

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") is made as of this ____ day of _____, 2023 (the "Effective Date"), between THE CITY OF NORMAN, OKLAHOMA, an Oklahoma municipal corporation (hereinafter referred to as the "Seller"), and the Board of County Commissioners, an Oklahoma political subdivision (hereinafter referred to as "Purchaser"), together with the City, the "Parties" and each one a "Party").

R E C I T A L S:

A. The Seller acquired 718 N. Porter Avenue (the "718 Property") from Norman Regional Hospital Authority ("NRHS") pursuant to a Purchase and Sale Agreement dated December 22, 2021 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 the NRHS's Porter Health Village and the City's Senior Wellness Center.

B. The 718 Property has been vacant since the Seller's acquisition and the Seller desires to sell the property to another government entity.

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, the Seller and Purchaser agree as follows:

1. Purchase and Sale of Land. On the Closing Date the Seller will convey all of its right, title and interest in and to certain real property and improvement on the 718 Property to the Purchaser. The legal description is attached hereto as Exhibit A.

2. Purchase Price. Subject to the adjustments and prorations herein described, the Purchaser shall pay the sum of \$500,000.00 to the Seller on the Closing Date ("Purchase Price").

3. Due Diligence Period. Commencing on the Effective Date and ending on a date thirty (30) days later (the "Due Diligence Period"), the Parties shall obtain an ALTA survey for the Porter Campus (the "Survey") which meets minimum standard ALTA survey requirements and is sufficient to induce Title Insurer to provide survey coverage on the Title Policy.

4. Title; Title Curative. During the Due Diligence Period, the Parties will diligently work together to obtain and review preliminary binders (each a "Title Commitment"), and together the "Title Commitments") for the 718 Property for the issuance of an ALTA Form B owner's title insurance policy (the "Title Policy"), together with a Pro Forma of the Title Policy (the "Pro Forma"), Endorsements (the "Endorsements") to the Title Policy, if any, and legible copies of the instrument(s) creating an exception to the title to the land. The Title Commitments, Pro Forma, and any Endorsements to Title Policy will be issued by First American Title Company, located at 421 N.W. 13th Street,

Suite 320, Oklahoma City, Oklahoma 73103 (the “Title Insurer”). The Parties will take all necessary actions to satisfy all items set forth on Schedule B, Part I requirements of the Title Commitments of their respective portion of the Properties in a timely manner. So long as the Parties are diligently pursuing all curative actions set forth herein, the Parties hereby agree to extend the Due Diligence Period by that amount of necessary to complete all title curative actions.

5. Seller’s Representations and Warranties. Seller hereby represents and warrants to the best of Seller’s actual direct firsthand knowledge and belief, the following:

- (a) This Agreement has been authorized by all necessary action of the governing body of the Seller and the Seller has full authority and right to enter into this Agreement and proceed to fulfill its terms;
- (b) The Seller is not aware of having been notified, orally or in writing, and is not aware of any instances in which the 718 Property is in violation of any codes, statutes, ordinances, or regulations;
- (c) 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 718 Property if not paid;
- (d) The Seller is not aware of being subject to or bound by any judgment, decree, injunction, or other court order in respect to the 718 Property; and
- (e) The Seller is not aware of any action, suit or proceeding before any court or governmental agency or authority pending, or threatened against the Seller in written correspondence to the Seller that would adversely affect any portion of the 718 Property or the ability of the Seller to convey good and marketable title to the 718 Property, or that would limit the Purchaser’s ownership and control or rights to use the 718 Property after the Closing, and subject to any quiet title or other title curative actions as may be contemplated herein.

The Seller’s representations and warranties herein shall survive for the benefit of the Purchaser for a period of one (1) year after the Closing.

6. The Purchaser’s Representations and Warranties. The Purchaser hereby represents and warrants to the best of the Purchaser’s actual direct firsthand knowledge and belief, the following:

- (a) This Agreement has been authorized by all necessary action of the governing body of the Purchaser and the Purchaser has full authority and right to enter into this Agreement and proceed to fulfill its terms.
- (b) The Purchaser is not aware of any action, suit or proceeding before any court or governmental agency or authority pending, or threatened against

the Purchaser (in written correspondence to the Purchaser) that would inhibit or prevent the Purchaser from entering into this Agreement and fulfilling its terms.

The Seller's representations and warranties herein shall survive for the benefit of the Seller for a period of one (1) year after the Closing.

7. Condition of Property and Disclaimers by the Seller and the Purchaser: Release.

- (a) The parties acknowledge and agree that, except as expressly set forth in this Agreement or in any of the documents delivered at Closing, as applicable, neither party, nor any other Covered Party (as hereinafter defined), have made, and except as expressly set forth in this Agreement or in any of the documents delivered at Closing, the parties are 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 718 Property 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 either parties' intended uses), the legality of either parties' intended use for the Properties under the Seller's current zoning ordinances affecting the Properties, or any other matter or thing of whatsoever kind or nature with respect thereto. The Purchaser further acknowledges, agrees, represents, and warrant that it has assumed the duty to inspect the 718 Property as provided for in this Agreement, and thereby assumes any and all liabilities or obligations relating to any physical or environmental condition as of the Closing Date. The delivery of surveys, title reports, inspections, plans, specifications, or other information, if any, pursuant to this Agreement shall not constitute a representation by the Seller that such information is current, correct, accurate, whole, or complete. It has been and remains the responsibility of the Purchaser, at its sole cost and expense, to satisfy itself as to the condition of the 718 Property including, without limitation: (i) the nature and condition of the property, including but not limited to the water, soil, geology, drainage, topography, flora and fauna and the suitability thereof, and of the 718 Property for any and all activities and uses which such party may elect to conduct thereon, or any improvements such party 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 718 Property or the

operation of the 718 Property 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 Properties 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 Properties or any portion thereof. Upon the Closing, each party shall assume the risk that adverse matters, including, but not limited to, construction defects and adverse physical and environmental conditions not otherwise disclosed herein, may not have been revealed by such party's investigations of the Properties. Without limiting the foregoing, the parties hereby expressly acknowledge and agree that, except as expressly set forth in this Agreement or in any of the documents delivered at a Closing, the County is purchasing the 718 Property as of the Closing Date in its **"AS-IS and WHERE-IS" condition WITH ALL FAULTS**. The provisions of this Paragraph 7 (b) 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.

- (b) Without limiting the provisions of Paragraph 7(b), above, and except as expressly set forth in this Agreement or in of the documents delivered at any Closing, each party, upon Closing, fully and completely releases the other party and (as the case may be) such other parties' 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 this Paragraph 7 and as relating to: (i) 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 the 718 Property; or (ii) any other conditions, including, without limitation, environmental and other physical conditions affecting the 718 Property, whether the same are a result of negligence of such other party or otherwise. The release set forth in this Paragraph 7(c) 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. The parties acknowledge that each party has been represented by independent legal counsel of such parties' selection, and each party is granting this release of its own volition and after consultation with such parties' counsel. Except as otherwise expressly provided in this Agreement, the Purchaser acknowledges that any condition of the 718 Property that such party discovers or desires to correct or improve after the Closing Date shall be at its sole expense. The provisions of this Paragraph 7(c) 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.

8. Confidentiality of Inspection Matters. The Parties acknowledge that in the course of performing due diligence of any portion of the 718 Property, the Seller may provide to the Purchaser information that is nonpublic, confidential or proprietary in nature. The Parties agree to maintain the confidence of all information delivered by the other Party and not to disclose or use any information provided by the other Party for any purpose other than evaluating the Properties. Further, the Parties agree to waive, discharge, release, and hold harmless, each other and each Parties' shareholders, officers, members, directors, owners, partners, managers, employees, agents, consultants, contractors, attorneys, brokers, and representatives (collectively with each Party, the "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 Covered Party arising from or related to any of Parties' due diligence or inspections hereunder.

9. Closing. This Agreement shall close (the "Closing") five (5) business days after expiration of the Due Diligence Period (the "Closing Date"), such Closing to take place at the offices of the Title Insurer at such time to be mutually determined by the Purchaser and the Seller. But in no event shall the Closing take place later than ninety (90) days after the end of Due Diligence Period, unless agreed to extend by the Parties.

10. Deliveries. At the Closing, each Party shall deliver or cause to be delivered to the other Party and/or the Title Insurer, as applicable, the following, each fully executed, attested, sworn to, and acknowledged (where appropriate):

- a. Special Warranty Deed. A Special Warranty Deed duly executed by the Party in substantially the form of Exhibit "B" attached hereto (the "Deed") conveying such portions of the Properties to the other Party as set forth herein, subject to only those exceptions approved by grantee Party.
- b. 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.

- c. FIRPTA Affidavit. An affidavit in form and substance satisfactory to Title Company stating that the respective Party is not a “foreign person” as defined in Section 1445 of the Internal Revenue Code and implementing regulations.
- d. Proof of Authority. Such evidence as to the authority of each Party to enter into this Agreement and to discharge the obligations of such Party pursuant hereto as the other Party and the Title Company shall reasonably require.
- e. Closing Statement. The document prepared by the Title Company (the “Closing Statement”) to be duly executed by each Party to record the payment of the costs of performing this Agreement and the corresponding adjustment, if any, of the Purchase Price.
- f. Additional Documents. Such additional documents, including lien and possession affidavits, as may be reasonably requested by each Party and the Title Company to consummate this Agreement.

11. Possession. Possession of the 718 Property shall be given to the Purchaser on the Closing Date, free from all parties claiming a right to possession or having claims against the 718 Property, other than as claimants under only the exceptions to title stated in the Title Commitment approved by the Seller. Effective on the recording of the Deed, the beneficial ownership and the risk of loss of the 718 Property shall pass to the County.

12. Prorations. All receipts and disbursements relating to the 718 Property 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 718 Property shall be adjusted as provided in the Closing Statement.

13. 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, Purchaser shall pay all ad valorem taxes from and after the date of Closing.

14. Closing Costs. Unless otherwise stated herein, the costs of these transactions shall be borne entirely by the Purchaser.

15. Condemnation; Casualty. In the event of actual or threatened condemnation or damage to or destruction of all or any part of the 718 Property prior to the Closing Date, the Parties hereby agree to negotiate in good faith, a reduction of the value, which in turn may affect the Purchase Price.

16. Default; Remedies. If either Party 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 such Party fails to comply with such written demand within thirty (30) days after receipt thereof, the other Party 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.

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

(b) Entire Agreement. This Agreement constitutes the entire agreement between the Seller and the Purchaser 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 718 Property and there are no agreements, understandings, warranties or representations between the Seller and the Purchaser except as set forth herein.

(c) 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.

(d) 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 the Seller: City of Norman
 Attn: City Manager
 201 W. Gray St.
 Norman, Oklahoma 73069
 Telephone: 405/366-5404
 Facsimile: 405/366-5389
 Email: darrel.pyle@normanok.gov

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
 Email: kathryn.walker@normanok.gov

If to the Purchaser: Cleveland County
 Attn: Board of County Commissioners _____
 201 South Jones, Suite 200
 Norman, Oklahoma 73069

Telephone: 405/366-0200
 Email: rcleveland@clevelandcountyo.k.com__

With a copy to: District Attorney's Office
 Attn: Civil Division
 201 S. Jones, Suite 300
 Norman, Oklahoma 73069
 Telephone: 405/321-8268
 Email: robin.moore@dac.state.ok.us

(e) 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.

(f) 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.

(g) 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 this Agreement 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 set forth in this Agreement.

(h) 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.

(i) Binding Effect. This Agreement will inure to the benefit of and bind the respective successors, heirs, beneficiaries, trustees, and assigns of the Seller and the Purchaser.

(j) Time. Time is the essence of each provision of this Agreement.

(k) 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.

(l) Full Execution. This Agreement shall be deemed fully executed and binding upon the Seller and the Purchaser if and when each party has executed this Agreement or separate counterparts.

(m) 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.

(n) 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.

(o) 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 obligation to pay for respective development, planning, design, engineering, or infrastructure costs incurred prior to termination shall survive such termination and remain in full force and effect.

(p) Survival. Unless otherwise state herein, the development rights, obligations, representations, and covenants of the Parties contained in this Agreement shall survive Closing.

(q) Assignment. This Agreement may not be assigned by either party without the prior written consent of the other party, which consent may be withheld by and in such parties' sole discretion provided any assignee shall continue to be bound by the terms of this Agreement.

(r) 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”:

CITY OF NORMAN, OKLAHOMA,
a municipal corporation

By: _____
Name: Larry Heikkila
Title: Mayor

Date of City’s Execution: _____, 2023

Attest: _____
Brenda Hall, City Clerk

Approved as to form and legality this 22 day of September, 2023.



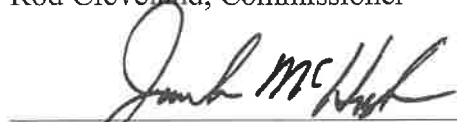
General Counsel/City Attorney

“Purchaser”:

CLEVELAND COUNTY

By: 

Rod Cleveland, Commissioner



Jacob McHughes, Commissioner



Rusty Grissom, Commissioner

Date Of County’s Execution: Sept. 18,
2023.

Index to Exhibits:

- A: Legal Description
- B: Special Warranty Deed

Exhibit "A"

Lots Seventeen (17), Eighteen (18), Nineteen (19), Twenty (20), Twenty-one (21), Twenty-two (22), Twenty-three (23), Twenty-four (24), Twenty-five (25) and Twenty-six (26) in Block Three (3), of J.A. Jones Addition to Norman, Cleveland County, Oklahoma.

Exhibit "B"

Special Warranty Deed

After recordation, return to:

Space Reserved for Recording Information

SPECIAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

THAT _____ (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 _____ (the "Grantee"), with an address of _____, 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:

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 _____, 2023.

“Grantor”:

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

STATE OF OKLAHOMA)
) ss:
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2023, by _____, in his/her capacity as _____ of _____.

(Seal)

Notary Public
My Commission Expires: _____
Commission # _____

EXHIBIT "A" TO SPECIAL WARRANTY DEED

Legal Description

EXHIBIT "B" TO SPECIAL WARRANTY DEED

Permitted Exceptions

[Subject to revision based on title commitment]

TBD