



# City of Norman, OK

Municipal Building  
Council Chambers  
201 West Gray  
Norman, OK 73069

## Master

**File Number: R-1819-124**

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<b>File ID:</b> R-1819-124	<b>Type:</b> Resolution	<b>Status:</b> Consent Item
<b>Version:</b> 1	<b>Reference:</b> Item 42	<b>In Control:</b> City Council
<b>Department:</b> Legal Department	<b>Cost:</b>	<b>File Created:</b> 06/21/2019
<b>File Name:</b> Project Plan Amendments	<b>Final Action:</b>	

**Title:** RESOLUTION R-1819-124: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AND THE TRUSTEES OF THE NORMAN TAX INCREMENT FINANCE AUTHORITY DIRECTING STAFF TO PREPARE PROJECT PLAN AMENDMENTS AND FINAL DEVELOPMENT AGREEMENTS CONSISTENT WITH ATTACHED TERM SHEET AND CONVENING THE STATUTORY TIF REVIEW COMMITTEE FOR THE PURPOSE OF REVIEWING SAID PROJECT PLAN AMENDMENTS.

**Notes:** ACTION NEEDED: Motion to adopt or reject Resolution R-1819-124.

ACTION TAKEN: \_\_\_\_\_

**Agenda Date:** 06/25/2019

**Agenda Number:** 42

**Attachments:** Text File, R-1819-124, Term Sheet - Final 6-21-19

**Project Manager:** Kathryn Walker, Interim City Attorney

**Entered by:** kathryn.walker@normanok.gov

**Effective Date:**

### History of Legislative File

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Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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### Text of Legislative File R-1819-124

Body

**BACKGROUND:** Council approved the University North Park (UNP) Tax Increment Finance District (TIF) Project Plan (Ordinance O-0506-66) on May 23, 2006. The Project Plan authorized public improvements within the TIF up to \$54.725 million, including Traffic and Roadway Improvements, a Hotel Conference Center and Cultural Facilities, Legacy Park, Lifestyle Center and an Economic Development Component.

Since the creation of the UNP TIF, a series of development agreements have been approved by Council and the Norman Tax Increment Finance Authority (NTIFA) to further the components

of the Project Plan. To date, approximately \$29.6 million of the tax increment generated within University North Park ("UNP") has been expended on Traffic and Roadway improvements, Legacy Park improvements, and Economic Development. Since 2006, more than \$40 million in sales and ad valorem tax increments have been apportioned each to project costs and to the City's General Fund and Capital Fund pursuant to the Project Plan.

In recent months, and after several years of declines in the rate of growth in the City's overall sales tax, Council directed Staff to develop options for reducing or eliminating the increment associated with the UNP TIF to address general fund issues. Council looked at 10 options -

1. Do Nothing - Maintain remaining project authorizations and tax apportionment methods;
2. Maintain remaining project authorizations, but reduce sales tax apportionment rate to five percent (5%);
3. Maintain remaining project authorizations, but reduce sales tax apportionment rate to ten percent (10%);
4. Maintain remaining project authorizations, but reduce sales tax apportionments to a fixed dollar amount;
5. Eliminate authorization for the Lifestyle Center Costs project;
6. Eliminate authorization for the Cultural Center Costs project;
7. Eliminate authorization for both the Cultural Center and Lifestyle Center Cost projects;
8. End the UNP TIF by elimination of project authorizations to an amount less than the apportioned tax funds on hand;
9. Proceed with Council recommendation to utilize authorized Cultural Center funding for a Senior Center within the UNP Project Area;
10. Expand UNP TIF Project Authorization by adding an additional project for a Senior Citizen's Center.

Ultimately, Council directed Staff to proceed with Option 8 - End the UNP TIF by eliminating or reducing the project authorizations to an amount less than the apportioned tax funds on hand. After being advised of possible litigation related to unilaterally reducing project authorizations and potentially impacting adopted development agreements, Council adopted Resolution R-1819-37 on March 26, 2019 that set forth the following:

- That, the City desires to enter into binding, mutually acceptable agreements by June 30, 2019 providing for early termination of the UNP increment allocation.
- That, the City Manager shall direct City Staff to negotiate with UNP development partners, NEDC, and other community partners to reach a mutually agreeable resolution of all other outstanding matters related to the UNP TIF by June 30, 2019.
- That, the City Manager is directed to prepare the City's budget for FYE20 on the aforementioned goal of ending the UNP TIF increment allocation by June 30, 2019, and outlining where said funds are budgeted.

The same evening, Council approved a Memorandum of Understanding ("MOU") to provide a framework within which the parties could work together to determine how best to address the outstanding authorizations in the Project Plan and related agreements. The MOU contained an aggressive schedule in recognition of Council's desire to address the increment allocation by the end of the current fiscal year. Although the negotiations have taken longer than anticipated, the parties have all remained committed to negotiating Project Plan amendments and a final development agreement that would end the increment effective June 30, 2019.

**DISCUSSION:** Council has been kept apprised of the negotiations through public meetings on May 14, May 28 and June 18. Executive sessions were held on June 11 and June 18 to discuss possible claims and defenses related to threatened litigation regarding the UNP. Based on Council feedback, Staff has prepared Resolution R-1819-124. This resolution formally directs Staff to draft Project Plan amendments and a development agreement consistent with the attached term sheet and asks that the Statutory TIF Committee be convened for the purpose of consideration of such project plan amendments.

*Terms of Settlement:*

It is anticipated that \$15 - \$17 million will be available for remaining project costs. This includes the allocation of the 2019 ad valorem assessments which will be payable in FYE 20. The proposed amendments would allocate those funds into authorized project cost categories as set forth below:

	Original Project Plan Allocation	Amount Spent So Far	Proposed Amendment
Traffic and Roadway	\$11,550,000	\$ 11,274,492	\$ 5,024,394
Rock Creek Overpass	\$ 5,212,000	\$ 5,142,323	\$ 0
Cultural Facility/ Recreation Facility	\$ 8,750,000	\$ 0	\$ 5,154,762
Legacy Park	\$ 10,963,000	\$ 8,232,360	\$ 250,000
Lifestyle Center	\$ 8,250,000	\$ 0	\$ 5,000,000
Economic Development	\$ 8,250,000	\$ 4,291,477	\$ 1,425,000
Initial Project Activity Costs	\$1,750,000	\$ 970,629	\$ 0
Miscellaneous Costs	\$ 0	\$ 0	\$ 125,000
TOTAL	\$54,725,000	\$29,911,281	\$16,979,156

*Traffic and Roadway:* The remaining traffic projects contemplated by Development Agreement No. 1 in 2006 include the following:

1. Robinson at West I-35 Drive/Crossroads Blvd.
2. Tecumseh Road and Flood & 24th Ave.
3. Tecumseh Road and Interstate Drive East
4. Tecumseh Road and Interstate Drive West

Based on anticipated federal funding, \$ 5,024,394 is sufficient to cover the City's local share for those projects. A previous development agreement examined the Traffic Impact Analysis for the TIF, which both affirmed the need for the specific traffic projects in the Project Area, and confirmed that if the development went forward as planned, those specific improvements should be sufficient to handle the traffic at a Service Level of "D". If the development plan changes, as new lots come forward in UNP for final platting, the developer of each lot will be treated like other developers in regards to traffic improvements.

*Cultural Facility/Recreational Facility:* When the Project Plan was initially adopted, "Cultural Facility" funds were combined with the Conference Center category for a total project allocation of \$16.5 million. Under Development Agreement No. 2, the City was to purchase the conference center upon completion for \$15 million, leaving \$1.5 million for cultural facilities. UTC donated 11.25 acres to the City (valued at \$4 million) for the Conference Center, which the City deeded over to the hotel operator because the operator was to finance and construct the conference center and then sell it to the City. A year or so later, Development Agreement No. 4 released the City from the conference center purchase obligation and a portion of the Hotel/Conference Center and Cultural Facility funds were reallocated to the Rock Creek Overpass Project. The Project Plan was amended and \$8.75 million remains allocated to the Conference Center/Cultural Facilities category.

In Development Agreement No. 5, UTC agreed to donate two acres for a cultural facility (valued at approximately \$ 695,000 - \$871,000) and sell additional adjacent land at \$5.00 a square foot. Although the obligation to do so under DA5 expired June 30, 2015, UTC agreed in 2016 in the Amendment to DA5 to donate two acres and sell up to 1.5 acres at \$5.00 per square foot and reserve an additional 16.87 acres for sale to the City at \$5.50 per square foot for a regional draw entertainment venue. Under the Amendment, the obligation to reserve additional land expired October 27, 2018. The land is valued in the \$8 - \$10 a square foot range.

Under the term sheet, UTC will stand on its previous obligation to donate 2 acres, and will sell an additional 10 acres to the City for \$2,069,971, or \$4.75 per square foot.

The current term sheet includes funds in the renamed Recreation Facility category up to \$5,154,762. This provides funds for the purchase of the land, \$350,000 to offset the anticipated annual contributions by Norman Public Schools to the operation of the indoor aquatic facility, and \$2,734,791 as a construction supplement for the Recreation Facility component. The Recreation Facility component will consist of a multi-sport facility and an indoor aquatic facility.

*Legacy Park:* In the Master Operating Agreement, Legacy Park was planned to be constructed after the construction of 250,000 square feet of space within the Lifestyle Center. The sequencing changed in 2007 with Development Agreement No. 3, when Council opted to move the Park ahead of the Lifestyle Center. The Developer was required in the Agreement to donate the park area to the City (valued at \$3 million). Because of the change in sequencing, the City included language in Development Agreement No. 3 that imposed significant liquidated damages related to Legacy Park costs if the Lifestyle Center construction did not meet certain deadlines.

The Norman Tax Increment Finance Authority ("NTIFA") still owes \$75,000 in obligated UNP Business Improvement District contributions. Additionally, \$175,000 was allocated in a previous development agreement for surface parking at Legacy Park. The parking lot has been designed and the project has been bid. The remaining funds in the Legacy Park category under this proposal is \$250,000.

*Lifestyle Center:* The Project Plan defined "Lifestyle Center Costs" as costs of infrastructure and other improvements designed to foster the quality of development at University North Park by facilitating the creation of a retail environment that will be a regional draw of retail customers to Norman. The Project Plan stated that in order for costs to qualify for Lifestyle Center funding, the costs must be related to retail stores that purchase property in the Increment District or sign leases for space in the Increment District for at least 3 years and meet two of the following criteria:

- (a) The retail store must not already exist within a 21-mile radius of the Increment District;
- (b) The retail store must be able to demonstrate an anticipated minimum sales volume of not less than \$175 per square foot (for stores larger than 10,000 square feet) or not less than \$275 per square foot (for stores 10,000 square feet or less); or
- (c) The retail store shall be relocated from outside the city limits of Norman.

Over time, it became evident that these thresholds were not sufficient for Lifestyle Center incentives, even post-Recession. Additionally, Council wanted to take steps to ensure a strip center type development in the Lifestyle Center area wouldn't qualify for incentives. In Amendment 1 to Development Agreement No. 5, the parties agreed to raise the criteria for qualifying for Lifestyle Center incentives are currently:

- (a) The retail store must not already exist in Norman; and
- (b) The retail store must be able to demonstrate an anticipated minimum sales volume of no less than \$300 per square foot (for stores larger than 10,000 square feet) or not less than \$400 per square foot (for stores 10,000 square feet or less); and
- (c) Parcel development plan for retail store incorporates urban design elements of walkability and connectivity.

Leaving some ability for UTC to obtain incentives is critical to negotiating a cooperative end to the TIF increment collection, so the focus has been on the qualifiers, reducing the amount of TIF funds available for such requests, and setting an end date for incentive requests.

The term sheet provides that the Developer can access Lifestyle Center funding if the following criteria are all met by the proposal:

- (a) Costs are needed to support retail or entertainment development in the area previously designated as the "Lifestyle Center"; and
- (b) Costs are needed to support a retail or entertainment user not already located in Norman; and
- (c) If the costs are associated with a retail user, then anticipated retail sales of at least \$300 per square foot (for stores larger than 10,000 square feet) and \$400 per square foot (for stores 10,000 square feet or less) must be demonstrated based on past performance in communities with similar demographics to Norman; and
- (d) If the costs are associated with an entertainment user, then no minimum sales per square foot standard applies; however, the user must present an entertainment option that does not already exist in Norman; and
- (e) parcel development plan must incorporate urban design elements of walkability and connectivity, as determined by the Architectural Review Board (which will stay in place even with the end of the increment); and
- (f) The user must either purchase land or sign a 3 year lease.

The term sheet sets a deadline to receive Lifestyle Center funds of June 30, 2026. The associated penalties are waived under the term sheet.

*Economic Development:* The Economic Development piece is the most complex piece of these negotiations because of the multiple agreements between the banks participating in the NEDC loans, the possible strings attached due to the EDA grant that helped fund infrastructure, the valuable rights UNP holds to the land in exchange for selling the land to NEDC at a far reduced purchase price (\$1.25 a square foot), and the desire of NEDC to get out of debt on this project.

In the term sheet, UNP has agreed to purchase the Corporate Center office space land for a negotiated price that at a minimum would cover the outstanding debt for the Corporate Center office space piece as well as the Advanced Manufacturing land (around \$3.3 million). This proposal was considered by the OU Foundation Board of Directors two weeks ago and by the Norman Economic Development Coalition Board of Directors this week. Because the City would no longer need funding to pay off the NEDC loan, the amount in the Economic Development Category is \$1,425,000 under the term sheet.

*Miscellaneous Costs.* An additional \$125,000 is set aside for miscellaneous costs related to the Project plan amendments, such as costs of the special audit, cost allocations etc.

If the Resolution is adopted, it is anticipated the Statutory TIF Committee will meet the first week of July to consider the amendments. The Local Development Act requires review of the Project Plan amendments by the Planning Commission prior to holding two public hearings at least 7 days apart. If Statutory TIF Committee review is completed by July 12, a specially set

Planning Commission meeting could occur the following week. Under this scenario, first reading of the ordinance amending the Project Plan could occur on the July 23, 2019 Council agenda, the first public hearing could occur on July 30, and consideration of the ordinance on second reading/second public hearing could occur on August 13, 2019. The final development agreement would also be considered on August 13, 2019.

**RECOMMENDATION:** Resolution R-1819-124 formally directs Staff to draft Project Plan amendments and a development agreement consistent with the attached term sheet and directs that the Statutory TIF Committee be convened for the purpose of consideration of such project plan amendments. R-1819-124 is being forwarded to Council for approval.