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March 6, 2026

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VIA CERTIFIED MAIL, FIRST CLASS MAIL, AND E-MAIL

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Re: Notice of Intent to Sue in the Event the City of Norman Fails to Repeal Ordinance No. O-2425-2 and Put the Rock Creek Arena TIF Project Plan to a Vote of the People, and in the Event the County Authority Fails to Cease and Desist from Attempts to Proceed Further with the Rock Creek Arena TIF Project Plan.
Our File No. 12151.001

Greetings:

This firm represents citizen taxpayers in Norman, Oklahoma, including Paul Arcaroli, David Kinnard, and Cynthia Rogers, as well as Oklahomans for Responsible Economic Development.

At the outset, we would state that we applaud the City of Norman's sincere and continuing efforts to explore options for sending the Rock Creek Entertainment District Project to a vote of the people. We would prefer to work collaboratively with all of you to put the Project to a vote of the people without further disputes, delays, or litigation. However, recent efforts by the County Authority to continue to move forward with the Project in spite of the City's deliberations have left us with no choice but to provide you with this Notice and Demand.

This letter outlines serious and willful violations of the law in connection with the adoption of and attempts to move forward with the Rock Creek Entertainment District Project Plan. Unlawful practices, acts, and omissions shrouded in secrecy have permeated attempts to push through the Arena TIF Project. Those legally invalid actions include Constitutional violations and Local Development Act violations.

Those unlawful acts also include willful Open Meetings Act violations by the City, County, and County Authority. The City's violations occurred in connection with the September 2024 Special Meetings which led to a past City Council adopting the Project Plan, Ordinance, and Economic Development Agreement.

The County and County Authority's violations occurred in connection with those bodies' Special Meetings on March 2, 2026. In those meetings, the County Authority authorized issuing bond and short-term debt in an illegitimate effort to race forward with the Arena TIF Project before the City of Norman could, as is its legal right, repeal the Arena TIF Ordinance and put the Project to a vote of the people.

The circumstances of these violations indicate that they were willful. As such, the City's, the County's, and the County Authority's actions are all invalid, null, and void.

We therefore must demand that the City take appropriate action to repeal the TIF Ordinance and put the Project to a vote of the people. We further demand that the County and UNP North, LLC immediately cease and desist from further efforts to move forward with the Arena TIF Project. In the event your organizations fail to do so, we intend to pursue all available legal remedies we may have for declaratory and injunctive relief, attorney's fees and costs, and all other relief to which my clients and the taxpaying citizens of the community may be entitled.

Please immediately review this letter in its entirety. Once you have, we trust you will all agree that it is incumbent upon the County and County Authority to immediately notify any potential issuers of debt of the entire contents of this letter, and of our intentions in this matter.

DETAILS OF THE UNLAWFUL ACTS.

THE ARENA TIF PROJECT PLAN AND ORDINANCE VIOLATE ARTICLE X, SECTION 6 OF THE OKLAHOMA CONSTITUTION.

Article X, Section 6 of the Oklahoma Constitution authorizes cities to provide tax incentives for development, but only for limited purposes. These incentives include tax increment financing (TIF). The Constitution states that "[t]he Legislature, by law, may grant incorporated cities, towns, or counties the ability to provide

incentives, exemptions and other forms of relief from taxation for historic preservation, reinvestment, or enterprise areas ***that are exhibiting economic stagnation or decline.***" Okla. Const. art. X, § 6C (emphasis added).

This provision of the Oklahoma Constitution clearly places guardrails upon a city's use of tax incentives, including tax increment financing (TIF). The plain language of Section 6C mandates that if a city is providing incentives for "enterprise areas," those areas must be "exhibiting economic stagnation or decline." Merely designating part of a city as an "enterprise area" is not enough in itself to qualify the area for TIF incentives. To the contrary, to qualify for TIF incentives, an enterprise area must be exhibiting the meaningful signs of "blight" associated with the appropriate use of tax increment financing.

The Local Development Act provides, consistent with the Oklahoma Constitution, that a TIF Project Plan must contain findings that the project area or TIF district meets at least one of the following criteria:

> (1) is a reinvestment area,
> (2) is a historic preservation area,
> (3) is an enterprise area, or
> (4) is a combination of the areas specified in divisions (1), (2) and (3) of this subparagraph,

See 62 O.S. § 856 (B)(4).

The statutory terminology "enterprise area" cannot, however, exist in isolation, untethered from the constitutional guardrail of "exhibiting economic stagnation or decline." It is fundamental law that state statutes must be consistent with a state's constitution. Statutes cannot reach beyond the limitations imposed by Constitutions.

The Arena TIF Project Plan and Ordinance provide that the Project Districts qualify for TIF incentive treatment because they are within an "enterprise area" designated by the State of Oklahoma. That enterprise area is functionally synonymous with the University Northpark Development Area in Norman. UNP is well known, and frequently touted, as one of the most vibrant, dynamic retail shopping and development areas in the State of Oklahoma. It is new and dynamically growing, and not stagnant or in decline. Indeed, UNP is an economic juggernaut, and it is the City of Norman's flagship area for sales tax generating economic activity. Thus, there can

be no serious, intellectually honest claim that the enterprise area which encompasses University Northpark is "exhibiting economic stagnation or decline."[1]

It is therefore not surprising that the Project Plan and Ordinance contain no findings, assessment, or analysis that the enterprise area within which the Project is situated is exhibiting economic stagnation or decline. Even if it did, any such finding, analysis, or assessment would not withstand scrutiny, and it would be demonstrably wrong.

The Arena TIF Project Plan and Ordinance thus woefully fail to pass constitutional muster. The supposedly qualifying enterprise area, essentially University Northpark, is most definitely not exhibiting economic stagnation or decline. Ordinance O-2425-2 and the Project Plan are therefore invalid and unconstitutional.

THE PROJECT PLAN AND ORDINANCE ARE INVALID BECAUSE THE STATUTORY REVIEW COMMITTEE FAILED TO COMPLY WITH ITS LOCAL DEVELOPMENT ACT MANDATES.

The Local Development Act provides that prior to the adoption and approval of a project plan and ordinance, and prior to public hearings on the project plan, the governing body shall appoint a review committee to review and make a recommendation concerning the proposed district, plan, or project. 62 O.S. § 855 (A). This committee is more commonly known as the "statutory review committee."

The Act provides that

> The review committee shall consider and make its findings and recommendations to the governing body with respect to the conditions establishing the eligibility of the proposed district. The review committee recommendations shall include the analysis used to project revenues over the life of the project plan, the effect on the taxing entities and the appropriateness of the approval of the proposed plan and project.

See 62 O.S. § 855 (B).

The Act further provides that

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[1] The Constitution does not allow a municipality to segment, isolate, or carve up an enterprise area into discrete parts or parcels in the economic stagnation or decline analysis. The enterprise area must be analyzed as a whole in order to qualify for TIF treatment. To do otherwise would be to invite and encourage abuse and manipulation, all in violation of the language and purpose of the Constitution and the Local Development Act.

> Prior to approval by the governing body, the review committee shall consider and determine whether the proposed plan and project will have a financial impact on any taxing jurisdiction and business activities within the proposed district and shall report its findings to the governing body. Such considerations shall be concurrent with or subsequent to the review and consideration of the committee provided for in subsection B of this section. The approval of any district plan or project by the governing body shall address any findings of such impact by the review committee.

See 62 O.S. § 855.

The statutory review committee process is clearly designed to ensure and require thorough and meaningful analysis, deliberation, and oversight of a proposed TIF District. The statutory review committee is not supposed to function as a rubber stamp or marketing body for the advocates of the Project.

In the case of the Rock Creek Entertainment District Project Plan, the statutory review committee process was fatally flawed for, among other things, the following reasons:

- The statutory review committee failed to abide by its mandate to perform any meaningful analysis, or document any meaningful findings, of the financial impact of a TIF diversion of up to $600,000,000 on the City of Norman, the Norman Public Schools, and Cleveland County ***during*** the twenty-five-year increment period. This was so despite the well-known existence of significant outside evidence and studies showing serious, significant negative financial impacts to the taxing jurisdictions ***during*** this 25-year increment period.
- The statutory review committee financial impact analysis was functionally reduced to mere guesstimating, in a form more akin to marketing presentations than rigorous financial analysis, about supposedly positive impacts upon the taxing jurisdictions ***after*** the 25-year increment period.
- The statutory review committee failed to abide by its mandate to consider and make findings and recommendations to the City Council about the conditions establishing the eligibility of the proposed district. The committee's process was legally and constitutionally invalid because it failed to consider, analyze, and make findings upon whether the proposed TIF Districts were located in an enterprise area ***exhibiting economic stagnation or decline.***

The fact that one of the taxing entities (the City) may have hired someone to do after the fact "make-up" work to attempt to deal with the first of these glaring deficiencies does not cure this legal problem. The review committee job is the job of the review

committee. It is a job that must be done – and done right - as a prerequisite to the adoption of a valid Project Plan and Ordinance. Here, the statutory review committee utterly failed to do its job, and as a result, the adoption of the Project Plan and Ordinance is legally invalid.

THE PROJECT PLAN AND ORDINANCE ARE INVALID BECAUSE THEY FAIL THE CORE "BUT-FOR" REQUIREMENT FOR A LAWFUL TIF.

Section 852 of the Local Development Act places some of the most important guardrails on the use of TIF. This Section provides that it "is the intent of the Legislature that the provisions of this act be used in accordance with the following guidelines ...."

1. That the tools of this act be used in those cases where investment, development and economic growth is difficult, but is possible if the provisions of this act are available;
2. That the tools of this act ***not*** be used in areas where investment, development and economic growth would have occurred anyway ***and that the governing body take care to exclude areas that do not meet this criteria***;

.....

10. That the governing bodies develop and apply clear standards, criteria and threshold limits that are applicable to all similar property and areas and that the governing bodies enact protection against nearby relocations to utilize incentives.[2]

See 62 O.S. § 852 (emphasis added).

Though couched in Section 852 as "guidelines," Section 856 of the Act makes the all-important first two guidelines ***mandatory*** for any TIF in Oklahoma to be lawful. It does so by stating that in the case of any ordinance adopting a TIF Project Plan, "the guidelines specified in paragraphs 1 and 2 of Section 852 of this title ***shall*** be followed." *See* 62 O.S. § 856 (B)(4)(c) (emphasis added).

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[2] This guideline clearly calls for "cannibalization clauses" (transfer adjustments) for all TIFs, but the Rock Creek Arena TIF Project Plan, unlike the original UNP TIF 2 Project Plan, doesn't have any cannibalization clauses. Any businesses which move from another area of Norman (or any other Cleveland County City) into the Arena TIF Districts will immediately have 100% of their general fund sales tax collections diverted from the City's general fund to the Arena TIF fund.

Mandate two is Oklahoma's statutory version of the "but-for" test for a lawful TIF. As the plain language of the statute states, a TIF is not legally valid where investment, development, and economic growth would have occurred anyway.

Per its plain language, mandate two also includes a mandate that cities not "over-TIF," or in other words, that cities specifically exclude areas which do not need TIF incentives to grow and develop.

The Arena TIF Project fails the "but for" test for several reasons, including the following:

- The University Northpark area is clearly developing, growing, and vibrant these days on its own, free of any TIF increment assistance. Businesses continue to locate and thrive in University Northpark, both North and South of Rock Creek Road. The growth and business activity in UNP has been more vibrant than in virtually any other area of Norman.
- The Arena TIF increment districts include several vacant parcels South of Rock Creek Road, both around the Young Family Athletic Center (YFAC) and other areas. These vacant properties South of Rock Creek Road are highly valuable, hot commodities which don't need the help of any new TIF incentives. These properties are not part of any restrictive covenants limiting retail activity. Recently retired City Finance Director Anthony Francisco has stated in a prominent public meeting that the Arena TIF Project would be feasible without including these properties. Yet, 100% of the increased general fund sales and property taxes generated on these parcels would be diverted away from the general funds of the City and County for up to 25 years. Their inclusion in the Arena TIF is a clear violation of 62 O.S. §852 and §856.

For these reasons, the Arena TIF Project Plan and Ordinance are legally invalid.

THE CITY'S ADOPTION OF THE PROJECT PLAN IS INVALID BECAUSE IT WAS DONE IN WILLFUL VIOLATION OF THE OPEN MEETINGS ACT.

OPEN MEETINGS ACT REQUIREMENTS.

At its outset, the Oklahoma Open Meetings Act states that "[i]t is the public policy of the State of Oklahoma to encourage and facilitate an informed citizenry's understanding of the governmental processes and governmental problems." 25 O.S. § 302. All meetings of public bodies in Oklahoma shall be open to the public. 25 O.S. § 303. Because it was enacted for the public's benefit, the Open Meetings Act is to be

construed liberally in favor of the public. *Fraternal Ord. of Police v. City of Norman*, 2021 OK 20, ¶ 9, 489 P.3d 20, 24.

Any action taken in willful violation of the Open Meeting Act shall be invalid. 25 O.S. § 313. **As the City of Norman is very well aware**, willfulness does not require a showing of bad faith, malice, or wantonness, but rather, encompasses conscious, purposeful violations of the law or blatant or deliberate disregard of the law by those who know, or should know, the requirements of the Act. ***Fraternal Ord. of Police v. City of Norman*, 2021 OK 20, ¶ 18, 489 P.3d 20, 26.**

Willful violations of the Act can bring about criminal penalties, and a person who brings a successful suit for violation of the Act is entitled to an award of attorney's fees. 25 O.S. § 314.

The public notice for special meetings of public bodies must be given at least forty-eight (48) hours prior to the meetings. 25 O.S. § 311. Notices must be posted in prominent public view at the principal office of the public body, or on the body's website, but posting notice in a newspaper is not sufficient or provided for under the OMA. 25 O.S. § 311 (9)(a). Meeting agendas must be posted at least twenty-four (24) hours in advance of the meeting. *Id.*

The notice and agenda provisions of an open meeting are at the very heart of the Open Meetings Act. *In re Ord. Declaring Annexation Dated June 28, 1978*, 1981 OK CIV APP 57, ¶ 19, 637 P.2d 1270, 1273. When a public body takes action without proper OMA notice, the action is invalid. *Okmulgee Cnty. Rural Water Dist. No. 2 v. Beggs Pub. Works Auth.*, 2009 OK CIV APP 51, ¶ 15, 211 P.3d 225, 229.

LOCAL DEVELOPMENT ACT HEARING REQUIREMENTS.

The Local Development Act requires a city to conduct two open public hearings prior to enacting an ordinance adopting a TIF. The first of these meetings is designed to allow members of the public to participate, receive information, and ask questions about the proposed project plan. 62 O.S. § 859. The second of these meetings is designed for further public participation, council deliberation, and ultimately, a council decision on whether to approve, disapprove, or modify the project plan. *Id.*

THE CITY'S WILLFUL VIOLATIONS OF THE OMA.

THE CITY WILLFULLY SUPPRESSED PUBLIC COMMENT AND OPEN MEETING ATTENDANCE AT THE FIRST LOCAL DEVELOPMENT ACT MEETING.

The City of Norman has a long, bedrock tradition of allowing public comment on all agenda items up for deliberation at all City Council Meetings. The consistent practice of the City in 2024 was to allow individual citizens three minutes of free and fair public comment on agenda items at Council Meetings. The only restraints on such comment, other than time, were that public comment be orderly, civil, and germane to the agenda item presently before the Council.

The City conducted the first of the required public meetings for the Arena TIF Project Plan as a special meeting on September 3, 2024. The City's posted OMA Notice for this meeting provided that public comment would be allowed pursuant to the City's usual practice. The City Attorney confirmed to at least one Council Member on the day of the meeting that public comment at the meeting would proceed in the usual manner.

When people arrived at City Hall on the evening of the meeting, however, the people learned that the City had purposely moved the goalposts at the last minute. At the outset of the meeting, the mayor announced, and a notice projected on the big screen behind him stated, that public comment would be limited to two minutes per person, not three. The mayor also announced and insisted, without prior notice, that public comment be in the form of questions only.

Many members of the public had prepared comments according to the usual and posted procedures for public comment. As a result of this last-minute City surprise, however, members who came to the meeting were unprepared to formulate their comments in the form of a question on the fly. Many people in attendance chose to forego making the public comment they had prepared to make, and some people simply left. Public comment and open meeting attendance were therefore greatly suppressed and stifled, in clear and willful violation of the posted meeting Notice and the Open Meetings Act. The fact that some people still remained and "adjusted" their comments on the fly at the Council meeting does not cure the harm to the public. *See Fraternal Ord. of Police v. City of Norman*, 489 P.3d at 25.[3]

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[3] The stated statutory purpose of answering questions for the public at the first local development act meeting does not legally justify posting a meeting notice which authorized public comment per usual procedures, but then changing the procedures at the last minute to stifle members of the public and allow public comment only in the form of a question.

A SECRET, ILLEGITIMATE SCHEME OF FILLING THE COUNCIL CHAMBERS WITH PAID STUDENT ATTENDEES WILLFULLY SUPPRESSED LEGITIMATE PUBLIC ATTENDANCE AT THE SECOND MEETING, AND RENDERED IT NOT TRULY OPEN TO THE PUBLIC.

The Open Meetings Act problems did not end there. Unbeknownst to members of the public, arrangements had been made prior to the second public meeting to fill the available seats at City Council Chambers with students who were attending only because they were being paid to do so. The presence of these students was presented falsely as a case of the students' attending merely as interested members of the public participating in democracy. The attendance of these students under undisclosed, illegitimate circumstances kept many legitimately interested citizens from being able to observe, attend, and meaningfully participate in the meeting. Thus, the meeting was rendered not truly open to the public as required under the OMA.

Remarkably, when later confronted with the media's discovery of this secret, unpaid student attendee scheme, then Mayor Larry Heikkila unconvincingly commented that there was nothing wrong with the practice of filling the seats in the meeting hall with attendees who were there only because they had been paid.

Many questions remain unanswered about who orchestrated and knew about the paid student attendee scheme, and when they knew about it.

In any event, this secret, undisclosed, paid attendee scheme rendered the second meeting anything but transparent, fair, open, and in compliance with the OMA. For this additional reason, the events which occurred at the Local Development Act open meetings constituted willful violations of the Open Meetings Act. The City's enactment of the Ordinance, the adoption of the Project Plan, and approval of the Economic Development Agreement were thus all invalid acts.

THE COUNTY AND COUNTY AUTHORITY WILLFULLY VIOLATED THE OMA IN CONNECTION WITH ITS MARCH 2, 2026 MEETINGS.

Public bodies are required to strictly comply with email notice requirements under the OMA. These requirements provide that

> the public body shall offer and consistently maintain an email distribution system for distribution of such notice of a public meeting required by this subsection, and ***any person may request to be included without charge, and their request shall be accepted.*** The emailed notice of a public meeting required by this subsection shall include in the body of the email or as an

> attachment to the email the date, time, place and agenda for the meeting ***and it shall be sent no less than twenty-four (24) hours prior to the meeting.***

25 O.S. § 311(9)(a)(2) (emphasis added). Email notice is not a mere bonus courtesy; it is a mandate of the Open Meetings Act.

On Monday, March 2, 2026, the County Authority held a special meeting to pass a resolution authorizing the Authority to incur certain debt funding for the Arena TIF project.

Two successive agendas were prepared for the meeting. The first agenda included a proposed resolution allowing the County Authority to issue bond debt only. The second agenda was an amended one which included a resolution for the County Authority to issue bond debt, as well as notes or other forms of debt on an interim or short-term basis. The interim or short-term debt would allow the County to incur debt and receive funding more quickly than it would be able to if it had to execute and complete a full bond issue.

A County meeting was scheduled for later that afternoon to affirm the actions of the County Authority.

The County Authority email meeting notices conspicuously failed to include email notice to the undersigned. Likewise, the email notice of the County meeting later that afternoon failed to include notice to the undersigned. The County and County Authority know me to be legal counsel for ORED, the Referendum Petition Proponents, and a chief advocate for stopping the Arena TIF Project and putting it to a vote of the people.

This failure of email notice happened even though I have previously requested receipt of County meeting notices by email. Moreover, the County has consistently provided these email notices to me up to and including the last round of County public meetings held as recently as February 17, 2026. These February 17 meetings, and the email notices I received, included a meeting of the County Authority.

Given the recency of this violation, we are still looking into the entirety of the circumstances of the notices and agendas provided for the March 2, 2026, special meeting of the County Authority. There may be further failures to provide appropriate OMA notice of the amended meeting agenda. This meeting was obviously critical, as it signaled yet another effort of the County Authority to move forward swiftly with the Arena TIF Project.

Recent City meetings and media coverage have made it abundantly clear that the current City Council is considering various proposals to repeal the Arena TIF Ordinance and send the Project to a vote of the people. It appears that the County

and County Authority are racing to set the Project in stone, are speaking of lawsuits against the City, and are otherwise doing whatever it takes to keep the City from giving the people of Norman a voice in whether the Arena TIF Project happens. This is unacceptable.

Given the critical nature of this March 2 meeting, and the critical nature of the County's failure to provide the required OMA email notice, we are hereby notifying the County and County Authority of our intent to investigate and pursue any and all legal remedies available. Moreover, the County must cease and desist from moving forward any further with the Arena TIF Project.

CONCLUSION

We reserve the right to assert further unlawful actions and assert further legal rights as events unfold.

Pursuant to the Bill of Rights of the Oklahoma Constitution, all political power is inherent in the people. *See* Okla. Constitution, Art. 2, Sec. 1. Allow this letter to confirm that my clients and I will not relent in our efforts to vindicate the fundamental Constitutional rights of the People of Norman.

Sincerely,

ROBERT E. NORMAN
For the Firm

cc: Mayor, City of Norman; Board of County Commissioners, Cleveland County; District Attorney, Cleveland County; City Attorney, City of Norman; Floyd and Driver, PLLC

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