

CONSENT AGREEMENT AND COVENANT

Consent to Encroachment No. EN-2021-2

WHEREAS, the City of Norman and the Norman Utilities Authority (NUA), Cleveland County, are in possession of utility easement on the land described as follows, to-wit:

Lot 8, Block 3, Brookhaven Addition, Section 17, City of Norman,
Cleveland County, Oklahoma (1832 Cedar Hill Road)

AND WHEREAS, the owner(s) of the above-described property requests that an existing gazebo and swimming pool deck be allowed to encroach upon existing utility easement;

AND WHEREAS, the City and the NUA have been requested to consent in writing to an existing gazebo and swimming pool deck being located at the requested location;

NOW, THEREFORE, the City of Norman and the NUA do hereby consent to said existing gazebo and swimming pool deck being within and upon the utility easement with the following conditions:

1. The property owner(s), and property owners' heirs, successors, or assigns (hereafter collectively the "Owner Parties") will be responsible for the cost to repair any damages to the City's and the NUA's utilities caused by any excavation, piercing or other construction activities conducted by the Owner Parties or their agents;
2. The Owner Parties will be responsible for the cost the City and the NUA incurs to remove any gazebo, deck, pavement, fence, curb, landscaping, retaining wall, and/or any other structure if needed to maintain or repair NUA facilities;
3. The Owner Parties will be responsible for the cost to repair or replace any gazebo, deck, pavement, fence, curb, retaining wall, landscaping or any other structure after such repair;
4. The Owner Parties will waive and release any claims against the City and the NUA for any damages to the residence and related improvements caused by failure or repair and maintenance of the City's and the NUA's utilities within the easement area;
5. Cox Communications, Oklahoma Gas & Electric, and Oklahoma Natural Gas have facilities located in the easement however they are not opposed to the encroachment, so long as Owner Parties contact OKIE811 location services prior to excavation. AT&T has also stated that it does not object. The area is not served by Oklahoma Electric Cooperative.
6. By encroaching on said easement, the Owner Parties release Cox Communications, Oklahoma Gas & Electric, and Oklahoma Natural Gas for any damages caused by any excavation by these utility companies for purposes of maintaining or replacing the City's and the NUA's utility facilities within the easement area; and

7. Damages to Cox Communications, Oklahoma Gas & Electric, Oklahoma Natural Gas, and AT&T facilities resultant from any current/future construction may carry possible financial charges to the Owner Parties.

The consent is limited to the existing gazebo and swimming pool deck as indicated in the application being located within the utility easement and the City does not authorize or consent to the construction or location of any other structure of a permanent nature within the easement. Further, this Consent is given with the understanding that the Owner Parties are responsible for any and all direct and consequential damages resulting from the granting of this consent with entry to or upon the existing utility easement as required at any time in the future.

The City and the NUA, or any other entity so authorized, shall not be held responsible for any and all direct or consequential damages to encroaching improvements resulting from entry, by the City and the NUA, or any other entity so authorized, upon said utility easement, for any purpose associated with the maintenance, construction, relocation, etc. of any utility located within the said easement.

This Consent carries with it obligations and benefits affecting the land, and constitutes a covenant running with the land, shall be binding upon the Owner Parties, and any heirs, successors and assigns.

IN WITNESS WHEREOF, the undersigned has executed this consent this 8th day of September, 2020.

THE CITY OF NORMAN, OKLAHOMA

ATTEST:

Mayor

City Clerk

OWNER

By: _____
Patrick K. Smith

OWNER

By: _____
Kathy J. Smith

COUNTY OF _____)
STATE OF _____) ss:
_____)

On this _____ day of _____, 2020, before me personally appeared Patrick K. Smith and Kathy J. Smith, to me known to be the Owner Parties and the identical person(s) who executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal the day and year last above written.

Notary Public

My Commission Expires: _____

My Commission Number: _____