

**City of Broken Arrow, Oklahoma**  
**ENCROACHMENT AGREEMENT AND RELEASE OF LIABILITY**

This Encroachment Agreement and Release of Liability for an encroachment on a Public Easement/Right-of-Way is entered into by and between the City of Broken Arrow, an Oklahoma municipality ("City") and Krystal and Ricky Hanks, husband and wife ("Owner").

The City owns public easements and/or rights-of-way across and upon Owner's property. Said property is more particularly described as:

Lot Seventeen (17), Block One (1), SOUTHERN TRAILS ESTATES, a subdivision in the City of Broken Arrow, State of Oklahoma, according to the recorded plat thereof, also known as 4114 West Orlando Place, Broken Arrow, Oklahoma 74011.

Owner has, without the permission of the City, constructed or permitted the construction of structures or other encroachments, namely a 22 FT x 20 FT roofed terrace with outdoor fireplace (the "Encroachment") upon the public easement/right-of-way on said property described as:

The North 11' of Lot Seventeen (17), Block One (1), SOUTHERN TRAILS ESTATES, a subdivision in the City of Broken Arrow, State of Oklahoma, according to the recorded plat thereof, also known as 4114 West Orlando Place, Broken Arrow, Oklahoma 74011.

The Encroachment is depicted on Exhibit "A" attached hereto and made a part hereof.

The Owner shall not construct or permit additional encroachments upon the public easement/right-of-way, and shall not alter, improve, replace or add to the existing encroachments.

The City reserves the right to require Owner to remove all encroachments from the applicable public easement and right-of-way at any time in the event that the encroached upon easement is required, in the sole judgment of the City, to be used for public purposes.

In consideration of the City's agreement to not require Owner to immediately remove all encroachments from the applicable public easement/right-of-way, Owner agrees, on behalf of Owner, Owner's family and heirs, agents, devisees, successors, grantees, and assigns (collectively referred to as "Owner") to **waive any and all claims, causes of action, for damages of any kind or nature, including but not limited to any foreseen or unforeseen personal injury (including death), property damages (including loss of use), or other losses or damages arising from the construction, repair, or maintenance of streets or utilities within the easements and right-of-ways**, against the City of Broken Arrow, Oklahoma, its employees, officers, agents or assigns, which may arise out of or in connection with any aspect of the encroachment upon the above described easement/right-of-way.

In consideration of the City's agreement to not require Owner to immediately remove all encroachments from the applicable public easement/right-of-way, Owner also agrees to **indemnify, defend (at the City's option), and hold harmless** the City, its employees,



officials, agents, representatives and volunteers **from and against any and all causes of action (whether groundless or not), losses, liabilities, damages, injuries (including death), property damage (including loss of use), claims, liens, judgments, costs, expenses, suits, actions, or proceedings and reasonable attorney's fees, and actual damages of any kind or nature arising from the construction, repair, or maintenance of streets or utilities within the easements and right-of-ways, directly or indirectly arising out of or in connection with the encroachment upon the above described easements/right-of-way.**

In consideration of the City's agreement to not require Owner to immediately remove all encroachments from the applicable public easement/right-of-way, Owner also agrees to **reimburse City for any direct or indirect costs or expenses** that the City may incur as a direct or indirect result of any encroachment upon the above described property. The presence or absence of any insurance shall not be construed as a limitation on the duties or obligations of Owner under this Agreement.

Owner shall obtain release agreements as required by all other applicable utilities companies, and shall comply with all local, state, and federal regulations and laws which may be applicable to Owner's encroachment upon the above easement/right-of-way.


**OWNERS UNDERSTAND THEY MAY INCUR PERSONAL, PROPERTY, AND/OR FINANCIAL RISKS AS A RESULT OF THIS AGREEMENT, AND OWNERS AGREE TO ACCEPT THESE RISKS KNOWINGLY AND VOLUNTARILY.**

Owner seeks this agreement with the City voluntarily, and acknowledges that no promises, agreements or other inducements have been made to Owner. Owner understands that the City of Broken Arrow, Oklahoma will rely on this statement, that the terms of this Agreement are contractual in nature, and this Agreement is specifically designed to protect the City of Broken Arrow, Oklahoma, its citizens, employees, officers, agents, and assigns.

This Agreement is perpetual and runs with the land forever.

**I HAVE READ THE ABOVE STATEMENT AND I UNDERSTAND IT. I HAVE SOUGHT AND OBTAINED ANY AND ALL LEGAL ADVICE I NEEDED OR MAY HAVE NEEDED PRIOR TO SIGNING THIS DOCUMENT, AND I SIGN THIS DOCUMENT FREELY AND VOLUNTARILY.**

By:   
RICKY HANKS

By:   
KRYSTAL HANKS  
"Owner"



Approved as to Form:

Approved as to Substance:

*Lesli Myers*  
\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor

Dated: \_\_\_\_\_

Attested by:

\_\_\_\_\_  
City Clerk