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City of Knoxville

Document No. C-22-0426

MEMORANDUM OF UNDERSTANDING

BY AND BETWEEN

THE CITY OF KNOXVILLE, TENNESSEE

AND

THE UNIVERSITY OF TENNESSEE

THIS MEMORANDUM OF UNDERSTANDING is entered into this 23rd day of January, 2023 by and between the City of Knoxville, Tennessee (“the **City**”), a municipal corporation organized and existing under the laws of the State of Tennessee, and **THE UNIVERSITY OF TENNESSEE**, an instrumentality of the State of Tennessee (“**University**”), collectively referred to as “**the Parties.**”

WHEREAS, in 2006, under the leadership of former Mayor Bill Haslam, the City of Knoxville with support of Knox County and the University of Tennessee, Knoxville, adopted the Knoxville South Waterfront Vision Plan (Vision Plan), a long-term improvement strategy for an approximate 750-acre area fronting the 3-mile shoreline of the Tennessee River, directly south of downtown Knoxville and the University of Tennessee’s Knoxville campus (“**UTK**”); and

WHEREAS, the Vision Plan process included extensive public process and resulted in the adoption of several implementation tools including a Knoxville South Waterfront Action Plan, an Urban Renewal and Redevelopment Plan, and the South Waterfront Zoning District, one of two form based zoning districts in Knoxville; and

WHEREAS, the Vision Plan and subsequent implementation plans and codes have resulted in over \$61 million in public investment and over \$400 million in private investment, the creation of new jobs and housing units and the protection and preservation of existing neighborhoods; and

WHEREAS, the South Waterfront Zoning District (hereinafter referred to as the “SW Form District”), is the key regulating document which applies to all development within the South Waterfront Zoning District to assure new development complies with the Vision Plan; and

WHEREAS, since adoption of the Vision Plan and SW Form District under Mayor Bill Haslam, Knoxville’s South Waterfront redevelopment has continued under Mayor Daniel Brown, Mayor Madeline Rogero and now Mayor Indya Kincannon, experiencing significant growth, both in public and private development; and

WHEREAS, by following the SW Form District regulations, development practices over the last fifteen years, not only are residents and business owners in the South Waterfront seeing improved infrastructure and public amenities in the area, use of the SW Form District code is effectuating the goals set forth in the South Waterfront Vision Plan; and

WHEREAS, one of the goals set forth in the Vision Plan included a pedestrian/bicycle bridge across the Tennessee River, connecting UTK with the South Waterfront and through improved infrastructure, the Chapman Highway Corridor; and

WHEREAS, the City of Knoxville in June of 2015, after completing additional public input, planning and design applied for a Federal Transportation Investment Generating Economic Recovery VII Grant (TIGER) with support from a significant group of supporters including Knox County and the University and completing important project due diligence such NEPA readying the project for other federal infrastructure funding programs; and

WHEREAS, the Parties agree that a pedestrian bridge as defined in the Vision Plan in this location would not only create jobs and improved public infrastructure, new park and public spaces but also would create connections for residents to opportunities for employment and education,

improve access and improved development opportunities along the Chapman Highway corridor, improve non-vehicular access the north waterfront and the University of Tennessee campus, alleviate vehicular congestion and be a positive impact on existing neighborhoods and residents of the City, Knox County, and UTK; and

WHEREAS, the University has amended the Campus Master Plan of UTK, which serves as a guide for future growth for UTK, to include tracts of property on the south side of the Tennessee River and has hired Ayers Saint Gross, Inc who is being assisted by the local design firm of Sanders Pace Architecture to specifically evaluate how the City, UTK and other partners may develop the bridge and property adjacent to the bridge in keeping with the Vision Plan; and

WHEREAS, the parties agree that now is the appropriate time to enter into this Memorandum of Understanding, setting forth certain responsibilities of the Parties regarding the process of planning, funding, designing, and constructing this new pedestrian bridge which will extend from the area near Thompson-Boling Arena across the Tennessee River to parcels of land which will be owned by the City or the University, or other partners in this Project on the south shore of the river along Scottish Pike and West Blount Avenue and the surrounding development by the University or the City; and

NOW, THEREFORE, in consideration of the mutual promises made herein, and the mutual benefits received hereunder, the Parties agree as follows:

ARTICLE I.
Intent of Memorandum of Understanding

This Memorandum of Understanding sets forth the terms and conditions between the City of Knoxville, and the University for establishing a partnership to design, finance, construct and maintain a pedestrian bridge from the South Waterfront to the north waterfront and UTK.

ARTICLE II.
Mutual Understandings and Agreements of the Parties

2.1 Project Title. The title of this Project is the South Waterfront Pedestrian Bridge, as depicted in general terms in Exhibit A.

2.2 Funding for Design and Construction. The City anticipates applying for and obtaining state and federal grant funds in order to plan, design, permit and construct a pedestrian bridge, which may also accommodate bicycles or other non-motorized vehicles, (the “Bridge”) which will extend from the UTK campus near Thompson-Boling Arena, across the Tennessee River to parcels of property located within the South Waterfront Zoning District, which are to be acquired either by the University, subject to all applicable State approvals, or Knoxville’s Community Development Corporation, on behalf of the City. The City is under no legal obligation to design and construct this Bridge until the City, in its sole discretion, determines it has the necessary public support and funding in place to complete the Project. The use of the University’s property for the Bridge will be subject to all applicable State approvals.

2.3 UTK Master Plan Renderings. The University has amended the UTK Campus Master Plan to include certain parcels of property within the South Waterfront Zoning District. Acquisition of properties within this master plan boundary is subject to future necessary State approvals. The University further agrees to integrate the pedestrian bridge into the UTK Campus Master Plan.

2.4 Form Based Code. The Parties agree that the objectives of the South Waterfront Zoning District (SW Form District) are in the best interest of creating a vibrant, mixed-use development in the area where the Pedestrian Bridge connects with the South Waterfront.

Therefore, the Parties agree that the University and the City will design and construct facilities consistent with the requirements of the SW Form District when designing and constructing the Pedestrian Bridge and developing the surrounding area of the Pedestrian Bridge as shown on Exhibit A hereto. City and the University agree that this agreement is limited to the property specified in Exhibit A, and while the University is not required to obtain approval of its plans from the City as specified in the SW Form District regulations, the University agrees to consult with the Mayor of the City of Knoxville (or his/her designees) concerning any material deviations from the SW Form District in designing and constructing facilities on property specified in Exhibit A.

2.5 Term. The term of this MOU shall commence on the Effective Date of this MOU and will be effective until terminated by any of the Parties by giving ninety (90) days written notice to the other Parties. This MOU shall be reviewed at least every three (3) years by the Parties.

2.6 Ownership of Bridge. Upon completion of the design and construction of the Bridge, the parties agree the Bridge will be owned, operated, and maintained by the City or its agent. The City agrees to ensure that the Bridge and landings are constructed and complies with any and all requirements of the Americans with Disabilities Act, 42 U.S.C. Sec 12101, et seq., ("ADA") and, in partnership with the University, the Bridge will be a safe, accessible, well-lit and well-maintained space.

2.7 Granting of Easements and Other Rights. Subject to all necessary University Board of Trustees and State and City approvals, the City and the University agree to enter into a South Waterfront Pedestrian Bridge Easement Agreement wherein the University agrees to grant the City, an easement, right-of-way, and right of entry (the "Easement"), at no cost, in a form acceptable to the State, on the parcels of property purchased in South Waterfront Zone 2 as defined

by the Form Based Code Effective March 16, 2007, now or in the future, and agreed by the City and the University to be used for the purposes of constructing and maintaining this Pedestrian Bridge and only as necessary for Pedestrian Bridge. This Easement Agreement shall be recorded with the Register of Deeds upon execution of the parties. The obligations set forth in the easements shall survive termination of this MOU.

2.8 Communication and Progress Updates. Each Party shall keep the other Party reasonably informed as to its progress and activities relating to the Project, including updates as to procurement of real estate necessary for the Project as well as the status of any funding sources and applications for funding for the Project.

2.9 Public Transportation. The City agrees that the Bridge will be used consistent with the public pedestrian purposes for which the Bridge was intended. The City and the University agree that the real property described on Exhibit A dedicated and/or purchased for use in order to implement the Bridge shall remain dedicated to public pedestrian use. The obligations set forth in this section shall survive termination of this MOU.

ARTICLE III. Notices

Any notice required or permitted under this Memorandum of Understanding will be directed to the following representatives or such other address as either party may designate by written notice to the other:

City of Knoxville:

David Brace
Deputy to the Mayor and Chief
Operations Officer

University of Tennessee:

Sr. Vice Chancellor for Finance and
Administration
Andy Holt Tower, 8th Floor

400 Main Street, Room 681
Knoxville, TN 37902

1331 Circle Park Drive
Knoxville, TN 37902
(865) 974-4204

cc:

Charles W. Swanson
Law Director
400 Main Street, Suite 699
Knoxville, TN 37901
(865) 215-2050

cc:

C. Ryan Stinnett
400 West Summit Hill Drive
UT Tower Suite 1155
Knoxville, TN 37902
(865) 974-3245

Notices shall be in writing and shall be effective when actually delivered in person, received via facsimile transmission, or private carrier with signature confirmation, or when received in the U.S. mail, certified with return receipt requested, postage pre-paid and addressed to the party as stated above.

ARTICLE IV. Miscellaneous Provisions

4.1 Entire Agreement. The Parties agree that this MOU, and documents incorporated hereunder, is the complete expressions of the terms hereto, and any oral representations or understandings not incorporated herein are excluded. Further, any modifications of this MOU shall be in writing and signed by all Parties.

4.2 Disclosure of Confidential Information. The Parties acknowledge and understand that they are subject to the Tennessee Open Records Act (“Act”). This Act generally provides that written documents retained by the Parties may be subject to disclosure upon the request of any third party except for specific limited exceptions provided for in the Act. Any party to this Agreement may designate as “Confidential” any information which that party desires to keep confidential. If a request for disclosure of any documentation marked as “Confidential” is

made under the Act, the party receiving the Open Records Request agrees to notify the Party that designated the material as confidential (“Designating Party”) of the request. Should the Designating Party wish to seek protection from disclosure by a court of competent jurisdiction, it will be that party’s sole responsibility to do so.

4.3 Distinction from Regulatory Authority of the City. All Parties understand and agree that this MOU does not and shall not be construed to indicate or imply that the City, acting as a regulatory or permitting authority, has hereby granted or is obligated to grant any approval or permit required by law for the development of the Project.

4.4 Assignment. No Party to this Agreement may transfer or assign any or all of its rights or obligations hereunder except with the prior written consent of the other parties, and any such attempted assignment without the prior written consent of the other parties shall be wholly void and of no effect.

4.5 Waiver. No waiver by any party of any term or condition of this MOU shall be deemed or construed to constitute a waiver of any term or condition or of any subsequent breach, whether or not it is the same or different provision.

4.6 Applicability of Law. This MOU is and shall be construed as being executed and delivered within the State of Tennessee and it is mutually understood and agreed by each party hereto that all agreements and statements of work shall be governed by the laws of the State of Tennessee, both as to interpretation and performance. The Parties agree that the venue for enforcement of any provisions shall be the courts of Knox County.

4.7 Severability. If any section or part of this MOU is held by a court to be invalid, such action shall not affect the validity of any other part of this Agreement.

4.8 Counterparts. This MOU may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the City, Knox County and the University of Tennessee have executed this Memorandum of Understanding as of the effective date listed above. The persons signing this Memorandum on behalf of the Parties represent that each has authority to execute this MOU on behalf of the Party entering this MOU.

CITY OF KNOXVILLE, TENNESSEE

BY: _____

Indya Kincannon
INDYA KINCANNON
MAYOR

DATE: _____

2/14/23

THE UNIVERSITY OF TENNESSEE

BY: _____

Donde Plowman
DONDE PLOWMAN
CHANCELLOR, UNIVERSITY OF TENNESSEE, KNOXVILLE

DATE: _____

2/16/2023

BY: _____

David Leslie Miller
DAVID MILLER
SENIOR VICE PRESIDENT AND CHIEF FINANCIAL OFFICER, UT SYSTEM

DATE: _____

2/16/2023

APPROVED AS TO FORM:



CHARLES W. SWANSON
CITY LAW DIRECTOR

FUNDS CERTIFIED:



BOYCE H. EVANS
CITY FINANCE DIRECTOR

- The City of Knoxville is an EEO/AA/Title VI/Section 504/ADA/ADEA Employer -

EXHIBIT A

