

## **CONSENT AGREEMENT AND COVENANT**

Consent to Encroachment No. EN-2021-9

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

Lot 8, Block 1, Brookhaven Addition, Section 10, City of Norman,  
Cleveland County, Oklahoma (1704 Barwick Drive)

AND WHEREAS, the owner(s) of the above-described property requests that the existing in-ground pool and patio, and the installation of an addition to the existing house, be allowed to encroach upon an existing utility easement;

AND WHEREAS, the City and the NUA have been requested to consent in writing to the existing in-ground pool and patio, and the installation of an addition to the existing house, being located at the requested location;

NOW, THEREFORE, the City of Norman and the NUA do hereby consent to said existing in-ground pool and patio, and the installation of an addition to the existing house being within and upon the drainage 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 utilities or infrastructure caused by any excavation, piercing or other construction activities conducted by the Owner Parties or their agents;
2. The Owner Parties will be required to apply for and receive any applicable permits prior to commencing work;
3. The Owner Parties will be responsible for the cost the City and the NUA incurs to remove any improvements, structure, paving, curb, landscaping, retaining wall, and/or any other item if needed to maintain or repair NUA facilities;
4. The Owner Parties will be responsible for the cost to repair or replace any improvements, structure, paving, curb, retaining wall, landscaping or any other item after such repair;
5. 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;
6. Oklahoma Natural Gas has facilities located in the easement but will not oppose the encroachment because the meter is also located in the easement and as long as the property owner moves the yard line to lie within their private property. Cox Communications does not oppose to the encroachment so long as Owner Parties contact OKIE811 location services prior to any work. Oklahoma Gas & Electric and Oklahoma Electric Cooperative also do not object;

7. By encroaching on said easements, the Owner Parties release Oklahoma Electric Cooperative, Oklahoma Natural Gas, and Cox Communications 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 areas; and
8. Damages to Oklahoma Electric Cooperative, Oklahoma Natural Gas, and Cox Communications facilities resultant from any current/future construction may carry possible financial charges to the Owner Parties.

The consent is limited to the existing in-ground pool and patio, and the installation of an addition to the existing house, 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 11<sup>th</sup> day of May, 2021.

THE CITY OF NORMAN, OKLAHOMA

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

OWNER

By: \_\_\_\_\_  
Robert Kenneth Wilpitz, Jr.  
1704 Barwick Drive

COUNTY OF CLEVELAND

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) ss:

STATE OF OKLAHOMA

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On this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me personally appeared Robert Kenneth Wilpitz, Jr., 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: \_\_\_\_\_