

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

THIS ENCROACHMENT AGREEMENT AND RELEASE OF LIABILITY made and entered into this 16th day of July, 2018, by and between the **CITY OF BROKEN ARROW, OKLAHOMA**, a municipal corporation, Party of the First Part (hereinafter referred to as "Licensor"), and **Milestone Capital, LLC**, Party of the second part, (hereinafter referred to as "Licensee").

WITNESSETH:

WHEREAS, Licensee is the Owner of the mixed use building, 305 North Main Street, City of Broken Arrow located quarter mile south of Kenosha and immediately east of Main Street. (the "Property");

WHEREAS, Licensee desires to construct a portion, 3.47 feet, of the south exterior stairs, wheelchair accessible ramp and landing into the City right-of-way along E. Detroit Street described on Exhibit "A", attached hereto and incorporated herein; and

WHEREAS, Licensor has agreed to the partial encroachment of the south exterior stairs into the right-of-way of E. Detroit Street pursuant to the terms and conditions contained herein.

NOW, THEREFORE, for good and valuable consideration, it is hereby agreed and covenanted by and between the parties hereto as follows:

1. Licensor does hereby grant a license to Licensee to construct a portion, 3.47 feet, of the south exterior stairs, wheelchair accessible ramp and landing into the City right-of-way along E. Detroit Street shown on Exhibit "B", Broken Arrow, Oklahoma (the "License").
2. Licensee shall bear, pay and discharge any and all obligations, costs, fees or expenses incurred or charged for the repair, maintenance or replacement of said Improvements during the term of the License.
3. To the extent permitted by law, Licensee shall indemnify and hold Licensor harmless of and from any and all claims, suits, actions or judgements, including all expenses, attorney fees, witness fees, cost of defending any such action or claims, or appeals therefrom, which arise out of or from the maintenance or use of the improvements by Licensee, its agents, servants, employees, invitees or licensees.

4. In the event of a material default or breach of, by the Licensee of Licensee's obligation to repair and main the improvements, then, and in that event, Licensor may terminate this License and Licensor shall be entitled to the immediate and peaceful possession of the right-of-way.
5. This Agreement shall become effective on the date it is executes by the Licensor and shall remain in effect until terminated as provided herein.
6. This Agreement shall be binding upon and inure to the benefit of the parties herein, their successors and assigns.

IN WITNESS WHEREOF, this Agreement has been executed on the dates set forth below.

CITY OF BROKEN ARROW, OKLAHOMA
A Municipal Corporation

By: _____
Mayor

ATTEST:

City Clerk

APPROVED:

Lesli Myers
Asst. City Attorney

Milestone Capital, LLC

By: *[Signature]*

ATTEST:

David Carley
Secretary

CORPORATE ACKNOWLEDGEMENT

State of Oklahoma)
) ss.
County of Tulsa)

Before me, the undersigned, a Notary Public in and for said County and State, on this 16th day of July, 2018, personally appeared John S. Cowen,
to me known to be the identical person(s) who subscribed the name of the maker thereof to the foregoing instrument as its Licensee and acknowledged to me that he executed the same as his free and voluntary act and deed of such corporation, for the uses and purposes therein set forth.

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

Rebecca Manasco Not
ary Public

Notary Commission Number: 01009445

My Commission Expires: July 9, 2021

(SEAL)

