

ASSISTANCE IN DEVELOPMENT FINANCING
INFRASTRUCTURE AGREEMENT
BETWEEN THE OKLAHOMA CITY ECONOMIC DEVELOPMENT TRUST
AND
GARY J RANDOLPH CONSTRUCTION, INC.

This Assistance in Development Financing Infrastructure Agreement (“Agreement”) is made between the Oklahoma City Economic Development Trust (“OCEDT”) and Gary J Randolph Construction, Inc., DBA Randolph Design Build (“Developer”). This Agreement sets forth the terms and conditions under which OCEDT may provide assistance in development financing to enable the development of alley improvements in the area of SW 13th St and Harvey Ave. This Agreement shall be effective on the date approved by OCEDT.

WITNESS:

WHEREAS, on March 7, 2000, the City Council of The City of Oklahoma City adopted Ordinance No. 21,431, approving the Downtown/MAPS Economic Development Project Plan which was amended and restated most recently in March of 2024 with three minor amendments made to it since that time (“Downtown Project Plan”). The Project Plan contains Tax Increment District Number Two, City of Oklahoma City, (“TIF 2”); and

WHEREAS, the Local Development Act, 62 O.S. § 850 *et seq.* (the “Act”), provides that tax increment generated by an approved tax increment financing district may be used to fund “project costs” as that term is defined in Section 853 of the Act. The Downtown Project Plan specifically allows for increment from TIF 2 to be used for residential development and public infrastructure costs; and

WHEREAS, on December 13, 2005 (Item No. VIII.K.), the City Council adopted a resolution setting forth the TIF allocation policy statement which provided that a priority for the use of TIF funds for allowable project costs would be to construct public improvements, which includes the expansion or rehabilitation of existing infrastructure; and

WHEREAS, on August 17, 2021, OCEDT and the City Council adopted a joint resolution authorizing the allocation of \$500,000 from TIF 2 funds from the “Other Public Development Cost (City Only)” budget category for the Ancillary Infrastructure Program to encourage and support private investment in the Downtown Project Plan area, and establishing a source of funds to make improvements to public infrastructure near or around private development or redevelopment; and

WHEREAS, the August 17, 2021 allocation of \$500,000 has been exhausted. On October 22, 2024, the City Council and OCEDT approved an additional allocation for \$500,000 from TIF 2 to be used as assistance in development financing for the Ancillary Infrastructure Program. One identified use for the funds is alley improvements in the area near Lower Scissortail Park. It has been determined that residential development in this area will probably not succeed without needed public incentives to construct alleyways and alleyway improvements; and

WHEREAS, the City Council and the Trustees of OCEDT have determined that the Ancillary Infrastructure Program to fund alleyway improvements is beneficial to the public because it supports private residential investment in blighted or underutilized areas or in areas of arrested development in the Downtown Project Plan area; and

WHEREAS, the Project is currently being developed in the area of SW 13th St and Harvey Ave, just south of Oklahoma City’s premier Scissortail Park (the “Project”). The Developer has requested assistance in development financing to support needed alleyway construction/reconstruction to allow for continuing residential development in this area, as well as to maintain preferred rear alley access and limit curb cuts on the blocks as recommended in the Downtown Development Framework; and

WHEREAS, the Project represents approximately \$4,900,000 in private investment in residential development in an underdeveloped and underutilized area of downtown Oklahoma City; and

WHEREAS, OCEDT finds that the use of funds from the Ancillary Infrastructure Program in an amount not to exceed \$34,000 to support costs associated with the Project is necessary to support private development in a blighted and underutilized area near downtown Oklahoma City and that said improvements will be in the public interest.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

ARTICLE I. PROJECT.

- A. Developer agrees to use all TIF 2 funds received under this Agreement for the purpose of alley improvements. A conceptual drawing of the Project is presented in Exhibit A.
- B. In consideration of Developer’s installation of alley improvements, to support development near SW 13th St and Harvey Ave, OCEDT, subject to advisory concurrence by the City Council of The City of Oklahoma City, will provide assistance in development financing (the “Incentive”) to Developer in an amount not to exceed \$34,000 from Increment District No. 2, subject to the following terms and conditions:
 - 1. The parties agree that the total Incentive to be provided by OCEDT for the Project shall not exceed \$34,000, the payment of which shall be subject to the following pre-conditions.
 - The Incentive shall be paid to Developer on a reimbursement basis, after completion of the entire Project, for Eligible Infrastructure Costs only.
 - “Eligible Infrastructure Costs” consist of only those costs directly associated with installation and construction of the Project including engineering, labor and material fees, so long as all infrastructure is installed and constructed in accordance

with applicable City codes and standards as set forth in Article I(B)(2) herein. Eligible Infrastructure Costs do not include Developer's private borrowing costs/interest, administrative costs, professional legal or consultant's fees, developer's fees, or costs associated with lighting, utilities, or streetscapes/streetscape improvements. Developer shall provide the Project Manager with documentation of construction-related expenditures in a form reasonably acceptable to the Economic Development Project Manager. Any costs not covered by the Incentive shall be the sole obligation of Developer.

- Developer shall provide documentation to the Economic Development Project Manager that a minimum of two bids were received for the Project and if the lowest cost bid is not chosen, the documentation must include an affidavit outlining a lowest and best determination.
 - Developer shall provide documentation to the Economic Development Project Manager to demonstrate that at least \$500,000 in private capital investment has been made on properties being served by the Project, with all of said private capital investment having been made after the effective date of this Agreement.
 - Developer shall provide documentation to the Economic Development Project Manager that it has paid all contractors and subcontractors for work on the Project.
 - The Project shall be finally accepted by the City Council.
2. Developer agrees to construct the Project in accordance with the following requirements:
- Alleyway improvements may include demolition of existing concrete, asphalt or vegetation; grading; adjusting manholes to grade; approaches; and new surface paving and base.
 - Projects will require review and approval from the following City Departments: Planning, Public Works and Utilities.
 - The City's "Standard Specifications for the Construction of Public Improvements" shall be followed and shall be binding upon any work performed on public right-of-way. The Standard Specifications shall prevail over any conflicting statement in these program guidelines or any future agreements. Copies of the "Standard Specifications for the Construction of Public Improvements" may be viewed or downloaded at www.okc.gov/departments/public-works.
 - Alleyway construction shall conform to the latest Public Works Standard Detail D-200C-230.
 - Paved surfaces for alleyways shall be 6-inches of concrete on a 6-inch stabilized base.
 - Alleyway width shall be 12 feet to 18 feet minimum.
 - Alleyways shall be constructed according to Section 815: Remove and Replace Alley Pavement of the Standard Specifications for the Construction of Public Improvements.
 - The entire width of the platted alley shall be paved.
 - Alleyway improvements included in the application should be no less than 250 linear feet in total.
 - Alleyway improvements should be connected to a public street either directly or

- via an improved alley completed in the last five (5) years.
- Any person performing work within the right-of-way must be pre-qualified to perform such work.
 - The Developer must obtain all permits and pay all fees required by the City of Oklahoma City, the State of Oklahoma, and any applicable federal regulations.
 - The Developer is required to conduct due diligence that the alley is open and clear of obstructions. Neither the City nor OCEDT are responsible for private improvements or obstructions that may be present in the alley.
 - The Developer shall provide proof of notification to 100% of property owners adjacent to the proposed improvements. Notification must be by certified mail. Proof of notification must be presented to the City's Economic Development Project Manager upon request.
 - The Developer is encouraged to work with other property owners to maximize the benefit for the entire block. OCEDT will contract with only one property owner per project and property owners should have a separate agreement to manage the funds after payment from OCEDT.
 - Developer may be reimbursed up to a maximum of \$120 per linear foot of improved alleyway but shall not exceed the amount listed in Article I(B)(1) of this Agreement. However, in no instance shall the Developer be reimbursed for costs exceeding what was actually paid by the Developer.
 - The Developer shall provide proof to the Project Manager of a total private residential investment by the Developer of at least \$500,000 that is underway on the same block, on which the Project is being constructed, at the time of application for Incentives.
 - The City must maintain ownership of the alleyway easement upon completion of the improvements.
3. Based on the combined private investment of approximately \$4,900,000, the parties agree that including the construction of the public improvements as part of the private investment, the Project is in compliance with 61 O.S. § 127.
 4. The parties recognize and agree that the Incentive provided is being made by OCEDT, on behalf of the City, based on Developer's commitment to develop an underdeveloped and underutilized area in downtown Oklahoma City, and to expand the City's infrastructure in the urban core.
 5. The parties hereby agree and acknowledge that Ms. Joanna McSpadden is designated as the Economic Development Project Manager of OCEDT. The General Manager for OCEDT has reserved the right to name or designate a different Project Manager upon notice to Developer, in his or her sole discretion.

ARTICLE II. NOTICES.

All notices and other communications required, permitted, or contemplated by this Agreement must be in writing, signed by the Party giving the Notice, and sent using the contact information below. Notices must be sent by: (1) hand-delivery in return for a receipt; (2) United

States mail with postage prepaid; (3) nationally recognized overnight courier service; or (4) email, so long as the intended recipient acknowledges by email or other writing as having received the Notice (with an automatic "read receipt" not constituting acknowledgment). A Notice is effective on the earlier of: (1) the date of actual delivery; or (2) for mailed Notices (without a return receipt), three Business Days after the date of mailing. However, if the receipt of Notice is refused, the Notice is effective upon attempted delivery. Either Party may change its contact information by notifying the other Party as required by this Section. Notwithstanding the foregoing, Notices advising the other Party of a breach of this Agreement must be sent by: (1) hand-delivery in return for a receipt; (2) certified United States mail, return receipt requested with postage prepaid; or (3) nationally recognized overnight courier service. Such Notices are effective on the date of actual delivery. However, if receipt of the Notice is refused, the Notice is effective upon attempted delivery.:

Developer - Randolph Design Build

c/o: Gary J Randolph, President
322 SW 13th Street
Oklahoma City, OK 73109
Phone: (405) 226-3560
Email: garyjrandolph@gmail.com

OCEDT:
Oklahoma City Economic Development Trust
Economic Development Project Manager
Attention: Joanna McSpadden
100 N. Walker Avenue, 4th Floor
Oklahoma City, OK 73102

with copy to: City Clerk
200 N. Walker Avenue, 2nd Floor
Oklahoma City, OK 73102

ARTICLE III. TERMINATION BY OCEDT.

OCEDT may terminate this Agreement in the event that Developer, in violation of this Agreement:

- (i) assigns or attempts to assign this Agreement or any rights therein; or
- (ii) after having been provided a reasonable amount of time to provide requested documentation required under this Agreement, fails to provide such documentation;
- (iii) abandons, transfers, or terminates the Project; or
- (iv) fails to complete the Project and meet all the requirements set forth in Sections 1 and 2 herein by [insert date];

and, if any default or failure referred to in this Agreement shall not be cured within thirty (30) days after the date of written demand by the other party; then this Agreement, and any rights or claims

of Developer in this Agreement to any incentive payment, shall be considered terminated and OCEDT's obligation to reimburse Developer for the Project shall automatically terminate upon notice to Developer with no further action on the part of the Trust necessary.

ARTICLE IV. OTHER TERMS AND CONDITIONS.

- A. Public Entity Representatives Not Individually Liable. No member, official, or employee of OCEDT or The City shall be personally liable to any party or beneficiary of the terms of this Agreement, or any successor in interest, in the event of any default or breach by the involved public entity or entities or for any amount which may become due to Developer or any authorized successor on any obligation or commitment under the terms of this Agreement.

- B. Equal Employment Opportunity. Developer agrees that, during this Agreement, it will not unlawfully discriminate against any employee or applicant for employment because of age, race, color, religion, sex, disability, or national origin. Developer further agrees that, to the extent required by law, it will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their age, race, color, religion, sex, disability, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause as required to be posted by federal laws or regulations of the Equal Employment Opportunity Commission. Said notices can be obtained from OCEDT upon request.

- C. No Partnership Created. The parties expressly agree that the relationship hereby created is that of independent contractors and no other relationship is created or deemed to be created between the parties. This Agreement specifically does not create any partnership or joint venture between the parties hereto or render any party liable for any of the debts or obligations of any other party.

- D. Compliance with Laws, Ordinances and Regulations. The parties shall comply with all applicable existing federal, state and local laws, standards, codes, ordinances, administrative regulations and all amendments and additions thereto, pertaining in any manner to the work and/or services provided by this Agreement.

- F. Severability. If any provisions contained in this Agreement or any document executed in connection herewith shall be invalid, illegal or unenforceable in any respect, under any applicable law, the validity, legality and enforceability of the remaining provisions contained herein shall not, in any way, be affected or impaired, and such illegal, invalid or unenforceable provisions shall, at the reasonable request of OCEDT, be replaced by other provisions in accordance with the purpose and meaning of this Agreement.

- G. Captions. The table of contents and captions, articles and section headings appearing

herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

- H. Counterparts. This Agreement may be executed in any number of counterparts, all of which, when taken together, shall constitute one and the same instrument, and any party hereto may execute this Agreement by signing any such counterpart.
- I. Applicable Law. This Agreement shall be governed by, and shall be construed in accordance with, the laws of the state of Oklahoma without regard to any state choice-of-law statutes, and any applicable federal law. All disputes arising out of this Agreement will be resolved in a court of competent jurisdiction located in Oklahoma County, Oklahoma.
- J. Entire Agreement. This Agreement, including Exhibit A, represents the entire agreement and understandings of the parties hereto and all prior agreements, understandings, representations and warranties, whether written or oral, in regard to the subject matter hereof are and have been merged herein.
- K. Force Majeure. No party shall be liable for any failure to timely perform its obligations under this Agreement if prevented from doing so by a cause or causes beyond its commercially reasonable control including, but not limited to, acts of God or nature, fires, floods, storms, earthquakes, riots, strikes, wars or restraints of government.
- L. Effective Date. The Effective Date of this Agreement is the date upon which the Agreement is executed by OCEDT.
- M. Anti-Collusion. The Developer hereby warrants that neither it, nor any of its agents, employees, partners or contractors, have paid or agreed to pay the City of Oklahoma City, The Oklahoma City Economic Development Trust, the Alliance for Economic Development of Oklahoma City or any of those three entities' employees, officers, trustees, board members and/or agents, any fee, commission, percentage, gift or any other consideration directly or indirectly, in exchange for the award of this Agreement or the Incentive.
- N. Attorney's Fees. In the event either Party to this Agreement is compelled to file suit to enforce the terms of this Agreement, the Party prevailing in such litigation, in addition to all other relief granted by the court, will be entitled to the payment by the losing party of all such expenses, court costs, and reasonable attorney's fees incurred by the prevailing Party in such litigation.
- O. Amendments. This Agreement may not be modified, amended, altered, or supplemented except by an instrument in writing signed by both Parties hereto.
- P. Conflicts of Interest. No member, official, or employee of OCEDT or the City will have any personal financial interest, direct or indirect, in this Agreement nor will any such member, official or employee participate in any decision relating to this Agreement that

affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is interested, directly or indirectly.

- Q. Concurrence of the City. As required by the OCEDT Trust Indenture, the City is entitled to, and the Parties hereby acknowledge the right of the City to give its advisory concurrence to this Agreement. In the event the City should not concur with OCEDT in approving this Agreement, the Parties agree to work together to resolve any reasonable issues raised by the City and decide whether the Agreement should be amended. The City's concurrence to this Agreement shall not make the City a party hereto. All financial obligations under this Agreement shall be those of OCEDT, not the City of Oklahoma City.

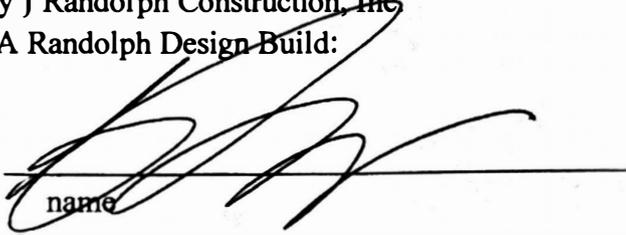
[Signature Pages follow.]

[Signature Page for Developer]

Gary J Randolph Construction, Inc.
DBA Randolph Design Build:

By: _____

name



ACKNOWLEDGEMENT

STATE OF OK)
) ss.
COUNTY OF OK)

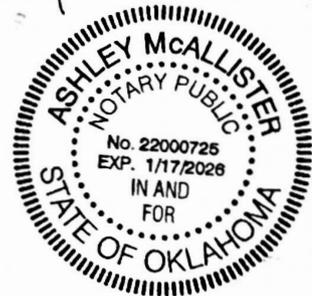
Before me, the undersigned, a Notary Public in and for said County and State, on the 16 day of JAN, 2025, personally appeared _____, the _____ of _____, to me known to be the identical person who executed the foregoing instrument and acknowledged to me that he or she executed the same as his or her free and voluntary act and deed, and as the free and voluntary act and deed of said corporation or entity for the uses and purposes therein set forth.

Given under my hand and seal the day and year above written.

Ashley McAllister
Notary Public

Notary Public # 22000725

My Commission Expires: 1/17/2026



[Signature Page for the Oklahoma City Economic Development Trust]

OKLAHOMA CITY ECONOMIC DEVELOPMENT TRUST

APPROVED by the Chairman and Trustees of the Oklahoma City Economic Development

Trust this 28TH day of JANUARY, 2025.

ATTEST:


SECRETARY




CHAIRMAN

REVIEWED for form and legality.


ASSISTANT MUNICIPAL COUNSELOR

[Signature Page for The City of Oklahoma City]

THE CITY OF OKLAHOMA CITY

ADVISORY CONCURRENCE by the Mayor and City Council of The City of Oklahoma

City this 11TH day of FEBRUARY, 2025.

ATTEST:


CITY CLERK



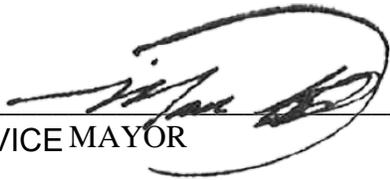

VICE MAYOR

EXHIBIT A
Conceptual Drawing