

ENCROACHMENT AGREEMENT AND RELEASE OF LIABILITY
(Permission to Encroach)

This Encroachment Agreement and Release of Liability for an encroachment on a Public Property/Easement/Right-of-Way is entered into by and between the City of Broken Arrow, an Oklahoma municipality (City), and Broken Arrow Public Schools Independent School District 3, (Owner).

The City owns public property, an easement and/or right-of-way across, upon or adjacent to Owner's property. Owner's property is more particularly described as:

Ernest Childers Middle School 301 E. Tucson St. & Spring Creek Elementary 6801 S. 3rd, City of Broken Arrow, OK 74011

Owner requests permission to construct and maintain a structure or other encroachment, namely a Monument/Marquee sign upon the public property/easement/right-of-way on or adjacent to said property, described as:

Entrance from Tucson onto 3rd Street. Ernest Childers Middle School 301 E. Tucson St. & Spring Creek Elementary 6801 S. 3rd, City of Broken Arrow, OK 74011.
Please see Exhibit B for legal description.

The City grants to Owner permission to construct and maintain a structure or other encroachment on the portion of the above public property/easement/right-of-way, provided that signage indicating the City's Ray Harrell Nature Park is included on the sign. Any updates to each Entities signage respectively will be negotiated at that time. Communication to the Marquee will be provided via cell service and populated by Owner. City would make their request to Owner to update the marquee as needed for the Ray Harrell Nature Park. Please see Exhibit A for a rendering of such Signage.

The Owner shall not construct or permit additional encroachments upon the public property/easement/right-of-way, and shall not alter, improve, replace or add to the permitted encroachment without prior written permission of the City.

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

In consideration of the City's agreement to permit the requested encroachment upon the applicable public property/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** 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 public property/easement/right-of-way.

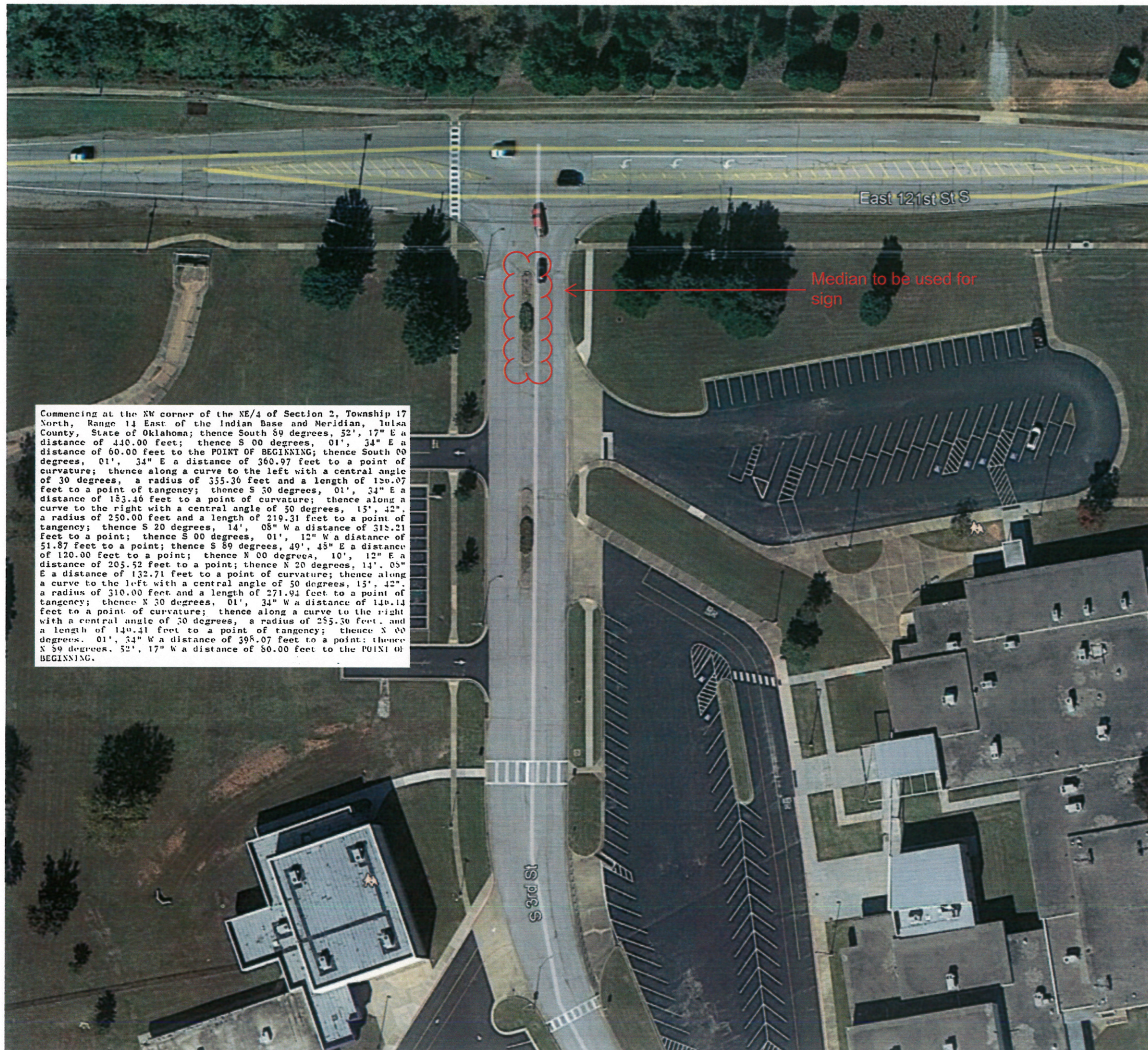
In consideration of the City's agreement to permit the requested encroachment upon the applicable public property/easement/right-of-way, Owner also agrees to the extent permitted by Oklahoma law, to **indemnify, defend (at the City's option), and hold harmless** the City, its employees, officials, agents, 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** directly or indirectly arising out of or in connection with the encroachment upon the above described public property/easement/right-of-way.

In consideration of the City's agreement to permit the requested encroachment upon the applicable public property/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

ERNEST CHILDERS MIDDLE SCHOOL
SPRING CREEK ELEMENTARY SCHOOL



RAY
HARREL
NATURE
PARK



Commencing at the NW corner of the NE/4 of Section 2, Township 17 North, Range 14 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma; thence South 89 degrees, 52', 17" E a distance of 440.00 feet; thence S 00 degrees, 01', 34" E a distance of 60.00 feet to the POINT OF BEGINNING; thence South 00 degrees, 01', 34" E a distance of 360.97 feet to a point of curvature; thence along a curve to the left with a central angle of 30 degrees, a radius of 355.36 feet and a length of 120.07 feet to a point of tangency; thence S 50 degrees, 01', 34" E a distance of 153.46 feet to a point of curvature; thence along a curve to the right with a central angle of 50 degrees, 15', 42", a radius of 250.00 feet and a length of 219.31 feet to a point of tangency; thence S 20 degrees, 14', 08" W a distance of 315.21 feet to a point; thence S 00 degrees, 01', 12" W a distance of 51.87 feet to a point; thence S 89 degrees, 49', 45" E a distance of 120.00 feet to a point; thence N 00 degrees, 10', 12" E a distance of 205.52 feet to a point; thence N 20 degrees, 14', 05" E a distance of 132.71 feet to a point of curvature; thence along a curve to the left with a central angle of 50 degrees, 15', 42", a radius of 310.00 feet and a length of 271.94 feet to a point of tangency; thence N 30 degrees, 01', 34" W a distance of 140.14 feet to a point of curvature; thence along a curve to the right with a central angle of 30 degrees, a radius of 255.30 feet and a length of 140.41 feet to a point of tangency; thence N 00 degrees, 01', 34" W a distance of 398.07 feet to a point; thence N 59 degrees, 52', 17" W a distance of 80.00 feet to the POINT OF BEGINNING.