

**NOTICE
GLENPOOL CITY COUNCIL
REGULAR MEETING**

A Regular Session of the Glenpool City Council will be held at 6:30 p.m. on Monday, May 16, 2016, at Glenpool City Hall, City Council Chambers, 12205 S. Yukon Ave., 3rd Floor, Glenpool, Oklahoma.

The City Council welcomes comments from citizens of Glenpool who wish to address any item on the agenda. Speakers are requested to complete one of the forms located on the agenda table and return to the City Clerk PRIOR TO THE CALL TO ORDER

AGENDA

- A) Call to Order - Timothy Lee Fox, Mayor**
- B) Roll call, declaration of quorum – Julie Casteen, Deputy City Clerk; Timothy Lee Fox, Mayor**
- C) Invocation – Aaron Hunter, Extreme Worship and Outreach Center**
- D) Pledge of Allegiance – Timothy Lee Fox, Mayor**
- E) City Manager Report – Roger Kolman, City Manager**
- F) Mayor Report – Timothy Lee Fox, Mayor**
- G) Council Comments**
- H) Public Comments**
- I) Reading of Proclamation – Timothy Lee Fox, Mayor; Sergeant Tracey Powell, GPD**
- J) Scheduled Business**
 - 1) Discussion and possible action to approve minutes from May 2, 2016 meeting.**
 - 2) Discussion and possible action to appoint Joyce Calvert to the Glenpool Planning Commission and Board of Adjustment, serving a three year term commencing June 2016.
(Timothy Lee Fox, Mayor)**
 - 3) Discussion and possible action to adopt Ordinance No. 720, An Ordinance Amending Ordinance No. 458, By Rezoning Certain Property Described Herein From Agriculture (AG) To Residential Single Family Highest Density District (RS-4) [And From Agriculture (AG) to Commercial General (CG)], Under Application GZ-255; And Repealing All Ordinances Or Parts Of Ordinances In Conflict Herewith.
(Rick Malone, City Planner; Lowell Peterson, City Attorney)**

- 4) Discussion and possible action to approve and adopt Ordinance No. 721, An Ordinance That: (A) Levies And Assesses An Excise (Use) Tax Of Fifty-Five Hundredths Of One Percent (0.55%) Of The Purchase Price Upon The Storage, Use Or Consumption Of Tangible Personal Property That Is Purchased Outside The State Of Oklahoma And Used, Stored Or Otherwise Consumed Within The City Of Glenpool, In Addition To And At A Rate Equivalent To Sales Taxes Levied And Assessed In Accordance With City Of Glenpool Ordinance No. 717, As Adopted By The City Of Glenpool City Council On March 7, 2016, And Approved By A Majority Of The Registered, Qualified Voters Of The City Of Glenpool At A Special Election Held For That Purpose In The City Of Glenpool On April 5, 2016; (B) Establishes Purposes For Which Revenues Collected Under This Ordinance May Be Expended; (C) Provides For Such Use Tax To Commence On July 1, 2016; (D) Provides For The Duration Of Such Use Tax To Be Until The Sales Tax Levied And Assessed In Accordance With Said Ordinance No. 717 Shall Be Amended Or Repealed By The Voters Of The City; (E) Provides For Exemptions Thereto; (F) Provides For Collection Of Tax By Retailer Or Vendor Maintaining A Place Of Business Within The State Of Oklahoma Or Both Within And Without The State Of Oklahoma; (G) Prescribes Procedures For The Collection And Remittance Of Such Use Tax And Penalties For The Failure To Do So; And (H) Includes Such Other Provisions, Terms And Conditions As Necessary For The Effective Implementation And Enforcement Of This Ordinance.

(Lowell Peterson, City Attorney)

- 5) Discussion and possible action to approve a Lease Agreement from the City of Glenpool to Centurion Health Systems, Inc., d/b/a Mercy Regional of Oklahoma of the Emergency Medical Service (Ambulance) Facility located at 14522 S. Broadway, Glenpool, in accordance with such terms and conditions as are stated therein.

(Lowell Peterson, City Attorney)

- 6) Discussion and possible action to: (a) Ratify a certain Agreement by and between the City of Glenpool and the Glenpool Utility Services Authority (together, "Glenpool") and Rural Water District No. 2, Creek County ("Creek-2") for the purpose of collaborating to provide potable water service and fire suppression service to developments of property that are identified as "Reserved Creek-2 Water Customers" in the Agreement of Compromise, Settlement and Release, entered into by and between Glenpool and Creek-2, dated May 11, 2015, as approved in substance by the City Council in Regular Session on April 18, 2016; (b) Approving the final Agreement together with Exhibit A describing certain real property in the City of Glenpool to which the final Agreement applies and incorporating Exhibit A into such Agreement; and (c) Authorizing the Mayor to execute said Agreement.

(Lowell Peterson, City Attorney)

J) Adjournment

This notice and agenda was posted at Glenpool City Hall, 12205 S. Yukon Ave., Glenpool, Oklahoma, on _____, _____ at _____ am/pm.

Signed: _____
Deputy City Clerk



A PROCLAMATION OF THE CITY OF GLENPOOL

IN RECOGNITION OF EXCEPTIONAL BRAVERY IN PROVIDING ASSISTANCE

TO THE GLENPOOL, OKLAHOMA POLICE DEPARTMENT

WHEREAS, In April of 2014, Ms. Aubrie Wynn and Ms. Mikayla Garland, then both of Tulsa, Oklahoma, had a chance encounter with an individual who would later become a suspect in an ongoing investigation by the Glenpool Police Department into an unsolved felony that had occurred in Glenpool; and

WHEREAS, Ms. Wynn and Ms. Garland became uncomfortable with the actions of this individual and reacted to that discomfort by remembering the admonitions of their parents to run away and immediately report suspicious activities by a stranger to their parents or other trusted adult; and

WHEREAS, Ms. Wynn and Ms. Garland kept their wits about them and managed to report accurately the actions of this stranger to their parents and kept a key piece of evidence that was later used in the conviction of this individual for the crime that had been committed in Glenpool, as well as other crimes.

NOW, THEREFORE, The City Council and Police Department of the City of Glenpool, Oklahoma officially recognizes Ms. Aubrie Wynn and Ms. Mikayla Garland for their exceptional bravery and actions in helping the Glenpool Police Department to solve a crime committed in Glenpool.

IT IS SO PROCLAIMED:

Timothy Lee Fox, Mayor

Signed this 16th day of May 2016.

MINUTES

CITY COUNCIL MEETING

May 2, 2016

The Regular Session of the Glenpool City Council was held at 6:34 p.m., Glenpool City Hall, 3rd Floor, 12205 S. Yukon Ave, Glenpool, Oklahoma. Councilors present: Jennifer Ballew, Councilor; Patricia Agee, Councilor; Momodou Ceesay, Vice Mayor; and Timothy Fox, Mayor. Brandon Kearns, Councilor was absent.

Staff present: Roger Kolman, City Manager; Lowell Peterson, City Attorney; Julie Casteen, Finance Director; Lynn Burrow, Community Development Director; Rick Malone, City Planner; Dennis Waller, Police Chief and Paul Newton, Fire Chief. Susan White, City Clerk, and Lea Ann Reed, Conference Center Director were absent.

- A) Mayor Fox called the meeting to order at 6:32 p.m.**
- B) Julie Casteen, Deputy City Clerk called the roll. Mayor Fox declared a quorum present.**
- C) Fr. Sam Gordin offered the Invocation.**
- D) Mayor Fox led the Pledge of Allegiance.**
- E) Glenpool Conference Center Report – Lea Ann Reed**
 - Roger Kolman, City Manager offered the Conference Center Report in Mrs. Reed's absence. He reported the 2nd Annual Car Show had 110 entries in spite of threats of rain.
- F) Community Development Report – Lynn Burrow, Community Development Director**
 - Lynn Burrow offered an update on the water tower project currently underway. The construction is ahead of schedule and is projected to be complete in 60 days. Mr. Burrow also updated the City Council on the progress of various private and public construction projects throughout the city; provided an update on the number of residential and commercial building permits issued in April, as well as activities in the Planning, Building, and Code Enforcement Departments.
- G) City Manager Report – Roger Kolman, City Manager**
 - Mr. Kolman had no report in light of the large number of requests to address council during the upcoming public hearing later on the agenda
- H) Mayor Report – Timothy Fox, Mayor**
 - Mayor Fox echoed the success of the Car Show.
- I) Council Comments**
 - None.

J) Public Comments

- None

K) Scheduled Business

1) Discussion and possible action to approve minutes from April 18, 2016 meeting.

MOTION: Vice Mayor Ceesay moved, second by Councilor Agee to approve minutes as presented.

FOR: Vice-Mayor Ceesay; Mayor Fox; Councilor Agee; Councilor Kearns

AGAINST: None

Motion carried.

2) Public Hearing regarding application for zone change referred from Planning Commission, # GZ-255.

- Mayor Fox read a prepared statement regarding the importance of hearing public input from parties potentially impacted by zoning changes and other matters of concern. He then opened the Public Hearing at 6:53 p.m. for the purpose of receiving public comment concerning application for zone change referred from the Planning Commission, # GZ-255.
- City Attorney Lowell Peterson reiterated his legal opinion regarding conversations outside of the public hearing with the applicant or with opponents of the applicant.
- Several citizens and other concerned parties voiced their concerns regarding the potential effects of approval of the zoning application. Concerns raised related to reduction in property values, increased traffic congestion, drainage problems, increased storm water runoff, increased classroom crowding in the Glenpool Public Schools, and questionable sewage treatment capacity. Mr. Burrow addressed the concerns regarding sewage capacity and stated the City is well-equipped to handle continued development.

3) Mayor Fox closed the Public Hearing at 8:20 p.m.

4) Discussion and possible action to adopt Ordinance No. 720, An Ordinance Amending Ordinance No. 458, By Rezoning Certain Property Described Herein From Agriculture (AG) To Residential Single Family Highest Density District (RS-4), Under Application GZ-255; And Repealing All Ordinances Or Parts Of Ordinances In Conflict Herewith.

- Mr. Malone presented information regarding the applicant's request to rezone property from Agriculture (AG) to RS-4. The proposed development indicates 3.6 dwelling units per acre with 65-foot wide lots. Mr. Malone presented a map showing various completed subdivisions containing 65-foot wide lots. He discussed the zoning code and compared RS-3 and RS-4 zoning codes. He stated the zoning application is in conformance with Glenpool's Comprehensive Plan regarding low-intensity residential uses and recommended approval.

MOTION: Councilor Kearns moved, second by Mayor Fox to table the item to the next scheduled meeting.

FOR: Mayor Fox; Councilor Agee; Councilor Kearns; Vice-Mayor Ceesay

AGAINST: None

Motion carried.

Mayor Fox called recess at 8:40 p.m. The meeting reconvened at 8:53 p.m.

5) Acknowledgement, receipt, discussion and possible action with respect to a certain “Request for Moratorium” as presented to the City of Glenpool by Glenpool Residents and Landowners, dated April 26, 2016.

- Mr. Peterson presented his response to the Request for Moratorium on zoning. He stated that the Council has the power to act on the request, but the Council has no ability to vote to adopt the moratorium without first going through the normal zoning process. He also stated that a moratorium must be limited in time, is required to have an exception to allow for hardships, similar to the process presently in place for zoning variances that are approved by the Board of Adjustment. He stated that any moratorium cannot be retroactively applied, and would not apply to any application that is currently pending.

MOTION: Vice Mayor Ceesay moved, second by Mayor Fox to direct staff to commence the process of undertaking its periodic review and update of the Comprehensive Plan for the City of Glenpool, and direct the Planning Commission to consider imposing a moratorium as the Commission, in good faith, deems necessary to delay acting on such zone change all other applications that will be significantly affected by the changes in zoning, regulations, that conform to the amendments of the comprehensive plan, provided that such moratorium applies only to land use applications submitted after the day of adoption of the moratorium.

FOR: Councilor Agee; Councilor Kearns; Vice-Mayor Ceesay; Mayor Fox

AGAINST: None

Motion carried.

6) Discussion and possible action to approve the Final Plat of Sunoco Logistics Glenpool Butane Blending Facility, 10.671 acres located approximately 1000 feet north of the northeast corner of 131st Street and US 75.

- Mr. Malone presented information on the final plat. Mr. Burrow discussed concerns regarding vehicle access and fire protection, and stated all concerns have been satisfactorily addressed. He stated that ODOT has approved the applicant’s plans to construct a deceleration lane from Highway 75 into the site from the south, and has issued the permit.

MOTION: Councilor Agee moved, second by Councilor Kearns to approve the final plat as presented.

FOR: Councilor Kearns; Vice-Mayor Ceesay; Mayor Fox; Councilor Agee

AGAINST: None

Motion carried.

7) Discussion and possible action to approve construction change order number 1 with Goins Enterprises, Inc., amending the 2016 public infrastructure construction contract pertaining to the construction and installation of a water tower and related water lines in the City of Glenpool and increasing the total cost of that contract by \$28,934.00.

- Mr. Burrow discussed the change order request and outlined the increased costs.

MOTION: Councilor Kearns moved, second by Vice Mayor Ceesay to approve change order number 1 as presented.

FOR: Mayor Fox; Councilor Agee; Councilor Kearns; Vice-Mayor Ceesay

AGAINST: None

Motion carried.

8) Discussion and possible action to declare by majority vote of the remaining members of the City Council that a vacancy exists on the Council for Ward 4.

- Mr. Peterson discussed the procedure for filling the vacancy made with Councilor Ballew's departure. He stated that the Council will vote to fill the vacancy until the next general municipal election. He recommended that the City formally declare a vacancy.

MOTION: Vice-Mayor Ceesay moved, second by Councilor Agee to declare a vacancy on the Council for Ward 4.

FOR: Councilor Agee; Councilor Kearns; Vice-Mayor Ceesay; Mayor Fox;

AGAINST: None

Motion carried.

- 9) **Discussion and possible action to notify the public that the Council will: receive applications from qualified electors who reside in Ward 4 to fill the vacant Council seat from that ward for a period of thirty days; give full consideration of such applications in a public workshop to be held in June 2016; and appoint, on or before June 17, 2016, by majority vote of the Council a qualified elector to fill the vacancy until the next municipal election to be held in April of 2017.**

- Mr. Peterson reiterated the past practice followed to fill such vacancies and recommended approval. Mr. Kolman clarified that the vacancy should be filled by June 30, rather than June 17 as stated on the agenda.

MOTION: Vice-Mayor Ceesay moved, second by Councilor Agee to notify the public and begin the process to fill the Council vacancy for Ward 4.

FOR: Councilor Kearns; Vice-Mayor Ceesay; Mayor Fox; Councilor Agee

AGAINST: None

Motion carried.

- 10) **Discussion and possible action to authorize Mayor Fox to attend ICSC RECon in Las Vegas, NV and pay all related costs, as set forth in Sec. 14 Expenses, The Code of Ethics and Policy Statement for Elected and Appointed Officials of the City of Glenpool.**

- Mayor Fox requested that the City pay his expenses to attend ICSC Las Vegas ReCon. Councilor Agee stated that she felt the City should not bear the cost of the Mayor attending the conference, especially in light of the proposed utility rate increase.

MOTION: Councilor Kearns moved to approve the request by Mayor Fox to attend the ICSC ReCon in Las Vegas and pay all costs associated with attendance of the conference. Motion died for lack of Second.

- 11) **Discussion and possible action to approve a lease agreement between the City of Glenpool and Tulsa Community College for real property located at 140 W. 141st Street, Glenpool, OK.**

- Mr. Kolman presented information regarding the lease renewal with TCC. He stated that TCC was facing budgetary challenges, and the lease renewal removes the leases escalation clause. The renewal freezes the lease rate at the existing rate.

MOTION: Vice-Mayor Ceesay moved, second by Councilor Agee to approve the lease agreement between the City of Glenpool and Tulsa Community College.

FOR: Mayor Fox; Councilor Agee; Councilor Kearns; Vice-Mayor Ceesay

AGAINST: None

Motion carried.

L) Adjournment.

- Meeting was adjourned at 9:30 p.m.

Date

Mayor

ATTEST:

Deputy City Clerk

ORDINANCE NO. 720

AN ORDINANCE AMENDING ORDINANCE NO. 458, BY REZONING 68.638 ACRES OF CERTAIN PROPERTY DESCRIBED HEREIN FROM AGRICULTURE (AG) TO RESIDENTIAL SINGLE-FAMILY HIGHEST DENSITY DISTRICT (RS-4) AND 1.3924 ACRES OF THAT SAME CERTAIN PROPERTY DESCRIBED HEREIN FROM AGRICULTURE (AG) TO COMMERCIAL GENERAL (CG), THE PLANNING COMMISSION HAVING TAKEN NO ACTION UNDER APPLICATION GZ-255; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith

WHEREAS, the City of Glenpool Planning Commission having reviewed Application GZ-255 for a rezone of the property described herein, following a public hearing on the same, made no findings and took no action with respect to the proposed zone change, thereby effectively denying the Application; and

WHEREAS, the City of Glenpool Zoning Regulations at Title 11, Chapter 3, Article D, Section 11-3D-4 of the City of Glenpool Code of Ordinances provide that, if the Planning Commission denies an application for amendment of the Zoning map, the application shall be transmitted, with a report of the action of the Planning Commission to the City Council; and

WHEREAS, as also required by Section 11-3D-4 of the Zoning Regulations, prior to the submission to the City Council, all data, materials, recommendations and other information pertinent to the is Application has been transmitted to the City Council upon approval for accuracy by the City Planner in his capacity as secretary of the Planning Commission; and

WHEREAS, the Application having now passed to the City Council for its action, and the City Council having held a duly noticed public hearing on May 2, 2016, and having considered comments made in the course of such hearing and such other matters as have been presented to the City Council by staff, all matters considered being a part of the record of this proceeding; and

WHEREAS, the City Council has reviewed the Application and has considered the record received from the Planning Commission and comments of staff and those of persons speaking at the foregoing public hearing, and has found that the proposed zone amendment is presently consistent with the Glenpool Comprehensive Plan and current zoning patterns and otherwise complies with all requirements of the City of Glenpool Zoning Regulations at Title 11 of the Code of Ordinances; and

WHEREAS, inasmuch as there has been one or more written protest(s) against the proposed zoning change filed at least three days prior to the public hearing by the owners of 50% or more of the area of the lots immediately abutting any side of the territory included in such proposed zoning change, this amending Ordinance shall not become effective except by the favorable vote of three-fifths of all members of the City Council.

THEREFORE, BE IT ORDAINED by the City Council for the City of Glenpool, Oklahoma:

SECTION 1: That the zoning classification of the following described property situated in the City of Glenpool, Tulsa County, State of Oklahoma, *to wit*:

The 68.638-acre tract of land described in **Exhibit A** to this Ordinance and referenced as the **“Residential Tract;”**

Shall be amended from AG (Agricultural) to RS-4 (Single Family Residential Highest Density), subject to mandatory Planned Unit Development regulations.

SECTION 2: That the zoning classification of the following described property situated in the City of Glenpool, Tulsa County, State of Oklahoma, *to wit*:

The 1.3924-acre tract of land described in **Exhibit B** to this Ordinance and referenced as the **“Commercial Tract;”**

Shall be amended from AG (Agricultural) to CG (Commercial General).

SECTION 3: That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

PASSED AND APPROVED by the City Council of the City of Glenpool this 16th day of May 2016.

Timothy Lee Fox, Mayor

Attest:

Julie Casteen, Deputy City Clerk

Approved as to Form:

Lowell Peterson, City Attorney

EXHIBIT "A"

Residential Tract

A PART OF THE EAST HALF OF THE SOUTHWEST QUARTER (E/2 SW/4) OF SECTION THIRTEEN (13), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF. DESCRIBED AS FOLLOWS:

THE EAST HALF OF THE SOUTHWEST QUARTER (E/2 SW/4) OF SECTION THIRTEEN (13), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, LESS AND EXCEPT: THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (SW/4 SE/4 SW/4) AND LESS AND EXCEPT: COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER (SW/4); THENCE ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER (SW/4) A DISTANCE OF 1985.38 FEET TO THE POINT OF BEGINNING, SAID POINT BEING THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (SW/4 SE/4 SW/4); THENCE NORTH ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (SW/4 SE/4 SW/4) A DISTANCE OF 143.19 FEET; THENCE N 84° 15' 02" E A DISTANCE OF 64.27 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 23053.31 FEET A DISTANCE OF 277.63 FEET, AND WHOSE CHORD BEARS N 84° 35' 44" E A DISTANCE OF 277.62 FEET; THENCE N 05° 03' 34" W A DISTANCE OF 15.00 FEET; THENCE A LONG A CURVE TO THE RIGHT HAVING A RADIUS OF 23068.31 FEET A DISTANCE OF 322.52 FEET AND WHOSE CHORD BEARS N 85° 20' 28" E A DISTANCE OF 322.52 FEET; THENCE SOUTH ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER (SW/4) A DISTANCE OF 200.64 FEET TO THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER (SW/4); THENCE WEST ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER (SW/4) A DISTANCE OF 661.79 FEET TO THE POINT OF BEGINNING.

AND LESS AND EXCEPT: COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER (SW/4); THENCE NORTH ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER (SW/4) A DISTANCE OF 200.64 FEET TO THE POINT OF BEGINNING; THENCE A LONG A CURVE TO THE LEFT HAVING A RADIUS OF 23068.31 FEET A DISTANCE OF 322.52 FEET AND WHOSE CHORD BEARS S 85° 20' 28" W A DISTANCE OF 322.52 FEET; THENCE S 05° 03' 34" E A DISTANCE OF 15.00 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 23053.31 FEET A DISTANCE OF 29.44 FEET, AND WHOSE CHORD BEARS S 84° 54' 14" W A DISTANCE OF 29.44 FEET; THENCE N 01° 08' 35" W A DISTANCE OF 199.53 FEET; THENCE N 88° 51' 25" E A DISTANCE OF 140.48 FEET; THENCE S 88° 34' 32" E A DISTANCE OF 60.06 FEET; THENCE N 88° 51' 25" E A DISTANCE OF 150.05 FEET, TO A POINT ON THE EAST LINE OF SAID SOUTHWEST QUARTER (SW/4); THENCE SOUTH ALONG SAID EAST LINE A DISTANCE OF 160.05 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH: COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (SW/4 SE/4 SW/4); THENCE N 01° 07' 36" W, ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (SW/4 SE/4 SW/4), A DISTANCE OF 311.00 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUING N 01° 07' 36" W, CONTINUING ALONG SAID WEST LINE, A DISTANCE OF 350.09 FEET, TO THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (SW/4 SE/4 SW/4); THENCE N 88° 35' 39" E, ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (SW/4 SE/4 SW/4), A DISTANCE OF 287.78 FEET; THENCE S 01° 07' 36" E A DISTANCE OF 350.14 FEET; THENCE S 88° 36' 13" W A DISTANCE OF 287.78 FEET, TO THE POINT OF BEGINNING. ALSO KNOWN AS LOT 2, BLOCK 1 OF

ANGLICAN CHURCH OF THE RESURRECTION, RECORDED AS PLAT NO. 6373 IN THE OFFICE OF THE TULSA COUNTY CLERK.

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER (SW/4); THENCE N 88° 36' 36" E, ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER (SW/4) A DISTANCE OF 2647.16 FEET TO THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER (SW/4); THENCE N 01° 07' 18" W, ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER (SW/4) A DISTANCE OF 360.69 FEET TO THE POINT OF BEGINNING; THENCE S 88° 52' 44" W A DISTANCE OF 150.05 FEET; THENCE N 88° 33' 13" W A DISTANCE OF 60.06 FEET; THENCE S 88° 52' 44" W A DISTANCE OF 140.48 FEET; THENCE S 01° 07' 16" E A DISTANCE OF 199.53 FEET, TO A POINT ON THE NORTH RIGHT OF WAY LINE OF EAST 151ST STREET SOUTH AS DESCRIBED IN WARRANTY DEED TO STATE OF OKLAHOMA AS RECORDED IN BOOK 5278, PAGE 1655 IN THE OFFICE OF THE TULSA COUNTY CLERK; THENCE ALONG SAID NORTH RIGHT OF WAY LINE, ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 23053.31 FEET, AN ARC DISTANCE OF 248.18 FEET, A CENTRAL ANGLE OF 00° 37' 01", A CHORD BEARING OF S 84° 34' 52" W AND A CHORD DISTANCE OF 248.18 FEET, TO A POINT OF TANGENCY ON SAID NORTH RIGHT OF WAY LINE; THENCE S 84° 16' 21" W, CONTINUING ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 64.27 FEET, TO A POINT ON THE EAST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SOUTHWEST QUARTER (SW/4 SE/4 SW/4); THENCE N 01° 07' 16" W, ALONG SAID EAST LINE, A DISTANCE OF 518.01 FEET, TO THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SOUTHWEST QUARTER (SW/4 SE/4 SW/4); THENCE S 88° 36' 02" W, ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SOUTHWEST QUARTER (SW/4 SE/4 SW/4), A DISTANCE OF 374.31 FEET, TO THE NORTHEAST CORNER OF LOT 2, BLOCK 1 OF ANGLICAN CHURCH OF THE RESURRECTION, RECORDED AS PLAT NO. 6373 IN THE OFFICE OF THE TULSA COUNTY CLERK; THENCE S 01° 07' 13" E, ALONG THE EAST LINE OF SAID LOT 2, A DISTANCE OF 350.14 FEET, TO THE SOUTHEAST CORNER OF SAID LOT 2; THENCE S 88° 36' 36" W, ALONG THE SOUTH LINE OF SAID LOT 2, A DISTANCE OF 287.78 FEET, TO THE SOUTHWEST CORNER OF SAID LOT 2 AND A POINT ON THE WEST LINE OF THE EAST HALF OF SAID SOUTHWEST QUARTER (E/2 SW/4); THENCE N 01° 07' 13" W, ALONG THE WEST LINE OF THE EAST HALF OF SAID SOUTHWEST QUARTER (E/2 SW/4) AND THE WEST LINE OF SAID LOT 2, A DISTANCE OF 350.09 FEET, TO THE NORTHWEST CORNER OF SAID LOT 2; THENCE CONTINUING N 01° 07' 13" W, CONTINUING ALONG THE WEST LINE OF THE EAST HALF OF SAID SOUTHWEST QUARTER (E/2 SW/4), A DISTANCE OF 1983.44 FEET, TO THE NORTHWEST CORNER OF SAID EAST HALF OF SAID SOUTHWEST QUARTER (E/2 SW/4); THENCE N 88° 34' 40" E, ALONG THE NORTH LINE OF SAID EAST HALF OF SAID SOUTHWEST QUARTER (E/2 SW/4), A DISTANCE OF 1324.13 FEET, TO THE NORTHEAST CORNER OF SAID EAST HALF OF SAID SOUTHWEST QUARTER (E/2 SW/4); THENCE S 01° 07' 18" E, ALONG THE EAST LINE OF SAID EAST HALF OF SAID SOUTHWEST QUARTER (E/2 SW/4), A DISTANCE OF 2284.59 FEET, TO THE POINT OF BEGINNING.
SAID TRACT OF LAND CONTAINING 68.6380 ACRES / 2,989,884.11 SQUARE FEET.

EXHIBIT "B"

Commercial Tract

A PART OF THE EAST HALF OF THE SOUTHWEST QUARTER (E/2 SW/4) OF SECTION THIRTEEN (13), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWELVE (12) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF.

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER (SW/4); THENCE N 88° 36' 36" E, ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER (SW/4), A DISTANCE OF 2647.17 FEET, TO THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER (SW/4); THENCE N 01° 07' 18" W, ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER (SW/4), A DISTANCE OF 200.64 FEET, TO A POINT ON THE NORTH RIGHT OF WAY LINE OF EAST 151ST STREET SOUTH AS DESCRIBED IN WARRANTY DEED TO STATE OF OKLAHOMA AS RECORDED IN BOOK 5278, PAGE 1655 IN THE OFFICE OF THE TULSA COUNTY CLERK AND THE POINT OF BEGINNING; THENCE A LONG A CURVE TO THE LEFT, AND ALONG SAID NORTH RIGHT OF WAY LINE, HAVING A RADIUS OF 23068.31 FEET, AN ARC DISTANCE OF 322.80 FEET, A CENTRAL ANGLE OF 00° 48' 06", A CHORD BEARING OF S 85° 21' 49" W AND A CHORD DISTANCE OF 322.80 FEET; THENCE S 05° 02' 15" E, CONTINUING ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 15.00 FEET; THENCE ALONG A CURVE TO THE LEFT, CONTINUING ALONG SAID NORTH RIGHT OF WAY LINE, HAVING A RADIUS OF 23053.31 FEET, AN ARC DISTANCE OF 29.44 FEET, A CENTRAL ANGLE OF 00° 04' 23", A CHORD BEARING OF S 84° 55' 34" W AND A CHORD DISTANCE OF 29.44 FEET; THENCE N 01° 07' 16" W A DISTANCE OF 199.53 FEET; THENCE N 88° 52' 44" E A DISTANCE OF 140.48 FEET; THENCE S 88° 33' 13" E A DISTANCE OF 60.06 FEET; THENCE N 88° 52' 44" E A DISTANCE OF 150.05 FEET, TO A POINT ON THE EAST LINE OF SAID SOUTHWEST QUARTER (SW/4); THENCE S 01° 07' 18" E, ALONG SAID EAST LINE, A DISTANCE OF 160.05 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINING 1.3924 ACRES / 60,652.16 SQUARE FEET.

MEMORANDUM

TO: GLENPOOL CITY COUNCIL

FROM: RICK MALONE, CITY PLANNER

RE: GZ-255: Request from Barrick Rosenbaum, representing Summit Properties, Inc., to change zoning from AG to a combination of RS-4 and CG on property located approximately ¼ mile east of the northeast corner of 151st street (SH-67).

DATE: MAY 16, 2016

BACKGROUND:

Rezoning application GZ-255 requests the City to rezone 68.63 acres from AG (Agricultural) to RS-4 (Residential Single Family Highest Density) and 1.3924 acres from AG to CG (Commercial) in order to allow for the second phase of the Mansfield Lane Addition. This 70.03 acre tract is proposed to be divided into residential lots, reserve areas and commercial lots.

This request is effectively for a mixed use (residential and commercial) in an area of the City that has been designated by the 2030 Comprehensive Plan as Special District 4, 151st Street (SH-67) from 33rd W. Avenue, extending eastward from US-75 to Lewis Avenue, which has also been re-designated as the "SH-67 Corridor District."

CONFORMITY TO COMPREHENSIVE PLAN:

The City of Glenpool 2030 Comprehensive Plan is authorized by 11 O.S. § 45-103 stating that, "The planning commission shall prepare from time to time plans for the betterment of the municipality as a place of residence or for business." According to 11 O.S. 43-103, the Zoning Regulations, "shall be made in accordance with a comprehensive plan [and] The governing body shall provide the manner in which regulations, restrictions and district boundaries shall be determined, established and enforced, and amended, supplemented or changed."

Glenpool's Zoning Regulations are intended to serve the primary purpose of implementing the Comprehensive Plan and may not contradict the intent of the Plan. "This does not mean that zoning districts must duplicate land use categories exactly, but they should be compatible with the goals, objectives, policies and principles that describe the intent of the various land use categories and intensities as designated in the 2030 Plan." (Page 15, Plan)

With respect to the zone change being proposed, its location is of primary significance in determining the land use categories that the Council should consider. The Comprehensive Plan directs that, "This particular area [the SH-67 Corridor District] is prime for Medium-Intensity development," subject to a variety of traffic controls on access to and from SH-67. Commercial and Industrial Zoning Districts that the Comprehensive Plan states are in accordance with the Plan for the Medium Intensity designation include OL (Office Low Intensity), OM (Office Medium Intensity), CS (Commercial Shopping Center), CG (Commercial General), IL (Industrial Light Manufacturing and R&D) and IM (Industrial Moderate). Residential Districts that the Comprehensive Plan states are in accordance with the Plan for Medium Intensity include RE

(Residential Estate), RS-1 (Residential Single-Family Low Density), RS-2 (Residential Single-Family Medium Density), RS-3 (Residential Single Family High Density), RD (Residential Duplex), RM-T(Residential Multi-Family Townhouse) and RM-1 (Residential Multi-Family Medium Density).

The RS-4 (Residential Single Family Highest Density) is not identified as such in the Comprehensive Plan, in part, because the current Plan was adopted on July 6, 2010. The RS-4 amendment to the Zoning Regulations was adopted on September 17, 2012, at the same time that RM-3 (Residential Multi-Family High Density) was added, both in response to market demand for enhanced variety of densities to meet the varying requirements of families. More to the point, in the provisions covering the goals, objectives and policies of land use intensity, the Plan expressly provides that intensity designations are applied to all land use categories in an effort to integrate planned intensities with their surroundings and with available public facilities. *All* residential districts, of whatever density, are classified as low intensity use. Low intensity is further defined to include 5.2 dwelling units per acre, a feature not in the Zoning Regulations until the adoption of RS-4 which offers 5.18 units per acre.

Thus, notwithstanding the absence of a zoning district designated RS-4 in 2010, the parameters allowing for an RS-4 district were included in the Comprehensive Plan. It should also be pointed out that the proposed development for the RS-4 zone change under consideration plans for only 3.6 dwelling units per acre. Given the permissible and intended land use categories to be implemented in the SH-67 Corridor District, the proposed land use is, in point of fact, an upgrade from the recommended Medium Intensity.

For all the foregoing reasons, staff finds that the proposed RS-4 (Single-Family Residential, Highest Intensity) District conforms to the Comprehensive Plan goals, policies and objectives for the SH-67 Corridor District.

ACCESS:

The property is currently accessed from 151st Street (SH-67) to 148th Street through the eastern portion of the existing Mansfield Lane Addition, Phase 1, and from the proposed subdivision to the west (50 acre “Elwood Heights”).

SERVICES:

The property currently has access to all City of Glenpool utility services and the City’s capacity for such services (including domestic water, fire suppression, sanitary sewerage and storm water drainage) has been extensively evaluated and determined to be sufficient for the proposed development. Arrangements have been made with Creek County Rural Water District No. 2 for the allocation of adequate facilities to provide both potable water and fire suppression services.

SURROUNDING LAND USES:

- North: RS-3, Residential Single Family High Density subdivisions, Glenvillage and Glenvillage 2nd ;
- East: AG, Mostly vacant undeveloped land. .

- West: RS-4/PUD 27 Mansfield Lane Addition, Phase 1 that contains 22 acres.
- South: Agricultural District lands on which, to the north of SH-67 are located the Anglican Church of the Resurrection and a single family residence and across SH 67 to the south, mostly vacant undeveloped land.

PUD REQUIREMENT

Although only the underlying zone change is presently under consideration, it should be noted that development in any RS-4 Zoning District is restricted to a Planned Unit Development (PUD). The developer will be required to comply with all PUD procedures, should the Council grant this request.

In accordance with the Comprehensive Plan, “Proposed PUDs shall include conceptual site plans that demonstrate the compatibility of internal land use relationships. Site plan, sign plan, and landscape plan review and approval by the Glenpool Planning Commission and City Council shall be required prior to issuance of a building permit. Said plans shall be in substantial compliance with the approved provisions of the PUD and shall be in compliance with all other applicable ordinances and regulations of the City of Glenpool...”.

A PUD is a district designation that supplements the underlying zoning district requirements (in this case, RS-4, if approved) and provides an alternative to conventional development. PUD’s allow the developer and City staff, subject to review by the Planning Commission and approval by the City Council, the opportunity to be innovative regarding land development while maintaining appropriate limitations on the character and intensity of use and assuring compatibility with adjoining and proximate properties. PUD’s permit a degree of flexibility within the development not otherwise available in order to best utilize the physical features of the particular site. The proposed PUD must be reviewed as to the proposed location and character of the uses and the unified treatment of the proposed development. When a PUD is designed for a residential district, the aggregate intensity of use within the PUD is expected to remain substantially the same as that which would be permitted if the area were developed conventionally, but such intensity may be reallocated in ways that most suitably conform to the surrounding environment and any unique characteristics of the development property.

In any PUD, the Planning Commission is directed by the Zoning Regulations to impose perimeter requirements for screening, landscaping, and setbacks, as are necessary to assure compatibility with adjoining and proximate properties. In its review of a PUD, the Planning Commission is required to consider whether the PUD is consistent with the Comprehensive Plan; whether the PUD harmonizes with the existing and expected development of surrounding areas; and whether the PUD maximizes the development possibilities of the project site.

Upon receipt of a recommendation regarding the PUD, the City Council is required to hold a public hearing, review the outline development plan and approve, disapprove, modify, or return the outline development plan to the Planning Commission for further consideration.

SUBDIVISION PLAT

A PUD subdivision plat must also be filed with the Planning Commission and must comply with

all requirements of the subdivision regulations, to include details as to the location of uses and street arrangement; provisions for the ownership and maintenance of the common open space that will reasonably ensure its continuity and conservation; and such covenants as will reasonably ensure the continued compliance with the approved outline development plan.

Such covenants typically provide for detailed site plan review and approval by a designated authority (homeowners' association, developer, etc.) prior to the issuance of any building permits within the PUD. In order to protect the public interest, the City must be made beneficiary of covenants pertaining to such matters as location of uses, height of structures, setbacks, screening, and access. Such covenants provide that the City may enforce compliance and further provide that amendments must require the approval of the Planning Commission.

The following planning and design requirements must be addressed in every PUD subdivision plat:

- Site characteristics that, to the extent practical, are designed to retain the natural topography and vegetation of the site;
- Public or private recreational areas or reserves created to serve the project;
- Parks and open spaces;
- Street, sidewalk, and pedestrian transportation/circulation;
- The creation and dedication of public utility easements in accordance with City engineering design criteria;
- Technical Advisory Committee (TAC) review of the locations, width and alignment of all utility and drainage easements;
- Public street improvements;
- Public water supply extensions (in this case by the Glenpool Utility Service Authority and Creek Rural Water District No. 2);
- Storm water management and drainage collection, conveyance, and detention system that has been designed and constructed in accordance with City engineering design criteria and approved by the City engineer;
- Sanitary sewer collection system extensions in such a manner as to provide service to each individual property within the subdivision, subject to the approval of the City Public Works and Engineering Department and in accordance with regulations of the Oklahoma Department of Environmental Quality; and
- All other criteria deemed necessary to protect the public health, safety, and general welfare of existing and future residents of the area, while being consistent with the spirit and intent of the Comprehensive Plan.

Any concerns regarding such matters as storm water drainage engineering, aesthetics of the neighborhood, and adequate open space are properly addressed at the PUD and subdivision plat stages.

PLANNING COMMISSION ACTION:

On April 11, 2016, the Planning Commission reviewed this case and, after presentations from the applicant outlining the request, he stated that this project, if approved, will be done in phases. The developer has the prospective lots sold to a builder. Chairman Watts opened the meeting to interested parties: After listening to the parties that signed up to speak, Chairman Watts called for a motion. Planning Commissioner Shayne Buchannan made a motion to approve GZ-255 and it died for a lack of a second.

STAFF RECOMMENDATION:

In consideration of the Glenpool 2030 Comprehensive Plan and Special District 4/SH-67 Corridor District requirements outlined above, current zoning patterns in the City and the further extensive safeguards of PUD review, the staff recommends approval of this rezoning request case to change the zoning on this tract from AG to RS-4 for the bulk of the tract and CG zoning on the southernmost 300 feet.

ATTACHMENTS:

1. Case Map
2. 2030 Comprehensive Plan (subject tract area)
3. Existing Development Presentation Map
4. Applicable Bulk and Area Requirements

Figure 12



[illegible]

CITY OF GLENPOOL ORDINANCE NO. 721

AN ORDINANCE THAT: (A) LEVIES AND ASSESSES AN EXCISE (USE) TAX OF FIFTY-FIVE HUNDREDTHS OF ONE PERCENT (0.55%) OF THE PURCHASE PRICE UPON THE STORAGE, USE OR CONSUMPTION OF TANGIBLE PERSONAL PROPERTY THAT IS PURCHASED OUTSIDE THE STATE OF OKLAHOMA AND USED, STORED OR OTHERWISE CONSUMED WITHIN THE CITY OF GLENPOOL, IN ADDITION TO AND AT A RATE EQUIVALENT TO SALES TAXES LEVIED AND ASSESSED IN ACCORDANCE WITH CITY OF GLENPOOL ORDINANCE NO. 717, AS ADOPTED BY THE CITY OF GLENPOOL CITY COUNCIL ON MARCH 7, 2016, AND APPROVED BY A MAJORITY OF THE REGISTERED, QUALIFIED VOTERS OF THE CITY OF GLENPOOL AT A SPECIAL ELECTION HELD FOR THAT PURPOSE IN THE CITY OF GLENPOOL ON APRIL 5, 2016; (B) ESTABLISHES PURPOSES FOR WHICH REVENUES COLLECTED UNDER THIS ORDINANCE MAY BE EXPENDED; (C) PROVIDES FOR SUCH USE TAX TO COMMENCE ON JULY 1, 2016; (D) PROVIDES FOR THE DURATION OF SUCH USE TAX TO BE UNTIL THE SALES TAX LEVIED AND ASSESSED IN ACCORDANCE WITH SAID ORDINANCE NO. 717 SHALL BE AMENDED OR REPEALED BY THE VOTERS OF THE CITY; (E) PROVIDES FOR EXEMPTIONS THERETO; (F) PROVIDES FOR COLLECTION OF TAX BY RETAILER OR VENDOR MAINTAINING A PLACE OF BUSINESS WITHIN THE STATE OF OKLAHOMA OR BOTH WITHIN AND WITHOUT THE STATE OF OKLAHOMA; (G) PRESCRIBES PROCEDURES FOR THE COLLECTION AND REMITTANCE OF SUCH USE TAX AND PENALTIES FOR THE FAILURE TO DO SO; AND (H) INCLUDES SUCH OTHER PROVISIONS, TERMS AND CONDITIONS AS NECESSARY FOR THE EFFECTIVE IMPLEMENTATION AND ENFORCEMENT OF SAID ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLENPOOL, OKLAHOMA:

SECTION 1. CITATION AND CODIFICATION. This Ordinance shall be known and may be cited as "City of Glenpool Use Tax Ordinance No. 721 of 2016."

SECTION 2. AUTHORITY TO LEVY AND ASSESS USE TAX IN ADDITION TO STATE USE TAX.

- A. Pursuant to Section 1411 of the Oklahoma Use Tax Code, Title 68, Oklahoma Statutes, Sections 1401 through 1411, as amended, there is hereby levied, in addition to all other taxes in effect in the City of Glenpool, Oklahoma, and there shall be paid by every person using, storing or consuming tangible personal property within the City of Glenpool, an excise tax on such use, storage, or

consumption of tangible personal property purchased outside the State of Oklahoma and brought into the City of Glenpool at the rate of fifty-five hundredths of one percent (0.55%) of the purchase price of such tangible personal property.

- B. This authorization to levy and impose a municipal use tax shall be in addition to the State use tax levied by Section 1402 of the Oklahoma Use Tax Code.
- C. Such tax shall be paid by every person using, storing or consuming, within the City of Glenpool, tangible personal property purchased or brought into the City of Glenpool; *provided that* the tax levy imposed by this Ordinance shall not be levied against tangible personal property intended solely for use outside the City of Glenpool, but which is stored in the City of Glenpool pending shipment outside the City or which is temporarily retained in the City for the purpose of fabrication, repair, testing, alteration, maintenance or other service.
- D. The use tax levied pursuant to this Ordinance shall be paid at the time of importation or storage of the property within the City, *provided that* this use tax shall be assessed only upon property purchased outside the State of Oklahoma.
- E. Any person liable for payment of the use tax levied by this Ordinance, may deduct from such tax any City of Glenpool municipal sales tax previously paid on such goods or services. However, the amount deducted shall not exceed the amount that would have been due if the use tax imposed by the City of Glenpool had been levied on the sale of such goods or services

SECTION 3. DEFINITIONS. In addition to such definitions of words, terms or phrases adopted in the text of this Ordinance, the definitions of words, terms or phrases contained in the Oklahoma Use Tax Code, Title 68, Oklahoma Statutes, Sections 1401 through 1411, as amended, are hereby adopted by reference and made a part of this Ordinance.

SECTION 4. TAX COLLECTOR DEFINED. The term "Tax Collector" as used herein means, as applicable, the department of the City government or the Oklahoma Tax Commission duly designated according to contract pursuant to Section 2702 of Title 68 of the Oklahoma Statutes, as amended, and authorized by law to assess, collect and enforce administer the collection of the use tax hereby levied and remit the same to the City of Glenpool.

SECTION 5. CLASSIFICATION OF TAXPAYERS. For the purpose of this Ordinance, the classification of taxpayers hereunder shall be as prescribed by State law for purposes of the Oklahoma Use Tax Code.

SECTION 6. STATE PERMITS. All valid and subsisting permits to do business issued by the Oklahoma Tax Commission pursuant to Section 1364 of the Oklahoma Streamlined Sales and Use Tax Act, Title 68, Oklahoma Statutes, Sections 1354.14 through 1377, as amended, are, for the purpose of this Ordinance, hereby ratified, confirmed and adopted in lieu of any requirement for an additional permit for the same purpose.

SECTION 7. PURPOSE OF REVENUES. Pursuant to Section 2701 of Title 68 of the Oklahoma Statutes, the use tax levied and assessed under this Ordinance shall be used

by the City of Glenpool for such general and special purposes of municipal government as the Oklahoma Legislature may levy and collect for purposes of State government, subject to any applicable statutory limitations or exemptions.

SECTION 8. EFFECTIVE DATE AND TERM OF TAX. The fifty-five hundredths of one percent (0.55%) use tax hereby levied, shall take effect on July 1, 2016, being the same date that the fifty-five hundredths of one percent (0.55%) sales levied in accordance with City of Glenpool Ordinance No. 717 shall go into effect and being the first day of a calendar quarter, and shall be and remain in effect thereafter until such time as Ordinance No. 717, levying and assessing the equivalent sales tax, is repealed by a vote of the electors of the City at an election held for such purpose.

SECTION 9. EXEMPTIONS. There are hereby specifically exempted from the use tax levied by this Ordinance all items that are exempt from State use tax under Section 1404 of the Oklahoma Use Tax Code, including without limitation the use of tangible personal property specifically exempted from taxation under the Oklahoma Sales Tax Code.

SECTION 10. TAX DUE DATE - RETURNS - RECORDS. The tax levied hereunder shall be due and payable to the Tax Collector at the time and in the manner and form prescribed for payment of the State use tax under the Oklahoma Use Tax Code, to include without limitation Section 1405 of the Oklahoma Use Tax Code.

SECTION 11. TAX CONSTITUTES DEBT. Taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit in the same manner as any other debt.

SECTION 12. RETAILER'S OR VENDOR'S DUTY TO COLLECT TAX. Except as otherwise provided by any section of the Oklahoma Use Tax Code, every retailer or vendor maintaining places of business both within and without the State of Oklahoma and making sales of tangible, personal property from a place of business outside the State of Oklahoma for use, storage or consumption in the City of Glenpool shall, at the time of making such sales, collect the use tax levied by this Ordinance No. 721 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the Oklahoma Tax Commission if the Tax Commission shall, by regulation, require such receipt. Each such retailer or vendor shall list with the Oklahoma Tax Commission the name and address of all the retailer's or vendor's agents operating in the City of Glenpool and location of any and all distribution or sales houses or other places of business in said City. Such retailer or vendor shall not collect the use tax levied by this Ordinance from a qualified purchaser who holds a direct payment permit issued pursuant to Section 1364.1 of the Streamlined Sales and Use Tax Administration Act, subject to such regulations and agreements as the Tax Commission may prescribe.

SECTION 13. REVOCATION OF PERMIT FOR NON-COMPLIANCE. Whenever any retailer or vendor not maintaining a place of business in the State of Oklahoma, or both within and without this State, and authorized to collect the tax herein levied, fails to comply with any of the provisions of this Ordinance or the Oklahoma Use Tax Code or any

order, rules or regulations of the Tax Commission, the Tax Commission may, upon notice and hearing as provided for in Section 1408 of the Oklahoma Sales Tax Code, by order revoke the use tax permit, if any, issued to such retailer or vendor, and if any such retailer or vendor is a corporation authorized to do business in this State may, after notice and hearing above provided, cancel said corporation's license to do business in this State and shall issue a new license only when such corporation has complied with the obligations under this Ordinance, the Oklahoma Use Tax Code, or any order, rules or regulations of the Tax Commission.

SECTION 14. RETURNS AND REMITTANCES - DISCOUNTS. Returns and remittances of the tax hereby levied and collected shall be made to the Tax Collector at the time and in the manner, form and amount as prescribed for returns and remittances required by the Oklahoma Use Tax Code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by the Oklahoma Use Tax Code for collection of State use tax.

SECTION 15. INTEREST AND PENALTIES - DELINQUENCY. The provisions of Title 68, Oklahoma Statutes, Section 217, as amended, and of Title 68, Oklahoma Statutes, Sections 1401, *et seq.*, as amended, are hereby adopted by reference and made a part of this Ordinance, and interest and penalties at the rates and in amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the use tax levied by this Ordinance; *provided that*, the failure or refusal of any taxpayer to make and transmit the reports and remittances of tax in the time and manner required by this Ordinance shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five days, the taxpayer shall forfeit his claim to any discount allowed under this Ordinance.

SECTION 16. WAIVER OF INTEREST AND PENALTIES. The interest or penalty or any portion thereof accruing by reason of a taxpayer's failure to pay the City's use tax herein levied may be waived or remitted in the same manner as provided for such waiver or remittance as applied in administration of the State sales tax provided in Title 68, Oklahoma Statutes, Section 220, as amended; and, to accomplish the purposes of this Section 16, the applicable provisions of such Section 220 are hereby adopted by reference and made a part of this Ordinance.

SECTION 17. ERRONEOUS PAYMENTS - CLAIM FOR REFUND. Refund of erroneous payment of the City use tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the State use tax as set forth in Title 68, Oklahoma Statutes, Section 227, as amended, and to accomplish the purposes of this Section, the applicable provisions of such Section 227 are hereby adopted by reference and made a part of this Ordinance.

SECTION 18. FRAUDULENT RETURNS. In addition to all civil penalties provided by this Ordinance, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose for avoiding or escaping payment for any tax or portion thereof rightfully due under this Ordinance shall be an offense, and upon conviction thereof the offending taxpayer shall be

subject to such fines and/or incarceration as provided in Title 68, Oklahoma Statutes, Section 241, as amended.

SECTION 19. RECORDS CONFIDENTIAL. The confidential and privileged nature of the records and files concerning the administration of the City use tax is legislatively recognized and declared, and to protect the same the provisions of Title 68, Oklahoma Statutes, Section 205, as amended, are hereby adopted by reference and made fully effective and applicable to administration of the City use tax as if here set forth fully herein.

SECTION 20. PROVISIONS CUMULATIVE. The provisions of this Ordinance shall be cumulative, and in addition to any and all other taxing provisions of City ordinances.

SECTION 21. PROVISIONS SEVERABLE. The provisions of this Ordinance are hereby declared to be severable and, if any section, subsection, paragraph, sentence or clause of this Ordinance is for any reason held invalid or inoperative by any court of competent jurisdiction such decision shall not affect any other section, subsection, paragraph, sentence or clause hereof.

SECTION 22. AMENDMENTS. The City Council of the City of Glenpool may, by subsequent ordinances duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing Ordinance No. 717 or this Ordinance as may be necessary or proper for efficiency and fairness except that neither the rate of the tax herein provided, nor the term, nor the purpose of the tax herein provided, shall be changed without a corresponding change of Ordinance No. 717 effected by approval by the qualified electors of the City as provided by law.

SECTION 22. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed and of no effect.

PASSED AND APPROVED by the City Council of the City of Glenpool this 16th day of May 2016.

Timothy Lee Fox, Mayor

ATTEST:

[seal]

Julie Casteen, Deputy City Clerk

APPROVED AS TO FORM AND SUBSTANCE:

Lowell L. Peterson, City Attorney

Parties: City of Glenpool & Centurion Health Systems, Inc., d/b/a Mercy Regional Of Oklahoma

Third Party Beneficiary: Glenpool Area Emergency Medical Service District (GEMS)

Property: Emergency Medical (Ambulance) Service Facility at 14522 S. Broadway, Glenpool, OK 74033

LEASE AGREEMENT

Basic Agreement Provisions:

PREMISES:	Commercial Site and Building in use as Emergency Medical (Ambulance) Service Facility, located at 14522 S. Broadway, Glenpool, OK 74033
OWNER/ LESSOR:	City of Glenpool 12205 S. Yukon Avenue Glenpool, OK 74033
OCCUPANT/LESSEE:	Centurion Health Systems, Inc., d/b/a Mercy Regional Of Oklahoma 9106 N. Garnett Rd PO Box 2398 Owasso, OK 74055
THIRD PARTY BENEFICIARY:	Glenpool Area Emergency Medical Service District 12205 S. Yukon Avenue Glenpool, OK 74033
ADDRESS OF FACILITY:	14522 S. Broadway Glenpool, OK 74033
EFFECTIVE DATE:	Date that Agreement is executed by the duly authorized officers of the City of Glenpool and Mercy Regional EMS
COMMENCEMENT DATE:	Date that Lessee begins occupancy under the terms and conditions of this Agreement, notwithstanding any prior occupancy permitted the Lessee by the Lessor. For Rental Payment purposes, the Commencement Date is deemed to be June 1, 2016.
TERMINATION DATE:	June 30, 2021, or such other date as may be coterminous with Section 1.05 of the Current EMS Agreement, as the same may be amended.
TERM OF OCCUPANCY:	Commencement of Occupancy through Termination Date
RENEWAL/EXTENSION TERMS:	Lessor and Lessee shall have the option to renew this Agreement upon the expiration of the current Term, and

any subsequent term, as more particularly set out in this Agreement.

RENTAL PAYMENT: \$1,200.00 per month throughout the Term of this Agreement, payable by no later than the 5th day of each month, and such other consideration as is set forth in this Agreement.

ADDITIONAL OBLIGATIONS: Lessee shall pay all utilities supplied to or used or consumed on the Premises by any user of the Premises during the Term of this Agreement; all insurance premiums of every kind affecting the Premises; and all operating and maintenance costs pertaining to the Premises except as otherwise set forth in Article 6 of this Agreement.

PERMITTED USE: Emergency Medical (Ambulance) Service pursuant to Ambulance Service Agreement by and among the City Of Glenpool, Mercy Regional of Oklahoma and the Glenpool Area Emergency Medical Service District, effective March 22, 2016.

ACCESS TO PREMISES: Lessee shall have unencumbered access to Premises and privileges attendant thereto immediately, as of the Commencement Date. Access shall be available to Lessee's officers, agents and employees for all purposes consistent with this Agreement and the Ambulance Service Agreement, as defined herein.

IMPROVEMENTS: Lessee shall construct and/or install all improvements to the Premises consistent with and necessary for use of the Premises for its intended use. Any permanent fixtures or alteration of the Premises shall be in accordance with terms, plans, and specifications pre-approved by Lessor and at Lessee's sole cost as specified in this Agreement.

SIGNS: Subject to Lessor's prior written approval and so far as consistent with the Sign Code of the City of Glenpool, Lessee may, at its sole cost and expense, place one or more sign(s) on the exterior of the Premises.

In the event of any conflict between the terms and conditions of these Basic Agreement Provisions and the following Supplemental Agreement Provisions, the terms and conditions of these Basic Agreement Provisions shall control.

LEASE AGREEMENT

Supplemental Agreement Provisions

This Lease Agreement (“**Lease**” or “**Agreement**”) made and entered into as of the date executed by the City of Glenpool (the “**Effective Date**”) by and among the CITY OF GLENPOOL, OKLAHOMA (“**CITY**” or “**Lessor**”) and CENTURION HEALTH SYSTEMS, INC., d/b/a MERCY REGIONAL OF OKLAHOMA (“**MERCY**” or “**Lessee**”), together the “**Parties**,” and for the benefit of the Glenpool Area Emergency Medical Service District (“**GEMS**”).

WHEREAS, GEMS is a duly created and operating emergency medical service district as defined in and having all powers, duties and privileges provided under the Oklahoma Constitution, Art. X, § 9C, and by Title 63 (Public Health and Safety), Article 25 (Oklahoma Emergency Response Systems Development Act), Section 1-2515 (Authority to Regulate and Control Ambulance Service Transports) of the Oklahoma Statutes, and was created by vote of the qualified voters of the Glenpool Public School District, which is coterminous with the GEMS District boundaries (“**GEMS Service Area**”), on February 22, 1983; and

WHEREAS, CITY, GEMS and MERCY have entered into a certain Ambulance Service Agreement, effective as of March 22, 2016, (the “**Current EMS Agreement**”), attached hereto and incorporated herein as **Exhibit A** in accordance with which MERCY will provide emergency and non-emergency medical services and qualified medical personnel to residents of the GEMS Service Area; and

WHEREAS, a contingency of the Current EMS Agreement is that the City shall lease certain real property and the improvements thereon to MERCY for use as its EMS ambulance facility, which property is described as “All of Lots Five (5) and Six (6), Block Two (2), GLENPOOL TOWN SITE, NOW CITY OF GLENPOOL, Tulsa County, State of Oklahoma, according to the recorded plat thereof” and also known as the EMS/Firehouse Facility located at 14522 S. Broadway, Glenpool, Oklahoma 74033 (the “**Premises**”).

NOW THEREFORE, for and in consideration of such premises and the terms, covenants and conditions as are herein set forth, the Parties hereby mutually agree as follows:

ARTICLE 1

PREMISES

2.1 Occupancy. Subject to the terms and conditions set forth in this Agreement and in consideration of the mutual covenants herein contained, CITY, in its capacity as Lessor, does hereby lease unto MERCY, in its capacity as Lessee, and MERCY does hereby lease from CITY, the Premises as defined in this Agreement Provisions and as shown on the attached **Exhibit B**.

2.2 Lessor's Reserved Rights. Except to the extent expressly limited herein, CITY reserves full rights to control the Premises (which rights may be exercised without subjecting CITY to claims for constructive eviction, abatement of rent, damages or other claims of any kind), including more particularly, but without limitation, the following rights in addition to any other rights reserved elsewhere in this Agreement by CITY:

To enter upon and within the Premises at reasonable hours for reasonable purposes, including inspection of the Premises and monitoring compliance of MERCY with the terms and conditions of the Current EMS Agreement.

In connection with entering the Premises, CITY shall provide reasonable advance notice to MERCY and take reasonable steps to minimize any interference with MERCY's operations.

ARTICLE 3

TERM OF AGREEMENT

3.1 Term. MERCY shall have and hold the Premises for the Term specified in the Basic Agreement Provisions, unless this Agreement is sooner terminated for cause or upon termination of the Current EMS Agreement.

3.2 Renewal Options. CITY and MERCY agree that they shall have the option to renew this Agreement upon the expiration of the current Term and any subsequent term, *provided that* termination of the Current EMS Agreement for any reason stated therein, or otherwise, shall result in the simultaneous termination of this Agreement. Renewal may be for such term and contain such other provisions and conditions as the Parties negotiate prior to the Expiration Date, *provided that* no renewal term shall exceed the term of any renewal of the Current EMS Agreement as provided therein. This Agreement may be renewed for additional five-year terms, *provided that* either party notifies the other at least 90 days prior to the Expiration Date of its intent to renew either of this Agreement or the Current EMS Agreement. Renewal shall be memorialized by the issuance of a subsequent agreement in substantially the form of this Agreement.

3.3 Termination. This Agreement may be canceled by either party with thirty (30) days' notice for any reason or no reason and, in any case, shall terminate simultaneously with termination of the Current EMS Agreement, or any renewal thereof, for any reason. Each party shall further have the right to terminate this Agreement immediately upon the occurrence of any material breach by the other (breaching) party. Materiality shall include any breach that presents a serious risk of injury, mistreatment or death of a patient or presents a substantial likelihood of serious impairment to the rights and powers of the non-breaching party.

ARTICLE 4

RENT

4.1 Base Rent During of Term of Agreement. Lessee shall pay Rent monthly to the name and address specified as the Notice recipient for the CITY identified in Article 18.2. At Lessee's sole discretion, Rent may be paid annually in advance. Rent shall be payable from the Commencement Date through the Term of this Agreement. In the event of a fractional month of occupancy of the Premises, Rent shall be prorated. The parties acknowledge and agree that the Rental Amount shall be a fixed annual amount to be denominated a "Partner Rate" which gives recognition and consideration to the fact that the relationship of the parties has been one of mutual benefit and cooperation since before the Effective Date of this Lease. Such Partner Rate shall be established as follows:

- (a) Base Rent as of Commencement Date: \$1,200 per month, payable monthly or annually at Lessee's sole discretion throughout the Term of this Agreement.
- (b) Notwithstanding the foregoing provision, nothing in this Section 4.1 or elsewhere in this Agreement shall be construed to prevent the parties from negotiating such periodic adjustments to the Rent as reflect the current needs and status of the parties and their relationship each to the other, *provided that* there shall be no increase in rent except as agreed to by both parties.

4.2 Triple Net Agreement. It is specifically understood and agreed by MERCY that this Agreement is what is commonly designated as a Triple Net Agreement. It is the express intent of CITY and MERCY that all rent and other payments payable during the Term of this Agreement, and not directly attributable to CITY, as set out in Section 4.3 or Article 7 below, shall be absolutely net to CITY and that each and every item of expense of every kind and nature whatsoever for the payment of which CITY is, shall or may be or become liable by reason of CITY's estate or interest in the Premises (including the improvements now or hereafter placed on the Premises) or by reason of any rights or interests of CITY in or under this Agreement or by reason of or in any manner connected with or arising from the ownership, leasing, operation, management, maintenance, repair, rebuilding, remodeling, renovation, use or occupancy of the Premises or any portion thereof, shall be borne by MERCY and CITY shall be held harmless therefrom. Such expenses include but are not limited to: (i) water, sewer, electric current, telephone and other communication systems, cable, gas, trash or refuse hauling and any other public utility service used or consumed by MERCY on the Premises or supplied to it; (ii) insurance, routine maintenance and upkeep of interior and exterior, including the building, landscaping, roof, HVAC and structure. Should MERCY default in the timely payment of any such obligations beyond applicable notice and/or cure periods, CITY shall have the same remedies as are available to CITY in the event of a default under the Current EMS Agreement. Timely shall mean within the time stated as due on any statement, bill or invoice for any of the foregoing obligations.

4.3 Limitation of Liability of MERCY. Provided however, that MERCY shall not be responsible for

- (a) Expenses that are subject to reimbursement by insurance carriers or other third parties;
- (b) Costs incurred as a result of any improvements to the Premises which shall become permanently affixed to the Premises and shall therefore inure to the benefit of CITY;
- (c) Costs incurred as a result of CITY's order or authorization of expenses with respect to CITY's interest and estate in the Premises, the object of which expenses results in no benefit to MERCY;
- (d) Violation by CITY of any laws, regulations or ordinances or breach of any agreements; and
- (e) The cost of such maintenance items as are undertaken by the City in accordance with Article 7 below.

ARTICLE 5

USE OF PREMISES

5.1 Use of Premises. The Premises shall be used and occupied only for the purposes specified in the Basic Agreement Provisions and in the Current EMS Agreement at **Exhibit A**.

5.2 Compliance with Applicable Law. MERCY shall at all times and in all material respects comply with all federal, state or local laws, rules, ordinances, regulations and orders applicable to the Premises or the use thereof relating to medical facility hygiene, the handling, storage, use and disposal of medical waste, environmental protection, or the use, analysis, generation, manufacture, storage, disposal or transportation of any hazardous substance, toxic material or waste. MERCY shall not cause or permit the release or disposal of any hazardous substances, wastes or materials, on or about the Premises, including particularly but without limitation medical waste. MERCY shall in all respects comply with the requirements of the Oklahoma Solid Waste Management Act at Title 27A §§ 2-10-101, *et seq.*

ARTICLE 7

MAINTENANCE AND REPAIR OF PREMISES

7.1 Maintenance and Repair of the Premises.

MERCY agrees, throughout the Term of this Agreement, at MERCY's sole cost, risk and expense:

- (a) To take appropriate and reasonable care of the Premises, including, without limitation, custodial care and replacement of stock items as generally understood in commercial lease terms, and sightly and sanitary upkeep of the building and other improvements forming a part of the Premises and appliances and machinery therein and furniture, fixtures, equipment and personal property belonging to MERCY or the CITY therein;

- (b) Except as otherwise set forth in Sections 7.1(d) and 7.2, maintain the condition, operation, repair and maintenance of the Premises and all parts and portions thereof, including but not limited to the landscaping, the front and the exterior and interior portions of all doors and windows, all plumbing and sewage facilities serving the Premises (including assuring the free flow of the sanitary sewer line from the building on the Premises to the main line serving the Premises), fixtures and interior walls, floors, ceilings, signs (including exterior signs where permitted), and all wiring, heating, ventilation and air conditioning systems, electrical systems, sprinkler systems, interior building appliances, and similar equipment, as needed to keep the Premises in reasonable and appropriate order and condition;
- (c) Promptly, at MERCY's sole cost and expense, to make all necessary repairs to the Premises and all parts thereof, interior and exterior, structural and non- structural, ordinary as well as extraordinary, foreseen as well as unforeseen, except as otherwise provided in Sections 7.1(d) and 7.2. When used in this paragraph, the term "repairs" shall include replacements or renewals when necessary. All such repairs made by MERCY shall be at least equal in quality and class to the original construction of the building and related improvements. MERCY shall keep and maintain all portions of the Premises, including, without limitation, all sidewalk, parking, driveway and common areas, in a clean and orderly condition and at all times free from accumulation of dirt and rubbish. MERCY shall also keep the Premises in a clean, sanitary, and safe condition in accordance with the mandatory directives, rules and regulations of any health officers, fire marshals, building inspectors or other governmental officials;
- (d) Additional non-routine maintenance and repair of the Premises, to include ensuring the intended operation and function of all fixtures and capital improvements owned or installed by Lessor, shall be undertaken at the expense of the Lessee up to a maximum cost of \$1,000 per occurrence for all occurrences. Such non-routine maintenance and repair items as exceed the per occurrence cost of \$1,000 shall, to the extent of such excess, be undertaken by Lessor, provided that Lessee shall provide Lessor such documentation of the initial \$1,000 cost and the necessity of exceeding that cost as Lessor may reasonably request;
- (e) Lessor makes no representation as to operational capacity and assumes no liability for any claim resulting from deficiency in such operating capacity or for the maintenance of the on-site electrical generator; and
- (f) Lessee shall be solely responsible at its cost for all maintenance and repair of any signage on the Premises related to the operation of its business thereon (and shall ensure that all signage complies with the City of Glenpool Zoning Code, Sign Code).

7.2 CITY Upkeep. CITY shall, at CITY's expense and upon such schedule as CITY determines in its sole discretion, repaint, refurbish and remodel the Premises from time to time to assure that the Premises are kept in a tenantable and attractive condition consistent with the quality and condition of the buildings in the vicinity of the Premises, as well as the quality and condition reasonably expected of the building for its intended use. CITY shall

further, at CITY's sole expense, be responsible for repair and maintenance costs resulting from a repair or maintenance that is determined by CITY to be a design or construction defect unless such repair or maintenance is necessitated by actions or inactions of MERCY.

ARTICLE 8

ALTERATION AND INSTALLATION OF TRADE FIXTURES

8.1 Alterations. MERCY may from time to time during the term of this Agreement or any subsequent lease agreement, but at MERCY's sole cost, risk and expense, make such alterations or improvements to the Premises as may, in MERCY's opinion, be reasonably necessary or desirable for the conduct or improvement of MERCY's business, provided, that no alteration or change affecting the structural soundness of the Premises shall be made without the prior written consent of CITY. Relocation or removal of non-bearing walls or partitions shall not be deemed a material structural change requiring CITY's prior written approval. Any alterations, additions or improvements, whether requiring the prior written consent of CITY or not, shall be:

- (a) Made at MERCY's sole cost, risk and expense and CITY shall be held harmless therefrom;
- (b) Made in a good and workmanlike manner;
- (c) Made in compliance with all applicable governmental laws, ordinances, regulations or other requirements;
- (d) Made free of any liens or rights of lien;
- (e) Made using materials of a quality at least equal to that of the original construction; and
- (f) Unless CITY elects otherwise in writing at the time it approves the alteration or improvement, become CITY's property and remain upon and be surrendered with the Premises as a part thereof upon the termination of this Agreement unless superseded by the intended subsequent lease agreement all without reimbursement to MERCY for any costs of making such alterations, additions or improvements initially.

Any change or alteration, structural or otherwise, shall, when completed, be of such a character as not to affect adversely the value of the building and related improvements constituting a part of the Premises as such value existed immediately before such change or alteration nor shall the same materially reduce the gross cubic volume of floor area of the building or impair the structural strength thereof nor materially adversely affect the value of the Premises as a whole. Any change, addition or alteration to the Premises shall be subject to inspection at any time and from time to time by CITY or CITY's duly authorized representatives in order to ascertain that such work being performed is being performed in accordance with the terms and conditions hereof. Any person or firm employed by MERCY to undertake any such change, addition or alteration shall be the sole agent of MERCY and nothing herein contained, expressly or impliedly, shall be construed as authorizing any such person or firm to

perform any part of said work for or on behalf of CITY or as granting any right of lien in and to any part of the Premises. Whether any such alteration, addition or improvement to the Premises is made by MERCY, with or without the consent of CITY, any mechanic's or materialman's lien filed against the Premises or any part thereof for work claimed to have been done or materials claimed to have been furnished at the request or upon the order or direction of MERCY, its agents, employees, contractors or subcontractors shall be discharged of record by MERCY within ten (10) days thereafter at MERCY's sole cost and expense and CITY held harmless therefrom.

8.2 Trade Fixtures. MERCY shall have the right to install in or upon the Premises all trade fixtures, machinery, equipment and personal property which MERCY in its sole judgment deems necessary or desirable in the conduct of its business in or from the Premises. All trade fixtures, machinery and equipment installed or placed by MERCY on the Premises may be removed by it from time to time during the Term of this Agreement or any subsequent lease agreement, and upon the expiration of this Agreement or such subsequent lease, provided, that any damage caused to the Premises by the installation or removal of such trade fixtures, machinery, equipment and personal property shall be at once repaired by MERCY at its sole cost and expense and the Premises restored to the same condition as they were prior to the installation of said property by MERCY, usual wear and tear excepted, and further provided, that at the time of any such removal MERCY is not then in default in the terms and conditions of this Agreement beyond applicable notice and/or cure periods.

ARTICLE 9

SIGNS

9.1 Erection and Maintenance of Signs. MERCY shall have the right to erect, place and maintain on the Premises at its sole cost, risk and expense any sign or signs designating the name and type of business being conducted on the Premises by MERCY subject to the submission to and approval in writing by CITY of detailed plans for each such sign including the method of attachment of any building sign. Any license, permit or other authorization required for the erection or installation of any such sign shall be procured by MERCY at its sole cost and expense. In the installation, erection, maintenance, repair or removal of any signs of MERCY (which shall be at its sole cost, risk and expense), MERCY shall strictly comply with all applicable governmental laws, ordinances, regulations and other requirements.

9.2 Removal of Signs. MERCY at its sole cost and expense, shall remove all its signs of every nature and its name and logo from the Premises wherever it appears thereon at the termination of this Agreement or any subsequent lease agreement regardless of how such termination occurs. Installations, modifications, repairs and removal of signs bearing, MERCY's name and logo shall be made by MERCY in such manner as to avoid injury, defacement or overloading of the building and any damages caused by such installation, modification, repair or removal of such signs belonging to MERCY shall be promptly repaired by MERCY at its sole cost and expense.

ARTICLE 9
ASSIGNMENT AND SUBLETTING

6.1 Assignment or Subletting. Except as otherwise permitted by a separate writing executed by CITY, MERCY shall not:

- (a) Assign or in any other manner transfer this Agreement or any estate or interest therein;
- (b) Permit any assignment of this Agreement or any estate or interest therein by operation of law;
- (c) Sublet the Premises or any part thereof;
- (d) Grant any license, concession, or other right of occupancy of any portion of the Premises; or
- (d) Permit the use of the Premises by any parties other than MERCY, its agents and employees, without the prior written consent of CITY, which consent shall not be unreasonably withheld or delayed.

If MERCY requests CITY's consent to an assignment of this Agreement or to a subletting of Premises, MERCY shall give CITY at least thirty (30) days advance written notice identifying the name of the proposed assignee or subtenant and the nature, character, and current financials of the business of the proposed assignee or subtenant. Following receipt of that notice, CITY may, in its reasonable discretion, either consent or refuse to consent to the assignment or subleasing.

In the event CITY does give its consent to an assignment of this Agreement or a subletting of the Premises, MERCY shall pay all actual costs and expenses in connection therewith, including the reasonable attorneys' fees of CITY, any cost of renovation, altering, or decorating the Premises for a new occupant, and any leasing brokerage fees.

ARTICLE 10
TAXES AND ASSESSMENTS

10.1 Impositions. CITY is a tax exempt entity and, as such, no taxes or other impositions related to the Premises shall be due or payable from MERCY.

10.2. MERCY's Fixtures. Each calendar year MERCY shall identify all of its fixtures and equipment with applicable taxing authorities and shall pay taxes assessed thereon prior to delinquency. MERCY's taxes shall include all general and special taxes, including ad valorem taxes, assessments for local improvements and other governmental charges that are imposed upon fixtures and equipment of any type and all personal property in the Premises, and all license fees imposed upon the business of MERCY conducted within the Premises. MERCY may, with CITY's consent, which consent shall not be unreasonably withheld, contest payment of such taxes to the extent permitted by the laws of the State of Oklahoma so long as the validity

or amount thereof is contested in good faith and so long as such does not create a lien on the Premises. Prior to delinquency, MERCY shall deliver to CITY copies of paid tax receipts or other proof satisfactory to CITY evidencing the payment of all such taxes or proof as such are being contested in the manner set forth above.

ARTICLE 11

INSURANCE AND INDEMNIFICATION

11.1 Casualty Insurance. MERCY agrees, at MERCY's sole cost and expense, to keep the Premises insured at all times during the Primary Term of this Agreement and any renewals and extensions thereof, against loss or damage by fire and such other hazards and risks as are embraced from time to time by the standard extended coverage endorsement approved for use in the State of Oklahoma at the time of procurement or renewal of any such policy or policies, such insurance to be in an amount not less than the full replacement value of the Building and related improvements. The term "full replacement value" shall mean the actual replacement cost (excluding foundation, footings and excavation costs) without deduction for physical depreciation. MERCY specifically agrees that among the hazards and risks to be insured against in the subject policy shall be flood (if required), malicious mischief and vandalism. MERCY shall endorse its insurance policies to name CITY as additional insured.

11.2 Liability Insurance. MERCY agrees, at its sole cost and expense, throughout the Primary Term of this Agreement and any renewals and extensions thereof, to maintain for the mutual benefit of CITY and MERCY, comprehensive general public liability insurance on an occurrence basis against claims for bodily injury, death or property damage occurring upon or in the Premises or occurring or arising out of the use or occupancy of the Premises by MERCY, in a combined single limit amount of not less than One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) annual aggregate. The insurance coverage required shall include coverage for liability hazards as defined in the policy for premises and operations liability, products, and completed operations liability, broad form property damage, fire legal liability and blanket contractual liability. MERCY shall endorse its insurance policies to name CITY as an additional insured. The general public liability insurance policy to be maintained by MERCY may provide for a deductible or self-insured retention as is customarily provided for on insurance maintained by MERCY.

11.3 Workers' Compensation and Employer's Liability Insurance. MERCY agrees, at its sole cost and expense, throughout the Term of this Agreement and any subsequent lease agreement, to maintain statutory Worker's Compensation Insurance to the extent required by the Administrative Workers' Compensation Act at Title 85A of the Oklahoma Statutes, and Employer's Liability Insurance limits covering Bodily Injury by Accident - \$500,000.00 each accident; Bodily Injury by Disease - \$500,000.00 policy limit; Bodily Injury by Disease - \$500,000.00 each employee. The Workers' Compensation Insurance and Employer's Liability Insurance to be maintained by MERCY may provide for a deductible or self-insured retention to the extent customarily provided for on insurance maintained by MERCY. If MERCY has

documentation that indicates that it is exempt from Administrative Workers' Compensation Act liability insurance and has attached said documentation to this Agreement document.

11.4 Business Automobile Liability Insurance. MERCY agrees, at its sole cost and expense, throughout the Term of this Agreement and any subsequent lease agreement, to maintain business automobile liability insurance on a standard form approved by the Oklahoma Department of Insurance, written to cover all owned, hired or non-owned automobiles, subject to minimum limits of \$1,000,000.00 Combined Single Limit Each Accident.

11.5 Professional Liability Insurance. MERCY agrees, at its sole cost and expense, throughout the Term of this Agreement and any subsequent lease agreement, to maintain Professional Liability Insurance with policy limits of not less than \$1,000,000.00 per occurrence and not less than \$3,000,000.00 annual aggregate.

11.6 Nature of Insurance Policies. All insurance provided for in this Article 11 shall be effected under valid and enforceable policies issued by insurers of recognized responsibility duly authorized to do business in the State of Oklahoma with a minimum financial rating of A-VII by A.M. Best. Upon execution of this Agreement, CITY and MERCY shall each deliver to the other certificates duly issued by the respective insurers evidencing that all insurance required to be maintained by such party hereunder is in full force and effect and all premiums therefor have been fully and timely paid. Policies shall contain an endorsement that the insurer will provide prior written notice of at least thirty (30) days' notice in the event of cancellation. Prior to the expiration of any such insurance policy, certificates evidencing the renewal thereof shall be delivered to each of CITY and MERCY reflecting thereon that all premiums therefor have been fully and timely paid.

11.7 Conditions of Policies. The general liability insurance required to be maintained by MERCY hereunder shall designate CITY as an additional insured as its respective interests may appear and may be carried under blanket policies maintained by MERCY if such policies comply with the provisions of this Article 11. The fire and extended coverage policy to be maintained by CITY hereunder may provide for such deductible as is customarily provided for insurance maintained by CITY with respect to similar properties owned or leased by it, and such policy shall provide for a reserved amount thereunder with respect to the Premises so as to assure that the amount of such insurance required hereunder will be available notwithstanding any losses with respect to other property covered by such blanket policy or policies. Insofar as said fire and extended coverage insurance policy is concerned, the same shall:

- (a) Contain a standard mortgagee endorsement in favor of the holder or holders of any mortgage lien or security interest in or against the Premises with loss payable to such holder or holders for application as provided in Article 12 below;
- (b) Provide for the benefit of CITY, MERCY and such holder or holders, that the insurer shall endeavor to provide prior written notice of cancellation, termination, or lapse of coverage shall be given, and

- (c) Shall not contain any provision relieving the insurer thereunder of liability for any loss by reason of the existence of other policies of insurance covering the Premises against the hazards or risks involved, whether collectible or not.

All such policies of insurance shall provide that any loss shall be payable as therein provided notwithstanding any act or negligence of CITY or any occupant of the Premises which might otherwise result in a forfeiture of said insurance.

11.8 Adjustment of Losses. Any loss under any fire and extended coverage policy or policies provided for in this Article 11 shall be adjusted with the insurance company or companies by CITY and MERCY and the loss as so adjusted shall be paid to CITY and deposited and held by CITY in a special trust account for use as provided by the terms of Article 12 below.

11.9 Indemnification of CITY. MERCY hereby agrees fully to indemnify and defend CITY and save CITY harmless from and against any and all claims, demands, actions, damages, liability and expense (including reasonable attorney's fees and costs of investigation with respect to any claim, demand or action) in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in, upon or at the Premises or arising, directly or indirectly, from the condition, occupancy or use by MERCY of the Premises or any part thereof, or occasioned wholly or in part by any act or omission of MERCY, its agents or employees. This indemnification shall not apply to damages caused by the gross negligence or willful misconduct of CITY or CITY's agents, invitees or employees.

CITY shall indemnify MERCY and save MERCY harmless from and against any and all claims, demands, actions, damages, liability and expense (including reasonable attorney's fees and cost of investigation with respect to any claim, demand or action) in connection with CITY's acts or omissions, or the acts or omissions of CITY's employees, invitees, agents, or contractors, on or about the Premises.

11.10 MERCY's Insurance on Its Property. MERCY shall keep all its fixtures, merchandise, equipment and other personal property insured against loss or damage by fire with the usual extended coverage endorsements (including sprinkler leakage coverage) and business interruption insurance. MERCY assumes all risk of damage to its own property arising from any cause whatsoever, including loss by fire, theft, or otherwise, except to the extent occasioned by the negligence or willful misconduct of CITY or CITY's agents.

11.11 Waiver of Subrogation. All policies carried pursuant to the terms of this Agreement shall contain a waiver of subrogation clause so long as permitted pursuant to the terms of such policy at no additional expense to the insured Party.

ARTICLE 12

Damage or Destruction of Building and Related Improvements

12.1 Repair or Replacement of Building and Related Improvements. In the event that the building or any related improvements presently forming a part of the Premises shall be damaged or destroyed, regardless of the cause therefore, MERCY covenants and agrees that it will promptly restore, replace, repair, rebuild or alter the same as nearly as possible to the condition the same was in immediately prior to such damage or destruction. Such restoration, repairs, replacements, rebuilding or alterations, shall be commenced promptly and continuously prosecuted with reasonable diligence to completion subject only to delays occasioned by causes beyond the reasonable control of MERCY or its contractors. In connection with any such restoration, repairs, replacements, rebuilding or alterations, MERCY agrees:

- (a) No such work shall be undertaken until MERCY shall have procured all municipal and other governmental permits and authorizations of the various municipal departments and governmental subdivisions having jurisdiction relating thereto or to any phase thereof;
- (b) All such work shall be performed promptly and in a good and workmanlike manner utilizing first class workmen, equipment and materials and in compliance with all building and zoning laws and with all other laws, ordinances, orders, rules, regulations and requirements of all governmental agencies, departments or offices thereof and in accordance with the orders, rules and regulations of the Board of Fire Underwriters or such other body exercising similar functions and upon completion, CITY, upon written request from MERCY, shall furnish MERCY with a copy of all approvals or letters of compliance from the appropriate governmental authorities having jurisdiction over the work including any requisite certificate of occupancy; and
- (c) If any materialman's or mechanic's or other liens are filed against the Premises by reason of any such work set forth above, such lien shall be discharged of record by CITY within thirty (30) days after the filing thereof by payment or bonding as required by law.

12.2 Use of Insurance Proceeds. Unless otherwise provided by the terms of any existing mortgage of Premises, all insurance money recovered by CITY/MERCY or its mortgagee on account of such damage or destruction, less the cost, if any, of recovery of any such money by suit or otherwise, shall be held in a special "Joint" trust account by CITY/MERCY and used by CITY/MERCY from time to time during the progress of the restoration, repair or replacement work, with written authorization from both parties.

12.3 Time of Damage or Destruction. Notwithstanding the foregoing provisions of this Article 12, if, within one (1) year prior to the expiration of the Term of this Agreement or during any subsequent lease agreement, the building shall be destroyed or damaged by fire or other casualty so as to render at least fifty percent (50%) of the floor area of the building untenable, and provided that at the time of such destruction or damage MERCY shall not be in default hereunder beyond any applicable notice and/or cure periods, MERCY shall have the option of:

- (a) Causing CITY to restore, repair, replace, rebuild or alter the building and related improvements as, provided, MERCY advises CITY in writing of its intent to exercise its option to renew the Agreement; or
- (b) Of terminating this Agreement, PROVIDED, MERCY shall, within ninety (90) days after such destruction or damage, give CITY notice as of the date, to be specified in said notice, which date shall not be less than ten (10) days from the date of said notice, that MERCY elects to terminate this Agreement or any subsequent lease agreement. In the event of such termination, CITY shall not be required to restore, repair, replace, rebuild or alter the building and related improvements or to pay the cost thereof.

If MERCY does not elect to cause CITY to restore the building and related improvements but instead to terminate this Agreement or any subsequent lease agreement, MERCY will nevertheless be obligated upon such termination to assist CITY in recovery of the proceeds of CITY's insurance covering the building and improvements. MERCY's right to terminate this Agreement as in this Section provided shall be subject to the condition that MERCY pay all rents and all other financial obligations payable by MERCY hereunder up to the date specified in the notice of termination given by MERCY to CITY, such payment to be made simultaneous with the giving of such notice of termination.

12.4 Release of MERCY's Obligations. Except as otherwise specifically provided, it is expressly understood and agreed that no loss or destruction of or damage to the Premises from whatsoever cause shall operate to terminate this Agreement or to relieve or discharge MERCY from its liability to pay all Rents and financial obligations payable under the terms of this Agreement or to relieve MERCY from any of its other obligations hereunder and MERCY waives any right now or hereafter conferred upon it, whether by statute or otherwise, to surrender this Agreement or possession of the Premises or any part thereof or to obtain any suspension, diminution, abandonment or reduction of Rent on account of any such loss, damage or destruction to the Premises or any property of MERCY, except to the extent CITY shall have received insurance proceeds for such Rent or as expressly provided in this Agreement.

ARTICLE 13

Subordination; Non Disturbance

13.1 Subordination to Mortgage; Non-disturbance of MERCY. CITY hereby reserves the irrevocable and unconditional right and authority to subject and subordinate this Agreement and all rights and interests herein at all times to the lien of any mortgage or mortgages or any renewals, modifications, amendments, consolidations, replacements and extensions thereof at any time and from time to time hereafter placed by CITY upon the Premises or any part thereof. MERCY agrees to execute and deliver any other or further instrument which may be reasonably required by CITY or any mortgagee of CITY in confirmation of such subordination promptly upon CITY's request. Provided, CITY will arrange with the

holder of any such mortgage for a written agreement that, if by foreclosure or otherwise, such holder or any successor in interest shall become the owner of the Premises, it will not disturb the possession, use or enjoyment of the Premises by MERCY or disaffirm this Agreement or MERCY's rights or estate hereunder so long as MERCY is not in default in any material respect in its covenants, agreements and obligations contained in this Agreement beyond any applicable notice and/or cure periods, and so long as all of the covenants, agreements and obligations of MERCY herein are timely and fully performed strictly in accordance with the terms and conditions of this Agreement.

13.2 Attornment by MERCY. MERCY shall attorn to any subsequent owner/purchaser of the Premises, by sale, foreclosure, power of sale under a mortgage, or otherwise, and recognize the subsequent owner/purchaser as MERCY's lessor under this Agreement, subject to the written non-disturbance agreement referenced in Section 13.1.

ARTICLE 14

Estoppel Certificate

14.1 Execution and Delivery of Estoppel Certificate. MERCY agrees that, throughout the Term of this Agreement or any subsequent lease agreement, within fifteen (15) days of request by CITY or a mortgagee of CITY or a prospective purchaser of the Premises, it will sign and deliver a certificate stating in substance (if such be the case):

- (a) The Agreement is in full force and effect and has not been modified, changed, altered or amended in any respect (unless there is such a modification, in which event a copy thereof shall be furnished by MERCY or the certificate shall so state); and
- (b) Copies of the Agreement and any modifications have been provided to MERCY; and
- (c) MERCY has accepted possession and now conducts business in the Premises; and
- (d) All conditions of the Agreement to be performed by CITY prerequisite to the full effectiveness of the Agreement have been satisfied; and
- (e) That MERCY has no defenses or offsets to full and timely performance of its covenants, agreements and obligations under this Agreement as of the date of such certificate;
- (f) That MERCY has no knowledge of any default by MERCY or CITY in the terms of this Agreement (unless such a default exists in which case the same shall be detailed in such certificate); and
- (g) Such other and further reasonable information as CITY or a mortgagee of CITY or a prospective purchaser of the Premises may specifically request of MERCY.

It is specifically understood and agreed by MERCY that after delivery of such certificate by it, MERCY will be estopped from asserting any claim or defense known to MERCY prior to the date of any such certificate contrary to the terms hereof, as against the person or legal entity to whom such certificate is addressed.

ARTICLE 15

CITY and CITY's Mortgagee's Right to Perform MERCY's Covenants

15.1 Right to Perform MERCY's Covenants. MERCY agrees that, if it shall at any time fail to take out, pay for, maintain or deliver any of the insurance policies required by the terms hereof, or to cause any lien to be discharged as herein provided, or shall fail within the time allowed after notice of any default has been given to make any other payment or perform any other act on the part of MERCY agreed by it herein to be made or performed, then CITY or any mortgagee of CITY may, but shall not be obligated to do so, and without further notice to or demand upon MERCY and without waiving or releasing MERCY from any obligations of MERCY contained in this Agreement and without waiver of any other remedy or right granted CITY by the terms of this Agreement:

- (a) Take out, pay for, maintain or deliver any of the insurance policies provided for herein; or
- (b) Discharge any lien of any character permitted to be filed against the Premises by MERCY and not discharged by it as herein provided; or
- (c) Make any other payment or perform or oppose to be performed any other act on MERCY's part to be made or performed as in this Agreement provided.

All sums so paid by CITY or CITY's mortgagee and all costs and expenses incurred by CITY or CITY's mortgagee in performing or causing to be performed acts on MERCY's part to be made or performed hereunder, together with all necessary incidental costs and expenses in connection with the payment of any such sum or performance of any such act by CITY or its mortgagee, including reasonable attorney's fees, together with interest on all such sums at the rate of eighteen percent (18%) per annum from the date of making such expenditure by CITY or its mortgagee, at the option of CITY or its mortgagee, shall be payable by MERCY to CITY or to CITY's mortgagee, whichever is applicable, as additional rent hereunder and shall be due and payable on demand, and MERCY agrees to pay any such sum or sums with interest as aforesaid. CITY shall have, in addition to any other right or remedy of CITY granted by law, the same rights and remedies in the event of nonpayment of any such additional rent by MERCY as in the case of default by MERCY in the payment of rent payable under the terms hereof. Neither CITY nor CITY's mortgagee shall be required to inquire into the correctness of the amount or validity of any obligation or lien which may be paid by CITY or its mortgagee hereunder and shall have full authority in CITY's or its mortgagee's sole judgment and discretion to settle or compromise any of the same.

ARTICLE 16
Default of MERCY

16.1 Events of Default. The following events shall be deemed to be Events of Default by MERCY under this Agreement:

- (a) MERCY shall fail to pay when due any rents or installments or MERCY shall fail to comply with any term, provision or covenant of this Agreement other than the payment of rent or other financial obligations and shall not commence to correct such failure within thirty (30) days after written notice thereof to MERCY, or, having so commenced to correct such failure, neglects and fails to prosecute such correction continuously with due diligence to completion; or
- (b) MERCY shall apply for, or consent in writing to the appointment of a receiver, trustee or liquidator of MERCY or of all or substantially all of its assets or
- (c) MERCY shall file a voluntary petition in bankruptcy or admit in writing its inability to pay its debts as they become due; or
- (d) MERCY shall make a general assignment for the benefit of its creditors; or
- (e) MERCY shall file a petition or an answer seeking reorganization or arrangement with creditors or to take advantage of any insolvency law; or
- (f) MERCY shall file an answer admitting the material allegations of a petition filed against MERCY in any bankruptcy, reorganization or insolvency proceedings; or
- (g) If a levy under execution or attachment shall be made against MERCY or any of its property and such execution or attachment shall not be vacated or removed by court order, bonding or otherwise within a period of thirty (30) days after such levy; or
- (i) If an order, judgment or decree shall be entered by any court of competent jurisdiction on the application of a creditor adjudicating MERCY a bankrupt or insolvent, or approving a petition seeking reorganization of MERCY or appointing a receiver, trustee or liquidator of MERCY, or of all or substantially all of its assets, and such order, judgment or decree shall continue un-stayed and in effect for any period of sixty (60) or more consecutive days.

16.2 Remedies of CITY. Upon the occurrence of any of the aforesaid Events of Default, CITY shall have the option to pursue any one or more of the following remedies without any further demand or notice whatsoever:

- (a) Terminate this Agreement, in which event MERCY shall immediately surrender the Premises to CITY and, if MERCY fails to do so, CITY may, without prejudice to any other remedy which CITY may have for possession or arrearages in Rent, enter upon and take possession of the Premises and expel or remove MERCY and any other person who may be occupying the Premises or any part thereof; and MERCY agrees to pay to CITY on demand the amount of all loss and damage which CITY

may suffer by reason of such termination, whether through inability to re-let the premises on satisfactory terms or otherwise. Said damages shall include, without limitation, any costs of remodeling or redecorating of the Building forming a part of the Premises, loss of Rents, attorney's fees and expenses and, in general, all losses and damages of every nature which CITY may suffer by reason of such termination or

- (b) Without terminating this Agreement, enter upon and take possession of the Premises and expel or remove MERCY and any other person who may be occupying the Premises or any part thereof and re-let the Premises and receive the rent therefor; and MERCY agrees to pay to CITY on demand any deficiency that may arise by reason of such re-letting together with all costs and expenses incurred by CITY in real estate commissions, remodeling or renovation of the Premises or otherwise; or
- (c) Without terminating this Agreement, enter upon the Premises and do whatever MERCY is obligated to do under the terms of this Agreement, and MERCY agrees to reimburse CITY immediately on demand for any expenses which CITY may incur in thus effecting compliance with MERCY's obligations under this Agreement, together with interest thereon as in this Agreement provided and MERCY further agrees that CITY shall not be liable for any damages resulting to MERCY from such action, whether caused by the negligence of CITY, or CITY's agents, servants or employees, or otherwise.

Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to CITY hereunder or of any of the damages accruing to CITY by reason of the violation of any of the terms, provisions and covenants herein contained. CITY shall take reasonable steps to mitigate CITY's damages. Failure or delay by CITY to enforce one or more of the remedies herein provided or provided by law upon an event of default shall not be deemed or construed to constitute a waiver thereof or preclude the exercise thereof during the continuance of any default hereunder or be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions and covenants herein contained.

16.3 Remedies Cumulative. The specific remedies to which CITY may resort under the terms of this Agreement are cumulative and are not intended to be exclusive of any other remedies or means of redress to which CITY may be lawfully entitled in case of any breach or threatened breach of any provision of this Agreement. The failure of CITY to enforce in any one or more cases the strict performance of any of the covenants of this Agreement or to exercise any option herein contained shall not be construed as a waiver or relinquishment for the future of such covenant or option. A receipt by CITY of rent with knowledge of the breach of any covenant or agreement hereof shall not be deemed a waiver of such breach. In addition to the other remedies in this Agreement provided, CITY shall be entitled to the restraint by injunction of the violation or attempted or threatened violation by MERCY of any of the covenants, conditions or provisions of this Agreement or to a decree compelling specific performance of

any of such covenants, conditions or provisions, and in any such equitable proceeding, MERCY hereby waives the defense that CITY has a speedy or adequate remedy at law.

16.4 Attorney Fees. If on account of any breach or default by MERCY in its obligations under the terms and conditions of this Agreement, it shall be reasonably necessary or prudent for CITY to employ an attorney to enforce or defend any of CITY's rights or remedies hereunder, MERCY agrees to pay any reasonable attorney's fees incurred by CITY in such connection. Likewise, MERCY agrees to pay all costs, charges and expenses which may be incurred by CITY in the enforcement of MERCY's obligations hereunder or in pursuit of any remedies granted CITY herein or by law.

ARTICLE 17

Default of CITY

17.1 Events of Default. If CITY shall fail to perform any term or provision under this Agreement required to be performed by CITY, CITY shall not be deemed to be in default hereunder nor subject to any claims for damages of any kind, unless such failure shall have continued for a period of thirty (30) days after written notice thereof by MERCY; provided, if the nature of CITY's failure is such that more than thirty (30) days are reasonably required in order to cure, CITY shall not be in default if CITY commences to cure such failure within such thirty (30) day period, and thereafter diligently and continuously pursues such cure or correction to completion. The aforementioned periods of time permitted for CITY to cure shall be extended for any period of time during which CITY is delayed in, or prevented from, curing due to fire or other casualty, shortages of equipment or materials, governmental requirements, power shortages or outages, acts or omissions by MERCY or other Persons, and other causes beyond CITY's reasonable control.

17.2 Limitation of Damages. MERCY agrees to look solely to CITY's interest in the Premises (including any revenue, sales, insurance or condemnation proceeds related thereto) for the recovery of any monetary judgment against CITY. Neither CITY nor any member, owner, officer or director of CITY shall ever be personally liable to MERCY for the payment of any monetary judgment of MERCY or any costs or attorney's fees thereon. This provision does not limit any right that MERCY might otherwise have to obtain injunctive or other relief so long as such relief would not require CITY to respond in monetary damages from assets other than CITY's interest in the Premises. In no event shall CITY or any agent, officer or employee of CITY be liable to MERCY for any indirect, special or consequential damages.

ARTICLE 18

Miscellaneous Provisions

18.1 Holding Over. If MERCY remains in possession of the Premises or any portion thereof after the expiration of this Agreement, and without the execution of a new lease

agreement, it shall be deemed to be occupying the Premises as a tenant from month to month but subject to all of the conditions, provisions and obligations of this Agreement insofar as the same are applicable to a month to month tenancy, save and except that, during such holdover period, monthly rent installments shall be in an amount equal to one hundred fifty percent (150%) of the monthly rent installment payable for the last calendar month of the Term of this Agreement, and save and except that MERCY shall not be entitled to any renewal rights which may be contained in this Agreement or any subsequent lease agreement. The foregoing provision shall not serve as permission for MERCY to hold-over nor serve to extend this Agreement.

18.2 Notices and Communications. All notices or other communications which may be given or which are required to be given hereunder by either Party to another and any exercise of a right granted herein shall be deemed duly given, served or exercised when reduced to writing, dated and either:

- (a) Personally delivered to the intended recipient(s) at the addresses specified below;
- (b) Sent by certified or registered mail, return receipt requested, postage prepaid, addressed to the intended recipient(s) at the address specified below; or
- (c) Deposited into the custody of a nationally recognized overnight delivery service addressed to the intended recipient(s) at the address specified below.

Notices shall be deemed effective on the date of delivery or receipt, or, if delivery is not accepted, on the earlier of the date that delivery is refused or three (3) days after the date the notice or other communication is mailed. For purposes of this Section 18.2, the addresses of the parties for all notices or other communications hereunder are as follows (unless changed by similar notice in writing given by the particular Party whose address is to be changed):

LESSOR: City of Glenpool
Attn: City Manager
12205 S. Yukon Avenue
Glenpool, OK 74033

LESSEE: Centurion Health Systems, Inc., d/b/a Mercy Regional of
Oklahoma
Attn: Director
9106 N. Garnett Rd
PO Box 2398
Owasso, OK 74055

18.3 Applicable Law. This Agreement shall be governed by and enforced and construed under the laws of the State of Oklahoma. Venue for all actions shall be in Tulsa County, Oklahoma. For the purposes of construction and enforcement of the provisions hereof, this Agreement shall be conclusively deemed to have been prepared jointly by the Parties hereto and not by any one party to the exclusion of the other Parties hereto.

18.4 Recording – Memorandum of Agreement. This Agreement shall not be recorded but, at the request of either CITY or MERCY, the other party shall execute, acknowledge before a notary public and deliver a memorandum of lease that may be recorded.

18.5 Insufficient Payment or Delay in Payment of Rent or Other Financial Obligations. No payment by MERCY or receipt by CITY of a lesser amount than the rent or other financial obligations herein agreed to be paid by MERCY shall be deemed to be other than on account of the earliest rent or related financial obligation due hereunder. No endorsement or statement on any check or any communication accompanying any check or other form of payment by MERCY to CITY shall be deemed an accord and satisfaction and CITY may accept such check or other form of payment without prejudice to CITY's right to recover the balance of such rent or other financial obligation or pursue any other remedy in this Agreement or by law provided.

18.6 Quiet Enjoyment. Upon payment by MERCY of all rents payable hereunder and observance and performance of all its covenants and agreements herein contained, MERCY shall peaceably and quietly hold and enjoy the Premises for the term herein demised without hindrance or interruption by CITY or any person or entity claiming by, through or under CITY subject, nevertheless, to the terms and conditions of this Agreement.

18.7 Time of the Essence. It is mutually agreed that time is of the essence in the performance by each and both parties of each and every term, covenant and condition of this Agreement.

18.8 Entirety. This Agreement constitutes the entire understanding and agreement by and between the parties hereto relative to the subject matters herein set forth. There are no terms, obligations, covenants, statements, representations, warranties or conditions relating to the subject matters hereof other than those specifically contained herein. This Agreement supersedes all prior oral or written negotiations, agreements and covenants relative to the subject matters herein contained.

18.9 Amendment and Waiver. No amendment or modification hereof will be deemed valid unless first reduced to writing and dated and signed by the parties hereto. No waiver of any of the provisions of this Agreement shall be valid unless such waiver is in writing duly executed and dated by the Party or Parties sought to be charged therewith.

18.10 Duplicate Originals. Any fully executed copy of this Agreement shall be deemed for all purposes as a duplicate original.

18.11 Captions. The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement or the scope or content of any of its provisions.

18.12 Partial Invalidity. If any provision(s) of this Agreement or the application thereof to any Party or circumstance shall be determined by final decree of any court of competent

jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstance, other than those as to which it is determined invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law unless such provision or the application of such provision is essential to the preservation of a material right or consideration of any Party to this Agreement.

18.13 Binding Effect. This Agreement shall be binding upon and inure to the benefit of each of the parties hereto, their respective successors and assigns except as otherwise herein expressly provided or limited.

18.14 Approval or Consent. Except as provided otherwise in this Agreement, in any event in which CITY or MERCY is required to provide consent or approval, such consent or approval shall not be unreasonably withheld, conditioned or delayed.

18.15 Representations and Warranties.

(a) CITY represents and warrants that:

- (i) CITY holds fee simple title to the Premises;
- (ii) CITY has the authority to enter into this Agreement and the officer signing this Agreement on behalf of CITY has the power and authority to sign this Agreement on behalf of CITY. No consent of any third party is required in order for CITY to enter into this Agreement and perform CITY's obligations hereunder;
- (iii) Neither the execution nor delivery of this Agreement by CITY nor the performance by it pursuant to this Agreement of its obligations herein will result in a violation or breach of any terms or provisions or constitute a default under any agreement to which CITY is a party;
- (iv) There are no zoning ordinances or building or use restrictions affecting the Premises that would interfere with the use of the Premises for the purposes permitted by this Agreement; and
- (v) There are no underlying or superior leases with respect to the Premises.

(b) MERCY represents and warrants that:

- (i) MERCY has the authority to enter into this Agreement and the officer signing this Agreement on behalf of MERCY has the power and authority to sign this Agreement on behalf of MERCY. No consent of any third party is required in order for MERCY to enter into this Agreement and perform MERCY's obligations hereunder;
- (ii) Neither the execution nor delivery of this Agreement by MERCY nor the performance by in pursuant to this Agreement of its obligations herein will

result in a violation or breach of any terms or provisions or constitute a default under any agreement to which MERCY is a party; and

- (iii) There are no actions or proceedings pending or to MERCY's knowledge, threatened against MERCY which may in any manner whatsoever affect the validity or enforceability of this Agreement.

***[Signatures on Following Page
Remainder of this Page Intentionally Blank]***

IN WITNESS WHEREOF, this Agreement has been executed as noted below, and effective as of the signed by the City of Glenpool.

LESSOR:
City of Glenpool

_____	_____
Timothy L. Fox, Mayor	Date

LESSEE:
Centurion Health Systems, Inc., d/b/a Mercy Regional of Oklahoma

_____	_____
Brian Cook, Director	Date

ATTEST:

_____	[SEAL]
Susan White, City Clerk	

APPROVED AS TO FORM:

Lowell Peterson, City Attorney

AGREEMENT

This Agreement (“Agreement”) AGREEMENT made and entered into this ____ day of _____, 2016, by and between RURAL WATER DISTRICT NO. 2, CREEK COUNTY, OKLAHOMA, a state agency created pursuant to the Oklahoma Rural Water Sewer and Solid Waste Management District Act, as amended (82 O.S. § 1324.1, et seq.) (“Creek-2”), the CITY OF GLENPOOL, a municipal corporation duly organized and operating pursuant to Article X of the Oklahoma Municipal Code, as amended (11 O.S. §§ 10-101, et seq.) (the “City”) and the GLENPOOL UTILITY SERVICES AUTHORITY, a trust for furtherance of public functions created pursuant to 60 O.S. §§ 176, et seq., as amended (the “Authority”). Creek-2, City and Authority are each individually referred to as a “Party;” City and Authority are collectively referred to as “Glenpool;” and Creek-2 and Glenpool are collectively referred to as the “Parties.”

RECITALS

- A. Creek-2 and Glenpool each operate separate and distinct water distribution systems which provide potable water to their respective users/customers.
- B. Creek-2 and Glenpool, agree that Creek-2 will provide potable water service to the property identified in the attached **Exhibit 1** (the “Property”).
- C. Creek-2 and Glenpool also agree, in order to facilitate the provision of Fire Protection Service by Glenpool, as defined herein, for Glenpool to attach fire hydrants to water mains/lines installed on the Property at locations to be mutually agreed upon.
- D. As a condition to approval of the final plat and before any building permit is issued to the Developer by any agency of the City, the Developer shall dedicate/transfer/convey the water mains/lines and other infrastructure required by Creek-2 installed on the Property (and any main/line extension to the Property from water mains/lines owned by Creek-2) to Creek-2. As a further condition to approval of the final plat and before any building permit is issued to the Developer by any agency of the City, the Developer shall dedicate/transfer/convey the fire hydrants, pressure sustaining valve and meter described herein installed on the Property (and any main/line extension to the Property from water mains/lines owned by Glenpool) to Glenpool.
- E. From time to time, Glenpool may require emergency supplies of water to serve fire hydrants owned and operated by Glenpool and for Fire Protection Service, as defined herein, provided by Glenpool to the Property.
- F. Glenpool and Creek-2 agree by this Agreement to require the Developer, as a condition of development, the installation of one auxiliary water connection utilizing a “one-way” pressure sustaining valve (said one-way device hereafter referred to as the “pressure sustaining valve”) and one meter connected to the pressure sustaining valve, to provide for emergency water to be transported through water lines owned by Creek-2 for use relative to the operations of Glenpool’s fire hydrants and Fire Protection Service provided by Glenpool (and

other uses specified or provided for herein) and to measure such usage, in the event of an unexpected or catastrophic drop in pressure.

G. The Parties anticipate that the pressure sustaining valve may on occasion provide emergency water to be transported and metered through the foregoing water mains/lines owned by Creek-2 due to an unexpected or catastrophic drop in pressure related to the operation of Glenpool's fire hydrants and Fire Protection Service.

H. This Agreement is intended to govern the arrangement whereby Glenpool may require the Developer of the Property to extend and connect Glenpool water lines lying outside the Property to be connected (using the said one-way pressure sustaining valve) to a water main/line owned by Creek-2 located on the Property for the purpose of providing an emergency source of water associated with Fire Protection Service, as defined herein.

AGREEMENT

NOW, THEREFORE, in consideration of the recitals above which are deemed part of this Agreement and the mutual covenants and agreements herein contained and for such other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged as valuable consideration, the Parties hereto agree as follows:

ARTICLE 1: DEFINED TERMS

1.01 The capitalized word "**Property**," for purposes of this Agreement, means and refers to the land specifically identified by **Exhibit 1**.

1.02 "**Potable Water**" means and refers to household and other domestic uses other than water used for Fire Protection Service.

1.03 "**Fire Protection Service**" means and refers to the provision of water, personnel and equipment appropriate for fighting fires at or on the Property.

1.04 "**Developer**" means and refers to the person or entity which has submitted, or will submit, plans for the development of the Property in conformance to the provisions of this Agreement.

1.05 "**Delivery Point**" means and refers to that location either outside of or within the Property at which the subject Glenpool water line connects to Creek-2 water main/line on or adjacent to the Property by way of passing through the one-way pressure sustaining valve mechanism and meter device provided for in this Agreement.

ARTICLE 2: SERVICES

2.01 Creek-2 shall be the sole and exclusive Potable Water provider to the Property and shall be the sole owner of all water mains/lines installed on the Property (and such other

infrastructure as may be required of the Developer by Creek-2), including any main/line extensions required of the Developer or thereafter separately installed by Creek-2.

2.02 Glenpool shall be solely responsible for providing Fire Protection Service to and within the Property.

2.03 Creek-2 shall require that the Developer of the Property install water mains/lines within the Property (and such other off-site water mains/lines and other infrastructure as Creek-2 shall require) of not less than six-inches (6”) in diameter or greater to be determined/approved by Creek-2’s engineer, and such mains/lines (and other on-site and off-site infrastructure as required by Creek-2) shall be dedicated/transferred/conveyed to Creek-2, at no cost to Creek-2 subject to the normal and customary warranties to be provided by the Developer associated with the dedication of water mains/lines to Creek-2.

2.04 Glenpool shall require, as a condition of final plat approval and the issuance of a building permit, the Developer to pay for, install and dedicate/transfer/convey to Glenpool the pressure sustaining valve, meter and fire hydrants needed to effectuate this Agreement, all meeting Glenpool’s requirements, including Glenpool’s municipal codes as the same may hereafter be amended, to be connected to the water mains/lines to be constructed by the Developer and dedicated/transferred/conveyed to Creek-2. Such pressure sustaining valve, meter and fire hydrants shall be dedicated/transferred/conveyed to Glenpool and shall be solely owned by Glenpool, and Glenpool shall be solely responsible to maintain such pressure sustaining valve, meter and fire hydrants, at Glenpool’s sole cost and expense, subject to the normal and customary warranties to be provided by the Developer associated with the dedication of such pressure sustaining valve, meter and fire hydrants to Glenpool.

2.05 Glenpool agrees to inspect and repair any fire hydrant installed on the Creek-2 water lines situated on the Property in a timely manner and, if not timely repaired after Creek-2 or any third party gives notice to Glenpool of an actual need for repair, Glenpool agrees to reimburse Creek-2 for any cost incurred by Creek-2 by reason of repairing Glenpool’s fire hydrants to the extent necessary to remedy water leaks occurring at the connection to or within the fire hydrants. “Timely manner” shall mean within no more than 48 hours following such notice. If a fire hydrant is leaking or otherwise malfunctioning in a way that water is escaping therefrom, Creek-2 is authorized to immediately shut off the fire hydrant and give Glenpool reasonably prompt notice of the leak or malfunction and that the water supply to the fire hydrant has been shut-off. Glenpool shall be responsible for the maintenance and repair or replacement of the pressure sustaining valve as needed to ensure operational soundness, and shall calibrate and test the valve once every five years or sooner if the need arises due to a malfunction.

2.06 In order to ensure a sufficient supply of emergency water for Fire Protection Service, Glenpool shall require the Developer to install, at the Developer’s cost, a connection of Glenpool’s water facilities to the on-site water facilities of Creek-2, having a “one-way” pressure sustaining valve which will enable Glenpool to provide additional water for Fire Protection Service, if needed, and also having a meter to measure any water flow from Glenpool water lines into Creek-2 water lines. This valve will be designed to open and remain open if the water

pressure within the Property falls below 25 pounds per square inch ("25 psi") for any reason, whether or not related to Fire Protection Service.

2.07 Creek-2 shall be permitted to utilize any fire hydrant on the Property for the purpose of flushing and testing the Creek-2 water lines on a periodic basis consistent with state law requirements and policies adopted by Creek-2. Creek-2 shall maintain adequate documentation of any such testing for disclosure to Glenpool in the event that a billing dispute should arise.

2.08 The water which passes through the pressure sustaining valve will be metered, and if it opens for any reason other than (a) a Fire Protection Service event; or (b) as a result of Glenpool's testing, flushing or maintaining its fire hydrants; or (c) a malfunction or defect in the pressure sustaining valve mechanism that causes an unintentional discharge of water from Glenpool water lines into Creek-2 water lines; or (d) any use of the fire hydrants by Creek-2 for the purpose of testing and flushing its water lines, as provided by Section 2.07 above; or (e) water leaking from a fire hydrant or the connection point of the fire hydrant, which is not the fault of Creek-2, Glenpool will invoice Creek-2 and Creek-2 will pay for such water which passes through the meter at the rate charged by the City of Tulsa/Tulsa Public Works Authority to Glenpool for such water (i.e. Glenpool's cost). For the avoidance of doubt, Creek-2 is not responsible for paying for water which may flow through the pressure sustaining valve or meter if such flow is the result of: a Fire Protection Service event; Glenpool's testing, flushing or maintaining its fire hydrants; malfunction or defect in the pressure sustaining valve; Creek-2's testing and flushing its water lines; or water leaking from a fire hydrant or the connection point of the fire hydrant, for which Creek-2 is not at fault.

2.09 Glenpool shall be responsible for periodically flushing, testing and maintaining Glenpool's fire hydrants within the Property in accordance with a schedule and using a procedure that are consistent with the schedule and procedures used throughout the Glenpool water distribution system for such flushing, testing and maintenance of fire hydrants. In no case will Glenpool either be charged or charge any party for water that passes through Glenpool's fire hydrants, whether for Fire Protection Service or for such flushing, testing and maintenance. Glenpool shall maintain adequate documentation of any such uses for Fire Protection Services, flushing, testing and maintenance for disclosure to Creek-2 in the event that a billing dispute should arise.

2.10 The Delivery Point, as defined herein, for the pressure sustaining valve and meter shall be established by mutual agreement and shall be at or near the point at which Creek-2's facilities enter into the Property, and shall be on-site, i.e., within the Property unless the Parties agree to a different location.

ARTICLE 3: TERM

3.01 Effective Date: This Agreement shall become effective immediately upon approval and execution by the Parties hereto.

3.02 Term: This Agreement shall remain in effect for forty (40) years and shall automatically renew annually thereafter unless any Party to this Agreement provides written notice of its intent to terminate this Agreement, not less than 24 months prior to the expiration of the Term or any renewal period.

ARTICLE 4: METERING

4.01 Glenpool covenants to operate and maintain, at Glenpool's expense, the pressure sustaining valve, meter and fire hydrants installed by the Developer at Glenpool's expense and dedicated to Glenpool, which shall be properly calibrated and tested on a schedule consistent with water dispensing and usage measuring devices throughout Glenpool's water distribution system, maintained in proper working order and condition, properly sized for the intended purpose, and properly installed by the Developer at the Delivery Point, together with all necessary equipment, including without limitation a properly sized meter vault, box or pit designed and constructed or fabricated for such a purpose with proper bypass lines, strainer, test tees, backflow prevention valves and piping all at the Developer's expense.

4.02 Glenpool shall perform, at its own cost and expense, calibration tests on the metering equipment associated with the pressure sustaining valve, in order to maintain an accuracy tolerance in accordance with the manufacturer's published standards. Glenpool shall provide written certification of such calibration and accuracy to Creek-2 immediately following such calibration testing.

4.03 In addition, Creek-2 shall have the right to request that a special meter test (and test of the pressure sustaining valve) be made by Glenpool or agents of Glenpool at any time, provided that such request shall not be made more than once in any twelve-month period. If any test made at Creek-2's request discloses that the meter is accurate within the manufacturer's specifications and/or the pressure sustaining valve is operating properly, as defined in Section 4.04, then Creek-2 shall bear the cost and expense of such test. If any such test discloses that the meter is reading outside of the manufacturer's specifications and/or the pressure sustaining valve is not operating properly, Glenpool shall pay the cost of such testing, as well as the cost of correcting the deficiency. Glenpool agrees to notify Creek-2 at least forty-eight (48) hours in advance of the time any such test is to be made by Glenpool or agents of Glenpool. Additionally, Glenpool shall furnish Creek-2 with a copy of the results of all checks and calibration tests performed on such metering equipment and pressure sustaining valve.

4.04 The meter shall be considered accurate if it is found not to deviate from standard, as defined by the manufacturer, when tested at one hundred percent (100%) of load or when tested at ten percent (10%) of load. If the deviation is greater than these tolerances, the meter shall be repaired immediately by Glenpool. If the meter is found to be inaccurate, the charges applicable for the month in which said meter is tested and found to be inaccurate shall be corrected in accordance with the percentage of inaccuracy found by such tests; provided that, all charges applicable for all earlier periods, which have not been challenged as provided herein, and have therefore become final as to accuracy and validity, shall not be subject to adjustment in any manner whatsoever.

4.05 Glenpool shall read the meter on a monthly basis and shall accordingly provide a bill to Creek-2 monthly which shall include the then current meter reading. When the meter shows no billable usage, Glenpool shall nevertheless provide a monthly statement to Creek-2 showing no billing.

ARTICLE 5: MAINTENANCE

5.01 Both Parties hereto shall exercise reasonable due diligence, reasonable care and foresight to maintain their respective mains, lines, valves, facilities, plants and equipment so as to assure maximum continuity of service in the delivery and receipt of water as provided for in this Agreement.

ARTICLE 6: MISCELLANEOUS

6.01 Counterpart Execution. This Agreement may be executed in counterparts and by a different Party in separate counterparts, each of which when so executed shall be deemed to be an original and all of which together shall constitute one agreement.

6.02 Assignment. This Agreement and the rights and obligations hereunder may not be assigned or transferred by any Party hereto, nor delegated to any third party, without the prior written consent of the other Parties.

6.03 No Joint Venture. The Parties are not and shall not be deemed to be, for any purpose, partners or joint venturers with each other.

6.04 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oklahoma.

6.05 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon all successors and assigns of the Parties hereto.

6.06 Severability. Should any provision of this Agreement be declared or determined by any Court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and such illegal or invalid part, term or provision shall not be deemed to be a part of this Agreement.

6.07 Entire Agreement. This Agreement together with any exhibits attached hereto sets forth the entire understanding between the Parties. There are no terms, conditions, representations, warranties or covenants other than those contained herein and in the exhibits attached hereto.

ARTICLE 7: APPROVAL

7.01 This Amendment is conditioned upon approval by the respective governing bodies of Creek-2, the City and the Authority.

7.02 Creek-2 and Glenpool each warrant to the other that they have followed all applicable statutory procedures relative to the Oklahoma Open Meeting Act, relative to notice, posting of agenda, public meeting, and voting to accomplish the lawful approval of this Agreement.

ARTICLE 8: NOTICES

8.01 All notices required under this Agreement shall be in writing and shall be effective when:

- (a) Notice to Glenpool shall be deemed to have occurred when delivered in person to the person specified below, and receipt is acknowledged (acknowledgement of receipt shall not unreasonably be withheld);

For notices to City or Authority:

Mayor/Chairperson of the Authority
City of Glenpool/Glenpool Utility Services Authority
12205 S. Yukon Avenue
Glenpool, OK 74033

- (b) Notice to Creek-2 shall be deemed to have occurred when delivered in person to the person specified below, and receipt is acknowledged (acknowledgement of receipt shall not unreasonably be withheld);

For notices to Creek-2:

President of the Board
Creek County Rural Water District No. 2
2425 W. 121st Street South
Jenks, Oklahoma 74037

- (c) Alternative means of delivery, such as email or certified mail, shall satisfy the requirement for personal delivery so long as receipt and waiver of personal delivery are expressly acknowledged in writing.

In addition to any other notice required by this Agreement, the Parties shall provide each other notice in the event that the foregoing contact information changes or is updated within five business days of such change or update.

CREEK COUNTY RURAL WATER DISTRICT NO. 2

Signature: _____

Dated: _____

Name: _____

Position: President of the Board of Directors

CITY OF GLENPOOL

Signature: _____

Dated: _____

Printed Name: Timothy Lee Fox

Position: Mayor of the City of Glenpool

THE GLENPOOL UTILITY SERVICES AUTHORITY

Signature: _____

Dated: _____

Printed Name: Timothy Lee Fox

Position: Chairman of the Board of Trustees

EXHIBIT A
LEGAL DESCRIPTION

The Southeast Quarter of the Southeast Quarter (SE/4 SE/4) of Section Fourteen (14), Township Seventeen (17) North, Range Twelve (12) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof.

LESS AND EXCEPT:

That portion Platted as THE CROSSING AT GLENPOOL, PHASE I, and LESS AND EXCEPT: A strip, piece or parcel of land lying in the SE/4 SE/4 of Section 14, Township 17 North, Range 12 East in Tulsa County, State of Oklahoma, Said parcel of land being described by metes and bounds as follows: BEGINNING at the SW corner of said SE/4 SE/4; Thence North along the West line of said SE/4 SE/4 a distance of 24.75 feet; Thence N 88°48'14" E a distance of 1269.53 feet; Thence N 01°07'28" W a distance of 275.31 feet; Thence N 88°52'32" E a distance of 50.00 feet; Thence South along the East line of said SE/4 SE/4 a distance of 300.00 feet to the SE corner of said SE/4 SE/4; Thence West along the South line of said SE/4 SE/4 a distance of 1319.53 feet to the Point of Beginning.

Old Republic National Title Insurance Company

