

MEMORANDUM OF UNDERSTANDING

UNIVERSITY OF OKLAHOMA and CITY OF NORMAN

This Memorandum of Understanding (“MOU”) is entered into on the ____ day of January, 2024, by and between the City of Norman, Oklahoma, a municipal corporation, referred to herein as the “City”, and The Board of Regents of the University of Oklahoma, a constitutional entity of the State of Oklahoma, referred to herein as “University” for the purpose of developing a contractual relationship related to the exchange of land and funding for mutually beneficial public projects.

WHEREAS, on April 2, 2019, the citizens of Norman voted in favor of a \$72 million bond issue, which included a project to make significant improvements to Jenkins Avenue through the south side of the University campus (the “Project”); and

WHEREAS, the Project will include roadway widening and reconstruction, a four-lane divided roadway, a new traffic signal at the intersection of Jenkins Avenue and Timberdell Road, a roundabout eliminating existing traffic signals at the intersections of Jenkins Avenue and Imhoff Road and Jenkins Avenue and Constitution Street, new sidewalks/multimodal paths, decorative roadway lighting, stormwater drainage improvements, and landscaping, estimated to cost more than \$9.6 million; and

WHEREAS, in addition to numerous existing athletic and recreational facilities near the Project area, the University has begun construction on Love’s Field, a new softball stadium with aligning state of the art training facilities for the reigning National Champion University of Oklahoma Softball Team to be located at the northwest corner of Jenkins Avenue and Imhoff Road adjacent to the proposed roundabout; and

WHEREAS, the Project requires that the University relocate its private utilities from the City’s current public street right-of-way along Jenkins in order for the franchised utilities to begin work to relocate their own facilities; and

WHEREAS, construction of the Project also requires conveyance of rights-of-way from the University to the City; and

WHEREAS, the University desires to convey such rights-of-way and work with the City to ensure the proposed roundabout becomes an iconic entry into the University campus; and

WHEREAS, the University has a special interest in the Project, which is expected to promote the accessible, efficient, and enjoyable use of the University’s nearby softball, baseball, golf, gymnastics, and football facilities; and

WHEREAS, the University acknowledges that City could complete the Project in a more cost-effective way, but which would not include a roundabout or other elements desirable for University’s purposes; and

WHEREAS, the University acknowledges that, absent the City's proposal for the Project, the University would have incurred substantial expense implementing certain aesthetic and efficiency improvements in preparation for increased traffic to campus associated with its athletics programs.

NOW, THEREFORE, BE IT AGREED BETWEEN THE PARTIES, that each party as indicated by its signature affixed to this Memorandum of Understanding, does hereby agree to the following terms to be more fully set forth in final agreement(s) and/or conveyance documents to be negotiated and approved by mutual agreement of the Parties at a future date.

1. Project. The City shall ensure that the Project will be constructed substantially as depicted in Exhibit A [to be provided] and that any major design changes shall be submitted in writing to the University for approval, said approval being deemed given if no written response is received within ten (10) days of receipt of the written submittal provided for herein.
2. Relocation of University Utilities. The University understands that the Project construction timeline depends on the University's timely relocation of its private utilities from the City's right-of-way.
3. Project Conveyances.
 - a. The University agrees to convey the public rights-of-way to the City no later than January 15, 2024 for the Project as depicted on Exhibit A.
 - b. Pending conveyance of such rights-of-way, the University has granted to the City and its contractors a temporary, revocable right-of-entry, as set forth in the Legal Right of Entry executed August 29, 2023, attached as Exhibit B.
 - c. The Parties agree that the value of the conveyances by the University for the Project as described herein is at least \$4.1 million, to be paid as set forth below.
4. Consideration.
 - a. In exchange for the timely relocations and conveyances set forth in Sections 2 and 3, the City shall pay eight hundred twenty-seven thousand three hundred dollars (\$ 827,300) to University, payable at the time of the conveyance described in Section 3.a above; and
 - b. In addition, the City shall grant a perpetual avigation easement to the University of the real property, the legal description of which is being developed and shall be determined and jointly agreed upon by the Parties at a later date prior to execution, (the "Avigation Property") which complies with the regulations of the Federal Aviation Administration ("FAA") on runway protection zone and safe, efficient use, and preservation of the navigable airspace for the University's Max Westheimer Airport runway extension plan ("Runway Plan"). Notwithstanding the previous language herein provided and in the event FAA or its officials communicate that approval of the University's Runway Plan is conditioned on the University's acquisition of fee title to the Avigation Property, the City agrees to convey the Avigation Property to the University free and clear of all liens and encumbrances. Concurrent with the consummation of such fee conveyance of the

Avigation Property by the City the University shall release the avigation easement and lease the Avigation Property back to the City for one dollar (\$ 1.00) per year for fifty (50) years with an unconditional option in favor of the City to renew the lease for another fifty (50) years, including the parties agreement that the Avigation Property may only be used as a golf course or a city park in compliance with the FAA's requirements on runway protection zone and safe, efficient use, and preservation of the navigable airspace. Further, should the City ultimately convey fee title to the Avigation Property to the University hereunder, such transfer shall be subject to both a right of first refusal, in the event the University desires to sell such property at some point in the future, and a reversionary right vested in the City should the airport cease operations for more than two years on the Avigation Property. This conveyance of the Avigation Property right, whether by easement or in fee, adjacent to the University's Max Westheimer Airport will strategically support the implementation of the airport's master plan. The University estimates the value of this consideration to be at least \$2 million; and

- c. The City shall construct the Project substantially as set forth in Exhibit A. The City agrees to submit proposed design changes, if any, for University's review and approval as set forth in Section 1, above, and shall be solely responsible for all construction costs for the Project. Without regard to actual expenses expected or incurred by the City by selecting the Project design contemplated in Exhibit A over similar but less-desirable plans, the University estimates the value of this consideration to be at least \$1 million; and
 - d. The City's timely construction of the Project is expected to improve the efficiency and enjoyability of the University community and its guests prior to the fall 2026 semester, at substantial savings of personnel and maintenance costs by the University. The City will use its best efforts to ensure timely construction of the Project in accordance with the timelines set forth herein. Failure to timely construct the Project due to circumstances beyond the City's control, including, but not limited to, weather conditions, force majeure events, unforeseen actions of third parties, and unforeseen conditions discovered during construction shall not be considered a breach of this agreement and will not impact the value of consideration set forth herein. The University estimates the value of timely construction [as agreed by the parties] to be at least three hundred fifty thousand dollars (\$350,000).
5. This Memorandum of Understanding will be scheduled for approval by City at its next regularly scheduled meetings. Under the authority of the Board of Regents of the University of Oklahoma, as delegated by an official action of the Board at its regular meeting on March 7, 2023, the signature of the University Vice President of Operations shall be effective to bind the Board.

[Remainder of Page Left Blank Intentionally]

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be executed and effective as of the date set forth above.

BOARD OF REGENTS OF THE UNIVERSITY OF OKLAHOMA

BY: _____
Signature

ATTEST: _____
Corporate Secretary

Title

CITY OF NORMAN, OKLAHOMA

BY: _____
Mayor

ATTEST: _____
City Clerk

Reviewed for form and legality on this ____ day of _____, 2024.

Kathryn Walker, City Attorney/General Counsel

Exhibit A

Jenkins Avenue Widening Project (Original Concept)

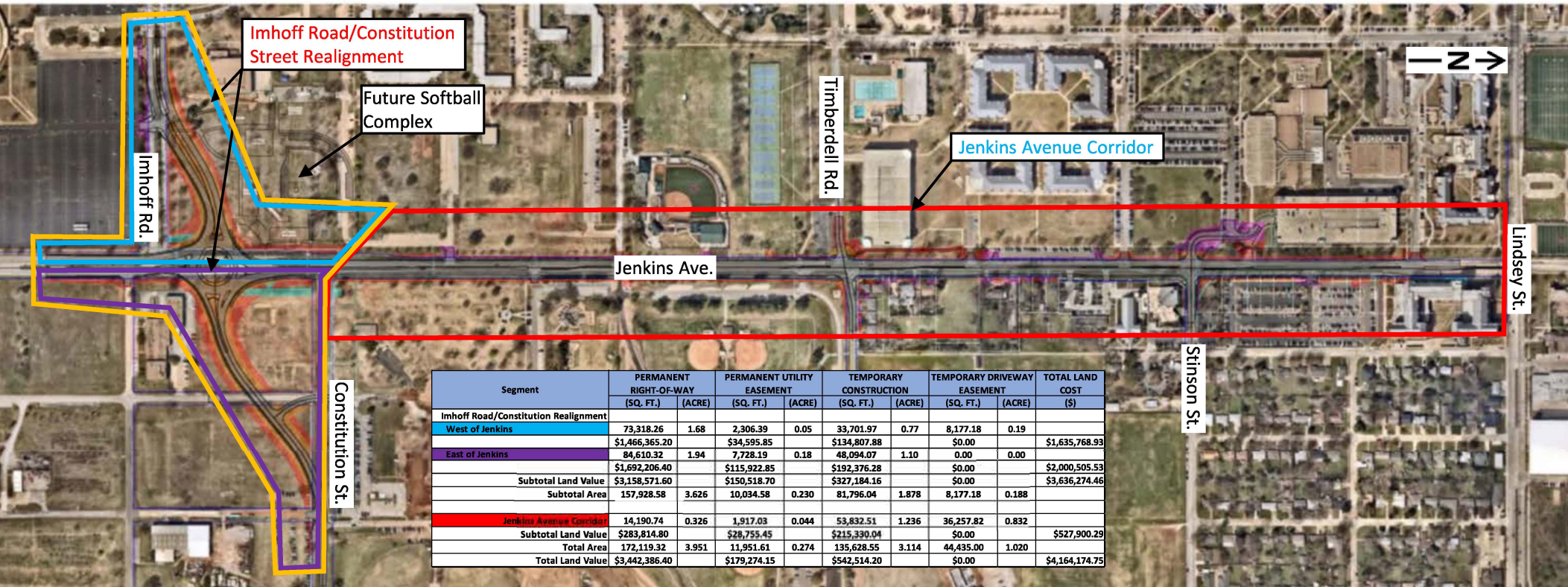


EXHIBIT B
LEGAL RIGHT-OF-ENTRY

That the Board of Regents of the University of Oklahoma, in consideration of the sum of One Dollar (\$1.00) does hereby grant, unto the City of Norman, Cleveland County, Oklahoma in conjunction with the Oklahoma Department of Transportation, for the benefit of its franchisees and telecommunication providers authorized to access the City's rights-of-way and operate in Norman, a **Legal-Right-of-Entry**. This **Legal- Right-of-Entry** is to grant the City of Norman legal entry onto property being acquired by the City of Norman for the purpose of construction and or relocation of public and franchise utilities, on or across said property pending execution of conveying instruments.

Said Property is described as follows:

Beginning Tuesday, August 1, 2023, all proposed right-of-way and easements for the Jenkins Avenue Widening Project on University of Oklahoma and/or Board of Regents of the University of Oklahoma property located along the east side of Jenkins Avenue from Timberdell Road north to the north end of the project near Lindsey Street in the Northwest Quarter (NW/4) of Section Five (5), Township Eight (8) North, Range Two (2) West of the Indian Meridian, Cleveland County, Oklahoma, will be available for utility relocations. More specifically, the Legal-Right-of-Entry is applicable to Parcel Numbers 9, 10, 12, 13, and 20 through 32 as illustrated on the attached Jenkins Avenue Widening Project Right-of-Way Plans.

The City of Norman agrees to provide reasonable prior written notices of such utility relocations to the Board of Regents of the University of Oklahoma and its tenants of said property and agrees to limit disturbance of use of sidewalks and driveways of said property by the Board of Regents of the University of Oklahoma, or its tenant, only to the extent reasonably necessary. The Board of Regents of the University of Oklahoma retains the right to perform any act not specifically prohibited or limited by this Legal Right-of-Entry.

Each party agrees to be responsible for the negligent or intentional acts or omissions of its respective employees, agents, representatives, divisions, and affiliates that arise out of or are related this Legal Right-of-Entry, with parties' liability governed by the terms of the Oklahoma Governmental Tort Claims Act, 51 O.S. § 151 *et seq.*

This Legal Right-of-Entry shall terminate at the earliest of (a) the completion of relocation of public and franchise utilities for the Jenkins Avenue Widening Project; (b) the change of ownership of said property from the Board of Regents of the University of Oklahoma to the City of Norman; or (c) 45 days from the execution of this Legal Right-of-Entry.

Signed and delivered this 29 day of August, 2023

(OWNER NAME) by:



VP OF CAMPUS OPERATIONS
Title

REPRESENTATIVE ACKNOWLEDGEMENT

STATE OF OKLAHOMA, COUNTY OF CLEVELAND, SS:

Before me, the undersigned, a Notary Public in and for said County and State, on this _____ day of _____, 20____, personally appeared _____, to me known to be the identical person(s) who executed the foregoing grant of easement and acknowledged to me that _____ executed the same as _____ free and voluntary act and deed for the uses and purposes therein set forth.

WITNESS my hand and seal the day and year last above written.

My Commission Expires: _____ Notary Public: _____

Approved as to form and legality this _____ day of _____, 20__.

City Attorney