

The City of Durant encourages participation from all its citizens. If participation at any public meeting is not possible due to a disability, notification to the City Clerk at least 48 hours prior to the scheduled meeting is encouraged in order to make the necessary accommodations. The City of Durant may waive the 48-hour rule if interpreters for the deaf (signing) or translation services for limited English proficient (LEP) individuals are not the necessary accommodation.

**THE DURANT CITY UTILITIES AUTHORITY / DCUA**

**4:30 PM**

**Roscoe J. Hatfield**

**June 21, 2016**

**Council Chambers**

**SPECIAL CALLED**

**AGENDA**

**DURANT CITY HALL**

**300 W. EVERGREEN, DURANT, OK**

**ROSCOE J. HATFIELD COUNCIL CHAMBERS**

**CALL TO ORDER**

**ROLL CALL**

**ORDER OF BUSINESS**

**1. Administration**

- a. Consider Approval of Industrial Water Purchase Agreement Between Durant City Utilities Authority and Rural Water and Sewer District #5 (C-2016-25)
- b. Consider Granting of Easement to OG&E for Durant Multi-Sports Complex Restroom Improvement

**ADJOURNMENT**

**CERTIFICATE**

This is to certify that in conformity with the Oklahoma Open Meeting Act, notice of the date, time and place of this meeting was filed with the City Clerk of Durant on the 15th day of June, 2016 and that an agenda of said meeting was posted at the place of such meeting at 4:45 p.m. on the 16th day of June, 2016.

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Cynthia J. Price, City of Durant



# The City of Durant

## Office of City Clerk

### Memorandum

**Date:** 6/15/2016  
**To:** Utilities Authority Special Called Meeting  
**From:** Donnalla Miller, Acting City Manager  
**Re:** Consider Approval of Industrial Water Purchase Agreement Between Durant City Utilities Authority and Rural Water and Sewer District #5 (C-2016-25)

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### Council Information / Action Requested

Approve Industrial Water Purchase Agreement Between Durant City Utilities Authority and Rural Water and Sewer District #5 (C-2016-25).

### City Staff Information / Action Follow-up, if Council authorizes this action:

City Clerk - Obtain signatures and record contract.

### ATTACHMENTS:

| Description                         | Type            | Upload Date |
|-------------------------------------|-----------------|-------------|
| Industrial Water Purchase Agreement | Backup Material | 6/16/2016   |

## INDUSTRIAL WATER PURCHASE AGREEMENT

This Industrial Water Purchase Agreement ("Agreement") for the sale and purchase of industrial water is entered into as of the 14 day of June, 2016, by and among The Durant City Utilities Authority, an Oklahoma Public Trust, located at 300 West Evergreen, Durant, OK 74701, hereinafter referred to as the "Seller", and Rural Water and Sewer District No. 5, Bryan County, Oklahoma, 22404 State Road 78 South, Durant, OK 74701, hereinafter referred to as "Purchaser",

WITNESSETH:

Whereas, the Purchase is organized and established under the provisions of 82 O.S. 1324.1 et.seq., for the purpose of constructing and operating a water supply distribution system serving water users within the area described in plans now on file in the office of the State Director of Rural Utilities Services and to accomplish this purpose, the Purchaser will require a supply of treater water, and

Whereas, the Seller owns and operates a water supply distribution system with a capacity currently capable of serving the present customers of the Seller's system and the estimated number of water users to be served by the said Purchaser as shown in the plans of the system now on file in the office of the State Director of Rural Utilities Services, and

Now, therefore in consideration of the foregoing and the mutual agreements hereinafter set forth.

### A. The Seller Agrees:

1. (Quality and Quantity) To furnish the Purchaser at the point of delivery hereinafter specified, during the term of this Agreement or any renewal or extension thereof, potable treated water meeting applicable purity standards of the State of Oklahoma, Department of Environmental Quality in such quantity as may be required by the Purchaser not to exceed 1,000,000 gallons per day for the purpose of resale to industrial customers.

2. (Point of Delivery and Pressure) That water will be furnished at typical static pressure range of 38 pounds per square inch to 55 pounds per square inch and a low dynamic pressure of 25 pounds per square inch, at a minimum flow rate of 750 gallons per minute, from no more than two agreed upon points of delivery (master meter locations) which would be located at the takeover point as determined by Purchaser (also known as the "TOP") at the Site in Bryan County, State of Oklahoma. Emergency failures of pressure of supply due to main supply line breaks, power failure, flood, fire and use of water to fight the fire, earthquake or other catastrophe shall excuse the Seller from this provision for time as may be necessary to restore service. Seller may deliver water to Purchaser through two separate water lines (the "Water Lines"); provided, however, if both Water Lines are used, the requirements of this Section A.2. and Section A.1. above (i) with respect to the quantity and flow rate shall be met in the aggregate from both Water Lines, and (ii) with respect to water pressure shall be met independently by each of the Water Lines.

3. (Metering Equipment) To furnish, install, operate, and maintain at its own expense at point of delivery at the Site, the necessary metering equipment, including, but not limited to, a meter house or pit, and required devices of standard type for properly measuring the quantity of water delivered to the Purchaser and to calibrate such metering equipment whenever requested by the Purchaser but not more frequently than once every twelve (12) months. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate. The previous readings of any meter disclosed by test to be inaccurate shall be corrected for the 12 months previous to such test in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless Seller and Purchaser shall agree upon a different amount. The metering equipment shall be read between the 10<sup>th</sup> and 20<sup>th</sup> day of each month. An appropriate official of the Purchaser at all reasonable times shall have access to the meter for the purpose of verifying its readings. Purchaser shall have the right to review and approve the metering equipment and locations.

4. (Billing Procedure) To furnish the Purchaser at the above address not later than the last workday of each month, with an itemized statement of the amount and cost of water furnished to the Purchaser during the preceding month.

B. The Purchaser Agrees:

1. (Industrial Water Rate Class) To establish an industrial user rate structure for industrial customers located within the corporate city limits. The Purchaser agrees to establish and maintain an industrial user water classification and corresponding rate structure which is equal to the most current industrial water rate structure adopted by Seller. For reference, Resolution 2015-38 establishes the relevant industrial water rate structure adopted by Seller and in effect on the date of this Agreement as set forth on Exhibit A attached hereto.

The following conditions must apply in order to qualify for the industrial water rate:

- a. The industrial customer is located in an industrial zone within the corporate city limits of Durant and is engaged in manufacturing or processing.
- b. Industrial water usage must exceed one (1) million gallons per month. If usage is one (1) million gallons or more per month, all water usage will be charged at a 20% discount off the current regular commercial water rate approved by Seller. If usage is less than one (1) million gallons per month, the customer will be charged the current regular commercial water rate approved by Seller.

2. (Purchaser Rates and Payment Date) To pay the Seller, not later than the fifteenth (15<sup>th</sup>) day of each month, for water delivered in accordance with the following schedule of rates:

Purchaser agrees to pay **\$2.35** per thousand gallons per month.

3. (Tax Covenants) Purchaser acknowledges that Seller has advised Purchaser that the requirement of the Internal Revue Code of 1986 and regulations adopted there under (collectively, the "Code") applicable to obligations issued and to be issued by Seller to finance water facilities must be complied with in order for interest on such obligations to be and remain exempt from Federal income taxation. To ensure and maintain compliance with such Code requirements, Purchaser makes the following covenants:

a. Purchaser will not sell any water purchased under this Agreement in any manner that could cause such sale to result in any facility of Seller being deemed to be used for a private business use under the Code.

b. Purchaser will not resell any water under this Agreement, whether directly or as a part of a sale of water from Purchaser's water system, to a wholesale purchaser for resale by such purchaser (i.e.) Purchaser will only sell water purchased under this Agreement to its industrial customers for ultimate consumption or use).

c. Purchaser will not enter into any arrangement for water purchased under this Agreement and resold to Purchaser's retain industrial customers that conveys priority rights or other preferential benefits or that would obligate any retail industrial customer to make payments that are not contingent on the amount of water purchased by such customer as take or pay or take and pay contracts.

In the event such Code requirements or interpretations thereof, change after the date hereof, any or all of the foregoing may be modified by agreement of the parties.

Upon Seller request Purchaser shall confirm to Seller that it has not sold any water purchased under this Agreement other than in compliance with the foregoing.

4. (Additional Tax Covenants) Purchaser represents and confirms that it is a rural water district duly organized and established under the provisions of 82 O.S. 1324.1 et. seq. and covenants that it will continue to be such a rural water district for the term of this Agreement. Purchaser further represents and confirms that it is exempt and will remain exempt from federal income taxation for the term of this Agreement and, by virtue of such exemptions, has not and will not file Federal income tax returns or paid and will not pay any Federal income tax for the term of this Agreement.

5. (Remedies and Indemnification for Breach of Tax Covenants) Purchaser and Seller agree that:

a. The provisions of Section B.3. and B.4. constitute material terms and conditions of this Agreement.

C. It is further agreed among the Seller and the Purchaser as follows:

1. (Term of Agreement) That this Agreement shall extend for a term of **ten** (10) years from the date of this Agreement.

2. (Failure to Deliver) That the Seller will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the Purchaser with quantities of water required by the Purchaser in accordance with Section A. 1. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of a shortage of water, or the supply of water available to the Seller is otherwise diminished, the supply of water to the Purchaser's consumers shall be reduced or diminished in the same ratio or proportion as the supply to the Seller's consumers is reduced or diminished.

3. (Modification of Agreement) That the provisions of this Agreement pertaining to the schedule of rates to be charged by the Purchaser for water delivered to industrial consumers are subject to modification in accordance with rate changes approved by Seller. Likewise, the schedule of rates to be paid by the Purchaser to the Seller shall be modified to reflect any rate changes approved by Seller proportionally. Other provisions of this agreement may be modified or altered by written agreement of the Seller and Purchaser.

4. (Regulatory Agencies) That this Agreement is subject to such rules, regulations, or laws as may be applicable to similar agreements in this State and the Seller and Purchaser will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.

5. (Infrastructure Improvements in Conjunction with Commercial Metals Company Steel Rebar Manufacturing Facility) That Rural Water and Sewer District No. 5 has actual jurisdiction over a portion of the project construction related to infrastructure improvements necessary to facilitate an economic development project in which Commercial Metals Company has committed to construction and operation of a steel rebar manufacturing facility within the City limits of Durant, Oklahoma.

7. (Fee Collection for Sanitary Sewer Billing Service) A meter will be installed and read monthly by City of Durant staff to measure the sanitary sewer discharge of Commercial Metals Company into The Durant City Utilities Authority sanitary sewer collection system, therefore Rural Water and Sewer District No. 5 will not be responsible for sending billing

statements to Commercial metals Company for sanitary sewer service and a collection fee will not be applicable.

In Witness whereof, the parties hereto, acting under authority of their respective governing bodies, have caused this agreement to be duly executed in multiple counterparts, each of which shall constitute an original.

**THE DURANT CITY UTILITIES AUTHORITY**  
**("Seller")**

By: \_\_\_\_\_  
Stewart Hoffman, Chairman

Attest: \_\_\_\_\_  
Cynthia Price, Secretary

**RURAL WATER AND SEWER DISTRICT NO.**  
**5, BRYAN COUNTY, OKLAHOMA**  
**("Purchaser")**

By: Keiller D. Burkhalter  
Keiller Burkhalter, Chairman

Attest: Betty Patton  
Betty Patton, Secretary

EXHIBIT A  
TO  
INDUSTRIAL WATER PURCHASE AGREEMENT

Industrial Water Rate Inside City Limits:

|                                                 | Regular<br>Rate |
|-------------------------------------------------|-----------------|
| First 2,000 gallons                             | \$14.95         |
| Next 1,000 gallons                              | \$3.60          |
| Next 1,000 gallons                              | \$3.80          |
| Next 1,000 gallons                              | \$3.90          |
| All over 5,000 gallons (rage per 1,000 gallons) | \$3.80          |

Note - 20% Discount Rate available only if 1,000,000 gallons of water are purchased per month



# The City of Durant

## Office of City Clerk

### Memorandum

**Date:** 6/16/2016  
**To:** Utilities Authority Special Called Meeting  
**From:** Jacque Wilson, Projects Manager  
**Re:** Consider Granting of Easement to OG&E for Durant Multi-Sports Complex Restroom Improvement

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### Council Information / Action Requested

Approve granting of easement to OG&E for Durant Multi Sports Complex restroom improvement.

### City Staff Information / Action Follow-up, if Council authorizes this action:

City Clerk - Obtain proper signatures  
City Clerk - File easement with county clerk

### ATTACHMENTS:

| Description                                 | Type    | Upload Date |
|---------------------------------------------|---------|-------------|
| Easement for City of Durant Baseball Fields | Exhibit | 6/16/2016   |

AFTER RECORDING RETURN TO:  
LAND MANAGEMENT COORDINATOR  
OGE ELECTRIC SERVICES  
2214 W. BROADWAY  
ARDMORE, OK 73401

EASEMENT

Work Order No: 7367609

KNOW ALL MEN BY THESE PRESENTS: THAT **The Durant City Utilities Authority**, an Oklahoma public trust, Grantor, in consideration of the sum of Ten or more dollars in hand paid, the receipt of which is hereby acknowledged, and other good and valuable consideration, does hereby grant and warrant unto **OKLAHOMA GAS AND ELECTRIC COMPANY**, an Oklahoma corporation, Grantee, its successors and assigns, the right, privilege and authority to enter upon and install, erect, construct, operate, maintain, and reconstruct underground and/or above ground a system of poles, anchors, guy wires, conduits, wires, cables, vaults, junction boxes, switches, fuses, transformers, service connection boxes and other fixtures for the transmission and distribution of electrical current and communication messages, including the right of ingress and egress to and from said system across adjoining lands of Grantor, together with the authority to cut down, control the growth of, or trim and keep trimmed any trees that may in the judgment of the Grantee interfere with or endanger said line or its maintenance and operation.

The real property covered by this easement is situated in **BRYAN** County, State of Oklahoma, and is described as follows:

A part of the **SE/4 SE/4 NE/4, Section 5, T7S, R9E, I.M.**, being a part of a tract described in a deed recorded in Book 1346, Page 849 at the County Clerk, as shown and described on Exhibit "A", attached hereto and hereby made a part of this easement.

Grantor further covenants agrees that no building or other structure shall ever be erected nor shall any excavation or other removal of soil, so as to change the grade of terrain, be accomplished by Grantor, its heirs or assigns, within the above described easement area unless the written consent of the Grantee is first obtained. Grantor further acknowledges the requirements of 63 Oklahoma Statutes (1991) Section 142.1, et. seq. (One-call statute).

Grantor hereby consents to permit Grantee to trim and keep trimmed any trees and foliage on Grantor's property immediately adjacent to the easement granted herein, and Grantee shall have the right to enter upon Grantor's property for this purpose.

The rights and privileges above granted to continue so long as same are used or needed for the transmission and distribution of electric current or communication messages; but should the Grantee remove its property from the premises and abandon the right of way herein granted, then the rights granted in this easement shall terminate.

Signed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Attest: The Durant City Utilities Authority

\_\_\_\_\_  
Secretary By: \_\_\_\_\_  
Title

ACKNOWLEDGMENT

STATE OF OKLAHOMA, COUNTY OF \_\_\_\_\_ SS;  
Before me, the undersigned Notary Public, in and for said County and State, on this \_\_\_\_\_ day of \_\_\_\_\_, 2016, personally appeared \_\_\_\_\_, to me known to be the identical person who executed the name of The Durant City Utilities Authority, a public trust, to the within and foregoing instrument/document as its \_\_\_\_\_, and acknowledged to me that \_\_\_\_\_ executed the same as \_\_\_\_\_ free and voluntary act and deed of such public trust, for the uses and purposes set forth.

Witness my hand and seal the day and year last above written.

My Commission Expires: \_\_\_\_\_

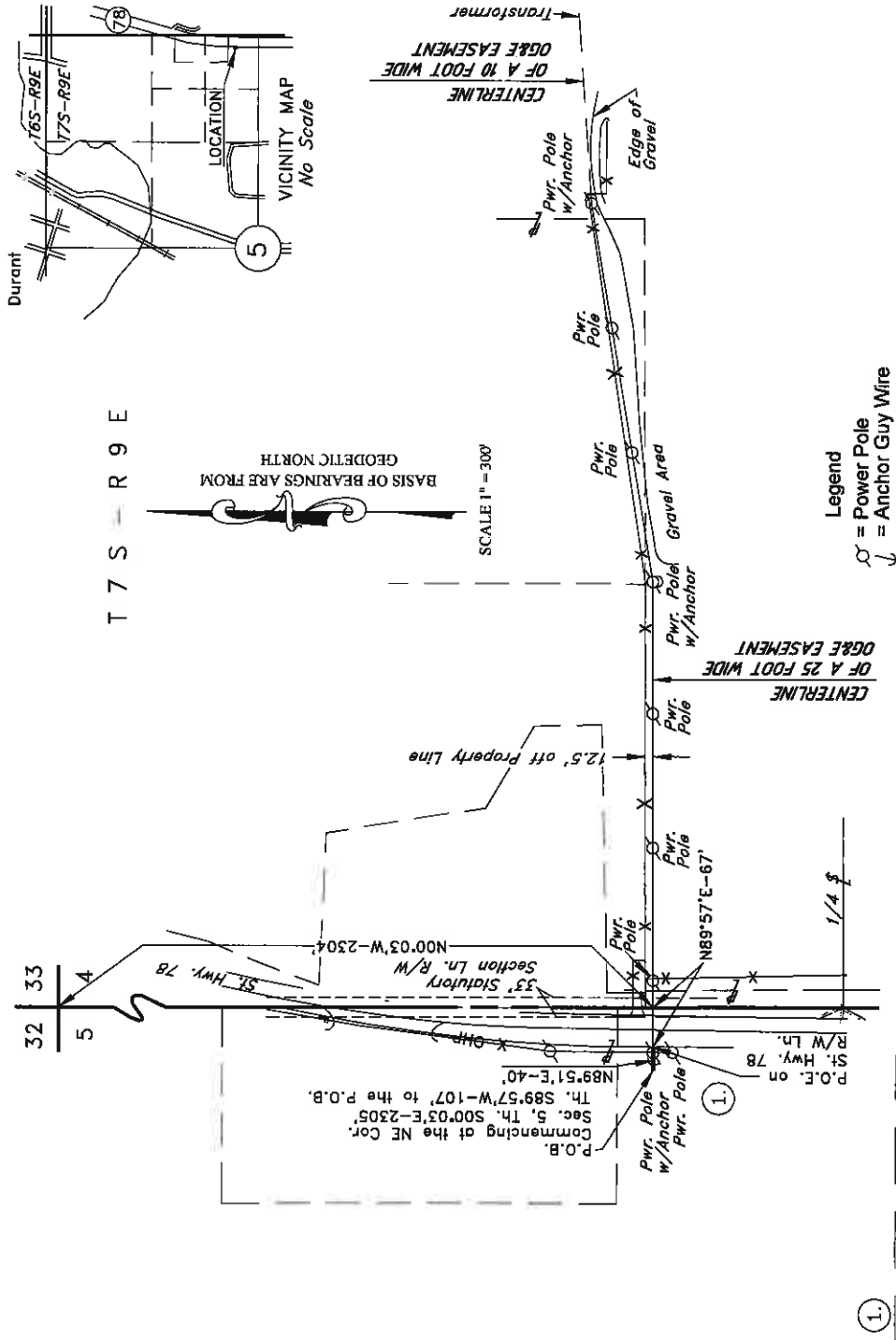
Commission # \_\_\_\_\_

\_\_\_\_\_  
Notary Public

25 FOOT WIDE OG&E EASEMENT IN A PART  
OF THE SE/4 SE/4 NE/4 SECTION 5, T7S-R9E,  
BRYAN COUNTY, OKLAHOMA

EASEMENT SKETCH

EXHIBIT "A"



CENTERLINE DESCRIPTION OF A 25 FOOT WIDE OG&E EASEMENT IN A PART OF THE SE/4 SE/4 NE/4 SECTION 5, T7S-R9E OF THE LM., BRYAN COUNTY, OKLAHOMA:

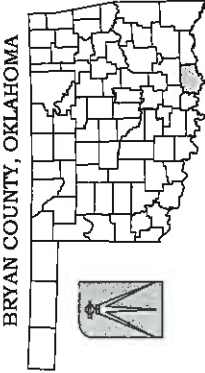
COMMENCING at the Northeast Corner of said Section 5, Thence S00°03'E with the East Line of said Section, 2305 feet, Thence S89°57'W perpendicular to the East Line of said Section, 107 feet to the POINT OF BEGINNING,

Thence N89°51'E 40 feet to and ending on the West R/W Line of State Highway 78 from which the Northeast Corner of said Section bears N89°57'E perpendicular to the East Line of said Section, 67 feet and N00°03'W with the East Line of said Section, 2304 feet. Basis of Bearings are Geodetic North. Said being described by Aaron L. Morris, RPLS No. 1477 on 4-7-16.

TOTAL LENGTH= 40' OR 2.42 RODS



Aaron L. Morris R.P.L.S. No. 1477  
Phone (580) 226-5108  
Fax (888) 662-7778  
Mobile (580) 221-0304  
1010 Northwest Boulevard  
Ardmore, OK 73401



**Bennett-Morris And Associates**  
**Land Surveying, P.C.**  
ARDMORE, OKLAHOMA  
Surveying, P.C. - C.A. No. 5975 (LS)

OKLAHOMA GAS AND ELECTRIC COMPANY

|                                |                      |
|--------------------------------|----------------------|
| OG&E EASEMENT SKETCH           | REVISIONS:           |
| W.O. #7367609                  |                      |
| City of Durant Baseball Fields |                      |
| DRAWN BY: M. Sweeney           | FILE #: 164021       |
| APPROVED BY: Aaron Morris      | DATE: 4-7-16         |
|                                | DRWG #: 164021-A.DWG |
|                                | DATE: 4-7-16         |
|                                | SCALE: 1in = 300 ft  |
|                                | SHEET 1              |

1348 849

Merced  
Hoffman  
May

# WARRANTY DEED

## KNOW ALL MEN BY THESE PRESENTS:

That **RONALD F. ARNETT and CAROLYN K. ARNETT, husband and wife**, parties of the first part in consideration of the sum of TEN & MORE (\$10.00) DOLLARS, the receipt of which is hereby acknowledged, do by these presents grant, bargain, sell and convey unto **THE DURANT CITY UTILITIES AUTHORITY, an Oklahoma public trust, 300 W. Evergreen Street, Durant, OK 74701**, party of the second part, the following described real property and premises, situated in Bryan County, State of Oklahoma, to-wit:

E/2 SE/4 of Section 5, Township 7 South, Range 9 East of the Indian Base and Meridian, in Bryan County, Oklahoma, LESS 1.79 acres for right of way occupied by the M.O.&G. Railway, according to the Government Survey thereof,  
AND

Lot 1, LESS 9.83 acres reserved for the Townsite of Durant and the SE/4 NE/4 LESS AND EXCEPT 9.24 acres occupied as right of way by K.O.&G. Railroad and LESS AND EXCEPT a tract Beginning at a point 376.25 feet North of the Southeast Corner of the NE/4 of said Section 5; thence West 330 feet; thence North 660 feet; thence East 330 feet; thence South 660 feet to the Point of Beginning, all in Section 5, Township 7 South, Range 9 East of the Indian Base and Meridian, in Bryan County, Oklahoma, according to the Government Survey thereof, less and except all oil, gas, and other minerals lying in and under said tract; LESS AND EXCEPT ALL OIL, GAS AND OTHER MINERALS LYING IN AND UNDER THE ABOVE DESCRIBED PREMISES;

STATE OF OKLAHOMA

Bryan County

Documentary Stamps \$ 952.50

952.50

together with all the improvements thereon and the appurtenances thereunto belonging, and warrant the title to the same.

TO HAVE AND TO HOLD said described premises unto party of the second part, its heirs and assigns, forever free, clear, and discharged of and from all former grants, charges, taxes, judgments, mortgages and other liens and encumbrances of whatsoever nature.

SIGNED and Sealed this 12th day of September, 2013.

Ronald F. Arnett  
RONALD F. ARNETT

Carolyn K. Arnett  
CAROLYN K. ARNETT

STATE OF OKLAHOMA, BRYAN COUNTY, ss.

## ACKNOWLEDGMENT

Before me, the undersigned, a Notary Public in and for said County and State, on this 12th day of September, 2013, personally appeared **RONALD F. ARNETT and CAROLYN K. ARNETT, husband and wife**, to me known to be the identical persons who executed the within and foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

WITNESS my hand and Seal the day and year last above written.



Patricia Hitchcock  
Notary Public