
- (b) Buyer is not aware of being subject to or bound by any judgment, decree, injunction, or other court order that would inhibit or prevent Buyer from entering into this Agreement and fulfilling its terms; and
- (c) Buyer is not aware of any action, suit or proceeding before any court or governmental agency or authority pending, or threatened against Buyer (in written correspondence to Buyer) that would inhibit or prevent Buyer from entering into this Agreement and fulfilling its terms, or that would limit Buyer's ownership and control or rights to use the Land after the Closing.

Buyer's representations and warranties herein shall survive for the benefit of Seller for a period of two (2) years after the Closing.

3.7. Condition of Land and Disclaimers by Seller: Release.

3.7.1. Buyer acknowledges and agrees that, except as expressly set forth in this Agreement or in any of the documents delivered at Closing, as applicable, neither Seller, nor any other Seller Covered Party, have made, and except as expressly set forth in this Agreement or in any of the documents delivered at a Closing, Seller is not liable or responsible for, or bound in any manner by, and hereby expressly disclaims, any express or implied representations, warranties, covenants, agreements, obligations, guarantees, statements, information, or inducements pertaining to the Land or any part thereof, the title and physical or environmental condition thereof the quantity, character, fitness and quality thereof, the merchantability, fitness for a particular purpose, the income, expenses or operation thereof, the value and profitability thereof, the uses which can be made thereof (including, without limitation, the construction of Buyer's intended uses), the legality of Buyer's intended use for the Land under the City of Norman's current zoning ordinances affecting the Land, or any other matter or thing of whatsoever kind or nature with respect thereto. Buyer further acknowledges, agrees, represents, and warrants that it has assumed the duty to inspect the Land as provided for in this Agreement, and thereby assumes any and all liabilities or obligations relating to any physical or environmental condition of the Land whatsoever as of the Closing Date. Buyer agrees to solely

assume the duty to conduct and to rely exclusively on its own inspections of the Land. Seller's delivery of surveys, title reports, inspections, plans, specifications, or other information, if any, pursuant to this Agreement shall not constitute a representation by Seller that such information is current, correct, accurate, whole, or complete. It has been and remains the responsibility of Buyer, at Buyer's sole cost and expense, to satisfy itself as to the condition of the Land including, without limitation: (i) the nature and condition of the Land, including but not limited to the water, soil, geology, drainage, topography, flora and fauna and the suitability thereof, and of the Land for any and all activities and uses which the Buyer may elect to conduct thereon, or any improvements Buyer may elect to construct thereon, income to be derived therefrom or expenses to be incurred with respect thereto, or any obligations in any other manner relating to or effecting the same; (ii) the nature and extent of any easement, right-of-way, lien, encumbrance, license, reservation, condition, or otherwise; (iii) the presence or absence of any environmentally-threatened species; (iv) the presence or absence of any environmental hazardous substance or material and the compliance of the Land or the operation of the Land with any laws, rules, ordinances or regulations of any government or any regulatory bodies; (v) geological conditions, including, without limitation, subsidence, subsurface conditions, water, cable, underground water reservoirs, limitations regarding withdrawal of water and faulting; (vi) whether or not, to the extent to which the Land or any portion thereof, is affected by any stream (surface or underground) body of water, flood-prone area, flood plain, flood way or special flood hazard; (vii) drainage; (viii) soil conditions, including but not limited to the existence of instability, past soil repairs, soil additions or conditions of soil fill or susceptibility to landslides or the sufficiency of any undershoring; (ix) zoning to which the Land and any portion thereof may be subject; and (x) availability of any utilities to the Land or any portion thereof. Upon each Closing, Buyer shall assume the risk that adverse matters, including, but not limited to, construction defects and adverse physical and environmental conditions, may not have been revealed by Buyer's investigations of the Land. Without limiting the foregoing, Buyer hereby expressly acknowledges and agrees that, except as expressly set forth in this Agreement or in any of the documents delivered at a Closing, Buyer is purchasing the Land as of the Closing Date in its **"AS-IS and WHERE-IS" condition WITH ALL FAULTS**. The provisions of this Section 3.7.1. shall expressly survive all Closings and the delivery of the Deed hereunder, or the earlier termination of this Agreement, for all purposes and shall not be deemed to have merged into any of the documents executed or delivered at any Closing.

3.7.2. Without limiting the provisions of Section 3.7.1, above, and except as expressly set forth in this Agreement or in of the documents delivered at any Closing, Buyer, upon Closing, fully and completely releases Seller and (as the case may be) Seller's shareholders, officers, members, directors, owners, partners, managers, employees, agents, consultants, contractors, attorneys, brokers, and representatives any and all claims, demands, causes of action (including but not limited to causes of action in tort), losses, damages, liabilities, injuries, deaths, costs and expenses (including but not limited to attorneys' fees and disbursements, expert witnesses, discovery expenses, and court costs, whether the suit is instituted or not) of any and every kind, nature or character, whether known or unknown, liquidated or contingent (hereinafter collectively called the "Claims") arising from or relating to any matters set forth in Section 3.7.1. and as relating to: (1) any physical conditions, violations of any applicable laws (including, without limitation, any environmental laws) or any and all other acts, omissions, events, circumstances or matters regarding said Land; or (2) any other conditions, including, without limitation, environmental and other physical conditions affecting said Land, whether the same are a result of negligence of Seller or otherwise. The release set forth in this Section 3.7.2. specifically includes, but is not limited to, any claims under any environmental laws of the United States, the State of Oklahoma, or any political subdivision thereof, as any of those laws may be amended from time-to-time, and any regulations, orders, rules or procedures or guidelines promulgated in connection

with such laws, regardless of whether they are in existence on the date of this Agreement. Buyer acknowledges that Buyer has been represented by independent legal counsel of Buyer's selection, and Buyer is granting this release of its own volition and after consultation with Buyer's counsel. Except as otherwise expressly provided in this Agreement, Buyer acknowledges that any condition of the Land that Buyer discovers or desires to correct or improve after the Closing Date shall be at Buyer's sole expense. The provisions of this Section 3.7.2 shall expressly survive all Closings and the delivery of the Deed hereunder, or the earlier termination of this Agreement, for all purposes and shall not be deemed to have merged into any of the documents executed or delivered at any Closing.

4. Closing. The consummation of the Transaction (the "Closing") shall be accomplished as follows:

4.1 Closing Place and Date. Unless the Agreement has been effectively terminated prior thereto, the Closing shall take place at the offices of the Title Company on such date and at such time to be mutually determined by Seller and Buyer (the "Closing Date"), but in any event no later than January 15, 2020.

4.2 Seller's Deliveries. At the Closing, Seller shall deliver or cause to be delivered to Buyer and/or the Title Company, as applicable, the following, each fully executed, attested, sworn to, and acknowledged (where appropriate):

4.2.1 Special Warranty Deed. A Special Warranty Deed duly executed by Seller in substantially the form of **Exhibit "B"** attached hereto (the "Deed") conveying to Buyer the Land, subject only to exceptions to title stated in the Title Commitment approved by Buyer, and less and except all interests in oil, gas, hydrocarbons, subsurface rights, and other minerals therein, thereon, or thereunder.

4.2.2 Approval of Plans and Specifications for Infrastructure Improvements. Seller's written approval of the Plans and Specifications for the Infrastructure Improvements as referenced in Section 5.1.1 of this Agreement.

4.2.3 FIRPTA Affidavit. An affidavit in form and substance satisfactory to Buyer stating that Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code and implementing regulations.

4.2.4 Proof of Authority. Such evidence as to the authority of Seller to enter into this Agreement and to discharge the obligations of Seller pursuant hereto as Buyer and the Title Company shall reasonably require.

4.2.5 Marked Title Commitment. An original of the Title Commitment, marked and executed by the Title Company as agent of the Title Insurer, unconditionally obligating the Title Insurer to deliver to Buyer the Title Policy insuring Buyer as the owner of the marketable fee simple title to the Land (except all interests in oil, gas, other minerals therein), subject only to the payment of the premium expense, and only to exceptions to title stated in the Title Commitment approved by Buyer.

4.2.6 Proration Amounts. Such payments to Buyer (or credits against the Purchase Price) as may be required to effect the prorations required by this Agreement.

4.2.7 Closing Statement. The document prepared by the Title Company (the "Closing Statement") to be duly executed by Seller and Buyer to record the proration of receipts and

disbursements relating to the Land, the payment of the costs of performing this Agreement and the corresponding adjustment, if any, of the Purchase Price.

4.2.8 Abstract. An abstract of title certified to date confirming the transfer of the Land to Buyer.

4.2.9 Additional Documents. Such additional documents, including lien and possession affidavits, as may be reasonably requested by Buyer and the Title Company to consummate the Transaction.

4.3 Buyer's Deliveries. At the Closing, Buyer shall deliver or cause to be delivered to Seller and/or the Title Company, as applicable, the following, each fully executed, attested, sworn to, and acknowledged (where appropriate):

4.3.1 Purchase Price. The Purchase Price, subject to the prorations as provided for in this Agreement, by cashier's check or by wire transfer of immediately available United States funds.

4.3.2 Proof of Authority. Such evidence as to the authority of Buyer to enter into this Agreement and to discharge the obligations of Buyer pursuant hereto as Seller or the Title Company shall reasonably require.

4.3.3 Closing Statement. The Closing Statement.

4.3.5. Financing Proof. Proof in form reasonably acceptable to Seller of Buyer's ability, commitment, intentions, and plans to complete the obligations of Section 12 of the 2019 Master Agreement, wherein the Buyer committed to "obtain sufficient funding to construct the Recreation Facility projects, which are estimated to cost at least \$22,500,000".

4.3.4 Additional Documents. Such additional documents as may be reasonably requested by Seller or the Title Company to consummate the Transaction.

4.4 Possession. Possession of the Land shall be given to Buyer on the Closing Date, free from all parties claiming a right to possession or having claims against the Land, other than as claimants under only the exceptions to title stated in the Title Commitment approved by Buyer. Effective on the recording of the Deed, the beneficial ownership and the risk of loss of the Land shall pass from Seller to Buyer.

4.4.1 Actions Prior to Closing. After the signing of this Agreement by all parties, and until the Closing, Seller shall: (i) maintain the Land, as it currently exists generally, and without alteration; (ii) not, without the prior written consent of Buyer, enter into any contracts or agreements with respect to the Land that will not be fully performed or cancelable by Seller before Closing, or that will not be cancelable by Buyer at any time and without liability or expense on or after Closing; and (iii) notify and advise Buyer of any litigation, arbitration, condemnation, or administrative actions (such as, but not limited to, zoning, variance, code enforcement and regulatory proceedings before any officer, court, board, governmental body) which affect the Land and of which Seller has actual, direct, first-hand, and non-investigated knowledge of Seller's Manager.

4.4.2 Leases; Service Agreements. Seller shall terminate any existing leases or service agreements covering any portion of the Land effective as of the Closing Date.

4.5 Prorations. All receipts and disbursements relating to the Land shall be prorated at the Closing as of 11:59 p.m. on the day preceding the Closing Date, and the Purchase Price of the Land shall be adjusted as provided in the Closing Statement. Unless otherwise requested by Seller, all prorations and costs owing by Seller shall be deducted from amounts owing to Seller at the Closing and paid by Title Company as a credit against amounts owing to Seller by Buyer.

4.5.1 Taxes. All ad valorem taxes and installments of special assessments, if any, to the extent they had vested and become due for the calendar years preceding the year in which the Closing Date occurs shall be paid by Seller. All ad valorem taxes and installments of special assessments, if any, for the calendar year in which the Closing occurs shall be prorated to the Closing Date based on the latest available tax rate and assessed valuation. To the extent applicable, Buyer shall pay all ad valorem taxes from and after the date of Closing.

4.5.2 Insurance. Seller shall terminate all existing insurance policies for the Land, if any, on the Closing Date, and Buyer shall be responsible for all insurance coverage desired by Buyer. Any prepaid insurance premiums, if any, will be retained by Seller.

4.6 Closing Costs. The cost of the transaction shall be borne by each party as put forth below, with an "X" marked in the column of the party responsible for the cost. If both columns are marked X, then it means that parties are to split the cost equally:

<b>Cost Item (where applicable, if applicable):</b>	<b>Buyer cost</b>	<b>Seller cost</b>
Items payable in connection with any loan on the transaction, including but not limited to, mortgage tax, filing fees, lender fees, etc.	X	
Settlement or Closing fee	X	
Abstract or title search; certifying abstract to date and title searches and all costs associated with bringing abstract to date	X	
Title examination; costs of examining abstract and attorneys' opinion as to marketability of title	X	
Title insurance binder; title insurance commitment	X	
Document preparation; by Title Company	X	
Notary fees	X	
Title Insurance; and premium for base policy and endorsements	X	
Lender's coverage; title insurance	X	
Owner's coverage; title insurance	X	
Government recording and transfer charges;	X	
Survey; and ALTA survey of entire Land being conveyed	X	
Soils reports, environmental reports, due diligence studies, of Land etc.	X	
Costs of recording liens, releases, or curative title documents, to the extent that Seller is required or elects to cure	X	
Additional premium to delete the survey exceptions, and other endorsements to title policy	X	
Documentary tax stamps and cost of recording any conveyance and easement documents at County	X	
Costs of zoning, platting, lot line adjusting, or subdividing the Land being conveyed	X	



Unless specifically identified otherwise above, each party is responsible for the fees and expenses of their own attorneys' any other professionals assisting them in the transaction. Any cost not specifically identified above shall be split evenly between the parties at Closing.

5. Development Obligations. Following the Closing, and with all terms of this Section 5 subject to surviving Closing, Seller and Buyer agree as follows as to obligations of each in development of the Land and adjacent lands of Seller:

5.1 Infrastructure Costs. Buyer shall be entirely responsible for all infrastructure costs necessary to make the Land usable, including but not limited to, all costs and expense of planning, engineering, designing, permitting, installing, constructing, inspecting, and accepting all infrastructure and items of improvements included in the final plat of the Land, and all items necessary for Buyer to construct and operate Buyer's intended uses on the Land, and all streets, sidewalks, sanitary sewer, water, storm water facilities and drainage, grading, siltation control, street lights, street signage, electrical, gas, telecommunications, fire protection and hydrants, public transit, traffic improvements and impact fees as against the Land utilities, traffic controls and signalization, recoupment expenses and fees and assessments of all types as against the Land, and all other public improvements that are necessary to create the Land into a lot and block parcel(s) that is ready for a building permit (collectively, "Infrastructure Improvements"). Seller shall not be obligated to make any infrastructure improvements on its remaining property(s) to facilitate Buyer Improvements. Buyer is purchasing the Land with the understanding and agreement that Buyer is solely responsible for all costs and expenses of every kind associated in any manner with the development, construction, improvement, use, planning, engineering, surveying, design, platting, zoning, permitting, inspection, studying, management, operation, and otherwise of the Land. Any attempt by Buyer to seek any recoupment, reimbursement, assessment, lien, condemnation, eminent domain, claims, charges, or recapture, or any other form of collection against Seller or Seller's remaining property(s) for any cost or expense applicable to or arising out of the Infrastructure Improvements, Buyer Improvements, Recreation Facilities, or any other items applicable to or arising out of the Buyer's development and use of the Land, shall be deemed a material breach of this Agreement by Buyer.

5.1.1 Approval of Plans and Specifications. Notwithstanding anything herein to the contrary, prior to Buyer's commencement of such Infrastructure Improvements, Buyer will develop written plans and specifications for such Infrastructure Improvements (the "Plans and Specifications") and provide such plans and specifications to the Seller for review and approval. Approval of the Plans and Specifications by Seller shall not be unreasonably withheld, conditioned, or delayed and shall be deemed given if no response is provided within thirty (30) days after submission thereof by Buyer to Seller. Such Plans and Specifications will describe in reasonable detail the Infrastructure Improvements required hereunder, together with the estimated costs hereof so as to permit Buyer to obtain:

- (a) approval for such Infrastructure Improvements by the Architectural Review Board established under the UNP Restrictive Covenants, to the extent such Restrictive Covenants touch and concern the Land, and to the extent such approval is required by paragraph 11.2 of the Restrictive Covenants;
- (b) approval for such Infrastructure Improvements from the Federal Aviation Administration to the extent such approval is required;
- (c) any necessary building permits or other governmental approvals for the construction of such Infrastructure Improvements;

- (d) a construction contract for the construction of such Infrastructure Improvements; and
- (e) financing for such Infrastructure Improvements, on terms and conditions reasonably acceptable to Buyer.

5.2 Platting. Buyer will develop a final plat for the Land. Buyer shall be responsible for all costs and expense in proceeding with the final plat and all such applications, plans, engineering, surveys, title work, filings, and hearings involved with such process through approval. Buyer shall obtain Seller's prior written approval on all such plat related applications, plans, engineering, surveys, title work, filings, related thereto. Approval of any such work by the Seller shall not be unreasonably withheld, conditioned, or delayed and shall be deemed given if no response is provided within thirty (30) days after submission thereof by Buyer to Seller. If the Buyer designates or plans upon any portion of private common area facilities on the plat or elsewhere to meet platting requirements, or intends to utilize any such facilities or common area facilities within the Land, or common area facilities outside of the Land and in conjunction with the Land, whether currently addressed by Restrictive Covenants or not, including but not limited to facilities such as off-site storm water conveyance and detention/retention, then the Buyer shall pay all Buyer's ongoing proportionate share of such common area maintenance, repair, replacement, management, and operation costs. Such proportionate share shall be calculated as it is in the Restrictive Covenants for common area facilities, as a factor of applicable land areas. If additional restrictive covenants are necessary, in Seller's discretion, to secure and obligate Buyer's proportionate share payments of shared common area facilities, then Buyer agrees that such mutually agreeable additional restrictive covenants consistent with this Agreement shall be applied to the Land prior to or simultaneous with Closing.

5.2.1 Easements. To the extent necessary to extend to the perimeter boundary of the Land, all utility services, storm water drainage, public streets for access to the Land, fire protection, water, electrical, gas, telecommunications, and other services to the Land from existing locations that do not abut the Land, Seller hereby agrees to grant easements at no additional payment from Buyer to Seller in order to provide legal access to such non-abutting improvements, although Buyer shall be responsible for all costs and expense in providing such legal access. All such easements shall be of minimal size necessary to accommodate such services and shall be located at perimeter of adjacent or nearby properties of Seller in locations to be determined jointly by Buyer and Seller. Such easements shall be non-exclusive and such utilities and services that Buyer will install in said easements shall be sized and available to accommodate future improvements to be placed on lands adjoining or served by or alongside such easements, such as Seller's adjacent remainder lands.

5.2.2 Access through Seller Adjacent Lands. Seller agrees to grant Buyer by separate instrument an easement and right of way over, across and under a portion of Seller's land to the north of the Land as necessary to provide for two way public street right of way improvement and access to the extent necessary to accommodate City of Norman requirements for vehicular access to and from the Land, from the northern boundary of the Land, through Seller's adjacent property and to the public right of way of West Rock Creek Road as generally depicted on **Exhibit A** Site Schematic Plan, and subject to mutual approval of the final location of the easements and preparation by an engineer of Seller's choice of a survey and legal description of the proposed easement area(s) and approval of a mutually acceptable instrument creating such easement(s). All costs and expense involved in creating such access, building the improvements for such, permitting, platting, engineering, planning, designing, inspecting, maintaining, and repairing, shall be entirely borne by Buyer. The access shall be non-exclusive and shall be available for travel by others to and from other properties adjoining such access easement. Buyer shall be solely responsible for permitting, platting, engineering, planning, designing, and constructing all aspects of West Rock Creek Road as may be necessary to allow for the Land to be developed. All traffic

improvements and traffic impact fees, utility impact fees, hookup fees, recoupment fees and assessments, connection fees, and the like that is attributable to the Land shall be the sole responsibility of Buyer after the Closing Date. Further, Buyer agrees that through the separate instrument easement, to be mutually approved by the parties, Buyer shall be obligated to indemnify and hold Seller harmless for any actions, claims, damages, liabilities, or settlements arising out of or resulting from the City's construction, maintenance, or use of such access easement and road over Seller's adjacent property, but only to the extent caused in whole or in part by the negligent or intentional actions or omissions of the City, or the City's contractors, subcontractors, employees, or agents.

5.2.3 Approval of Building Improvements. The Buyer shall submit to Seller architectural plans and specifications for all planned improvements on the Land concurrently with submission of said plans to the Architectural Review Board. Such plans and specifications shall be subject to approval by the Architectural Review Board established under the Restrictive Covenants, including but not limited to those as were filed with the Cleveland County Clerk at Book RB 3695, Page 1332 et seq., Book RB 4145, Page 213 et. seq., Book RB 5584, Page 1001 et. seq., Book 5754, Page 217 et. seq., and any and all other amendments and incorporated documents thereto (collectively the "Restrictive Covenants"). Submittal requirements to the Seller shall match the requirements as to the Architectural Review Board as per the Restrictive Covenants. Buyer will provide a reasonable opportunity for Seller review and approval of all site plans, infrastructure plans, building improvements, utility plans, grading plans, storm water drainage plans, finish floor elevations, site contouring, vehicular access points and infrastructure improvements, and all facets of the exterior building and site plans. Upon receipt of all such information, Seller shall have thirty (30) days to review and submit comments to the ARB and Buyer for consideration in the ARB's review of all such information required to be submitted by Buyer.

5.3 Amendment of 2019 Master Agreement. The requirements set forth in Section 12(c) of the 2019 Master Agreement are amended as follows. Buyer will make every effort to construct the Recreation Facility Project by May 1, 2023. If Buyer does not commence construction of the Recreation Facility Project by August 1, 2021, Seller shall have the right to repurchase the Land at the same price for which Buyer purchased the land, and Buyer shall convey the Land back to Seller, free and clear of any encumbrances other than those to which the Land was subject when conveyed to Buyer.

5.4 Restrictive Covenants; B.I.D. The Buyer acknowledges and agrees that Buyer shall be responsible for adhering to all obligations within, and to the extent the Land is subject to, the Restrictive Covenants. Buyer shall adhere to all such Restrictive Covenants as set forth in Section 5.2.3 herein. Further, the Buyer acknowledges and agrees that the Land is currently encumbered with a business improvement district pursuant to the Oklahoma Improvement District Act, Title 11, OK Statutes, § 39-101, *et seq.* (the "BID"). Buyer shall be obligated to participate in the current BID according to its terms and obligations and Buyer shall be obligated to pay Buyer's proportionate share of the BID charges and assessments, either directly to the BID authority, or as a reimbursement to the Seller, to the extent any such charges and assessments are applicable to the Land for post-closing periods of time.

6. Condemnation; Casualty. In the event of actual or threatened condemnation or damage to or destruction of all or any part of the Land prior to the Closing Date, it is agreed as follows:

6.1 Minor Loss. If the value of the Land which is the subject of the condemnation or damages to the Land is not more than five percent (5%) of the Purchase Price, this Agreement will continue, all condemnation or payments collectible by reason of such taking or damage will be absolutely payable to Buyer, the Purchase Price will not be reduced and the sale of the Land will be otherwise closed in accordance with this Agreement.

6.2 Major Loss. If the value of the Land which is the subject of the condemnation or damages to the Land is more than five percent (5%) of the Purchase Price, Buyer and Seller will have the mutual option for thirty (30) days after actual receipt of written notice by each party of such taking or destruction to cancel this Agreement by service of written notice of cancellation. On the exercise of such option, this Agreement will become null and void. If, in such event, neither party affirmatively exercises the option to cancel this Agreement, such option will lapse, Buyer will be entitled to receive all condemnation proceeds collectible by reason of such taking or destruction, the Purchase Price will not be reduced and the sale of the Land will be otherwise closed in accordance with this Agreement.

7. Default; Remedies. If either Buyer or Seller fails to perform such party's obligations under this Agreement (except as excused by the other party's default), the party claiming default will make written demand for performance. If Seller fails to comply with such written demand within thirty (30) days after receipt thereof, Buyer will have the option to waive such default, to demand specific performance, to exercise any other remedy available at law or in equity, or to terminate this Agreement. If Buyer fails to comply with such written demand within ten (10) days after receipt thereof, Seller will have the option to waive such default, to demand specific performance, to exercise any other remedy available at law or in equity, or to terminate this Agreement. Except as otherwise set forth herein, on such termination, the parties will be discharged from any further obligations and liabilities under this Agreement. However, in no event and under no circumstance, will either party be liable for (and the PARTIES HEREBY COMPLETELY AND UNCONDITIONALLY WAIVE, RELEASE, DISCHARGE, SURRENDER AND REFUSE ALL RIGHTS TO any speculative, treble, special, rescission, cumulative, consequential, non-economic, or punitive damages.

8. Miscellaneous. It is further understood and agreed as follows:

8.1 Entire Agreement. With the exception of the 2019 Master Agreement and other documents and agreements that are adopted and put forth in the process of the University North Park Tax Increment Finance project, this Agreement constitutes the entire agreement between Buyer and Seller relating to the sale of the Land. This Agreement supersedes, in all respects, all prior written or oral agreements between the parties relating to the sale of the Land and there are no agreements, understandings, warranties or representations between Buyer and Seller except as set forth herein.

8.2 Amendment. Neither this Agreement nor any of the provisions hereof can be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge, or termination is sought.

8.3 Notices. Any notice, payment, demand or communication required or permitted to be given by any provision of this Agreement will be in writing and will be deemed to have been given when delivered personally or by telefacsimile (with a confirming copy sent within one (1) day by any other means described in this section) to the party designated to receive such notice, or on the date following the day sent by overnight courier or on the third (3rd) day after the same is sent by certified mail, postage and charges prepaid, directed to the following addresses or to such other or additional addresses as any party might designate by written notice to the other parties:

If to Seller:                      University Town Center, LLC  
   Attn: Robert Collett  
   118-C W. Union Street  
   Morganton, NC 28655  
   Telephone:        828/430-8676

With a copy to:                      McAfee & Taft A Professional Corporation  
   Two Leadership Square, 10<sup>th</sup> Floor

211 N. Robinson  
Oklahoma City, Oklahoma 73102-7103  
Attn: Frank Hill, Esq.  
Telephone: 405/235-9621  
Facsimile: 405/235-0439  
(Although copy to this party shall not be deemed  
constructive legal notice for service of process)

With a copy to: Rieger Law Group PLLC  
Attn: Sean Rieger  
136 Thompson Drive  
Norman, OK 73069  
Telephone: 405/310-5274  
Email: [sp@riegerllc.com](mailto:sp@riegerllc.com)  
(Although copy to this party shall not be deemed  
constructive legal notice for service of process)

If to Buyer: City of Norman/Norman Tax Increment Finance Authority  
Attn: City Manager Darrel Pyle  
201 W. Gray St.  
Norman, Oklahoma 73069  
Telephone: 405/366-5404  
Facsimile: 405/366-5389

With a copy to: City of Norman  
Attn: City Attorney Kathryn Walker  
201 W. Gray  
Norman, Oklahoma 73069  
Telephone: 405/217-7700  
Facsimile: 405/366-5425  
(Although copy to this party shall not be deemed  
constructive legal notice for service of process)

8.4 Attorneys' Fees. If any party institutes an action or proceeding against the other relating to the provisions of this Agreement or any default hereunder, the unsuccessful party to such action or proceeding will reimburse the successful party therein for the reasonable attorneys' fees, expert witness fees, discovery expenses, disbursements and litigation expenses incurred by the successful party.

8.5 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oklahoma. All actions with respect to this Agreement may be instituted in the County District Court of Cleveland County, State of Oklahoma or the United States Western District Court sitting in Oklahoma City, Oklahoma. By execution of this Agreement, the parties irrevocably and unconditionally submit to the jurisdiction (both subject matter and personal) of any such court and irrevocably and unconditionally waive: (i) any objection any party might now or hereafter have to the venue in any such court; and (ii) any claim that any action or proceeding brought in any such court has been brought in an inconvenient forum.

8.6 Brokerage; Commissions. Each party (the "Indemnifying Party") represents and warrants to the other that it has not dealt with any real estate brokers or other third parties in connection with the Transaction and the Indemnifying Party agrees to indemnify and hold the other harmless from and against any claim, loss, liability, damage, fee, cost, or expense, including attorney's fees, arising out

of any compensation due or alleged to be due to any broker with whom the Indemnifying Party may have dealt with during the course of the Transaction.

8.7 Severability. If any clause or provision of this Agreement is held by a court having jurisdiction to be illegal, invalid, or unenforceable under any present or future law, the remainder of this Agreement will not be affected thereby. It is the intention of the parties that if any such provision is held to be illegal, invalid or unenforceable, there will be added in lieu thereof a provision as similar in terms to such provision as is possible and be legal, valid and enforceable.

8.8 Binding Effect. This Agreement will inure to the benefit of and bind the respective successors, heirs, beneficiaries, trustees, and assigns of Buyer and Seller.

8.9 Time. Time is the essence of each provision of this Agreement.

8.10 Captions. The captions in this Agreement are inserted for convenience of reference and are not intended to define, describe, or limit the scope of any provision of this Agreement.

8.11 Full Execution. This Agreement shall be deemed fully executed and binding upon Buyer and Seller if and when Buyer and Seller have executed this Agreement or separate counterparts.

8.12 Computing Time Periods. In determining the end or final date for any period of days hereunder that starts from a specified date or specified event, the day of that specified date or event shall not be counted and instead the counting of days shall commence the next calendar day after that specified date or specified event. Should the date upon which any act required to be performed by this Agreement fall on a Saturday, Sunday or holiday, the day for performance shall be extended to the next business day.

8.13 Counterparts. This Agreement may be executed in one or more duplicate counterparts, each of which shall upon execution by all parties be deemed an original. Executed counterparts of this Agreement delivered by fax machine or electronic image via email shall be deemed original documents for all purposes so long as original signatures are kept and verifiable as being executed prior to transmission.

8.14 Termination. Notwithstanding any provision hereof to the contrary, notwithstanding any termination of this Agreement, whether by reason of a default of a party, by mutual agreement or for any other reason, the provisions of Section 8.6 shall survive such termination and remain in full force and effect.

8.15 Survival. The development rights, obligations, representations, and covenants of the Parties contained in Section 5 of this Agreement shall survive Closing.

8.16 Assignment. This Agreement may not be assigned by Buyer without the prior written consent of Seller, which consent may be withheld by Seller in its sole discretion provided any assignee/grantee shall continue to be bound by the terms of this Agreement.

8.17 No Individual Liability. The parties acknowledge and agree that this Agreement is being entered into by two entities and that no person or individual is a party to this Agreement, and therefore the Parties hereby completely and unconditionally waive, release, discharge, surrender and refuse all rights to any claims or causes of action against any individual in any personal capacity for any claims, remedies, or damages arising out of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first above written.

“Seller”:

UNIVERSITY TOWN CENTER, LLC  
an Oklahoma limited liability company

By: \_\_\_\_\_  
Robert Collett, Manager

Date of Seller’s Execution: \_\_\_\_\_, 2020.

“Buyer”:

NORMAN TAX INCREMENT FINANCE  
AUTHORITY. an Oklahoma public trust

By: \_\_\_\_\_  
Name: Breea Clark  
Title: Chairperson

Date of Buyer’s Execution: \_\_\_\_\_, 2020

Attest: \_\_\_\_\_  
Brenda Hall, Secretary

CITY OF NORMAN, OKLAHOMA, a municipal  
corporation

By: \_\_\_\_\_  
Name: Breea Clark  
Title: Mayor

Date of Buyer’s Execution: \_\_\_\_\_, 2020

Attest: \_\_\_\_\_  
Brenda Hall, City Clerk

Approved as to form and legality this 10 day of  
November, 2020.

  
\_\_\_\_\_  
General Counsel/City Attorney

Index to Exhibits:

- A: Preliminary Site Schematic Plan
- B: Special Warranty Deed

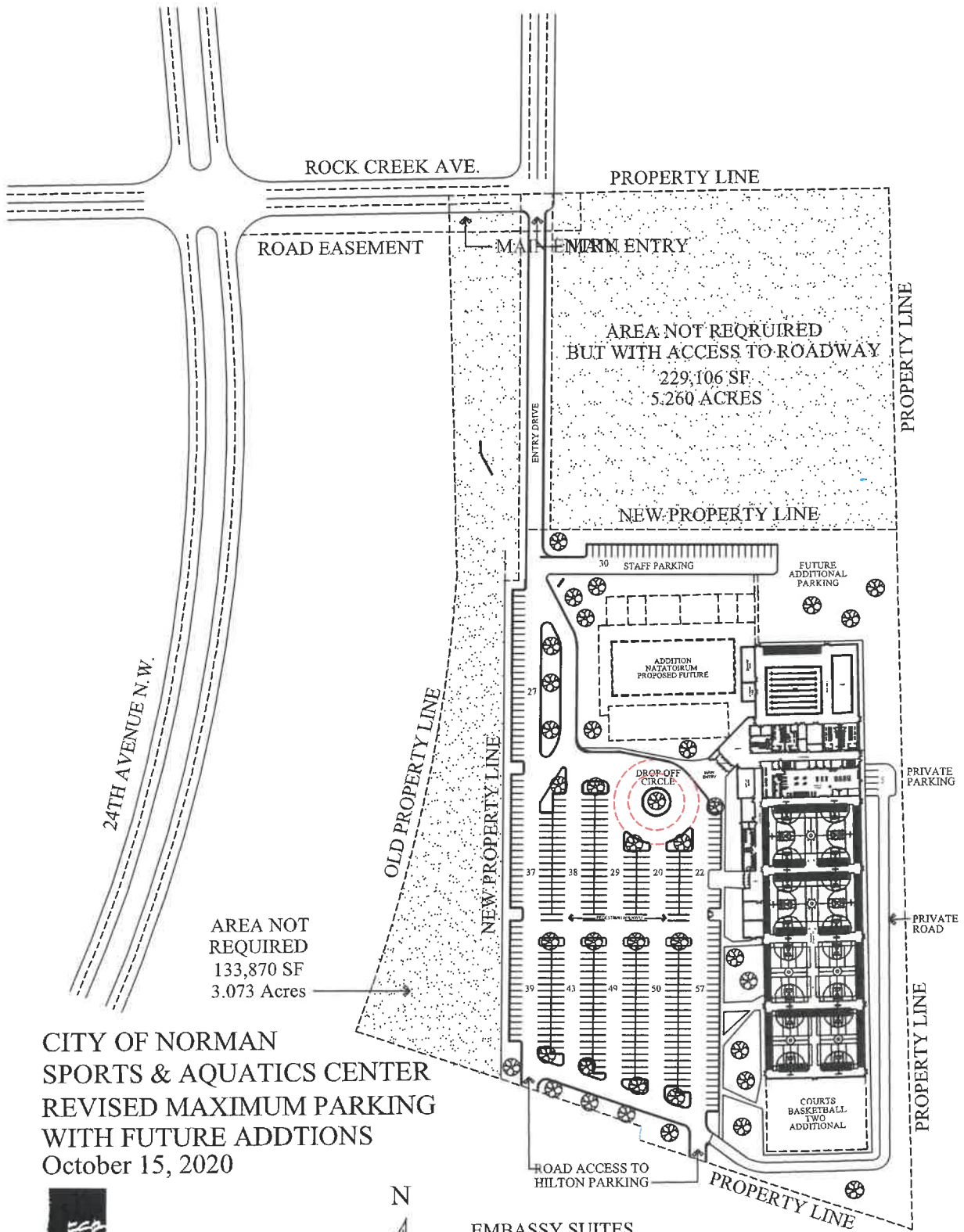


**Exhibit "A"**

**Preliminary Site Schematic Plan**

**The attached Site Schematic Plan is preliminary only and may not represent the final site plan under this Agreement. Further information shall be provided by Buyer pursuant to Section 5 in the Agreement and per Seller review and approval thereof.**

**[Attached]**



**CITY OF NORMAN  
SPORTS & AQUATICS CENTER  
REVISED MAXIMUM PARKING  
WITH FUTURE ADDITIONS**  
October 15, 2020



**TOTAL LAND USE**  
20.239 ACRES TOTAL.  
11.906 Acres Used.  
8.332 Acres Not Used.

EMBASSY SUITES  
BY HILTON

PARKING = 422

**Exhibit "B"**

**Special Warranty Deed**

After recordation, return to:

Space Reserved for Recording Information

**SPECIAL WARRANTY DEED**

KNOW ALL MEN BY THESE PRESENTS:

THAT UNIVERSITY TOWN CENTER, LLC, an Oklahoma limited liability company (the "Grantor"), in consideration of the sum of TEN DOLLARS (\$10.00) and other valuable consideration in hand paid, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell, transfer, convey and assign unto the CITY OF NORMAN, OKLAHOMA, an Oklahoma municipal corporation (the "Grantee"), with an address of 201 W. Gray, Norman, OK 73069, the real property and premises situated in the City of Norman, Cleveland County, State of Oklahoma, and described on Exhibit "A" attached hereto, together with any improvements situated thereon and appurtenances thereunto belonging (the "Land").

TO HAVE AND TO HOLD the Land unto the Grantee, its successors and assigns, forever, free and clear and discharged of and from all former grants, charges, taxes, judgments, mortgages, liens and encumbrances of whatsoever nature; LESS AND EXCEPT any and all interests in and to oil, gas and other minerals as this is a surface rights conveyance only, and SUBJECT to all of the exceptions to title set forth on Exhibit "B" attached hereto and incorporated herein by reference, and FURTHER SUBJECT to the following reservations and restrictions contained in that certain Surplus Property Deed of Release, University of Oklahoma Max Westheimer Airpark recorded on June 21, 2001 in Book 3282 at page 614 of the Records of the County Clerk of Cleveland County:

1. Grantor hereby reserves unto itself, and its successors and assigns, for the use and benefit of the public a right of flight for the passage of aircraft in the airspace above the surface of the Land, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from or operating on the University of Oklahoma Max Westheimer Airpark.
2. Grantor has expressly agreed, for itself and its successors and assigns, and Grantee, by its acceptance hereof, hereby agrees for itself and its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the Land, and
3. Grantor has expressly agreed, for itself and its successors and assigns, and Grantee, by its acceptance hereof, hereby agrees for itself and its successors and assigns, to prevent any use of the Land which would interfere with landing or taking off of aircraft

at the University of Oklahoma Max Westheimer Airpark, or otherwise constitute an airport hazard.

Grantor hereby warrants title to the Land against any and all acts, conveyances, liens and encumbrances affecting the Land made or suffered to be made or done by, through or under Grantor, but not otherwise, and in any event excluding from this warranty the matters set forth on **Exhibit "B"** attached hereto.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Grantor has executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

“Grantor”:

UNIVERSITY TOWN CENTER, LLC  
an Oklahoma limited liability company

By: \_\_\_\_\_  
Robert Collett, Manager

ACKNOWLEDGMENT

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

This instrument was acknowledged before me on \_\_\_\_\_, 2020, by Robert Collett, in his capacity as Manager of UNIVERSITY TOWN CENTER, LLC, an Oklahoma limited liability company.

(Seal)

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_  
Commission # \_\_\_\_\_

EXHIBIT "A" TO SPECIAL WARRANTY DEED

Legal Description

TBD

EXHIBIT "B" TO SPECIAL WARRANTY DEED

Permitted Exceptions  
**[Subject to revision based on title commitment]**

TBD