

**MINUTES
TAHLEQUAH CITY COUNCIL
REGULAR MEETING – MAY 1, 2023 - 5:30 PM**

1. MEETING CONVENED

Meeting **called to order** – Mayor Suzanne Myers at 5:30 pm.
The City Clerk, Whitney Shaw, called **the roll** as follows:

Present:	Councilor Ward I	Bree Long
	Councilor Ward II	Keith Baker
	Councilor Ward III	Stephen Highers
	Councilor Ward IV	Josh Allen

Others present: City Attorney JT Hammons, City Treasurer Marty Hainzinger, City Clerk Whitney Shaw, IT Support Kendall Collins

Invocation: Council Member Josh Allen

Flag salute.

2. PUBLIC INSTRUCTIONS

Videoconference and/or teleconference access instructions for public attendance at the meeting: the public, nonvoting elected officials, and City staff may remotely attend this meeting by joining the Zoom meeting via the web or the Zoom app (www.zoom.us) **Access Code: 868 0957 4007 Password: 4560651**. If you wish to receive a copy of any materials that are presented to the City Council, please submit your request to cityclerk@tahlequah.gov.

3. PUBLIC COMMENTS

There were no public comments.

4. CONSENT AGENDA

Councilor Long made a motion and Councilor Allen seconded to approve the consent agenda as follows:

- a) Approve the **minutes** from **April 3, 2023** and **April 17, 2023** City Council meetings.
- b) Acknowledge receipt of the **February 2023 financial statement**.
- c) Acknowledge receipt of the **March 2023 financial statement**.
- d) Acknowledge receipt of the **March 2023 investment schedule**.
- e) Acknowledge receipt of the **April 2023 check register**.
- f) **Removed by Councilor Stephen Highers**
- g) Approve the 2023-2024 contract with **William Marvin Johnson, LLC** for maintaining the **Automated Weather Station** owned/operated by the City.

- h) Approve **Legal Services Agreement** with **BJ Baker** for fiscal year 2023-2024.
- i) Approve **Legal Services Agreement** with **JT Hammons** for fiscal year 2023-2024.
- j) Approve the **Code Pal renewal Agreement** for fiscal year 2023-2024.
- k) Approve Compilation Engagement letter with **Crawford & Associates** for year-end June 30, 2023.
- l) Approve **DBT Transportation** Aviation Support and Maintenance Service for 2023-2024.
- m) Approve the renewal of the **Contract for Service** for location City Bypass Highways 51, 62, 82 collectively known as Bertha Parker Bypass and location Tahlequah Recycle Drop Off, 1851 N. Douglas Boulevard Tahlequah, OK 74464 for **Fiscal Year 2023-2024** with the **Oklahoma Production Center**.
- n) Approve contract of **Mike Palmer** for **Greens Maintenance** at Riverlinks, Anthis-Brennan, and Phoenix Park for 2023-2024.
- o) Approve the contract of **Richard Smith** for the opening/closing of cemetery graves at the cost of \$350 per grave.
- p) Approve the **School Resource Officer** contract with **Tahlequah Public Schools** for 2023-2024 fiscal year.
- q) Approve the **2023-2024 Disposal Agreement** between **Waste Management of Oklahoma, Inc.** and City of Tahlequah.
- r) **Removed by Councilor Stephen Highers**
- s) Approve the **lease transfer** for **Hanger #14** from Trey Pierce to Steven Johnson. Approve the **lease transfer** for **Hanger #32** from Larry Stanton to Iuri Galis. Approve the **lease transfer** for **Hanger #33** from Ronald Osentowski to Trey Pierce.
- t) Approve the **lease transfer** for **Hanger #35** from Calvin Taylor to Harold Quantie.
- u) Approve the promotion of **Eldon Graves** from Sergeant I to **Lieutenant I**.
- v) Approve the **promotion of two (2) Patrolmen** from their current salary to **Sergeant I**.
- w) Accept the **resignation from Hiley Parris and Erin Cook**, Lifeguards in the Parks and Recreation Department, effective April 26 2023.
- x) **Removed by Councilor Stephen Highers**
- y) Accept the **resignation from Ethan Monholland**, Labor/Operator in the Street Department, effective April 19, 2023.
- z) Hire **Theron Ward, Lifeguard** in the Parks and Recreation Department at \$12.00 per hour effective May 1, 2023.
- aa) Accept the **resignation from Ethan Monholland**, Labor/Operator in the Street Department, effective April 19, 2023.
- bb) Hire **Theron Ward, Lifeguard** in the Parks and Recreation Department at \$12.00 per hour effective May 1, 2023.
- cc) Promote **Dana Lee**, Encumbering Clerk in the Managerial Department to **Stormwater Manager** at \$45,000 annually, effective April 17, 2023.
- dd) Hire **Parker Sinclair**, Laborer in the Parks and Recreation Department at \$14.00 per hour, effective May 2, 2023.
- ee) Hire **Gabbriella Hall, Elianah Auguston and Hayden Parson** as PT Laborers (552) in the Parks and recreation Department at \$10.07 per hour, effective May 1, 2023.

- ff) Hire **Rebecca White, Encumbering Clerk** in the Managerial Department at \$33,000 annually, effective April 17, 2023.
- gg) Accept the **resignation from Cody Chipps**, Driver in the Solid Waste Department, effective April 7, 2023.

5. ANNOUNCEMENTS, PRESENTATIONS, AND REPORTS

Years of Service for April Employees:

Forest Cobb, 5 yrs., Police Department

Mark Manship, 30 yrs., Maintenance

No report from the Library was given

Nathan Reed presented the **report** for the **Chamber of Commerce**

Gena McPhail presented the **report** for **Tourism**

Jamie Hale presented the **report** for **Tahlequah Main Street Association**

REGULAR SESSION

6. The following items were removed from the consent agenda:

(f) Councilor Highers made a motion and Councilor Baker seconded to table until May 15, 2023, the approval of a contract with **31 Dynamic Group, LLC** for grant writing

Vote: Ayes: Highers, Baker, Long, Allen

Nays: None

Motion carried

(r) Councilor Allen made a motion and Councilor Long seconded to table until May 15, 2023, the authorization of the Mayor to sign a **lease agreement** with **Northeastern State University/Regional University System of Oklahoma** for future **parking** area located at **113 Spring Street**.

Vote: Ayes: Allen, Long, Baker, Highers

Nays: None

Motion carried

(z) No action taken on the **resignation from Tacoma Maples**, Labor/Operator in the Street Department, effective March 27, 2023.

7. **Open discussion** on **subscription based trash service** for Cherokee County residents living outside of City limits presented by Solid Waste Superintendent Chris Armstrong.

8. Councilor Long made a motion and Councilor Allen seconded to appoint Councilor Stephen Highers as Council President during the **open discussion** and appointment of **Council President** from among members of the City Council.

Vote: Ayes: Long, Allen, Baker, Highers

Nays: None

Motion carried

9. **Open discussion** of Mayor and Councilor expectations in regard to future agenda items by Councilor Keith Baker.

10. Councilor Long made a motion and Councilor Allen seconded to approve with modifications a **waiver of the competitive bidding requirement** of the City

Purchasing Policy and, in accordance with **City Code 7-105**, accept the quote for **State Contract SW196** for a **Hustler Super 104** batwing zero-turn mower.

Vote: Ayes: Long, Allen, Baker, Highers

Nays: None

Motion carried

NEXT 2 AGENDA ITEMS ARE OUT OF NUMERICAL ORDER

17. Councilor Highers made a motion and Councilor Long seconded to approve a **school zone along Seminary Avenue** from the 500 block to 1000 block.

Vote: Ayes: Highers, Long, Baker, Allen

Nays: None

Motion carried

18. No action taken to award or reject bids for **Project No. 6001 - Wayfinding Project** to the lowest responsible bidder and utilize the **capital improvement fund for 50%** of the awarded contract amount and the **hotel/motel fund for the remaining 50%** of the contract amount. Agenda item moved to mid-month.

NEXT AGENDA ITEM IS OUT OF NUMERICAL ORDER

20. Discussion on **Ordinance No. 1351-2023**, an ordinance amending Article 2 District Descriptions and Use Provisions – Section 2.3 Table of Allowed Uses; Article 2 District Descriptions and Use Provisions – Section 2.4 Bulk and Area Requirements; Article 4 Development Standards – Section 4.4 Off-Street Parking and Loading; Article 5 District Specific Standards; and Article 11 Definitions of the City of Tahlequah Zoning Ordinance.
21. Discussion on **Ordinance 1353-2023**, an ordinance of the City of Tahlequah, Oklahoma, amending the Tahlequah City Code, Part 4, Animals; Chapter 4-1, Animal Regulations; Article B, Dog Vaccination, Tags and Tax; Section 4-125, Vicious Animals; Providing for a Hearing Procedure Concerning a Vicious Dog Determination; Providing for Codification, Severability, Repealer, and Setting an Effective Date.
22. Councilor Highers made a motion and Councilor Long seconded to approve **Ordinance 1354-2023**, an ordinance of the City of Tahlequah, Oklahoma, Amending Part 9, Licensing and Business Regulation; Chapter 9-4, Residential Sales; By Amended Section 9-402, License Required; Providing for Codification, Severability, Repealer, and Declaring an Emergency.

Vote: Ayes: Highers, Long, Baker, Allen

Nays: None

Motion carried

23. Councilor Long made a motion and Councilor Allen seconded to declare an **emergency exists for Ordinance 1354-2023**.

Vote: Ayes: Long, Allen, Baker, Highers

Nays: None

Motion carried

24. Discussion on Ordinance **1355-2023**, an ordinance to close a portion of Wilcox Circle.
25. Councilor Highers made a motion and Councilor Long seconded to exit Regular Session and enter into Executive Session at 7:07 p.m.

Vote: Ayes: Highers, Long, Baker, Allen

Nays: None

Motion carried

26. Council reconvened into regular session at 8:27 p.m. without Councilor Long.
27. **No motion** was made pertaining to the employment of **Finance Director, Alan Chapman**.
28. Councilor Highers make a motion and Councilor Baker seconded to **hire Ray Hammons** as the **Interim City Administrator** with a stipend of **\$4000/mos.**

Vote: Ayes: Highers, Baker, Allen

Nays: None

Motion carried

29. A **mid-month meeting** was set for **May 15, 2023 at 5:30 p.m.**
30. Meeting **adjourned** at **8:44 p.m.**

MINUTES
TAHLEQUAH CITY COUNCIL - SPECIAL MEETING
MONDAY, MAY 15, 2023 - 5:30 PM
CITY HALL COUNCIL CHAMBERS – 111 S. CHEROKEE AVE.

A Public Notice of meeting was provided **May 10, 2023** at **10:30 a.m.** at 111 S. Cherokee Ave.
 Tahlequah, OK.

ZOOM ID: 868 4653 3714 PASSWORD: 4560651

1. Meeting called to order by Mayor Myers at 5:31 p.m.

2. City Clerk Whitney Shaw called the Roll call as follows:

Present:	Councilor Ward I	Bree Long
	Councilor Ward II	Keith Baker
	Councilor Ward III	Stephen Highers
	Councilor Ward IV	Josh Allen

Others Present:

Mayor Suzanne Myers, City Attorney JT Hammons, Interim City Administrator
 Ray Hammons, City Clerk Whitney Shaw, IT Support Kendall Collins

Absent: City Treasurer Marty Hainzinger

Deviation from Agenda

5. Cherokee Nation Announcement of \$2.2 million dollar donation for the purchase of a ladder truck for the Tahlequah Fire Department.

3. CONSENT AGENDA

Councilor Highers made a motion and Councilor Allen seconded to approve the Consent Agenda as follows:

- a) To approve the appointment of Councilor Keith Baker to the **Tahlequah Area Tourism Council**.
- b) To approve Mike Watkins as **Seat #1 of the Tahlequah Hospital Authority Board of Trustees** as recommended by the Tahlequah Hospital Authority Board.
- c) To approve Mark Herrin as **Seat #7 of the Tahlequah Hospital Authority Board of Trustees** as recommended by the Tahlequah Hospital Authority Board.
- d) To approve the Mayor to sign a **lease from Pitney Bowes**, for a new federally compliant postage machine, at the rate of \$57.10/mos. **(2-4)**

- e) To approve the hiring of **part-time laborer** Aaron Palmer in the Parks and Recreation Department.
- f) **Removed by Councilor Long.**
- g) To approve the hiring of Patrick Pavao as a **Driver** in the Solid Waste Department.
- h) **Removed by Councilor Baker.**

REGULAR AGENDA

4. Councilor Long made a motion and Councilor seconded to approve item (f) the hiring of three **seasonal part-time laborers**, Michal Woodridge, Henry Rile, and Natalee Page in the Parks and Recreation Department with the modification of only approving the hiring of two seasonal part-time laborers, Michal Woodridge and Henry Rile in the Parks and Recreation Department.

Vote: Ayes: Long, Allen, Baker, Highers

Nays: None

Motion carried

Councilor Highers made a motion and Councilor Allen seconded to approve item (h): approve acceptance of a **\$30,000 donation from Cherokee Nation** for the use of **police equipment** in **Tahlequah Police Department Donation Fund**.

Vote: Ayes: Highers, Allen, Long, Baker

Nays: None

Motion carried

6. **Discussion**, only, of the **proposed** City of Tahlequah's **2023-2024 budget**.
7. **No vote necessary**. Council gave direction to the Interim City Administrator to explore project management programs.
8. **No vote necessary**. Updates given by Planning and Development Director Taylor Tannehill on construction projects and future projects for next fiscal year. No updates from the Street Department.

The City Clerk exited the meeting at 6:09 p.m. and returned at 6:12 p.m.

9. Councilor Allen made a motion and Councilor Baker seconded to **approve** providing **on the City website**, all **City attorney opinions**, whereas the city attorney will denote those of a confidential nature and/or not for publication.

Vote: Ayes: Allen, Baker, Long, Highers

Nays: None

Motion carried

10. Councilor Highers made a motion and Councilor Allen seconded to **approve** entering into a contract with **31 Dynamic Group, LLC** for grant writing services.

Vote: Ayes: Highers, Allen, Baker, Long

Nays: None

Motion carried

Councilor Long exited the meeting at 6:23 p.m. and returned at 6:25 p.m.

11. Councilor Long made a motion and Councilor Highers seconded to **approve Ordinance No. 1351-2023**, an ordinance amending Article 2 District Descriptions and Use Provisions – Section 2.3 Table of Allowed Uses; Article 2 District Descriptions and Use Provisions – Section 2.4 Bulk and Area Requirements; Article 4 Development Standards – Section 4.4 Off-Street Parking and Loading; Article 5 District Specific Standards; and Article 11 Definitions of the City of Tahlequah Zoning Ordinance.

Vote: Ayes: Long, Highers, Baker, Allen

Nays: None

Motion carried

12. Councilor Long made a motion and Councilor Allen seconded to **approve Ordinance 1353-2023**, an ordinance of the City of Tahlequah, Oklahoma, amending the Tahlequah City Code, Part 4, Animals; Chapter 4-1, Animal Regulations; Article B, Dog Vaccination, Tags and Tax; Section 4-125, Vicious Animals; Providing for a Hearing Procedure Concerning a Vicious Dog Determination; Providing for Codification, Severability, Repealer, and Setting an Effective Date.

Vote: Ayes: Long, Allen, Baker, Highers

Nays: None

Motion carried

13. Councilor Allen made a motion and Councilor Long seconded to **approve Ordinance 1356-2023**, an ordinance of the City of Tahlequah, Oklahoma, amending the Tahlequah City code; Part 14, Streets and Public Works; Chapter 14-2, Use and Obstruction of Streets and Sidewalks; By Adding Section 14-226, Street Closure Procedure; Providing for Codification, Severability, Repealer, and **Declaring an Emergency**.

Vote: Ayes: Allen, Long, Baker, Highers

Nays: None

Motion carried

14. Councilor Allen made a motion and Councilor Long seconded to **declare** an immediate necessity for **emergency** for **Ordinance 1356-2023**.

Vote: Ayes: Allen, Long, Baker, Highers

Nays: None

Motion carried

15. Councilor Highers made a motion and Councilor Baker seconded to **reject bids** for **Project No. 6001 - Wayfinding Project**

Vote: Ayes: Highers, Baker, Allen, Long

Nays: None

Motion carried

16. Councilor Allen made a motion and Councilor Long seconded to **approve** authorizing the Mayor to sign a **lease agreement** with **Northeastern State University/Regional University System of Oklahoma** for **future parking area** located at **113 Spring Street**.

Vote: Ayes: Highers, Baker, Allen, Long

Nays: None

Motion carried

17. Meeting adjourned at 6:52 p.m.

UNAPPROVED

**MINUTES
TAHLEQUAH CITY COUNCIL - SPECIAL MEETING
FRIDAY, MAY 19, 2023 - 8:30 AM
CITY HALL COUNCIL CHAMBERS – 111 S. CHEROKEE AVE.**

A Public Notice of meeting was provided **May 17, 2023 at 9:30 a.m.** at 111 S. Cherokee Ave.
Tahlequah, OK.

ZOOM ID: 886 3897 3882 PASSWORD: 4560651

Meeting was cancelled. Posting of Notice of Meeting was less than the required 48 hour notice.

MINUTES
TAHLEQUAH CITY COUNCIL – EMERGENCY MEETING

Date/Time of Emergency Meeting **Friday, May 19, 2023 at 8:30 a.m.**
Place of Meeting: The meeting was held at **111 S. Cherokee Ave. Tahlequah, OK 74464** (voting members of the public body will be present in person). No public notice was provided as this was an **Emergency Meeting**.

-
1. **Meeting Convened** and the basis for emergency was declared by Interim City Administrator Ray Hammons, which included loss of revenue from airport due to claim against H&G Paving Contractors, Inc.
-

2. Meeting **called to order** by Mayor Myers at **8:38 am**.

City Clerk Whitney Shaw called the roll call as follows:

Present:	Councilor Ward I	Bree Long
	Councilor Ward II	Keith Baker
	Councilor Ward III	Stephen Highers

Others present: Mayor Suzanne Myers, City Attorney John Tyler Hammons, Interim City Administrator Ray Hammons, City Clerk Whitney Shaw, Airport Manager Brian Lambert, and IT Director Randy Powell. **Absent:** Councilor Ward IV Josh Allen, City Treasurer Marty Hainzinger.

3. Interim City Administrator Ray Hammons advised the City Council an **Emergency Meeting** was necessary because the City would experience an **immediate financial loss** if the business of the emergency meeting was not acted on because the time requirement for public notice of a special meeting would increase the likelihood of the City's immediate financial loss.
4. Councilor Long made a motion and Councilor Highers seconded to exit Regular Session into Executive Session at 8:38 am.

VOTE: Ayes: Long, Highers, Baker

Nays: none

Motion carried

5. Council **reconvened** and adjourned at 8:55am.

MINUTES
TAHLEQUAH CITY COUNCIL - SPECIAL MEETING
TUESDAY, MAY 23, 2023 - 4:00 PM
CITY HALL COUNCIL CHAMBERS – 111 S. CHEROKEE AVE.

A Public Notice of meeting was provided May 19, 2023 at 9:08 a.m. at 111 S. Cherokee Ave.
Tahlequah, OK.

ZOOM ID: 897 9806 2918 PASSWORD: 4560651

1. Meeting **called to order** by Mayor Myers at 4:00 p.m.

2. City Clerk Whitney Shaw **called roll** as follows:

Present:	Councilor Ward I	Bree Long
	Councilor Ward II	Keith Baker
	Councilor Ward III	Stephen Highers
	Councilor Ward IV	Josh Allen

Others Present:

Mayor Suzanne Myers, Interim City Administrator Ray Hammons, City Clerk Whitney Shaw, IT Support Kendall Collins, Fire Chief Casey Baker

Absent: City Attorney JT Hammons and City Treasurer Marty Hainzinger

3. Councilor Long made a motion and Councilor Highers seconded to allow the Mayor to sign a Memorandum of Agreement with, and accept a **donation** from, **the Cherokee Nation** in the amount of **2.2 million dollars** to be used to purchase a **ladder truck** for the **Tahlequah Fire Department**.

Vote: Ayes: Long, Allen, Baker, Highers

Nays: None

Motion carried

4. Meeting adjourned at 4:03 pm.



DUE TO SIZE, THESE DOCUMENTS ARE AVAILABLE IN DIGITAL FORMAT ON THE CITY WEBSITE:

- CLICK ON THE “GOVERNMENT” TAB
- CLICK ON “DEPARTMENTS”, THEN
“FINANCES”
- CLICK ON “Monthly Financial Statement” &
CHOOSE the “2023” FILE AND THEN THE “MONTH”
CHECK REGISTER OR FINANCIAL STATEMENT.



Account Number: XXXX XXXX XXXX 3494

CITY OF TAHLEQUAH

Statement Closing Date: 04/28/23

Page 1 of 4

Corporate Account Summary

Previous Balance		\$2,822.64
Purchases and other Charges	+	\$3,336.00
Cash Advances	+	\$0.00
Credits	-	\$0.00
Payments	-	\$2,822.64
Late Payment Charge	+	\$0.00
Finance Charges	+	\$0.00
New Balance		\$3,336.00
Disputed Amount		\$0.00

Call Customer Service 1-800-356-8085
Lost or Stolen Credit Card 1-800-356-8085

Manage your account online at:
www.arvest.com

Corporate Account Summary

Past Due Amount	\$0.00
Credit Limit	\$50,000.00
Available Credit Limit	\$46,664.00
Cash Advance Credit Limit	\$0.00
Days in Billing Cycle	28
Statement Closing Date	04/28/23
Minimum Payment Due	\$100.00
Payment Due Date	05/22/23

Please send billing inquiries and correspondence to:

ARVEST BANK
P.O. BOX 6139
NORMAN, OK 73070-6139

Corporate Account Activity

Trans Date	Post Date	Reference Number	Description	Amount
04/24	04/24		AUTO PAYMENT DEDUCTION	-\$2,822.64

Interest Charge Calculation

Your Annual Percentage Rate (APR) is the annual rate on your account.

Type of Balance	Annual Percentage Rate (APR)	Balance Subject to Interest Rate	Interest Charge
PURCHASES	0.00%	\$0.00	\$0.00
CASH ADVANCES	0.00%	\$0.00	\$0.00

Cardholder Account Summary

Name and Account Number	Credit Limit	Credits	Purchases	Cash Advances	Total Activity
RAY HAMMONS XXXX XXXX XXXX 4179	\$1,000	\$0.00	\$18.00	\$0.00	\$18.00
RANDY POWELL XXXX XXXX XXXX 4252	\$1,000	\$0.00	\$612.99	\$0.00	\$612.99
POLICE DEPARTMENT 1 XXXX XXXX XXXX 9102	\$1,000	\$0.00	\$597.42	\$0.00	\$597.42
POLICE DEPARTMENT 2 XXXX XXXX XXXX 9110	\$1,000	\$0.00	\$137.91	\$0.00	\$137.91

(summary continued on next page)

DETACH HERE: To ensure proper credit, please include lower portion with your payment.

ARVEST BANK
P.O. BOX 6139
NORMAN, OK 73070-6139

☐ New address, phone number or email? PRINT on back.

CITY OF TAHLEQUAH
111 S CHEROKEE AVE
TAHLEQUAH OK 74464-3801

**N0001169

Account Number XXXX XXXX XXXX 3494
New Balance \$3,336.00
Minimum Payment Due \$100.00
Payment Due Date 05/22/23

Amount enclosed \$

To ensure proper credit, please return this portion with your payment. Make checks payable to CARD SERVICES.

Arvest Bank
PO BOX 2149
Lowell AR 72745



4485630000803494

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0333600



Account Number: XXXX XXXX XXXX 3494
CITY OF TAHLEQUAH
Statement Closing Date: 04/28/23

Page 3 of 4

Cardholder Account Summary cont.

Name and Account Number	Credit Limit	Credits	Purchases	Cash Advances	Total Activity
MANAGERIAL 1 XXXX XXXX XXXX 9136	\$1,000	\$0.00	\$669.00	\$0.00	\$669.00
FIRE DEPARTMENT XXXX XXXX XXXX 9177	\$1,000	\$0.00	\$119.40	\$0.00	\$119.40
FIRE DEPARTMENT 2 XXXX XXXX XXXX 1597	\$1,000	\$0.00	\$396.00	\$0.00	\$396.00
MANAGERIAL 2 XXXX XXXX XXXX 9287	\$1,000	\$0.00	\$785.28	\$0.00	\$785.28

Cardholder Account Activity

RAY HAMMONS XXXX XXXX XXXX 4179	Credit Limit \$1,000	Credits \$0.00	Purchases \$18.00	Cash Advances \$0.00	Total Activity \$18.00
Trans Date	Post Date	Reference Number	Description		Amount
04/05	04/07	24269793096500637329996	ALABAMA FIRE COLLEGE TUSCALOOSA AL		\$18.00
RANDY POWELL XXXX XXXX XXXX 4252	Credit Limit \$1,000	Credits \$0.00	Purchases \$612.99	Cash Advances \$0.00	Total Activity \$612.99
Trans Date	Post Date	Reference Number	Description		Amount
04/02	04/03	24492163092000021242474	ZOHO-MANAGEENGINE SER HTTPSWWW.ZOHO CA		\$597.00
04/23	04/24	24011343113000038181819	ZOOM.US 888-799-9866 WWW.ZOOM.US CA		\$15.99
POLICE DEPARTMENT 1 XXXX XXXX XXXX 9102	Credit Limit \$1,000	Credits \$0.00	Purchases \$597.42	Cash Advances \$0.00	Total Activity \$597.42
Trans Date	Post Date	Reference Number	Description		Amount
04/01	04/03	24793383091003394009760	GREYHOUND LOS ANGELES CA		\$137.97
03/31	04/03	24793383091001143779766	GREYHOUND LOS ANGELES CA		\$147.97
04/10	04/12	24793383101299485409764	GREYHOUND LOS ANGELES CA		\$24.98
04/13	04/17	24793383104001295569762	GREYHOUND LOS ANGELES CA		\$265.50
POLICE DEPARTMENT 2 XXXX XXXX XXXX 9110	Credit Limit \$1,000	Credits \$0.00	Purchases \$137.91	Cash Advances \$0.00	Total Activity \$137.91
Trans Date	Post Date	Reference Number	Description		Amount
03/31	04/03	24247603091500890346938	LAS MARACAS TAHLEQUAH OK		\$137.91
MANAGERIAL 1 XXXX XXXX XXXX 9136	Credit Limit \$1,000	Credits \$0.00	Purchases \$669.00	Cash Advances \$0.00	Total Activity \$669.00
Trans Date	Post Date	Reference Number	Description		Amount
04/04	04/05	24801973095690224711898	OKLAHOMA MUNICIPAL LEAGU 405-528-7515 OK		\$95.00
04/10	04/11	24492153100869290285989	ZIPRECRUITER, INC. 855-747-5493 CA		\$479.00
04/21	04/24	24801973112690520837156	OKLAHOMA MUNICIPAL LEAGU 405-528-7515 OK		\$95.00
FIRE DEPARTMENT XXXX XXXX XXXX 9177	Credit Limit \$1,000	Credits \$0.00	Purchases \$119.40	Cash Advances \$0.00	Total Activity \$119.40
Trans Date	Post Date	Reference Number	Description		Amount
04/26	04/27	24789303116748303484760	SMARTDRAW SOFTWARE LLC 858-2253300 TX		\$119.40
FIRE DEPARTMENT 2 XXXX XXXX XXXX 1597	Credit Limit \$1,000	Credits \$0.00	Purchases \$396.00	Cash Advances \$0.00	Total Activity \$396.00
Trans Date	Post Date	Reference Number	Description		Amount
04/13	04/13	24492163103000010891544	UPCODES HTTPSUP.CODES CA		\$396.00
MANAGERIAL 2 XXXX XXXX XXXX 9287	Credit Limit \$1,000	Credits \$0.00	Purchases \$785.28	Cash Advances \$0.00	Total Activity \$785.28
Trans Date	Post Date	Reference Number	Description		Amount
03/30	04/03	24692163090102900250527	SOUTHWES 5262437611524 800-435-9792 TX KING/AMANDA DENYCE 04/11/23 TUL DEN SLC PHX TUL		\$480.96
04/13	04/14	24055233104200003729823	FOXRENTACAR 5397770666 SALT LAKE CIT UT		\$28.97
04/13	04/18	24692163107106171242817	HAMPTON INN PROVO PROVO UT 04/11/23 436749		\$275.35

City of Tahlequah Working Fund Investments

As of April 30, 2023

BANK	AMOUNT	PERCENTAGE
Bank Accounts		
Reserve Operating Armstrong	\$2,745,543.73	3.0%
Streets & Sidewalks Armstrong	\$4,388,139.00	3.0%
General Fund Sweep Bank First	\$6,682,489.27	4.34%

BANK	MATURITY VALUE	PERCENTAGE	MATURITY DATE
Edward Jones			
American Express Natl Bk	\$248,000.00	1.60%	3/4/2024
BMW Bk North Amer Salt Lake	\$245,000.00	3.45%	9/9/2025
Capital One Bk USA Natl Assn	214,000.00	3.30%	8/12/2024
Capital One Nat'l Assn McLean	\$31,000.00	3.40%	9/9/2024
Cibc Bk USA Chicago IL	\$244,000.00	4.25%	2/24/2026
Citizens Bk Na Providence RI	\$241,000.00	3.25%	9/14/2023
Goldman Sachs Bank USA CD	\$200,000.00	2.60%	3/22/2024
Great Southn Bk Reeds Spring	\$249,000.00	4.65%	2/28/2025
Morgan Stanley Bk N A Salt	\$245,000.00	3.60%	9/15/2026
Morgan Stanley Private Bk Natl	\$238,000.00	4.60%	11/10/2023
Pinnacle Bank Nashville	\$249,000.00	2.50%	7/24/2023
Santander Bk Natl Assn	\$241,000.00	3.40%	9/15/2023
State Bk India Chicago Ill	\$245,000.00	3.65%	9/20/2027
Toyota FINL Svgs Bk Hend NV	\$200,000.00	2.40%	6/23/2023
Truist Bk Charlotte N C	\$244,000.00	4.25%	5/9/2023
UBS BK USA Salt Lake City UT	\$100,000.00	1.90%	5/10/2023
UBs BK USA Salt Lake City UT	\$150,000.00	2.85%	5/13/2024
Cash	\$277,000.00		
TOTAL	\$3,861,000.00		



DUE TO SIZE, THESE DOCUMENTS ARE AVAILABLE IN DIGITAL FORMAT ON THE CITY WEBSITE:

- CLICK ON THE “GOVERNMENT” TAB
- CLICK ON “DEPARTMENTS”, THEN
“FINANCES”
- CLICK ON “Monthly Financial Statement” &
CHOOSE the “2023” FILE AND THEN THE “MONTH”
CHECK REGISTER OR FINANCIAL STATEMENT.

CITY OF



COPY

BUDGET AMENDMENT FORM

Fund: Hotel/Motel
Amendment #: 652023
Fiscal Year: 2022-2023

<u>Account#</u>	<u>Account Name</u>	<u>Estimated Revenue</u>		<u>Appropriations</u>	
		<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
112-41-6000	Tax – Hotel/Motel	\$50,333.00			
112-50-8100	Equipment			\$50,333.00	

TOTALS

\$50,333.00

\$

\$50,333.00

\$

To account for increased revenue.

Date approved by City Administrator & Signature

Date 5-24-23

Date approved by Governing Body & Signature

Date _____

COPY



CITY OF TAHLEQUAH REGIONAL AIRPORT PRIVATE HANGER LEASE AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Tahlequah, Cherokee County, State of Oklahoma, a municipal corporation, herein referred to as the Lessor, and (name & address: Steve R. Kurtz
446206 E. Lakeview Dr.
Paradise Hill, OK 74435
, herein referred to as Lessee.

Lessor is the owner of an airport known as Tahlequah Regional Airport at Tahlequah, Oklahoma, herein referred to as the airport.

Lessee desires to obtain at the airport a ground lease for a lot of size 48 ' x 48
(size of hanger and private parking) and more specifically described as Lot# 40 as
shown in Attachment "A" and made a part hereof.

Lessor does hereby lease to Lessee the property described above together with such rights and privileges as are set forth in this agreement for a period of twenty-five (25) years from date, and renewable annually thereafter, upon the following terms and conditions.

RENTALS AND CHARGES

Lessee agrees to pay Lessor for the use of the premises, facilities, rights, and privileges granted hereunder, rental charges in the amount of \$_____ annually, due on or before June 30th of each lease year and computed as: square feet of hanger site (width x depth) x \$_____/sq.ft./yr. In the event the lease term commences on a date other than the beginning of the lease year, the annual rental shall be prorated to July 1st of the current lease year and is due upon execution of this agreement.

Lessor has the right to increase rental charges as deemed necessary and appropriate during the term of this lease or any renewal thereof, provided that such increases shall not exceed \$_____/sq.ft. during any five (5) year period of the term of this lease.

USE OF AIRPORT

Lessee is granted the use, in common with others similarly authorized, of the airport, together with all facilities, equipment, improvements, and services which have been or may hereafter be provided at or in connection with the airport including, but not limited to, the

landing field and any extensions thereof or additions thereto, roadways, runways, aprons, taxiways, landing lights, beacons, control tower, signals, radio aids, and all other conveniences for flying, landings, and takeoffs.

USE OF LEASED PROPERTY

Primary Use

Lessee acknowledge and agrees to primary use of the property leased hereunder is for aircraft shelter and storage, and will occupy and use the leased premises for such purpose.

Construction of Hangars

If, at the time of this agreement, a hangar appropriate for the shelter and storage of aircraft does not exist on the premises leased, the Lessee will construct, or cause to be constructed on the premises such a hangar. Lessee agrees that all costs and expenses for construction of new hangars shall be the Lessee's sole responsibility; any exceptions to be placed in writing and agreed upon between the Lessor and Lessee.

Lessee agrees that construction of hangars shall not commence until written authorization is obtained from the Lessor, such authorization not to be unreasonably withheld but may be contingent on approval of plans and specifications considered by the Lessor to be necessary. Hangar construction shall be completed no later than six (6) calendar months from the date of such authorization.

Further, it is understood and agreed that restrictions regarding the type of hangars to be built are: the minimum and maximum size of any single-unit hangar shall be forty (40) feet wide by thirty (30) feet deep, and fifty (50) feet wide by fifty (50) feet deep, respectively. The minimum and maximum size of any hangar designed to provide multiple-units for the storage of aircraft shall be specified according to the request and plans submitted to the Lessor and as may be authorized on a case-by-case basis. Every hangar, whether single-unit or multiple-unit, shall maintain a twenty-five (25) foot frontal set-back from the adjoining taxiway and a ten (10) foot lateral and twenty (20) foot rearward separation from any adjacent structure.

All hangars constructed shall further meet the following minimum specifications: all exterior surfaces, minimally consisting of a roof and three (3) sidewalls, shall be of baked-on colored enamel metal; each hangar shall contain a well-drained floor made of concrete or asphalt, and an asphalt or concrete ramp shall connect each hangar to adjacent taxiway, ramp equally as wide as hangar door. All new hangar construction from this date will have "zero" clearance doors on the front, not to exceed the width of hangar open or closed.

Modifications and Repair of Damage

In the event of damage, destruction, or loss of the hangar or other structures on the leased premises, the Lessee agrees to promptly repair, replace, or rebuild the same, at Lessee's own expense, to a minimal condition as nearly as possible to that existing immediately prior to such damage. Lessee further agrees that planned improvements, modifications, or alternatives for hangar construction, whether subsequent to a damage event or not, that affect the hangar's size and/or external appearance, shall only be implemented with the approval and written consent of the Lessor. Lessee agrees to complete all construction no later than six (6) calendar months from the date of damage or issuance of construction authorization permit, whichever may be appropriate.

Utilities

Utility service to the leased premises, including, but not limited to, water, gas, and electrical power, shall be installed and maintained at the sole risk and expense of the Lessee. Lessor may, at its option, install or cause to be installed, utilities for the purpose of servicing multiple hangars, and the Lessee of a premises so affected, agrees to pay Lessor a one- time charge as additional rent for its pro- rata share of lessor's cost of installation.

Maintenance

Lessee agrees that it will, at its own expense, keep and maintain the leased premises and all structures and fixtures thereon in good repair and in a clean, slightly, safe, and healthful condition at all times. Maintenance on and around the leased premises shall include, but is not limited to, mowing of grass, and elimination of trash, garbage, and debris. Lessee further agrees to not allow any condition on the leased premises that may interfere with the landing, taxiing, and take- off of aircraft at the airport.

Lessor agrees to maintain in good repair and keep in a safe, slightly, and useful condition the airport grounds, facilities, fixtures, and services for which Lessee has no obligation to maintain as provided herein, and that are necessary for the safe and efficient operation of aircraft.

PERSONAL PROPERTY

Except as otherwise provided in this agreement, all hangars, structures, fixtures, improvements, equipment, and other property installed, erected, or placed by Lessee in or on the premises leased hereunder shall be deemed to be personal and shall remain the property of Lessee. Lessee shall have the right for a period no fewer than sixty (60) days, or as otherwise agreed upon by Lessee and Lessor, after the expiration or other termination of this agreement,

to remove or dispose of any or all such property from the airport, subject to Lessee's obligation to repair all damage, if any, resulting from such removal. Any and all property not removed by Lessee prior to expiration of the aforesaid period shall thereupon become a part of the land on which it resides and title thereto shall vest in the Lessor, or Lessor may remove any or all such property at the sole risk and expense of the Lessee.

ASSIGNMENT AND SUBLETTING

The Lessee may, with the prior written consent of Lessor, assign, transfer, sublease or sublet all or a portion of the leased premises, provided that the party to whom such assignment is made shall expressly assume in writing and agree to be bound by and fulfill all of the terms, obligations, and covenants contained in this agreement. In any event, no assignment shall be made or shall be effective if Lessee is in default on any of the terms of this agreement.

TERMINATION OF LEASE

By Lessor

In the event that Lessee shall fail to perform, keep, and observe any of the terms, covenants, or conditions of this agreement, Lessor may give written notice, sent by registered mail, to Lessee to correct such condition or default. If Lessee does not commence and use diligence to correct such condition or default for thirty (30) days after receipt of such notice, Lessor may, at its option, and after the lapse of said thirty (30) day period, terminate this lease agreement by giving ten (10) day notice, and the term of this agreement shall thereupon cease and expire at the end of the ten (10) day period. No default on the part of the Lessee shall be deemed to continue so long as Lessee shall have promptly and diligently taken action to correct the same. Further, the Lessor may, as an alternative to termination of this agreement as provided herein, abate or correct the default or condition as set forth in Lessor's notice to Lessee of same, and may do so at the expense of the Lessee, and said expense shall be paid by Lessee as additional rent within thirty (30) days following the date of receipt by Lessee of an invoice for the reasonable expenditure by the Lessor.

By Lessee

Lessee may cancel this agreement for any reason whatsoever upon sixty (60) days prior written notice to the Lessor; however, Lessee agrees that any or all of the unused rental charge or other fees paid to the Lessor is nonrefundable, and will remain the rightful possession of the Lessor.

INDEMNIFICATION OF LESSOR

Lessee agrees that Lessor is in no way the agent of the Lessee, and Lessee will hold **Lesser** harmless against all liability for any and all claims for damages to property or injuries to persons caused by Lessee's negligent use or occupancy of the leased premises or resulting from any of the operations authorized under this agreement; provided, however, that Lessee shall not be liable for any injury, damage, or loss occasioned by the negligence of the Lessor or its agents or employees; and provided further that Lessor shall give Lessee prompt and timely notice of any claim made or suit instituted which in any way directly, indirectly, or otherwise affects or might affect Lessee, and Lessee shall have the right to compromise and defend the same to the extent of its own interest.

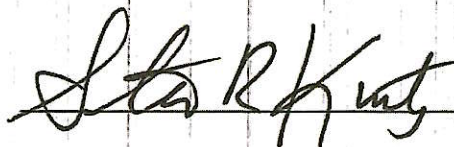
EFFECT OF AGREEMENT

All the covenants, conditions, and provisions in this agreement shall extend to and bind the legal representatives, successors, and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties have executed this agreement on the ____ day of the ____ month in the year ____.

THE CITY OF TAHLEQUAH, OKLAHOMA, A MUNICIPAL CORPORATION

By: _____
Mayor



Lessee

Attest: _____
City Clerk

COPY



TAHLEQUAH REGIONAL AIRPORT PRIVATE HANGAR LEASE AGREEMENT

- CONSTRUCTION AUTHORIZATION -

The City of Tahlequah, Oklahoma, being the owner of Tahlequah Regional Airport, does hereby acknowledge that a written agreement, as attached hereto, has been entered into with (Name of Lessee) Steve R. Kurtz for the purpose of leasing ground space for the construction of a private hangar facility on the property of Tahlequah Regional Airport.

Furthermore, the City has received and approved plans for construction of said hangar and does hereby grant, pursuant to the terms and conditions of the attached Hangar Lease Agreement, authorization for hangar construction with such authorization to be effective on the date of execution of said lease agreement.

Furthermore, Lessee is responsible for all building permits and inspection and fees as required by city.

CITY OF TAHLEQUAH

Dated: _____

By: _____
Mayor

Attest: _____
City Clerk

COPY

Edna Bluebird
Kenneth T. Blackbird
13589 N. 510 Rd.
Tahlequah, OK 74464

**CITY OF TAHLEQUAH, OKLAHOMA
PUBLIC UTILITY EASEMENT**

KNOW ALL MEN BY THESE PRESENTS:

THAT

Edna Bluebird, Kenneth T. Blackbird

of Tahlequah, Oklahoma, (hereinafter called "Grantor") for and in consideration of the sum of One Dollar (\$1.00) and Other Good and Valuable considerations the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the CITY OF TAHLEQUAH, OKLAHOMA, a municipal corporation, (hereinafter called "Grantee") a perpetual Easement upon, over and across the following described real estate in Cherokee County, Oklahoma, to-wit;

A 20.00 feet wide strip of land lying in part of Lot 6, Block 1 of Indian Meadows Estates, a subdivision in Section 10, T16N, R22E, Cherokee County, Oklahoma being more particularly described as follows: Commencing at the Northwest corner of said Lot 6, thence S22°07'33"W along the westerly line thereof 58.88 feet to the point of beginning; thence S60°39'53"E 151.32 feet to the easterly line of said Lot 6; thence S58°01'32"W along said easterly line 22.80 feet; thence N60°39'53"W 137.85 feet to said westerly line; thence N22°07'33"E along said westerly line 20.16 feet to the point of beginning. Containing 0.07 acres, more or less.

Together with an additional width of 20.00 feet adjacent and parallel to each side of said strip for temporary construction easements.

To have and to hold the same unto the Grantee, its successors, trustees and assigns, forever.

This easement is granted for the purpose of enabling the Grantee herein, its successors, trustees and assigns, to go upon the real estate above described and to construct, reconstruct, use, operate, maintain, and patrol public utilities, lines, pipes, and appurtenances thereto, with full rights of ingress and egress to and from the real estate above described.

It is further agreed that the Grantee herein shall complete all excavation, backfilling and other construction and maintenance operations on the real estate above described in a neat and reasonable manner and remove or cover all loose rocks and restore the premises to its condition immediately prior to any construction activities or in suitable condition to be mowed by the Grantor.

The Grantor, their heirs, executors and assigns, may fully use and enjoy said premises except for the altering or in any manner changing improvements made on the real estate above described by said Grantee or erecting any kind of structure which might obstruct the use of the improvements.

Dated this 24 day of April, 2020.

Edna Bluebird
Kenneth T. Blackbird

ACKNOWLEDGEMENT

STATE OF OKLAHOMA)

) ss.

CHEROKEE COUNTY)

Before me, the undersigned, a Notary Public in and for said County and State, on this 24 day of April, 2020, personally appeared Edna Bluebird and Kenneth Blackbird to me known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal on this day and year above set forth.



Jamie Parker
Notary Public

My Commission Expires _____

Commission No. _____

NOW, on this _____ day of _____, 2020, the City Council of the City of Tahlequah, State of Oklahoma, a municipal corporation, acting for and in behalf of said municipal corporation, during regular session, does hereby approve and accept from the named Grantor this delivered Easement and directs the Mayor and Clerk of said City of Tahlequah to indicate the same by their signatures and seal of the City of Tahlequah, State of Oklahoma.

MAYOR

ATTEST:

CITY CLERK

COPY

Burl R. Berry
880 Cherry Springs Dr.
Tahlequah, OK 74464

CITY OF TAHLEQUAH, OKLAHOMA
PUBLIC UTILITY EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

THAT

Burl R. Berry

of Tahlequah, Oklahoma, (hereinafter called "Grantor") for and in consideration of the sum of One Dollar (\$1.00) and Other Good and Valuable considerations the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the CITY OF TAHLEQUAH, OKLAHOMA, a municipal corporation, (hereinafter called "Grantee") a perpetual Easement upon, over and across the following described real estate in Cherokee County, Oklahoma, to-wit;

A 20.00 feet wide strip of land lying in part of the NW1/4 SW1/4 of Section 10, T16N, R22E, Cherokee County, Oklahoma being more particularly described as follows: Commencing at the Southwest corner of said NW1/4 SW1/4, thence N87°54'31"E along the South line thereof 16.50 feet to the point of beginning, said point being on the easterly section line statutory right-of-way line; thence N01°44'48"W along said easterly section line statutory right-of-way line 20.00 feet; thence N87°54'31"E parallel to the South line of said NW1/4 SW1/4 679.01 feet; thence S60°39'53"E 38.36 feet to said South line; thence S87°54'31"W along said South line 711.87 feet to the point of beginning. Containing 0.32 acres, more or less.
Together with an additional width of 20.00 feet adjacent and parallel to the northerly and easterly sides of said strip for a temporary construction easement.

To have and to hold the same unto the Grantee, its successors, trustees and assigns, forever.

This easement is granted for the purpose of enabling the Grantee herein, its successors, trustees and assigns, to go upon the real estate above described and to construct, reconstruct, use, operate, maintain, and patrol public utilities, lines, pipes, and appurtenances thereto, with full rights of ingress and egress to and from the real estate above described.

It is further agreed that the Grantee herein shall complete all excavation, backfilling and other construction and maintenance operations on the real estate above described in a neat and reasonable manner and remove or cover all loose rocks and restore the premises to its condition immediately prior to any construction activities or in suitable condition to be mowed by the Grantor.

The Grantor, their heirs, executors and assigns, may fully use and enjoy said premises except for the altering or in any manner changing improvements made on the real estate above described by said Grantee or erecting any kind of structure which might obstruct the use of the improvements.

Dated this 25 day of May, 2021.

Burl Berry

ACKNOWLEDGEMENT

STATE OF OKLAHOMA)

) ss.

CHEROKEE COUNTY)

Before me, the undersigned, a Notary Public in and for said County and State, on this 25 day of May, 2021 personally appeared Burl Berry to me known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal the day and year above set forth.

My Commission Expires

2/2/25

Commission No.

21001495



NOW, on this _____ day of _____, 2021, the City Council of the City of Tahlequah, State of Oklahoma, a municipal corporation, acting for and in behalf of said municipal corporation, during regular session, does hereby approve and accept from the named Grantor this delivered Easement and directs the Mayor and Clerk of said City of Tahlequah to indicate the same by their signatures and seal of the City of Tahlequah, State of Oklahoma.

MAYOR

ATTEST :

CITY CLERK

COPY

**CITY OF TAHLEQUAH, OKLAHOMA
PUBLIC UTILITY EASEMENT**

KNOW ALL MEN BY THESE PRESENTS:

THAT ROBERT POOR AND JULIE POOR, HUSBAND AND WIFE, whose mailing address is 19070 E ROGERS DR, TAHLEQUAH OK, (hereinafter called "Grantor") for and in consideration of the sum of One Dollar (\$1.00) and Other Good and Valuable considerations the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the CITY OF TAHLEQUAH, OKLAHOMA, a municipal corporation, (hereinafter called " Grantee") a perpetual Easement upon, over and across the following described real estate in Cherokee County, Oklahoma, to-wit;

A 20.00 feet wide strip of land lying in part of Lot 5, Block 1 of Indian Meadows Estates, a subdivision in Section 10, T16N, R22E, Cherokee County, Oklahoma being more particularly described as follows: Commencing at the Northwest corner of said Lot 5, thence N87°54'31"E along the northerly line thereof 24.62 feet to the point of beginning; thence N87°54'31"E along said northerly line 38.36 feet; thence S60°39'53"E 102.98 feet to the easterly line of said Lot 5; thence S22°07'33"W along said easterly line 20.16 feet; thence N60°39'53"W 138.54 feet to the point of beginning. Containing 0.06 acres, more or less. Together with an additional width of 20.00 feet adjacent and parallel to each side of said strip for temporary construction easements.

To have and to hold the same unto the Grantee, its successors, trustees, and assigns, forever.

This easement is granted for the purpose of enabling the Grantee herein, its successors, trustees and assigns, to go upon the real estate above described and to construct, reconstruct, use, operate, maintain, and patrol public utilities, lines, pipes, and appurtenances thereto, with full rights of ingress and egress to and from the real estate above described.

It is further agreed that the Grantee herein shall complete all excavation, backfilling and other construction and maintenance operations on the real estate above described in a neat and reasonable manner and remove or cover all loose rocks and restore the premises to its condition immediately prior to any construction activities or in suitable condition to be mowed by the Grantor.

The Grantors, their heirs, executors and assigns, may fully use and enjoy said premises except for the altering or in any manner changing improvements made on the real estate above described by said Grantee or erecting any kind of structure which might obstruct the use of the improvements.

Dated this 25th day of May 2023.

Robert Poor
Robert Poor
Julie Poor
Julie Poor

ACKNOWLEDGEMENT

STATE OF OKLAHOMA)
) ss.
CHEROKEE COUNTY)

Before me, the undersigned, a Notary Public in and for said County and State, on this 25 day of May 2023, personally appeared Robert Poor and Julie Poor Husband and Wife to me known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal the day and year above set forth.

My Commission Expires 12/20/2026
Commission No. 22016843

Ashley Rouse
Notary Public



NOW, on this _____ day of _____, 20____, the City Council of the City of Tahlequah, State of Oklahoma, a municipal corporation, acting for and in behalf of said municipal corporation, during regular/special session, does hereby approve and accept from the named Grantor this delivered Easement and directs the Mayor and Clerk of said City of Tahlequah to indicate the same by their signatures and seal of the City of Tahlequah, State of Oklahoma.

MAYOR

ATTEST : _____
CITY CLERK

COPY

**CITY OF TAHLEQUAH, OKLAHOMA
PUBLIC UTILITY EASEMENT**

KNOW ALL MEN BY THESE PRESENTS:

THAT MICHELLE NORMAN, whose mailing address is 1702 E DOWNING, (hereinafter called "Grantor") for and in consideration of the sum of One Dollar (\$1.00) and Other Good and Valuable considerations the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the CITY OF TAHLEQUAH, OKLAHOMA, a municipal corporation, (hereinafter called "Grantee") a perpetual Easement upon, over and across the following described real estate in Cherokee County, Oklahoma, to-wit:

See EXHIBIT A -- Legal Description, hereby attached and made part of this Easement

To have and to hold the same unto the Grantee, its successors, trustees and assigns, forever.

This easement is granted for the purpose of enabling the Grantee herein, its successors, trustees and assigns, to go upon the real estate above described and to construct, reconstruct, use, operate, maintain, and patrol public utilities, lines, pipes, and appurtenances thereto, with full rights of ingress and egress to and from the real estate above described.

It is further agreed that the Grantee herein shall complete all excavation, backfilling and other construction and maintenance operations on the real estate above described in a neat and reasonable manner and remove or cover all loose rocks and restore the premises to its condition immediately prior to any construction activities or in suitable condition to be mowed by the Grantor.

The Grantors, their heirs, executors and assigns, may fully use and enjoy said premises except for the altering or in any manner changing improvements made on the real estate above described by said Grantee or erecting any kind of structure which might obstruct the use of the improvements.

Dated this 5 day of 5 20 23.

MICHELLE NORMAN
Printed Name:

Michelle Norman
Printed Name:

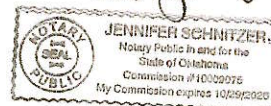
ACKNOWLEDGEMENT

STATE OF OKLAHOMA)
COUNTY OF Cherokee) ss.

Before me, the undersigned, a Notary Public in and for said County and State, on this 5th day of May 2023, personally appeared Michelle Norman to me known to be the identical person(s) who executed the within and foregoing instrument and acknowledged to me that he/she/they executed the same as his/her/their free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal the day and year above set forth.

My Commission Expires 10/29/2026
Commission No. 10009075



NOW, on this _____ day of _____, 20____, the City Council of the City of Tahlequah, State of Oklahoma, a municipal corporation, acting for and in behalf of said municipal corporation, during regular/special session, does hereby approve and accept from the named Grantor this delivered Easement and directs the Mayor and Clerk of said City of Tahlequah to indicate the same by their signatures and seal of the City of Tahlequah, State of Oklahoma.

ATTEST: _____
CITY CLERK

MAYOR

EXHIBIT A – Legal Description

COMMENCING AT THE NORTHWEST CORNER OF THE NW4 NE4 NE4 OF SECTION 34, TOWNSHIP 17 NORTH, RANGE 22 EAST OF THE INDIAN BASE AND MERIDIAN, CHEROKEE COUNTY, OKLAHOMA; THENCE EAST, ALONG THE NORTH BOUNDARY OF SAID NW4 NE4 NE4, 542.0 FEET; THENCE SOUTH 45.0 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 10.0 FEET; THENCE WEST, 13.67 FEET; THENCE N03°48'51"E, 10.02 FEET; THENCE EAST 13.00 FEET TO THE POINT OF BEGINNING.

STATE OF OKLAHOMA)
CHEROKEE COUNTY) SS.
NOTARY PUBLIC

935

003017

WARRANTY DEED

INDEX

APR 22 1997

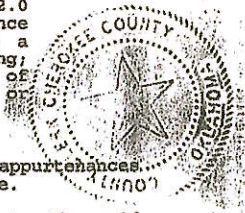
2:45 PM
599
935

KNOW ALL MEN BY THESE PRESENTS:

THAT BENNETT M. GUTHRIE II and SANDRA L. GUTHRIE, husband and wife, parties of the first part, in consideration of the sum of Ten Dollars (\$10.00) and other valuable considerations in hand paid, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto MICHELE NORMAN, 108 W. Delaware, Tahlequah, Oklahoma 74464, party of the second part, the following described real property and premises situate in Cherokee County, State of Oklahoma, to-wit:



A piece or parcel of land located in the NW4 of NE4 of NE4 of Section 34, Township 17 North, Range 22 East, more particularly described as follows, to-wit: Commencing at a point 35.0 feet East of the Northwest corner of said NW4 of NE4 of NE4; thence East 507.0 feet to the Point of Beginning proper; thence South 350.0 feet; thence West 32.0 feet; thence North 20.0 feet; thence Northeasterly and on a straight line to a point 10 feet West of the Point of Beginning; and thence East 10 feet to the point of beginning, containing 0.17 acre, more or less;



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

TO HAVE AND TO HOLD said described premises unto the said party of the second part, her heirs, successors and assigns, forever, free, clear and discharged of and from all former grants, charges, taxes, judgments, mortgages and other liens and encumbrances of whatsoever nature, EXCEPT outstanding oil, gas and other mineral leases, conveyances and reservations of record, if any, existing easements and access rights-of-way of record, if any, existing restrictions of record, if any, existing zoning ordinances, if any, existing flood plain restrictions and related ordinances, if any, taxes and assessments not delinquent, existing public roads and easements, if any, and section line reserves, if any.

Signed and delivered this 22nd day of April, 1997.

BENNETT M. GUTHRIE II

SANDRA L. GUTHRIE

STATE OF OKLAHOMA,)
COUNTY OF ADAIR) SS.

This instrument was acknowledged before me on this 22nd day of April, 1997, by Bennett M. Guthrie II and Sandra L. Guthrie, husband and wife.

My Commission Expires:

Notary Public



Apple Inc. Location Release

COPY



LOTUS
Project

TAHLEQUAH, OK CREEK
Property

For good and valuable consideration, the receipt of which is hereby acknowledged, the undersigned person or entity ("Authorized Representative") hereby grants to Apple Inc. ("Apple") and its respective subsidiaries, nominees, affiliates, successors, assigns and those acting under its permission, the absolute right and permission to: (i) on the Agreed Shoot Date set forth below, enter, photograph, film, videotape and record the exterior and interior of the premises and the contents and fixtures thereof known as SEQUOYAH PARK & TAHLEQUAH CITY PARKS located at 175 NORTH BROOKSIDE AVENUE, TAHLEQUAH, OK 74464 & TAHLEQUAH CREEK BETWEEN EAST DOWNING ST & EAST CHOCTAH STREET, TAHLEQUAH, OK 74464 (collectively, the "Premises") including the names, trademarks, signs and identifying features thereof and/or thereon and (ii) use, publish, distribute and/or broadcast, such film, photography and sound recordings, or any part thereof (collectively, the "Materials"), either alone or accompanied by other material, in whole or in part, or distorted in character or form, in any and all media now known or hereafter developed, throughout the world, in perpetuity, for advertising, publicity, business, trade or any other lawful purpose whatsoever.

Authorized Representative hereby waives any rights to inspect and approve the finished Materials or their use. Nothing herein will constitute any obligation on Apple's part to make any use of any of the rights set forth herein. Authorized Representative agrees that all right, title and interest in and to the finished product and any digital files thereof, including the copyrights therein, shall vest exclusively in Apple. If Authorized Representative should receive any digital files or other copy thereof, Authorized Representative shall not use it for any public relations or self-promotional efforts or authorize its use by anyone else.

Authorized Representative warrants that it has the full power and authority to grant the aforesaid rights and that the use of the Premises and Materials in such a manner will not violate or infringe upon the rights of any third parties. Authorized Representative further warrants that no other authorization is necessary to enable Apple to use the Premises or Materials as contemplated hereunder.

Authorized Representative hereby agrees to release, discharge, defend, indemnify and hold harmless Apple, its respective nominees, affiliates, successors and assigns or others for whom they are acting from and against any and all liability caused by, or arising by virtue of, any use, alteration, distortion, or illusionary effect whatsoever of the Premises or Materials in accordance with the terms hereof, including, but not limited to, claims in the nature of copyright infringement, trademark infringement or trademark dilution or tarnishment.

This Release is governed by the laws of the State of Oklahoma, and the parties also agree that the courts of the State of Oklahoma have personal jurisdiction over them for purposes of any disputes which may arise from this Release. This Release contains the entire understanding between the parties regarding the subject matter hereof and supersedes all prior understandings. No waiver, modification or additions to this Release shall be valid unless in writing and signed by the parties hereto.

APRIL 19, 2023
Agreed Shoot Date

\$100.00
Agreed Compensation



I have read the contents of the foregoing, fully understand the contents thereof and am authorized to grant these rights.

Company Name

Address

Print Name

Title

Phone Number

Email

Signature

Date

CERTIFICATIONS AND AUTHORIZATIONS

By signing below, you make the following Representations, Authorizations, and Certifications

COPY

I certify that:

1. The department or organization that I represent meets the criteria for the Cherokee Nation Public Safety Partners Grant Application, according to the policies and criteria set by the tribe.
2. I understand that any participating department is required to sign an accompanying MOU before a check can be issued.
3. I understand that as a signor on this application I am committing to complete the products detailed herein using the funds appropriated by the Cherokee Nation, to benefit Cherokees and non-Cherokees alike in my community.
4. I understand that any negligence on behalf of my department regarding the use of these funds, may result in being ineligible for any new funds for one tribal fiscal year.
5. I understand that my department or organization will have to certify that it is located and operates within the boundaries of the Cherokee Nation Reservation to qualify for a Cherokee Nation Public Safety Partners Grant.
6. I understand that this grant is a Beneficiary Payment according to the guidance provided in the Coronavirus State and Local Fiscal Recovery Fund Final Rule because:
 1. This organization suffered a negative economic impact as a result of the COVID-19 pandemic.
 2. The organization is not utilizing these funds to carry out a program or perform services on behalf of the Cherokee Nation.

I certify that I have read the above certification and my statements contained herein are true and correct to the best of my knowledge.

Community Partner:

 05 30 2023
Preparer Date

Cherokee Nation:

Janees Taylor, Treasurer Date

Authorized Representative* Date

CN Administration Representative Date

*Must be the senior most official for any participating department

Methods for Submitting Application

All submissions must be made via email to CN-Partners@cherokee.org

For more information, please contact:
Taralee Montgomery (918) 316-0416
CN-Partners@cherokee.org



Cherokee Nation Public Safety Partners Grant Application

Grantee Organizational Information

Organization Name: Tahlequah Fire Dept.	Community Served: City of Tahlequah and Cherokee County
Circle one: ☒ Fire ☐ EMS ☐ Emergency Management ☐ E911 ☐ Law Enforcement	
Employer Identification Number (EIN): 736005455	Date Submitting Proposal: 05262023
Tax Status: ☐ 501(c)(3) ☒ Other (please specify): Tax exempt	

Organization Contact

Name: Casey Baker	Title: Fire Chief
Address: 125 E. Chickasaw	
City/State/Zip: Tahlequah, OK 74464	
Phone: (918) 456-2424	Email: CBAKER@TAHLEQUAH.GOV
Award Amount: \$50,000	

Project Summary:

What projects or purchases will be completed under this grant?

We would replace a twenty five year old cascade system (air bottle fill station). This system would be used to fill Tahlequah Fire bottles along with surrounding departments.

Other Federal COVID-19 Relief Funding:

Has this organization received any other federal COVID-19 relief funding? ☐ YES ☒ NO
(If yes, please attach a brief detail of the funds received)

Project Cost Summary:

Categories total up to \$50,000 (**If the organization has already received funding through a Cherokee Nation Community Partners Grant, this total will be less than amount.)	
A. Supplies, Equipment	\$45,000
B. Training	\$
C. Infrastructure	\$5,000
D: Other detailed use	\$
Total	\$50,000

TRANSPORTATION ENHANCEMENT PROGRAM

CERTIFICATE OF PROJECT COMPLETION

COPY

State Job No. : 31480(08) F.A. Project No.: SRS-211E(015)ST

Project Sponsor: CITY OF TAHLEQUAH

Project Title: SRS - CHEROKEE ELEM, GREENWOOD ELEM, SEQUOYAH
ELEM, HERITAGE ELEM & TAHLEQUAH MIDDLE SCH.
INFRASTRUCTURE

AFFIDAVIT

_____ of lawful age, and having been first duly
sworn, on oath states:

1. That (s)he is the agent authorized by the **SPONSOR** to execute and submit this document to the State of Oklahoma.
2. That the implementation of the referenced project is now considered to be complete and all work has been accepted.
3. That the project has been contracted for and designed in accordance with the applicable provisions of the Project Agreement.
4. That all construction activities were performed in accordance with the associated construction plans or applicable manufacturer=s instructions.
5. That all materials purchased and installed did meet the specifications for materials purchased and installed on this project.

FURTHER AFFIANT SAYETH NOT

Affiant

Subscribed and sworn to before me this _____ day of _____, 20____.

My Commission Expires: _____

Notary Public

**CivicPlus**

302 South 4th St. Suite 500
Manhattan, KS 66502
US

COPY

Quote #:**Date:****Expires On:**

Statement of Work

Q-37724-1

2/17/2023 4:17 PM

7/31/2023

Client:

TAHLEQUAH, OKLAHOMA

Bill To:

TAHLEQUAH, OKLAHOMA

SALESPERSON	Phone	EMAIL	DELIVERY METHOD	PAYMENT METHOD
Jacen Clapp	785-222-4874	jacen.clapp@civicplus.com		Net 30

QTY	PRODUCT NAME	DESCRIPTION	PRODUCT TYPE
1.00	CivicClerk Annual Fee	CivicClerk Annual Fee - Agenda and Minutes Management	Renewable
1.00	Agenda & Meeting Management Select Premium Implementation Package	Premium Implementation Package – Up to 7 of Boards	
1.00	CivicClerk Premium Configuration	CivicClerk Premium Configuration	One-time
1.00	CivicClerk Custom Template Design	CivicClerk Custom Template Set - includes 2 Agenda templates, 1 Item Report template, 1 Minutes template, 1 Agenda Script template	One-time
2.00	CivicClerk Consulting (1h, virtual)	1 hour Virtual Consulting	One-time
1.00	CivicClerk Virtual Training (Half Day Block)	Training (Virtual) - half day, up to 4 hours	One-time
1.00	Live Meeting Manager Annual Fee	CivicClerk Live Meeting Manager Annual Fee - Live Meeting, Electronic Voting, Display Pages	Renewable

Total Investment - Initial Term	USD 12,442.00
Annual Recurring Services - Year 2	USD 9,032.10

Initial Term & Renewal Date	12 Months
Initial Term Invoice Schedule	100% Due at Start Date

Renewal Procedure	Automatic 1 year renewal term, unless 60 days notice provided prior to renewal date
Renewal Invoice Schedule	Annually on date of signing

Annual Uplift	5% starting in Year 2
---------------	-----------------------

This Statement of Work ("SOW") shall be subject to the terms and conditions of the CivicPlus Master Services Agreement and the applicable Solution and Services terms and conditions located at <https://www.civicplus.help/hc/en-us/p/legal-stuff> (collectively, the "Binding Terms"), By signing this SOW, Client expressly agrees to the terms and conditions of the Binding Terms throughout the term of this SOW.

Acceptance

The undersigned has read and agrees to the following Binding Terms, which are incorporated into this SOW, and have caused this SOW to be executed as of the date signed by the Customer which will be the Effective Date:

Authorized Client Signature

CivicPlus

By:

By:

Name:

Name:

Title:

Title:

Date:

Date:

Organization Legal Name:

Billing Contact:

Title:

Billing Phone Number:

Billing Email:

Billing Address:

Mailing Address: (If different from above)

PO Number: (Info needed on Invoice (PO or Job#) if required)

COPY

**INTERLOCAL AGREEMENT
ON THE HANDLING OF JUVENILE CASES
BETWEEN THE DISTRICT COURT, FIFTEENTH JUDICIAL
DISTRICT, AND THE CITY OF TAHLEQUAH, OKLAHOMA**

This agreement is made pursuant to the Interlocal Cooperative Act (74 O.S. § 1001, et seq.) by and between the District Court of the Fifteenth Judicial District, serving Cherokee County (hereafter “the District Court”), and the City of Tahlequah, Oklahoma (hereafter, “the City”), under the authority of 10A O.S. § 2-2-102, authorizing municipal courts to assume jurisdiction of certain specified juvenile offenders. The express purpose of this agreement is to enable the Municipal Court of the City of Tahlequah, Oklahoma, (hereafter, “the Municipal Court”) to establish, develop, an implement various prevention or early intervention programs for local juvenile misdemeanor offenders. Such offenders will typically be first-time offenders, or at least juveniles with infrequent contact with the law. By implementing such a program, the resources available to the District Court can be focused more efficiently on more serious juvenile offenders, including felony offenders and juveniles with significant histories of repeat offenses.

- 1) This agreement shall be in effect from the date of its approval by both parties through June 30, 2024. Thereafter this agreement may be renewed for successive one-year periods corresponding with the City’s fiscal year of July first through June thirtieth. The agreement shall expire automatically on June thirtieth unless the District Court and the governing body of the City renew the agreement for another year. If either party desires to let the agreement expire, that party shall notify the other party in writing of its desire by the first day of May of the fiscal year preceding expiration.
- 2) Either party may request a modification of the agreement by making a written request identifying the desired amendments, or the subject matter thereof, at least forty-five (45) days in advance of any negotiations concerning amendment.

- 3) Either party may terminate this agreement by providing written notice to the other party at least ninety (90) days prior to the proposed termination.
- 4) In the event the parties need to discuss specific problems, or in the event any notice required under this contract needs to be served, the City may be contacted through the Office of the City Attorney at the Tahlequah, Oklahoma, City Hall. The District Court may be contacted through the Office of the Presiding Juvenile Judge at the Cherokee County Courthouse.

OBLIGATION OF THE CITY

- 1) The Municipal Court of the City of Tahlequah, Oklahoma, may assume jurisdiction of offenders who:
 - a) Are under eighteen (18) years of age; and
 - b) Have been charged with violating municipal ordinances relating to any of the following acts:
 - (1) Vandalism;
 - (2) Shoplifting;
 - (3) Trespassing;
 - (4) Assault;
 - (5) Battery;
 - (6) Assault and battery;
 - (7) Illegal possession of firearms;
 - (8) Truancy;
 - (9) Curfew violation;
 - (10) Possession of alcoholic beverage(s);
 - (11) Disorderly conduct;
 - (12) Public intoxication;

- (13) Failure to appear for a court appearance or comply with a court order;
 - (14) Any other offense listed in 10A O.S. § 2-2-103; and
- c) Have not been certified as an adult for any purpose pursuant to 10A O.S. § 2-2-403, to the best of the knowledge of the City.
- 2) Upon conviction or upon a deferment of judgment, the Municipal Court may impose any one or all of the following sanctions:
- a) A fine not to exceed the statutory maximum of the Municipal Court;
 - b) Community service work in lieu of a fine (Not to exceed forty-two hours and not to exceed the hourly equivalent of the maximum fine allowed by law, computed at the prevailing minimum wage);
 - c) Restitution;
 - d) Counseling or other community-based services; and/or
 - e) Court costs.
- 3) All Municipal arrests and prosecution records for cases involving prosecutions under this contract shall be kept confidential and shall not be open for public inspection except by order of the District Court or in conformity with Oklahoma statute or with regulations adopted pursuant to 10 O.S. § 620.6, 10 O.S. §§ 7005-1.1 through 7005-1.8, and/or 10 O.S. §§ 7307-1.6 through 7307-1.8.
- 4) If a municipal citation is written to a juvenile meeting the criteria, the Municipal Court hearing date shall be indicated on the citation and notification of the citation shall be mailed to the parents, guardian, or responsible adult relative of the juvenile. If the juvenile is arrested and meets the criteria set forth under the contract, under circumstances where the citation and release procedure would not be appropriate (e.g. intoxication), the City shall make reasonable

efforts to locate the parent, guardian, or responsible adult to take custody of the juvenile. Upon a failure to locate an appropriate responsible adult, the City may refer the juvenile to the District Court or may retain custody of the juvenile in a location separate from the jail until the impediment to release is resolved.

- 5) The Municipal Court shall provide to the District Court law enforcement reports and related documents for all juveniles referred to the District Court for prosecution. It is expressly understood that prosecution in Municipal Court will constitute a bar against any subsequent prosecution in the District Court for the same offense.
- 6) All fines and administrative fees generated as a result of the prosecution of juveniles under this contract shall be placed in one or more special accounts and used to fund the costs of prosecution under this agreement, the costs of reasonable and necessary detention, the administrative costs related to the execution of this agreement, and the costs of local programs designed to address the problems of juvenile crime.
- 7) The City shall provide the District Court a copy of the most recent audit report of its Municipal Court operations for each year during the life of this contract or any extension thereof. It is understood, however, that this agreement is not intended to impose any additional record keeping requirements on municipal governments or officials.
- 8) Representatives of the District Court and the Municipal Court shall meet periodically to share information and evaluate the success of procedures implemented to share information and evaluate the success of procedures implemented to prosecute and treat juvenile offenders.

OBLIGATIONS OF THE DISTRICT COURT

- 1) The District Court understand that court costs which are authorized by law may be collected, deposited in the City's general fund, and thereafter expended by the City for lawful purposes.

- 2) The District Court acknowledges that the City's jurisdiction over juvenile traffic offenders is not affected by or dependent upon this agreement.
- 3) The District Court shall consider, in the District Court's sole discretion, the appropriateness of bringing contempt charges against any juvenile who has been:
 - a. Prosecuted under this agreement, and
 - b. Subjected to orders of the Municipal Court, and
 - c. Thereafter disobeys the orders of the Municipal Court.

The disobedience of an order of the Municipal Court order may also be used as an element in determining the appropriateness of District Court prosecution or appropriate sentencing in the event a juvenile is ever prosecuted on subsequent charges.

- 4) The District Court shall cooperate with the Municipal Court in maintaining statistical data on the number of juveniles diverted from the District Court system to the Municipal Court system and the success rate of the Municipal Court system, as determined by the percentage of recidivism of such Municipal Court offenders in either the Municipal Court or the District Court. As an aid to this process, the City shall compile a list identifying the juveniles prosecuted and the charges for which they were prosecuted, and that list shall be available upon demand by the District Court for comparison with the District Court records to determine previous offender status or for any other proper purpose.
- 5) The District Court shall periodically advise the City of the District Court's impressions of the successes or shortcomings of programs under the contract as measured against the purposes of the parties.
- 6) The District Court shall compare any arraignment docket kept by the City with the District Court's records to determine whether any named defendant has had prior contact with the

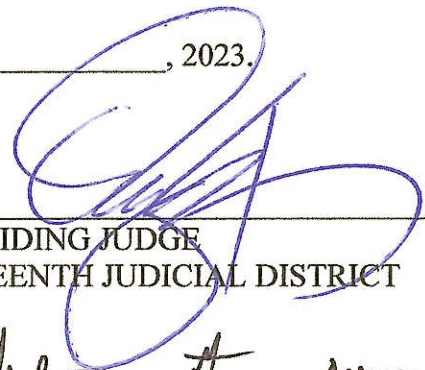
District Court and will advise the City of its findings prior to the arraignment in Municipal Court.

- 7) As needed, representatives for the contracting parties may meet to discuss improvements in any process implemented under this agreement.

STATUS OF VARIOUS EMPLOYEES/CONTRACTORS

No joint employment is created by this agreement for any purpose and each party will be solely responsible for the payment of their respective expenses, including but not limited to wages, salaries, and considerations paid on subcontracts.

APPROVED AND SIGNED this _____ day of _____, 2023.



PRESIDING JUDGE
FIFTEENTH JUDICIAL DISTRICT

 - Approved as to form

DISTRICT ATTORNEY, DIST. NO. 27
John P. Bennett, OBA #21888

PASSED AND APPROVED by the Mayor and Council of the City of Tahlequah, Oklahoma this 5th day of June, 2023.

CITY OF TAHLEQUAH, OKLAHOMA

MAYOR, Suzanne Myers

ATTEST:

CITY CLERK, Whitney Shaw

APPROVED as to form:

CITY ATTORNEY, John Tyler Hammons

CITY OF TAHLEQUAH

Resolution 06-05-2023(B)

WHEREAS, the Oklahoma Main Street Center has been established in the Oklahoma Department of Commerce to assist small towns and cities to develop a public/private effort to revitalize their "Main Street" areas, and

WHEREAS, the City of Tahlequah desires to continue participating in the Oklahoma Main Street Center,

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TAHLEQUAH:

SECTION 1. That the City of Tahlequah supports participation in the 2023-2024 Oklahoma Main Street Center with the specific goal of revitalizing the historic central business district using the Main Street 4-Point Approach TM to economic revitalization.

SECTION 2. That the City of Tahlequah understands that the Main Street Approach is a long-term process that results in a continual effort to maintain and enhance downtown.

ADOPTED THIS 5th DAY OF JUNE, 2023.

Mayor

Attest, City Clerk

May 19, 2023

To the Honorable Mayor and City Council
City of Tahlequah, Oklahoma

We have audited the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of City of Tahlequah, Oklahoma (the "City") for the year ended June 30, 2022. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards, *Government Auditing Standards* and the Uniform Guidance, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated August 16, 2022. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Matters

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the City are described in Note 1 to the financial statements. As described in Note 1 of the financial statement, the City changed accounting policies related to the recognition and reporting of leases by adopting Statement of Governmental Accounting Standards No. 87 *Leases* (GASB 87), in 2022. We noted no transactions entered into by the City during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimates affecting the City's financial statements were:

1. Management's estimates of the allowance for uncollectible accounts receivable that is based on past due balances and historical collections experience.
2. Pension assets, deferred outflows, liabilities, and deferred inflows, which are based on actuarial reports and the City's contributions towards the plans.
3. The liability for Other Post-Employment Benefits which is based on an actuarial report.

We evaluated the key factors and assumptions used to develop these estimates in determining that they are reasonable in relation to the financial statements taken as a whole.

Certain financial statement disclosures are particularly sensitive because of their significance to financial statement users. The most sensitive disclosures affecting the financial statements were:

The disclosure of the implementation of GASB 87, *Leases*, in Note 6 to the financial statements, commitments and contingencies in Note 9 and the detail of restatements made to the prior period in Note 10 that management considered material to financial statement users.

The financial statement disclosures are neutral, consistent, and clear.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than, those that are clearly trivial, and communicate them to the appropriate level of management. No uncorrected misstatements were noted during our audit. We identified the following adjustment that was posted as part of our auditing procedures:

Entry	Account Description	DR	CR	Explanation
1	Street and Sidewalk Expense Accounts Payable	73,152	73,152	To correct AP balance

Disagreements with Management

For purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated May 19, 2023.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the City's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. The City has employed Crawford & Associates, P.C. as consultants for the City and for assistance in drafting the City's financial statements. To our knowledge there were no consultations with Crawford & Associates, P.C. or other accountants which could affect our opinions on the City's financial statements.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the City's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

Other Matters

We applied certain limited procedures to management's discussion and analysis, defined benefit pension plan funding schedules, the schedule of funding progress – other post-employment benefit obligation, budgetary comparison schedule – restricted sales tax fund II, combining information for the general fund, and the budgetary comparison schedule – general fund, which are required supplementary information (RSI) that supplements the basic financial statements. Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the RSI and do not express an opinion or provide any assurance on the RSI.

We were engaged to report on the combining and individual nonmajor fund financial statements, as listed in the table of contents of the report, which accompany the financial statements but are not RSI. With respect to this supplementary information, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with accounting principles generally accepted in the United States of America, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.



Restriction on Use

This information is intended solely for the information and use of members of the City Council and Management of the City and is not intended to be, and should not be, used by anyone other than these specified parties.

Sincerely,

A handwritten signature in cursive script that reads "Arledge & Associates PC".

Arledge & Associates, P.C.



DUE TO SIZE, THESE DOCUMENTS ARE AVAILABLE IN DIGITAL FORMAT ON THE CITY WEBSITE:

- CLICK ON THE [GOVERNMENT](#) TAB
- CLICK ON [DEPARTMENTS](#) then [FINANCE](#)
- CLICK ON [City of Tahlequah Budgets and Audits](#)
- CLICK ON [Audits](#) then [2021-2022 AUDIT PDF](#)

DUE TO SIZE, THESE DOCUMENTS ARE AVAILABLE IN DIGITAL FORMAT ON THE CITY WEBSITE:

- CLICK ON THE GOVERNMENT TAB
- CLICK ON DEPARTMENTS then FINANCE
- CLICK ON City of Tahlequah Budget and Audits
- CLICK ON budgets then 2023-2024 PROPOSED Budget

CITY OF TAHLEQUAH, OKLAHOMA

RESOLUTION NO 06-05-2023

A RESOLUTION APPROVING THE CITY OF TAHLEQUAH, OKLAHOMA BUDGET FOR THE FISCAL YEAR 2023-2024 AND ESTABLISHING BUDGET AMENDMENT AUTHORITY

WHEREAS, the City of Tahlequah has adopted the provisions of the Oklahoma Municipal Budget Act (the Act) in 11 O.S. Sections 17-201 through 17-216; and

WHEREAS, the chief executive officer has prepared a budget for the fiscal year ending June 30, 2024 (FY 2023-2024) consistent with the Act; and

WHEREAS, the Act in Section 17-215 provides for the chief executive officer of the City, or designee, as authorized by the governing body, to transfer any unexpended and unencumbered appropriation from one department to another within the same fund; and

WHEREAS, the Tahlequah City Council has conducted a Public Hearing at least fifteen (15) days prior to the start of the fiscal year, and published the notice of the Public Hearing in compliance with Section 17-208 of the Act; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TAHLEQUAH, OKLAHOMA:

SECTION 1. The City Council of the City of Tahlequah does hereby adopt the FY 2023-2024 Budget on the 5th day of June 2023 with total resources available in the amount of \$42,845,475 and total fund/departmental appropriations in the amount of \$33,626,598. Legal appropriations (spending/encumbering limits) are hereby established as follows:

FUND	APPROPRIATION
GENERAL FUND	
Managerial	2,373,063
City Clerk	92,826
City Treasurer	14,124
Municipal Judge	192,354
Cemetery	253,382
Emergency Management	125,741
Fire Department	2,017,821
Law Enforcement	3,779,003
Street Department	1,269,537
City Library	41,500
Maintenance	251,228
Recreation	1,396,241
Information Technology	229,741
Compliance	397,769
Fund Transfers	1,521,278
[TOTAL GENERAL FUND]	13,955,608
STREET & ALLEY FUND	250,000
HOTEL/MOTEL FUND	470,044
CEMETERY CARE FUND	70,000
SOLID WASTE SERVICES FUND	4,268,302
STORMWATER MANAGEMENT FUND	538,427
AIRPORT FUND	317,960
BROOKSIDE RESTORATION FUND	8,000
CAPITAL IMPROVEMENT FUND	1,546,692
STREETS & SIDEWALKS FUND	6,617,956
COPS IN SCHOOLS RETENTION FUND	468,722
AMERICAN RESCUE FUND	2,129,293
RESTRICTED DONATIONS FUND	150,000
FAA APRON REHAB	497,480
CDBG 22 - CEDAR STREET	187,714
DEPT OF COMMERCE - EDA GRANT	2,150,400
TOTAL FOR ALL OTHER FUNDS	19,670,990
COMBINED APPROPRIATION TOTALS	33,626,598

SECTION 2. The City Council does hereby authorize the City Administrator to transfer (reallocate) any unexpended and unencumbered appropriations, at any time throughout FY 2023-2024, from one line item to another, one object category to another within a department, without further approval by the City Council. Transfers from one fund to another fund must be approved by the City Treasurer, as provided in Ordinance 7-110B.

SECTION 3. All supplemental appropriations or decrease in the total appropriation of a fund shall be adopted at a meeting of the City Council and filed with the State Auditor and Inspector.

SECTION 4. All balances in Grant Funds on June 30, 2023 will be rolled over and budgeted on July 1, 2023.
SIGNED

Suzanne Myers, Mayor

ATTEST:

Whitney Shaw, City Clerk

COPY

RESOLUTION NO. 06-05-2023(A)

A RESOLUTION RELATING TO THE INCURRING OF INDEBTEDNESS BY THE TRUSTEES OF THE TAHLEQUAH PUBLIC FACILITIES AUTHORITY AND WAIVING COMPETITIVE BIDDING WITH RESPECT THERETO; AND APPROVING A NOTE PURCHASE AGREEMENT, SECURITY AGREEMENT AND SUCH OTHER DOCUMENTS AS MAY BE NECESSARY OR REQUIRED.

WHEREAS, the Tahlequah Public Facilities Authority (the "Authority") was created by a Trust Indenture dated as of February 7, 2013 (the "Creating Indenture"), for the use and benefit of the City of Tahlequah, Oklahoma (the "City"), under authority of and pursuant to the provisions of Title 60, Oklahoma Statutes 2021, Sections 176 to 180.3 inclusive, as amended and supplemented, and other applicable statutes of the State of Oklahoma; and

WHEREAS, the City did adopt Tahlequah Sales Tax Ordinance No. 1198-2012 of November 5, 2012 which was approved by the qualified electors of the City on January 8, 2013 and codified into the City of Tahlequah Municipal Code, (the "Sales Tax Ordinance"), levying and assessing three quarters of one percent (3/4%) sales tax levied, to be used for the purpose of funding certain identified projects and to pledge said sales tax for including payment of principal and interest on any obligations issued for such purposes, (hereinafter, the "Sales Tax"); and

WHEREAS, the Authority has heretofore issued it's Sales Tax Revenue Bonds, Series 2013A , in the aggregate principal amount of \$15,935,000.00, dated May 1, 2013 of which \$3,535,000.00 is currently outstanding; and it's Sales Tax Revenue Bonds, Series 2013B , in the aggregate principal amount of \$8,520,000.00, dated May 1, 2013 of which \$5,350,000.00 is currently outstanding;(which are herein collectively referred to as the "Prior Bonds"); and

WHEREAS, the Authority has determined that it would be economically advantageous at this time to issue its revenue bonds or notes for the purpose of paying the costs of refunding all of the outstanding indebtedness evidenced by the Prior Bonds and to acquire, construct, equip and furnish certain capital improvements as initially identified in Ordinance No. 1198-2012 to the City of Tahlequah, the beneficiary of the Authority and to pay the costs of issuance of such bonds (the "Project"); and

WHEREAS, the Authority has determined that, in order to provide funds for the Project and to pay the costs of issuing the Series 2023 Note, it will issue its Sales Tax Revenue Note, Refunding Series 2023 in the aggregate principal amount of not to exceed \$9,700,000.00 (the "Series 2023 Note"); and

WHEREAS, there has been presented to this meeting a form of Security Agreement, dated as of July 1, 2023, (the "Security Agreement") between the Authority and the City, pursuant to which the Authority has agreed to issue the Note and the City has agreed to transfer certain sales tax funds to the Authority for the payment of debt service on the Note as provided under the terms and conditions set forth in the Security Agreement; and

WHEREAS, the Trustees of the Authority has received an offer from BancFirst, Tahlequah, Oklahoma, (the "Purchaser"), to purchase the Note under the terms and conditions set forth in the Note Purchase Agreement, to be dated date of closing, (the "Note Purchase Agreement") presented to this meeting.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAHLEQUAH, OKLAHOMA:

Section 1. The incurring of indebtedness by the Trustees of the Tahlequah Public Facilities Authority in the aggregate principal amount of \$9,700,000.00 to be evidenced by the Note of the Authority is hereby approved by the Council of the City of Tahlequah, Oklahoma, the governing body of said City.

Section 2. Competitive bidding is hereby specifically waived with respect to the issuance and sale of the Note and the issuance and sale of such Note to the Purchaser for a purchase price of not less than ninety nine and one half percent (99.50%) of the principal amount of the Note, all pursuant to the terms of the Note Purchase Agreement is hereby specifically approved.

Section 3. The Mayor and City Clerk of the City be, and they hereby are, authorized and empowered for and on behalf of the City, to execute and deliver the Security Agreement and such closing agreements and documents as such officer or officers may deem necessary or desirable in order to effect the consummate of the transactions contemplated by the issuance and sale of the Note.

Section 4. The signatures of the officers of the City appearing on the Security Agreement and any closing papers and certificates executed and delivered pursuant to this Resolution shall be conclusive evidence of their approval of the form thereof and of their authority to execute and deliver the Security Agreement and such agreements and documents on behalf of the City.

ADOPTED this 5th day of June, 2023.

ATTEST:

Mayor

City Clerk

(SEAL)

COPY

**STATE OF OKLAHOMA
DEPARTMENT OF TRANSPORTATION
PROJECT MAINTENANCE, FINANCING, AND RIGHT-OF-WAY AGREEMENT**

**TAHLEQUAH: SIDEWALK ON S. MUSKOGEE AVE. (US-62) FROM S. MUSKOGEE
AND SH-51 BYPASS TO THE S. MUSKOGEE AND SOUTHRIDGE RD./NANCY
WARD DR. INTERSECTION.**

Project No.: TAP3-7967(004) TP

State Job No.: 37967(04)

This Agreement, made the day and year last written below, by and between the City of **TAHLEQUAH**, hereinafter referred to as the Sponsor, and the Department of Transportation of the State of Oklahoma, hereinafter referred to as the Department, for the following intents and purposes and subject to the following terms and conditions, to wit:

WITNESSETH

WHEREAS, The Sponsor requested that certain street improvements be approved by the Oklahoma Transportation Commission, as were previously programmed by the Sponsor and described as follows:

Project Type	Div.	County	JP No	Project No.	Work Type	Description
Pedestrian / Bike Improvements	01	CHEROKEE	37967(04)	TAP3-7967(004) TP	ENHANCEMENT	TAHLEQUAH: SIDEWALK ON S. MUSKOGEE AVE. (US-62) FROM S. MUSKOGEE AND SH-51 BYPASS TO THE S. MUSKOGEE AND SOUTHRIDGE RD./NANCY WARD DR. INTERSECTION.

WHEREAS, the Department is charged under the laws of the State of Oklahoma with construction and maintenance of State Highways; and,

WHEREAS, the Department is, by terms of agreements with the Federal Highway Administration, responsible for the management and construction of certain federally funded projects within the corporate limits of cities within the State of Oklahoma; and,

WHEREAS, the Sponsor has been identified as the beneficiary and sub-recipient of such federally funded project; and,

WHEREAS, receipt of the benefits of this project will require that the Sponsor assume certain financial responsibilities; and,

WHEREAS, the Sponsor is a municipal corporation created and existing under the constitution and laws of the State of Oklahoma; and

WHEREAS, the laws and constitution of the State of Oklahoma impose financial restrictions on the Sponsor and its ability to ensure financial obligations; and,

WHEREAS, the Parties hereto recognize those financial limitations and agree that the financial obligations assumed by the Sponsor, by the terms of this Agreement, are enforceable only to the extent as may be allowed by law or as may be determined by a court of competent jurisdiction; and,

WHEREAS, it is understood that, by virtue of the Article 10, Section 26 of the Oklahoma Constitution, the payment of Sponsor funds in the future will be limited to appropriations and available funds in the then current Sponsor fiscal year.

NOW, THEREFORE: the Department and the Sponsor, in consideration of the mutual covenants and stipulations as set forth herein, do mutually promise and agree as follows:

SECTION 1: PROJECT AGREEMENT

1.1 If applicable, the Department will recommend approval of the project by the Federal Highway Administration.

1.2 The Sponsor agrees to comply with Title VI of the Civil Rights Act of 1964, 78 Stat. § 252, 42 U.S.C. § 2000d et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 21 - "Nondiscrimination in federally assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act 1964".

1.3 The DEPARTMENT and SPONSOR mutually recognize that each party is a governmental entity subject to the provisions of the Governmental Tort Claims Act (51 O.S. § 151 et seq.). The DEPARTMENT and SPONSOR hereby mutually agree that each is and may be held severally liable for any and all claims, demands, and suits in law or equity, of any nature whatsoever, paying for damages or otherwise, arising from any negligent act or omission of any of their respective employees, agents or contractors which may occur during the prosecution or performance of this Agreement to the extent provided in the Governmental Tort Claims Act. Each party agrees to severally bear all costs of investigation and defense of claims arising under the Governmental Tort Claims Act and any judgments which may be rendered in such cause to the limits provided by law. Nothing in this section shall be interpreted or construed to waive any legal defense which may be available to a party or any

exemption, limitation or exception which may be provided by the Governmental Tort Claims Act.

1.4 The Sponsor understands that should it fail to fulfill its responsibilities under this Agreement, such a failure will disqualify the Sponsor from future Federal-aid funding participation on any proposed project. Federal-aid funds are to be withheld until such a time as an engineering staff, satisfactory to the Department has been properly established and functioning, the deficiencies in regulations have been corrected or the improvements to be constructed under this Agreement are brought to a satisfactory condition of maintenance.

SECTION 2: ENGINEERING RESPONSIBILITIES

2.1 The Sponsor shall provide professional engineering services for the development of the Plans, Specifications and Estimates (PS&E) for this project. Design engineering for this project will be performed under the supervision of the Sponsor. Sponsor warrants to the Department that they will review the plans and will certify that the plans are acceptable to the Sponsor and are in full compliance with current standards and specifications.

2.2 Progress payments will be made to the consultant by the DEPARTMENT upon receipt of a properly executed claim form, approved by the SPONSOR, accompanied by suitable evidence of the completion of the work claimed, as detailed in the engineering contract.

2.3 The SPONSOR agrees to hold the Federal Government and the DEPARTMENT harmless from, and shall process and defend at its own expense, all claims, demands, or suits, whether at law or equity brought against the SPONSOR, the DEPARTMENT, or Federal Government, arising from the SPONSOR's execution, performance, or failure to perform any of the provisions of this Agreement, or arising by reason of the participation of the DEPARTMENT or Federal Government in the project, provided nothing herein shall require the SPONSOR to reimburse the DEPARTMENT or Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the DEPARTMENT.

2.4 When any alleged act, omission, negligence, or misconduct may be subject to the limitations, exemptions, or defenses which may be raised under the Governmental Tort Claims Act, 51 O.S. Sec. 151, et seq., all such limitations, exemptions, and defenses shall be available to and may be asserted by the SPONSOR. No liability shall attach to the DEPARTMENT or Federal Government except as expressly provided herein.

2.5 The Sponsor agrees to the location of the subject project and agrees to adopt the final plans for said project as the official plans of the Sponsor for the streets, boulevards, arterial highways and/or other improvements contained therein; and further, the Sponsor affirmatively states that it has or shall fully and completely examine the plans and shall hereby warrant to the Department, the Sponsor's complete satisfaction with these plans and the fitness of the plans to construct aforesaid project.

2.6 The Sponsor certifies that the project design plans shall comply, and the project when completed will comply, with the requirements of the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. §§ 12101 – 12213), 49 CFR Parts 27, 37 and 38 and 28 CFR parts 35 and 36. The Sponsor shall be exclusively responsible for integrated ADA compliance planning for all Sponsor streets, sidewalks and other facilities provided for public administration, use and accommodation, which is required of recipients and sub-recipients by 49 CFR § 27.11. State highways continued through corporate limits of the Sponsor shall be included in the Sponsor's comprehensive compliance plans.

2.7 To the extent permitted by law, all data prepared under this Agreement shall be made available to the Department without restriction or limitation on their further use, with exception of any documents or information that would be considered attorney/client privileged by the Sponsor.

2.8 The Department will conduct the environmental studies and prepare the National Environmental Protection Act documents as required for federally funded projects.

2.9 The Department will forward the environmental documents to FHWA for approval if applicable.

SECTION 3: LAND ACQUISITION AND UTILITY RELOCATION

3.1 The Sponsor warrants to the Department that, they have or will acquire all land, property, or rights-of-way needed for complete implementation of said project, free and clear of all obstructions and encumbrances and in full accordance with the Department's guidelines for Right-of-Way Acquisition on Federal-Aid Projects, the Uniform Relocation Act, the National Environmental Protection Act and all other applicable local, state and federal regulations.

3.2 The Sponsor shall be responsible for ensuring all proper tax documentation is filed and issued to recipients of funds paid on behalf of the Sponsor for Right-of-Way acquisition for this project.

3.3 The Sponsor warrants to the Department that it is knowledgeable of and will comply with the provisions of 42 U.S.C.A., Section 4601-4655 and 23 U.S.C.A., Section 323 (as amended) and 49 C.F.R. Part 24 in the acquisition of all right-of-way and the relocation of any displacees.

3.4 The Sponsor shall remove, at its own expense, or cause the removal of, all encroachments on existing streets as shown on said plans, including all buildings, porches, fences, gasoline pumps, islands, and tanks, and any other such private installations and shall further remove or remediate any existing environmental contamination of soil and water from any source, known or unknown.

3.5 If the acquisition of right-of-way for this project causes the displacement of any person, business or non-profit organization, the Sponsor warrants it will provide and be responsible for the Relocation Assistance Program and all costs associated with the Relocation Assistance Program. The Department, upon request, will provide a list of service providers who have been prequalified to administer the Relocation Assistance Program. The Sponsor agrees to employ a service provider from the prequalified list provided by the Department. Prior to any relocation assistance payments to the Sponsor, all files with parcels requiring relocation assistance shall be submitted to the Department for audit and compliance review. The Sponsor shall notify the Department within seven (7) days of the date of an offer to acquire being provided to a property owner(s) on any parcel which will require relocation assistance. Written notifications regarding service providers, in-house personnel, appeals, offers to acquire or other related correspondence shall be properly addressed and remitted as follows:

Oklahoma Department of Transportation
Operations Division
200 N.E. 21st Street
Oklahoma City, Oklahoma 73105-3204

3.6 The Sponsor warrants that any procurement, using federal funds, of property, goods or professional and personal services required for this project will be acquired by the Sponsor in compliance with the federal procurement Regulations at 40 USC 1101-1104 (Brooks Act) and the Regulations for Administration of Engineering and Design Related Service Contracts at 23 C.F.R. Part 172, as well as provisions of State purchasing laws applicable to the Sponsor.

3.7 The Sponsor will certify to the Department prior to establishing a letting date that all existing utility facilities (if any) have been properly adjusted in full accordance with the Department's Right-of-Way and Utilities Division policies and procedures to accommodate the construction of said project; and will be solely responsible for

payment of any and all contractor expenses, claims, suits and/or judgments directly resultant from any actual utility relocation delays.

3.8 The Sponsor shall have the authority pursuant to 69 O.S. § 1001 and 69 O.S. § 1004 to sell any lands, or interest therein, which were acquired for highway purposes as long as such sale is conducted in accordance with the above cited statutes.

3.9 The Sponsor agrees that if any property acquired utilizing Federal funding is disposed of or is no longer used in the public interest the Sponsor shall reimburse the Department at the current fair market value.

3.10 The Sponsor agrees to;

- Transmit copies of the instruments, including all deeds and easements, to the Department prior to the advertisement of bids for construction.
- Comply with the provisions of 42 U.S.C.A. § 4601-4655 and 23 U.S.C.A. § 323 (as amended) and, further comply with 49 C.F.R. Part 24 in the acquisition of all necessary right-of-way and relocation of all displacees.
- Convey title to the State of Oklahoma on all tracts of land acquired in the name of the Sponsor if the project is located on the State Highway System.

SECTION 4: FUNDING SUMMARY

4.1 The Department and the Sponsor agree that the project construction will be financed at a not-to-exceed, TAP total estimated cost of \$1,123,858.00, as described below:

FUNDING SOURCE =>			TAP		Sponsor	
STATE JOB PIECE NO.	DESCRIPTION	TOTAL ESTIMATED COST	SHARE (%)	AMOUNT	SHARE (%)	AMOUNT
37967(05)	Design -	\$149,540.00	80 up to a limit of	\$119,632.00	Remainder	\$29,908.00
37967(04)	Construction - (With 6% Inspection)	\$1,348,938.00	80 up to a limit of	\$1,004,226.00	Remainder	\$344,712.00
Total		\$1,498,478.00	Total=>	\$1,123,858.00	Total=>	\$374,620.00

4.2 Furthermore, the Department and the Sponsor agree that actual TAP costs incurred by project phase **JP37967(04)(05)** may exceed initial estimates. Costs between these project phases will be administratively adjusted based on actual cost of each phase, within the total cost of this Agreement, without formal supplemental Agreement, in so far as the total project agreement is not exceeded.

4.3 It is understood by the Sponsor and the Department that the funding participation stipulated herein may be altered due to bid prices, actual construction supervision costs and non-participating costs incurred during construction. The Sponsor will be responsible for payment of any estimated local funding prior to advertising the project for bid. Upon final acceptance of this project, the total project cost will be determined, and the final amount of local funds (if any) will be determined by the Department's Comptroller per the terms of this Agreement. A refund will then be made by the Department to the Sponsor or additional funding will be requested. The Sponsor agrees to make arrangements for payment of any Department invoice within 45 days of receipt.

SECTION 5: CONSTRUCTION RESPONSIBILITIES

5.1 The Sponsor agrees to comply with all applicable laws and regulations necessary to meet the Oklahoma Department of Environmental Quality (ODEQ) requirements for pollution prevention including discharges from storm water runoff during the planning and design of this project. Further, the Sponsor agrees and stipulates as stated in the ODEQ's *General Permit OKR10*, dated September 13, 2017 or latest revision, to secure a storm water permit with the ODEQ for utility relocations, when required. It is also agreed that the storm water management plan for the project previously described in the document includes project plans and specifications, required schedules for accomplishing the temporary and permanent erosion control work, the site specific storm water pollution prevention plan and the appropriate location map contained in the utility relocation plans.

5.2 The Sponsor's responsibility for environmental cleanup will be a continuing responsibility to remediate any and all known and unknown environmental damage throughout the duration of this agreement with the Department in compliance with State and federal regulations.

5.3 The roadway improvements and all devices specified herein shall not be altered, removed, or cease to be operative without mutual written consent of the Department and the Sponsor.

5.4 Upon approval of this agreement and the plans, specifications, and estimates by the Sponsor, the Department, and the Federal Highway Administration (if applicable),

the Department will advertise and let the construction contract for this project in the usual and customary legal manner. It is agreed that the projects herein contemplated are proposed to be financed as previously described, and that this Agreement, all plans, specifications, estimate of costs, acceptance of work, payments, and procedure in general hereunder are subject in all things at all times to all local, state and federal laws, regulations, orders, approvals as may be applicable hereto.

5.5 The Department shall provide a copy of the executed construction contract to the Sponsor, upon receipt of a written request.

5.6 The Department will notify the Sponsor of pre-bid dates, bid opening dates, and Transportation Commission award dates in writing upon receipt of a written request.

5.7 The Sponsor agrees that prior to the Department's advertising of the project for bids (as to that part of the project lying within the present corporate limits) it will:

- Grant to the Department and its contractors, the right-of-entry to all existing streets, alleys, and Sponsor owned property when required, and other rights-of-way shown on said plans.
- Remove at its own expense, or cause the removal of, all encroachments on existing streets as shown on said plans, including all signs, buildings, porches, awnings, porticos, fences, gasoline pumps and islands, and any other such private installations.
- Prohibit parking on that portion of the project within the corporate limits of the Sponsor, except as may be indicated in the plans or hereafter approved by agreement with the Department. The Sponsor further agrees not to install, or permit to be installed, any signs, signals or markings not in conformance with the standards approved by the Federal Highway Administration and Manual on Uniform Traffic Control Devices (MUTCD).
- Comply with the Department's standards for construction of driveway entrances from private property to the highway, in accordance with the Department's manual entitled "Policy on Driveway Regulation for Oklahoma Highways", Rev. 5/96, 69 O.S. (2001) § 1210.
- Maintain all right-of-way acquired for the construction of this project, as shown on said plans, in a manner consistent with applicable statutes, codes, ordinances and regulations of the Department and the State of Oklahoma.

- Have the authority pursuant to 69 O.S. 2001 § 1001 and 69 O.S. 2001 § 1004 to sell any lands, or interest therein, which were acquired for highway purposes as long as such sale is conducted in accordance with the above cited statutes. Prior written approval by the Chief, Right-of-Way Division for the Department shall be required before any sale is made.

5.8 The Sponsor further agrees and warrants to the Department that, subsequent to the construction of said project, the Sponsor will:

- 1) Erect, maintain and operate traffic control devices, including signals, signs and pavement markings only in accordance with 47 O.S. 2011 §§ 15-104- 15-106, and subject to agreement of the Department:
 - a) In the event that any traffic signal installed hereunder is no longer needed for the purposes designated herein, then the traffic signal installed hereunder shall not be moved by the Sponsor to any other point other than that which is approved by the Department prior to such removal.
 - b) In the event there is no mutually agreed location for the reinstallation, the Sponsor will assume complete ownership of the equipment following removal, if the installation is ten (10) years old or older. If the installation is less than ten (10) years old and:
 - 1) In the event the Sponsor desires total ownership of the equipment, the Sponsor shall reimburse the Department the original federal funding percentage share for the original equipment cost only, amortized for a ten(10) year service life, interest ignored, and assuming straight line depreciation.
 - 2) In the event the Sponsor does not desire total ownership of the equipment, the Sponsor shall sell the equipment at public auction to the highest bidder. The Sponsor shall reimburse the Department the original federal funding percentage share of the proceeds of such sale.
- 2) Subject to agreement with the Department, regulate and control traffic on said project, including but not limited to, the speed of vehicles, parking, stopping and turns only in accordance with 47 O.S. 2011 §§ 15-104- 15-106, and to make no changes in the provisions thereof without the approval of the Department. It shall be the responsibility of the Sponsor to notify the Department of any changes necessary to ensure safety to the traveling public.

- 3) Maintain all drainage systems and facilities constructed, installed, modified or repaired in conjunction with this project or as may be otherwise necessary to ensure proper drainage for road surfaces constructed under the terms of this agreement.
 - 4) Maintain all curbs and driveways abutting road surfaces constructed under the terms of this Agreement and all sidewalks adjacent thereto.
 - 5) Maintain all right-of-way areas adjacent to road surfaces, including erosion control and periodic mowing of vegetation, in a manner consistent with applicable codes, ordinances and regulations.
 - 6) For any portion of the project encompassed under this Agreement that is part of the State Highway System, the Sponsor shall maintain all that part of said project within the corporate limits of the Sponsor between the gutter lines and the right-of-way lines, and if no gutter exists, between the shoulder lines and the right-of-way lines, including storm sewers, all underground facilities, curbs and mowing, all in accordance with 69 O.S. Supp. 1994 §901 and all other applicable law.
 - 7) On limited access highways where county roads or city streets extend over or under the highway or public roads are constructed on state rights-of-way but there is no immediate ingress and egress from the highway, responsibility shall be as follows:
 - a. The public roads as defined in OAC 730:35-1-2 shall be maintained by the city or county and shall be included in their roadway mileage inventory.
 - b. Where county roads or city streets extend over the highway, the roadway, approaches and bridge surfaces, including the deck, shall be maintained by the city or county. The approach guardrail, bridge structure, and highest clearance posting on the structure shall be maintained by the Department.
 - c. Where county roads or city streets extend under the highway, the roadway approaches and advance signing shall be maintained by the city or county. The Department shall maintain the approach guardrail, bridge structure and surface, and the height clearance posting on the structure.
- 5.9 The Sponsor further agrees and warrants to the Department concerning any sign and highway facility lighting included as part of this project:

- 1) The Sponsor will, upon notice from the Department Engineer, provide at its own expense all required electrical energy necessary for all preliminary and operational tests of the highway lighting facilities.
- 2) Upon completion of the construction of said project, the Sponsor will be responsible for the maintenance and cost of operation of these highway lighting facilities, including all appurtenances thereto and including the sign lighting facilities.
- 3) It is specifically understood and agreed that the highway lighting and sign lighting facilities specified hereunder shall be continuously operated during the hours of darkness, between sunset and sunrise, and shall not be altered, removed or be allowed to cease operation without the mutual written consent of the Department and the Sponsor.
- 4) The Sponsor agrees to provide, on a periodic schedule, an inspection, cleaning and re-lamping maintenance program to assure the maximum efficiency of the highway lighting facilities.
- 5) In the event that the highway lighting facilities installed hereunder are no longer needed for the purposes designated herein, then the highway lighting facilities installed hereunder shall not be moved by the Sponsor to any point other than which is approved by the Department prior to such removal.
- 6) In the event there is no mutually agreed location for reinstallation, the Sponsor will assume complete ownership of the equipment following removal if the installation is twenty (20) years old or older. If the installation is less than twenty years old and:
 - a) In the event the Sponsor desires total ownership of the equipment, the Sponsor shall reimburse the Department the original federal funding percentage share of the original equipment costs only, amortized for a twenty (20) year service life, interest ignored, and assuming straight line depreciation.
 - b) In the event the Sponsor does not desire total ownership of the equipment, the Sponsor shall sell the equipment at public auction to the highest bidder. The Sponsor shall reimburse the Department the original federal funding percentage share of the proceeds of such sale.

5.10 The Department will appoint competent supervision and inspection of the construction work performed by the construction contractor and will provide such engineering, inspection and testing services as may be required to ensure that the construction of the project is accomplished in accordance with the approved Plans, Specifications and Estimates. The Department reserves the right to make such changes in said plans as may be necessary for the proper construction of said project.

- 1) The Sponsor agrees to provide such competent supervision as the Sponsor deems necessary during times that the work is in progress to ensure the completion of the project to the Sponsor's satisfaction and the Sponsor's representatives and the Department's representatives will cooperate fully to the end of obtaining work strictly in accordance with the plans and specifications.
- 2) The Sponsor will make ample provisions annually for the proper maintenance of said project, including the provision of competent personnel and adequate equipment, specifically, to provide all required maintenance of the project during the critical period immediately following construction and to keep the facility in good and safe condition for the benefit of the traveling public.
- 3) The Sponsor warrants to the Department that it will periodically review the adequacy of the aforesaid project to ensure the safety of the traveling public and should the Sponsor determine that further modifications or improvements be required, the Sponsor shall take such actions as are necessary to make such modifications or improvement. When operation modifications are required which in the opinion of the Department exceed the capability of the Sponsor's staff, the Sponsor agrees to retain, at the sole expense of the Sponsor, competent personnel for the purpose of bringing the improvement up to the proper standard of operation.
- 4) The Sponsor warrants and agrees that upon completion of the aforesaid project, the Sponsor assumes any and all financial obligations for the operation, use, and maintenance of the aforesaid project.

SECTION 6: NON-DISCRIMINATION CLAUSE

1. During the performance of this agreement, the Sponsor, for itself, its assignees and successors in interest, agrees as follows:

1) **Compliance with Regulations:**

The Sponsor shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time

(hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this agreement.

2) **Nondiscrimination:**

The Sponsor, with regard to the work performed by it during the agreement, shall not discriminate on the grounds of race, color, sex, age, national origin, disability/handicap, or income status, in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The Sponsor shall not participate either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in appendix B of the Regulations.

3) **Solicitations for Subcontracts, Including Procurement of Materials and Equipment:**

In all solicitations, either by competitive bidding or negotiation, made by the Sponsor for work to be performed under a contract or subcontract, including procurements of materials or leases of equipment, each potential contractor or subcontractor or supplier shall be notified by the Sponsor of the Sponsor's obligations under this agreement and the Regulations relative to nondiscrimination on the grounds of race, color, sex, age, national origin, disability/handicap, or income status.

4) **Information and Reports:**

The Sponsor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a Sponsor is in the exclusive possession of another who fails or refuses to furnish this information, the Sponsor shall so certify to the State Department of Transportation, or the Federal Highway Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

5) **Sanctions for Noncompliance:**

In the event of the Sponsor's noncompliance with the nondiscrimination provisions of this agreement, the State Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:

- a. Withholding of payments to the Sponsor under the agreement until the Sponsor complies and/or
- b. Cancellation, termination, or suspension of the agreement in whole or in part.

6) Incorporation of Provisions:

The Sponsor shall include the provisions of sub paragraphs 1) through 5) in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Sponsor shall take such action with respect to any contract or subcontract or procurement as the State Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance provided, however, that in the event a Sponsor becomes involved in, or is threatened with, litigation by a subcontractor or supplier as a result of such direction, the Sponsor may request the State Department of Transportation to enter into such litigation to protect the interests of the State; and, in addition, the Sponsor may request the United States to enter into such litigation to protect the interests of the United States.

SECTION 7: TERMINATION

7.1 This Agreement may be terminated by any of the following conditions:

- a) By mutual agreement and consent, in writing of both parties.
- b) By the Department by written notice to the Sponsor as a consequence of failure by the Sponsor to perform the services set forth herein in a satisfactory manner.
- c) By either party, upon the failure of the other party to fulfill its obligations as set forth herein.
- d) By the Department for reasons of its own and not subject to the mutual consent of the Sponsor upon five (5) days written notice to the Sponsor.
- e) By satisfactory completion of all services and obligations described herein.

7.2 The termination of this Agreement shall extinguish all rights, duties, obligations and liabilities of the Department and the Sponsor under this agreement. If the potential termination of this Agreement is due to the failure of either the Department or the Sponsor to fulfill their obligation as set forth herein, the non-breaching party will notify the party alleged to be in breach that possible breach of agreement has

occurred. The party alleged to be in breach should make a good faith effort to remedy that breach as outlined by non-breaching party within a period mutually agreed by each party in writing.

SECTION 8: GOVERNING LAW AND VENUE

- 8.1 Any claims, disputes or litigation relating to the solicitation, execution, interpretation, performance, or enforcement of this Agreement shall be governed by the laws of the State of Oklahoma and the applicable rules, regulations, policies and procedures of the Oklahoma Transportation Commission. Venue for any action, claim, dispute or litigation, mediation or arbitration shall be in Oklahoma County, Oklahoma.

SECTION 9: DISPUTE RESOLUTION

- 9.1 The parties hereto have entered into this agreement in the State of Oklahoma and the laws of the State of Oklahoma shall apply. The parties agree to bargain in good faith in direct negotiation to achieve resolutions of any dispute and, if such efforts are unsuccessful, to retain a neutral mediation service to mediate the dispute prior to the filing of any court action. Mediation shall be conducted in the Oklahoma City area and the costs of such mediation shall be borne equally by the parties. If mediation is not successful, venue for any action brought to enforce the terms of this agreement shall be in Oklahoma County, State of Oklahoma. Each party shall bear any cost and attorney fees incurred by the party in such litigation.

SECTION 10: PRIOR UNDERSTANDINGS

- 10.1 This agreement incorporates and reduces to writing all prior understandings, promises, agreements, commitments, covenants or conditions and constitutes the full and complete understanding and contractual relationship of the parties.

SECTION 11: AMENDMENTS OR MODIFICATIONS OF AGREEMENT

- 11.1 No changes, revisions, amendments or alterations in the manner, scope of type of work or compensation to be paid by the DEPARTMENT shall be effective unless reduced to writing and executed by the parties with the same formalities as are observed in the execution of this Agreement.

SECTION 12: RECORDS

12.1 The Sponsor is to maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred and to make such materials available at its respective offices at all reasonable times, during the agreement period and for three (3) years from the date of final payment under the agreement for inspection by the DEPARTMENT and the State Auditor and Inspector, and copies thereof shall be furnished to the DEPARTMENT, if requested.

SECTION 13: HEADINGS

13.1 Article headings used in this Agreement are inserted for convenience of reference only and shall not be deemed a part of this agreement for any purpose.

SECTION 14: BINDING EFFECTS

14.1 This Agreement shall be binding upon and inure to the benefit of the ODOT and the Sponsor and shall be binding upon their successors and assigns subject to the limitations of Oklahoma law.

SECTION 15: SEVERABILITY

15.1 If any provision, clause or paragraph of this Agreement or any document incorporated by reference shall be determined invalid by a court of competent jurisdiction, such determination shall not affect the other provisions, clauses or paragraphs of this Agreement which are not affected by the determination. The provisions, clauses or paragraphs of this Agreement and any documents incorporated by reference are declared severable.

SECTION 16: EFFECTIVE DATE

16.1 This Agreement shall become effective on the date of execution by the Department's Director or his designee.

IN WITNESS WHEREOF, the Director of the Department of Transportation, pursuant to authority vested in him by the State Transportation Commission, has hereunto subscribed his name as Director of the Department of Transportation and the Sponsor has executed same pursuant to authority prescribed by law for the Sponsor.

The Sponsor, _____ on this _____ of _____, 20____, and the Department on the _____ day of _____, 20____.

THE CITY OF TAHLEQUAH

**APPROVED AS TO FORM
AND LEGALITY**

By _____
City Attorney

By _____
Mayor

By _____
Attest: City Clerk

(SEAL): Approved: THE CITY OF TAHLEQUAH

**STATE OF OKLAHOMA
DEPARTMENT OF TRANSPORTATION**

Recommended for Approval

Local Government Division Engineer Date

Director of Project Delivery Date

**APPROVED AS TO FORM
AND LEGALITY**

APPROVED

General Counsel Date

Deputy Director Date



City of Tahlequah - Muskogee Ave
OVERALL PLAN



R.J. SHEARS COMPANY, P.C.
 Landscape Architects

**RESOLUTION
11-21-2022**

**RESOLUTION OF PROJECT SPONSORSHIP FOR A TRANSPORTATION
ALTERNATIVES PROGRAM APPLICATION AND MAINTENANCE COMMITMENT**

A RESOLUTION DECLARING THE ELIGIBILITY OF THE CITY OF TAHLEQUAH TO SUBMIT AN APPLICATION TO THE OKLAHOMA DEPARTMENT OF TRANSPORTATION FOR USE OF TRANSPORTATION ALTERNATIVES PROGRAM FUNDS SET FORTH BY IIJA FOR THE CITY OF TAHLEQUAH SOUTH MUSKOGEE PEDESTRIAN IMPROVEMENT PROJECT IN TAHLEQUAH AND AUTHORIZING THE MAYOR TO SIGN THIS APPLICATION.

Whereas, the City of Tahlequah, Oklahoma, is submitting an application to the Oklahoma Department of Transportation for transportation alternatives program funds in the amount of \$1,498,478.00 set forth by IIJA and as outlined in ODOT's transportation alternatives program guidance & application packet for 2022 and 2023; and

Whereas, the City of Tahlequah, Oklahoma, is participating as an eligible project sponsor in the Oklahoma Department of Transportation's transportation alternatives program set forth by IIJA; and

Whereas, federal monies are available under a transportation alternatives program set forth by IIJA, administered by the state of Oklahoma, Department of Transportation, for the purpose of creating and promoting the planning and development of active transportation facilities and programs in Oklahoma; and

Whereas, the City of Tahlequah, Oklahoma, acknowledges availability of the local match of no less than 25%; and,

Whereas, after appropriate public input and due consideration, the governing body of the City of Tahlequah, Oklahoma, has recommended that an application be submitted to the state of Oklahoma for the South Muskogee Pedestrian Improvement Project.

Now, therefore, it be resolved by the governing body of the City of Tahlequah, Oklahoma:

Section 1. That the City of Tahlequah Oklahoma, does hereby authorize the mayor to submit an application to the Oklahoma Department of Transportation for transportation alternatives program funds set forth by IIJA on behalf of the citizens of the City of Tahlequah, Oklahoma.

Section 2. That the City of Tahlequah, Oklahoma, hereby assures the Oklahoma Department of Transportation that sufficient funding for the South Muskogee Pedestrian Improvement Project is available.

Section 3. That the City of Tahlequah, Oklahoma, hereby assures the Oklahoma Department of Transportation that sufficient funding for the operation and maintenance of the South Muskogee Pedestrian Improvement Project t will be available for the life of the project.

Section 4. That the City of Tahlequah, Oklahoma, hereby assures the Oklahoma Department of Transportation that the City of Tahlequah, Oklahoma will have title or permanent easement to the South Muskogee Pedestrian Improvement Project by the time of project letting, if necessary.

Section 5. That the chief project sponsor of the City of Tahlequah, Oklahoma, is authorized to sign the application to the Oklahoma Department of Transportation for transportation alternatives program funds set forth by IIJA on behalf of the citizens of the City of Tahlequah, Oklahoma. The chief project sponsor is also authorized to submit additional information as may be required and act as the official representative of the City of Tahlequah in this and subsequent related activities.

Adopted and passed by the governing body of the City of Tahlequah, Oklahoma, this 21st day of November 2022.

Chief Project Sponsor: Bue Catron (print)

[Signature] (sign)

ATTEST: ~~<Seal>~~

Whitney Shaw

COPY

**STATE OF OKLAHOMA
DEPARTMENT OF TRANSPORTATION
PROJECT MAINTENANCE, FINANCING, AND RIGHT-OF-WAY AGREEMENT**

Tahlequah: Connect to trail near Basin Avenue and then North to 1st street. Then on the Alley between Muskogee Ave. and Water Ave. N. to Grand along Smith Street to the n. and Oak to the E.

Project No.: TAP3-8036(004) TP

State Job No.: 38036(04)

This Agreement, made the day and year last written below, by and between the City of **TAHLEQUAH**, hereinafter referred to as the Sponsor, and the Department of Transportation of the State of Oklahoma, hereinafter referred to as the Department, for the following intents and purposes and subject to the following terms and conditions, to wit:

WITNESSETH

WHEREAS, The Sponsor requested that certain street improvements be approved by the Oklahoma Transportation Commission, as were previously programmed by the Sponsor and described as follows:

Project Type	Div.	County	JP No	Project No.	Work Type	Description
Pedestrian / Bike Improvements	01	CHEROKEE	38036(04)	TAP3-8036(004) TAP	ENHANCEMENT	Tahlequah: Connect to trail near Basin Avenue and then North to 1st street. Then on the Alley between Muskogee Ave. and Water Ave. N. to Grand along Smith Street to the n. and Oak to the E.

WHEREAS, the Department is charged under the laws of the State of Oklahoma with construction and maintenance of State Highways; and,

WHEREAS, the Department is, by terms of agreements with the Federal Highway Administration, responsible for the management and construction of certain federally funded projects within the corporate limits of cities within the State of Oklahoma; and,

WHEREAS, the Sponsor has been identified as the beneficiary and sub-recipient of such federally funded project; and,

WHEREAS, receipt of the benefits of this project will require that the Sponsor assume certain financial responsibilities; and,

WHEREAS, the Sponsor is a municipal corporation created and existing under the constitution and laws of the State of Oklahoma; and

WHEREAS, the laws and constitution of the State of Oklahoma impose financial restrictions on the Sponsor and its ability to ensure financial obligations; and,

WHEREAS, the Parties hereto recognize those financial limitations and agree that the financial obligations assumed by the Sponsor, by the terms of this Agreement, are enforceable only to the extent as may be allowed by law or as may be determined by a court of competent jurisdiction; and,

WHEREAS, it is understood that, by virtue of the Article 10, Section 26 of the Oklahoma Constitution, the payment of Sponsor funds in the future will be limited to appropriations and available funds in the then current Sponsor fiscal year.

NOW, THEREFORE: the Department and the Sponsor, in consideration of the mutual covenants and stipulations as set forth herein, do mutually promise and agree as follows:

SECTION 1: PROJECT AGREEMENT

1.1 If applicable, the Department will recommend approval of the project by the Federal Highway Administration.

1.2 The Sponsor agrees to comply with Title VI of the Civil Rights Act of 1964, 78 Stat. § 252, 42 U.S.C. § 2000d et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 21 - "Nondiscrimination in federally assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act 1964".

1.3 The DEPARTMENT and SPONSOR mutually recognize that each party is a governmental entity subject to the provisions of the Governmental Tort Claims Act (51 O.S. § 151 et seq.). The DEPARTMENT and SPONSOR hereby mutually agree that each is and may be held severally liable for any and all claims, demands, and suits in law or equity, of any nature whatsoever, paying for damages or otherwise, arising from any negligent act or omission of any of their respective employees, agents or contractors which may occur during the prosecution or performance of this Agreement to the extent provided in the Governmental Tort Claims Act. Each party agrees to severally bear all costs of investigation and defense of claims arising under the Governmental Tort Claims Act and any judgments which may be rendered in such cause to the limits provided by law. Nothing in this section shall be interpreted or

construed to waive any legal defense which may be available to a party or any exemption, limitation or exception which may be provided by the Governmental Tort Claims Act.

1.4 The Sponsor understands that should it fail to fulfill its responsibilities under this Agreement, such a failure will disqualify the Sponsor from future Federal-aid funding participation on any proposed project. Federal-aid funds are to be withheld until such a time as an engineering staff, satisfactory to the Department has been properly established and functioning, the deficiencies in regulations have been corrected or the improvements to be constructed under this Agreement are brought to a satisfactory condition of maintenance.

SECTION 2: ENGINEERING RESPONSIBILITIES

2.1 The Sponsor shall provide professional engineering services for the development of the Plans, Specifications and Estimates (PS&E) for this project. Design engineering for this project will be performed under the supervision of the Sponsor. Sponsor warrants to the Department that they will review the plans and will certify that the plans are acceptable to the Sponsor and are in full compliance with current standards and specifications.

2.2 Progress payments will be made to the consultant by the DEPARTMENT upon receipt of a properly executed claim form, approved by the SPONSOR, accompanied by suitable evidence of the completion of the work claimed, as detailed in the engineering contract.

2.3 The SPONSOR agrees to hold the Federal Government and the DEPARTMENT harmless from, and shall process and defend at its own expense, all claims, demands, or suits, whether at law or equity brought against the SPONSOR, the DEPARTMENT, or Federal Government, arising from the SPONSOR's execution, performance, or failure to perform any of the provisions of this Agreement, or arising by reason of the participation of the DEPARTMENT or Federal Government in the project, provided nothing herein shall require the SPONSOR to reimburse the DEPARTMENT or Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the DEPARTMENT.

2.4 When any alleged act, omission, negligence, or misconduct may be subject to the limitations, exemptions, or defenses which may be raised under the Governmental Tort Claims Act, 51 U.S. Sec. 151, et seq., all such limitations, exemptions, and defenses shall be available to and may be asserted by the SPONSOR. No liability shall attach to the DEPARTMENT or Federal Government except as expressly provided herein.

2.5 The Sponsor agrees to the location of the subject project and agrees to adopt the final plans for said project as the official plans of the Sponsor for the streets, boulevards, arterial highways and/or other improvements contained therein; and further, the Sponsor affirmatively states that it has or shall fully and completely examine the plans and shall hereby warrant to the Department, the Sponsor's complete satisfaction with these plans and the fitness of the plans to construct aforesaid project.

2.6 The Sponsor certifies that the project design plans shall comply, and the project when completed will comply, with the requirements of the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. §§ 12101 – 12213), 49 CFR Parts 27, 37 and 38 and 28 CFR parts 35 and 36. The Sponsor shall be exclusively responsible for integrated ADA compliance planning for all Sponsor streets, sidewalks and other facilities provided for public administration, use and accommodation, which is required of recipients and sub-recipients by 49 CFR § 27.11. State highways continued through corporate limits of the Sponsor shall be included in the Sponsor's comprehensive compliance plans.

2.7 To the extent permitted by law, all data prepared under this Agreement shall be made available to the Department without restriction or limitation on their further use, with exception of any documents or information that would be considered attorney/client privileged by the Sponsor.

2.8 The Department will conduct the environmental studies and prepare the National Environmental Protection Act documents as required for federally funded projects.

2.9 The Department will forward the environmental documents to FHWA for approval if applicable.

SECTION 3: LAND ACQUISITION AND UTILITY RELOCATION

3.1 The Sponsor warrants to the Department that, they have or will acquire all land, property, or rights-of-way needed for complete implementation of said project, free and clear of all obstructions and encumbrances and in full accordance with the Department's guidelines for Right-of-Way Acquisition on Federal-Aid Projects, the Uniform Relocation Act, the National Environmental Protection Act and all other applicable local, state and federal regulations.

3.2 The Sponsor shall be responsible for ensuring all proper tax documentation is filed and issued to recipients of funds paid on behalf of the Sponsor for Right-of-Way acquisition for this project.

3.3 The Sponsor warrants to the Department that it is knowledgeable of and will comply with the provisions of 42 U.S.C.A., Section 4601-4655 and 23 U.S.C.A., Section 323 (as amended) and 49 C.F.R. Part 24 in the acquisition of all right-of-way and the relocation of any displacees.

3.4 The Sponsor shall remove, at its own expense, or cause the removal of, all encroachments on existing streets as shown on said plans, including all buildings, porches, fences, gasoline pumps, islands, and tanks, and any other such private installations and shall further remove or remediate any existing environmental contamination of soil and water from any source, known or unknown.

3.5 If the acquisition of right-of-way for this project causes the displacement of any person, business or non-profit organization, the Sponsor warrants it will provide and be responsible for the Relocation Assistance Program and all costs associated with the Relocation Assistance Program. The Department, upon request, will provide a list of service providers who have been prequalified to administer the Relocation Assistance Program. The Sponsor agrees to employ a service provider from the prequalified list provided by the Department. Prior to any relocation assistance payments to the Sponsor, all files with parcels requiring relocation assistance shall be submitted to the Department for audit and compliance review. The Sponsor shall notify the Department within seven (7) days of the date of an offer to acquire being provided to a property owner(s) on any parcel which will require relocation assistance. Written notifications regarding service providers, in-house personnel, appeals, offers to acquire or other related correspondence shall be properly addressed and remitted as follows:

Oklahoma Department of Transportation
Operations Division
200 N.E. 21st Street
Oklahoma City, Oklahoma 73105-3204

3.6 The Sponsor warrants that any procurement, using federal funds, of property, goods or professional and personal services required for this project will be acquired by the Sponsor in compliance with the federal procurement Regulations at 40 USC 1101-1104 (Brooks Act) and the Regulations for Administration of Engineering and Design Related Service Contracts at 23 C.F.R. Part 172, as well as provisions of State purchasing laws applicable to the Sponsor.

3.7 The Sponsor will certify to the Department prior to establishing a letting date that all existing utility facilities (if any) have been properly adjusted in full accordance with the Department's Right-of-Way and Utilities Division policies and procedures to accommodate the construction of said project; and will be solely responsible for

payment of any and all contractor expenses, claims, suits and/or judgments directly resultant from any actual utility relocation delays.

3.8 The Sponsor shall have the authority pursuant to 69 O.S. § 1001 and 69 O.S. § 1004 to sell any lands, or interest therein, which were acquired for highway purposes as long as such sale is conducted in accordance with the above cited statutes.

3.9 The Sponsor agrees that if any property acquired utilizing Federal funding is disposed of or is no longer used in the public interest the Sponsor shall reimburse the Department at the current fair market value.

3.10 The Sponsor agrees to;

- Transmit copies of the instruments, including all deeds and easements, to the Department prior to the advertisement of bids for construction.
- Comply with the provisions of 42 U.S.C.A. § 4601-4655 and 23 U.S.C.A. § 323 (as amended) and, further comply with 49 C.F.R. Part 24 in the acquisition of all necessary right-of-way and relocation of all displacees.
- Convey title to the State of Oklahoma on all tracts of land acquired in the name of the Sponsor if the project is located on the State Highway System.

SECTION 4: FUNDING SUMMARY

4.1 The Department and the Sponsor agree that the project construction will be financed at a **not-to-exceed**, TAP total estimated cost of \$1,345,767.00, as described below:

FUNDING SOURCE =>			TAP		Sponsor	
STATE JOB PIECE NO.	DESCRIPTION	TOTAL ESTIMATED COST	SHARE (%)	AMOUNT	SHARE (%)	AMOUNT
38036(05)	Design -	\$181,733.00	80 up to a limit of	\$145,386.40	Remainder	\$36,346.60
38036(04)	Construction - (With 6% Inspection)	\$1,635,312.00	80 up to a limit of	\$1,200,380.60	Remainder	\$434,931.40
Total		\$1,817,045.00	Total=>	\$1,345,767.00	Total=>	\$471,278.00

4.2 Furthermore, the Department and the Sponsor agree that actual TAP costs incurred by project phase **JP38036(04)(05)** may exceed initial estimates. Costs between these project phases will be administratively adjusted based on actual cost of each phase, within the total cost of this Agreement, without formal supplemental Agreement, in so far as the total project agreement is not exceeded.

4.3 It is understood by the Sponsor and the Department that the funding participation stipulated herein may be altered due to bid prices, actual construction supervision costs and non-participating costs incurred during construction. The Sponsor will be responsible for payment of any estimated local funding prior to advertising the project for bid. Upon final acceptance of this project, the total project cost will be determined, and the final amount of local funds (if any) will be determined by the Department's Comptroller per the terms of this Agreement. A refund will then be made by the Department to the Sponsor or additional funding will be requested. The Sponsor agrees to make arrangements for payment of any Department invoice within 45 days of receipt.

SECTION 5: CONSTRUCTION RESPONSIBILITIES

5.1 The Sponsor agrees to comply with all applicable laws and regulations necessary to meet the Oklahoma Department of Environmental Quality (ODEQ) requirements for pollution prevention including discharges from storm water runoff during the planning and design of this project. Further, the Sponsor agrees and stipulates as stated in the ODEQ's *General Permit OKR10*, dated September 13, 2017 or latest revision, to secure a storm water permit with the ODEQ for utility relocations, when required. It is also agreed that the storm water management plan for the project previously described in the document includes project plans and specifications, required schedules for accomplishing the temporary and permanent erosion control work, the site specific storm water pollution prevention plan and the appropriate location map contained in the utility relocation plans.

5.2 The Sponsor's responsibility for environmental cleanup will be a continuing responsibility to remediate any and all known and unknown environmental damage throughout the duration of this agreement with the Department in compliance with State and federal regulations.

5.3 The roadway improvements and all devices specified herein shall not be altered, removed, or cease to be operative without mutual written consent of the Department and the Sponsor.

5.4 Upon approval of this agreement and the plans, specifications, and estimates by the Sponsor, the Department, and the Federal Highway Administration (if applicable),

the Department will advertise and let the construction contract for this project in the usual and customary legal manner. It is agreed that the projects herein contemplated are proposed to be financed as previously described, and that this Agreement, all plans, specifications, estimate of costs, acceptance of work, payments, and procedure in general hereunder are subject in all things at all times to all local, state and federal laws, regulations, orders, approvals as may be applicable hereto.

5.5 The Department shall provide a copy of the executed construction contract to the Sponsor, upon receipt of a written request.

5.6 The Department will notify the Sponsor of pre-bid dates, bid opening dates, and Transportation Commission award dates in writing upon receipt of a written request.

5.7 The Sponsor agrees that prior to the Department's advertising of the project for bids (as to that part of the project lying within the present corporate limits) it will:

- Grant to the Department and its contractors, the right-of-entry to all existing streets, alleys, and Sponsor owned property when required, and other rights-of-way shown on said plans.
- Remove at its own expense, or cause the removal of, all encroachments on existing streets as shown on said plans, including all signs, buildings, porches, awnings, porticos, fences, gasoline pumps and islands, and any other such private installations.
- Prohibit parking on that portion of the project within the corporate limits of the Sponsor, except as may be indicated in the plans or hereafter approved by agreement with the Department. The Sponsor further agrees not to install, or permit to be installed, any signs, signals or markings not in conformance with the standards approved by the Federal Highway Administration and Manual on Uniform Traffic Control Devices (MUTCD).
- Comply with the Department's standards for construction of driveway entrances from private property to the highway, in accordance with the Department's manual entitled "Policy on Driveway Regulation for Oklahoma Highways", Rev. 5/96, 69 O.S. (2001) § 1210.
- Maintain all right-of-way acquired for the construction of this project, as shown on said plans, in a manner consistent with applicable statutes, codes, ordinances and regulations of the Department and the State of Oklahoma.

- Have the authority pursuant to 69 O.S. 2001 § 1001 and 69 O.S. 2001 § 1004 to sell any lands, or interest therein, which were acquired for highway purposes as long as such sale is conducted in accordance with the above cited statutes. Prior written approval by the Chief, Right-of-Way Division for the Department shall be required before any sale is made.

5.8 The Sponsor further agrees and warrants to the Department that, subsequent to the construction of said project, the Sponsor will:

- 1) Erect, maintain and operate traffic control devices, including signals, signs and pavement markings only in accordance with 47 O.S. 2011 §§ 15-104- 15-106, and subject to agreement of the Department:
 - a) In the event that any traffic signal installed hereunder is no longer needed for the purposes designated herein, then the traffic signal installed hereunder shall not be moved by the Sponsor to any other point other than that which is approved by the Department prior to such removal.
 - b) In the event there is no mutually agreed location for the reinstallation, the Sponsor will assume complete ownership of the equipment following removal, if the installation is ten (10) years old or older. If the installation is less than ten (10) years old and:
 - 1) In the event the Sponsor desires total ownership of the equipment, the Sponsor shall reimburse the Department the original federal funding percentage share for the original equipment cost only, amortized for a ten(10) year service life, interest ignored, and assuming straight line depreciation.
 - 2) In the event the Sponsor does not desire total ownership of the equipment, the Sponsor shall sell the equipment at public auction to the highest bidder. The Sponsor shall reimburse the Department the original federal funding percentage share of the proceeds of such sale.
- 2) Subject to agreement with the Department, regulate and control traffic on said project, including but not limited to, the speed of vehicles, parking, stopping and turns only in accordance with 47 O.S. 2011 §§ 15-104- 15-106, and to make no changes in the provisions thereof without the approval of the Department. It shall be the responsibility of the Sponsor to notify the Department of any changes necessary to ensure safety to the traveling public.

- 3) Maintain all drainage systems and facilities constructed, installed, modified or repaired in conjunction with this project or as may be otherwise necessary to ensure proper drainage for road surfaces constructed under the terms of this agreement.
- 4) Maintain all curbs and driveways abutting road surfaces constructed under the terms of this Agreement and all sidewalks adjacent thereto.
- 5) Maintain all right-of-way areas adjacent to road surfaces, including erosion control and periodic mowing of vegetation, in a manner consistent with applicable codes, ordinances and regulations.
- 6) For any portion of the project encompassed under this Agreement that is part of the State Highway System, the Sponsor shall maintain all that part of said project within the corporate limits of the Sponsor between the gutter lines and the right-of-way lines, and if no gutter exists, between the shoulder lines and the right-of-way lines, including storm sewers, all underground facilities, curbs and mowing, all in accordance with 69 O.S. Supp. 1994 §901 and all other applicable law.
- 7) On limited access highways where county roads or city streets extend over or under the highway or public roads are constructed on state rights-of-way but there is no immediate ingress and egress from the highway, responsibility shall be as follows:
 - a. The public roads as defined in OAC 730:35-1-2 shall be maintained by the city or county and shall be included in their roadway mileage inventory.
 - b. Where county roads or city streets extend over the highway, the roadway, approaches and bridge surfaces, including the deck, shall be maintained by the city or county. The approach guardrail, bridge structure, and highest clearance posting on the structure shall be maintained by the Department.
 - c. Where county roads or city streets extend under the highway, the roadway approaches and advance signing shall be maintained by the city or county. The Department shall maintain the approach guardrail, bridge structure and surface, and the height clearance posting on the structure.

5.9 The Sponsor further agrees and warrants to the Department concerning any sign and highway facility lighting included as part of this project:

- 1) The Sponsor will, upon notice from the Department Engineer, provide at its own expense all required electrical energy necessary for all preliminary and operational tests of the highway lighting facilities.
- 2) Upon completion of the construction of said project, the Sponsor will be responsible for the maintenance and cost of operation of these highway lighting facilities, including all appurtenances thereto and including the sign lighting facilities.
- 3) It is specifically understood and agreed that the highway lighting and sign lighting facilities specified hereunder shall be continuously operated during the hours of darkness, between sunset and sunrise, and shall not be altered, removed or be allowed to cease operation without the mutual written consent of the Department and the Sponsor.
- 4) The Sponsor agrees to provide, on a periodic schedule, an inspection, cleaning and re-lamping maintenance program to assure the maximum efficiency of the highway lighting facilities.
- 5) In the event that the highway lighting facilities installed hereunder are no longer needed for the purposes designated herein, then the highway lighting facilities installed hereunder shall not be moved by the Sponsor to any point other than which is approved by the Department prior to such removal.
- 6) In the event there is no mutually agreed location for reinstallation, the Sponsor will assume complete ownership of the equipment following removal if the installation is twenty (20) years old or older. If the installation is less than twenty years old and:
 - a) In the event the Sponsor desires total ownership of the equipment, the Sponsor shall reimburse the Department the original federal funding percentage share of the original equipment costs only, amortized for a twenty (20) year service life, interest ignored, and assuming straight line depreciation.
 - b) In the event the Sponsor does not desire total ownership of the equipment, the Sponsor shall sell the equipment at public auction to the highest bidder. The Sponsor shall reimburse the Department the original federal funding percentage share of the proceeds of such sale.

5.10 The Department will appoint competent supervision and inspection of the construction work performed by the construction contractor and will provide such engineering, inspection and testing services as may be required to ensure that the construction of the project is accomplished in accordance with the approved Plans, Specifications and Estimates. The Department reserves the right to make such changes in said plans as may be necessary for the proper construction of said project.

- 1) The Sponsor agrees to provide such competent supervision as the Sponsor deems necessary during times that the work is in progress to ensure the completion of the project to the Sponsor's satisfaction and the Sponsor's representatives and the Department's representatives will cooperate fully to the end of obtaining work strictly in accordance with the plans and specifications.
- 2) The Sponsor will make ample provisions annually for the proper maintenance of said project, including the provision of competent personnel and adequate equipment, specifically, to provide all required maintenance of the project during the critical period immediately following construction and to keep the facility in good and safe condition for the benefit of the traveling public.
- 3) The Sponsor warrants to the Department that it will periodically review the adequacy of the aforesaid project to ensure the safety of the traveling public and should the Sponsor determine that further modifications or improvements be required, the Sponsor shall take such actions as are necessary to make such modifications or improvement. When operation modifications are required which in the opinion of the Department exceed the capability of the Sponsor's staff, the Sponsor agrees to retain, at the sole expense of the Sponsor, competent personnel for the purpose of bringing the improvement up to the proper standard of operation.
- 4) The Sponsor warrants and agrees that upon completion of the aforesaid project, the Sponsor assumes any and all financial obligations for the operation, use, and maintenance of the aforesaid project.

SECTION 6: NON-DISCRIMINATION CLAUSE

1. During the performance of this agreement, the Sponsor, for itself, its assignees and successors in interest, agrees as follows:

1) **Compliance with Regulations:**

The Sponsor shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time

(hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this agreement.

2) **Nondiscrimination:**

The Sponsor, with regard to the work performed by it during the agreement, shall not discriminate on the grounds of race, color, sex, age, national origin, disability/handicap, or income status, in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The Sponsor shall not participate either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in appendix B of the Regulations.

3) **Solicitations for Subcontracts, Including Procurement of Materials and Equipment:**

In all solicitations, either by competitive bidding or negotiation, made by the Sponsor for work to be performed under a contract or subcontract, including procurements of materials or leases of equipment, each potential contractor or subcontractor or supplier shall be notified by the Sponsor of the Sponsor's obligations under this agreement and the Regulations relative to nondiscrimination on the grounds of race, color, sex, age, national origin, disability/handicap, or income status.

4) **Information and Reports:**

The Sponsor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a Sponsor is in the exclusive possession of another who fails or refuses to furnish this information, the Sponsor shall so certify to the State Department of Transportation, or the Federal Highway Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

5) **Sanctions for Noncompliance:**

In the event of the Sponsor's noncompliance with the nondiscrimination provisions of this agreement, the State Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:

- a. Withholding of payments to the Sponsor under the agreement until the Sponsor complies and/or
- b. Cancellation, termination, or suspension of the agreement in whole or in part.

6) Incorporation of Provisions:

The Sponsor shall include the provisions of sub paragraphs 1) through 5) in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Sponsor shall take such action with respect to any contract or subcontract or procurement as the State Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance provided, however, that in the event a Sponsor becomes involved in, or is threatened with, litigation by a subcontractor or supplier as a result of such direction, the Sponsor may request the State Department of Transportation to enter into such litigation to protect the interests of the State; and, in addition, the Sponsor may request the United States to enter into such litigation to protect the interests of the United States.

SECTION 7: TERMINATION

7.1 This Agreement may be terminated by any of the following conditions:

- a) By mutual agreement and consent, in writing of both parties.
- b) By the Department by written notice to the Sponsor as a consequence of failure by the Sponsor to perform the services set forth herein in a satisfactory manner.
- c) By either party, upon the failure of the other party to fulfill its obligations as set forth herein.
- d) By the Department for reasons of its own and not subject to the mutual consent of the Sponsor upon five (5) days written notice to the Sponsor.
- e) By satisfactory completion of all services and obligations described herein.

7.2 The termination of this Agreement shall extinguish all rights, duties, obligations and liabilities of the Department and the Sponsor under this agreement. If the potential termination of this Agreement is due to the failure of either the Department or the Sponsor to fulfill their obligation as set forth herein, the non-breaching party will notify the party alleged to be in breach that possible breach of agreement has

occurred. The party alleged to be in breach should make a good faith effort to remedy that breach as outlined by non-breaching party within a period mutually agreed by each party in writing.

SECTION 8: GOVERNING LAW AND VENUE

- 8.1 Any claims, disputes or litigation relating to the solicitation, execution, interpretation, performance, or enforcement of this Agreement shall be governed by the laws of the State of Oklahoma and the applicable rules, regulations, policies and procedures of the Oklahoma Transportation Commission. Venue for any action, claim, dispute or litigation, mediation or arbitration shall be in Oklahoma County, Oklahoma.

SECTION 9: DISPUTE RESOLUTION

- 9.1 The parties hereto have entered into this agreement in the State of Oklahoma and the laws of the State of Oklahoma shall apply. The parties agree to bargain in good faith in direct negotiation to achieve resolutions of any dispute and, if such efforts are unsuccessful, to retain a neutral mediation service to mediate the dispute prior to the filing of any court action. Mediation shall be conducted in the Oklahoma City area and the costs of such mediation shall be borne equally by the parties. If mediation is not successful, venue for any action brought to enforce the terms of this agreement shall be in Oklahoma County, State of Oklahoma. Each party shall bear any cost and attorney fees incurred by the party in such litigation.

SECTION 10: PRIOR UNDERSTANDINGS

- 10.1 This agreement incorporates and reduces to writing all prior understandings, promises, agreements, commitments, covenants or conditions and constitutes the full and complete understanding and contractual relationship of the parties.

SECTION 11: AMENDMENTS OR MODIFICATIONS OF AGREEMENT

- 11.1 No changes, revisions, amendments or alterations in the manner, scope of type of work or compensation to be paid by the DEPARTMENT shall be effective unless reduced to writing and executed by the parties with the same formalities as are observed in the execution of this Agreement.

SECTION 12: RECORDS

12.1 The Sponsor is to maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred and to make such materials available at its respective offices at all reasonable times, during the agreement period and for three (3) years from the date of final payment under the agreement for inspection by the DEPARTMENT and the State Auditor and Inspector, and copies thereof shall be furnished to the DEPARTMENT, if requested.

SECTION 13: HEADINGS

13.1 Article headings used in this Agreement are inserted for convenience of reference only and shall not be deemed a part of this agreement for any purpose.

SECTION 14: BINDING EFFECTS

14.1 This Agreement shall be binding upon and inure to the benefit of the ODOT and the Sponsor and shall be binding upon their successors and assigns subject to the limitations of Oklahoma law.

SECTION 15: SEVERABILITY

15.1 If any provision, clause or paragraph of this Agreement or any document incorporated by reference shall be determined invalid by a court of competent jurisdiction, such determination shall not affect the other provisions, clauses or paragraphs of this Agreement which are not affected by the determination. The provisions, clauses or paragraphs of this Agreement and any documents incorporated by reference are declared severable.

SECTION 16: EFFECTIVE DATE

16.1 This Agreement shall become effective on the date of execution by the Department's Director or his designee.

IN WITNESS WHEREOF, the Director of the Department of Transportation, pursuant to authority vested in him by the State Transportation Commission, has hereunto subscribed his name as Director of the Department of Transportation and the Sponsor has executed same pursuant to authority prescribed by law for the Sponsor.

The Sponsor, _____ on this _____ of _____, 20____, and the Department on the _____ day of _____, 20____.

THE CITY OF TAHLEQUAH

APPROVED AS TO FORM
AND LEGALITY

By _____
City Attorney

By _____
Mayor

By _____
Attest: City Clerk

(SEAL): Approved: THE CITY OF TAHLEQUAH

STATE OF OKLAHOMA
DEPARTMENT OF TRANSPORTATION

Recommended for Approval

Local Government Division Engineer Date

Director of Project Delivery Date

APPROVED AS TO FORM
AND LEGALITY

APPROVED

General Counsel Date

Deputy Director Date

**RESOLUTION
11-21-2022 (A)**

**RESOLUTION OF PROJECT SPONSORSHIP FOR A TRANSPORTATION
ALTERNATIVES PROGRAM APPLICATION AND MAINTENANCE COMMITMENT**

**A RESOLUTION DECLARING THE ELIGIBILITY OF THE CITY OF TAHLEQUAH TO
SUBMIT AN APPLICATION TO THE OKLAHOMA DEPARTMENT OF
TRANSPORTATION FOR USE OF TRANSPORTATION ALTERNATIVES PROGRAM
FUNDS SET FORTH BY IIJA FOR THE CITY OF TAHLEQUAH CREEK
CONNECTIONS PROJECT PHASE I IN TAHLEQUAH AND AUTHORIZING THE
MAYOR TO SIGN THIS APPLICATION.**

**Whereas, the City of Tahlequah, Oklahoma, is submitting an application to the
Oklahoma Department of Transportation for transportation alternatives program funds in
the amount of \$539,345 set forth by IIJA and as outlined in ODOT's transportation
alternatives program guidance & application packet for 2022 and 2023; and**

**Whereas, the City of Tahlequah, Oklahoma, is participating as an eligible project
sponsor in the Oklahoma Department of Transportation's transportation alternatives
program set forth by IIJA; and**

**Whereas, federal monies are available under a transportation alternatives program set
forth by IIJA, administered by the state of Oklahoma, Department of Transportation, for
the purpose of creating and promoting the planning and development of active
transportation facilities and programs in Oklahoma; and**

**Whereas, the City of Tahlequah, Oklahoma, acknowledges availability of the local
match of no less than 40%; and,**

**Whereas, after appropriate public input and due consideration, the governing body of
the City of Tahlequah, Oklahoma, has recommended that an application be submitted to
the state of Oklahoma for the Tahlequah Creek Connections Project Phase I.**

**Now, therefore, it be resolved by the governing body of the City of Tahlequah,
Oklahoma:**

**Section 1. That the City of Tahlequah Oklahoma, does hereby authorize the mayor to
submit an application to the Oklahoma Department of Transportation for transportation
alternatives program funds set forth by IIJA on behalf of the citizens of the City of
Tahlequah, Oklahoma.**

Section 2. That the City of Tahlequah, Oklahoma, hereby assures the Oklahoma Department of Transportation that sufficient funding for the Tahlequah Creek Connections Project Phase I is available.

Section 3. That the City of Tahlequah, Oklahoma, hereby assures the Oklahoma Department of Transportation that sufficient funding for the operation and maintenance of the Tahlequah Creek Connections Project Phase I will be available for the life of the project.

Section 4. That the City of Tahlequah, Oklahoma, hereby assures the Oklahoma Department of Transportation that the City of Tahlequah, Oklahoma will have title or permanent easement to the Tahlequah Creek Connections Project Phase I by the time of project letting, if necessary.

Section 5. That the chief project sponsor of the City of Tahlequah, Oklahoma, is authorized to sign the application to the Oklahoma Department of Transportation for transportation alternatives program funds set forth by IIJA on behalf of the citizens of the City of Tahlequah, Oklahoma. The chief project sponsor is also authorized to submit additional information as may be required and act as the official representative of the City of Tahlequah in this and subsequent related activities.

Adopted and passed by the governing body of the City of Tahlequah, Oklahoma, this 21st day of November 2022.

Chief Project Sponsor: Sue Catron (print)
Sue Catron (sign)

ATTEST:



Whitney L. Shaw

**RESOLUTION
11-21-2022 (B)**

**RESOLUTION OF PROJECT SPONSORSHIP FOR A TRANSPORTATION
ALTERNATIVES PROGRAM APPLICATION AND MAINTENANCE COMMITMENT**

A RESOLUTION DECLARING THE ELIGIBILITY OF THE CITY OF TAHLEQUAH TO SUBMIT AN APPLICATION TO THE OKLAHOMA DEPARTMENT OF TRANSPORTATION FOR USE OF TRANSPORTATION ALTERNATIVES PROGRAM FUNDS SET FORTH BY IIJA FOR THE CITY OF TAHLEQUAH CREEK CONNECTIONS PROJECT PHASE II IN TAHLEQUAH AND AUTHORIZING THE MAYOR TO SIGN THIS APPLICATION.

Whereas, the City of Tahlequah, Oklahoma, is submitting an application to the Oklahoma Department of Transportation for transportation alternatives program funds in the amount of \$1,277,700 set forth by IIJA and as outlined in ODOT's transportation alternatives program guidance & application packet for 2022 and 2023; and

Whereas, the City of Tahlequah, Oklahoma, is participating as an eligible project sponsor in the Oklahoma Department of Transportation's transportation alternatives program set forth by IIJA; and

Whereas, federal monies are available under a transportation alternatives program set forth by IIJA, administered by the state of Oklahoma, Department of Transportation, for the purpose of creating and promoting the planning and development of active transportation facilities and programs in Oklahoma; and

Whereas, the City of Tahlequah, Oklahoma, acknowledges availability of the local match of no less than 20%; and,

Whereas, after appropriate public input and due consideration, the governing body of the City of Tahlequah, Oklahoma, has recommended that an application be submitted to the state of Oklahoma for the Tahlequah Creek Connections Project Phase II.

Now, therefore, it be resolved by the governing body of the City of Tahlequah, Oklahoma:

Section 1. That the City of Tahlequah Oklahoma, does hereby authorize the mayor to submit an application to the Oklahoma Department of Transportation for transportation alternatives program funds set forth by IIJA on behalf of the citizens of the City of Tahlequah, Oklahoma.

Section 2. That the City of Tahlequah, Oklahoma, hereby assures the Oklahoma Department of Transportation that sufficient funding for the Tahlequah Creek Connections Project Phase II is available.

Section 3. That the City of Tahlequah, Oklahoma, hereby assures the Oklahoma Department of Transportation that sufficient funding for the operation and maintenance of the Tahlequah Creek Connections Project Phase II will be available for the life of the project.

Section 4. That the City of Tahlequah, Oklahoma, hereby assures the Oklahoma Department of Transportation that the City of Tahlequah, Oklahoma will have title or permanent easement to the Tahlequah Creek Connections Project Phase II by the time of project letting, if necessary.

Section 5. That the chief project sponsor of the City of Tahlequah, Oklahoma, is authorized to sign the application to the Oklahoma Department of Transportation for transportation alternatives program funds set forth by IIJA on behalf of the citizens of the City of Tahlequah, Oklahoma. The chief project sponsor is also authorized to submit additional information as may be required and act as the official representative of the City of Tahlequah in this and subsequent related activities.

Adopted and passed by the governing body of the City of Tahlequah, Oklahoma, this 21st day of November 2022.

Chief Project Sponsor: Sue Catron (print)

[Signature] (sign)

ATTEST: <Seal>



Whitney L. Shaw



City of Tahlequah

PLANNING & DEVELOPMENT STAFF REPORT

TO: City of Tahlequah City Council
FROM: Taylor Tannehill, Tahlequah Planning & Development Director
DATE: June 6, 2023
RE: Case #2-2023-Zoning

Recommendation: Staff & Planning Commission recommend approval of Case #2-2023-Zoning, changing the referenced property from C-1 to C-3.

Background

Subject Property Address: 1598 Park Hill Road
Current Zoning: Local Commercial District (C-1)
Proposed Zoning: Regional Commercial District (C-3)
Property Owner: Alan Johnson
Owner Representative: Jasen Wright

Attachments

Case Map
Aerial Map
Framework Map

Project Summary

The applicant is requesting a zoning change to use for a wholesale establishment.

Existing Context

The table below summarizes the existing context proximate to the subject site:

<i>Existing Land Use</i>	<i>Existing Zoning</i>
Commercial/Vacant Building	C-1
<i>Proposed Land Use</i>	<i>Proposed Zoning</i>
Wholesale Establishment	C-3
<i>Surrounding Land Use</i>	<i>Surrounding Zoning</i>
North: Retail	North: C-3
South: Multifamily/Retail	South: RM-3/C-2
East: Vacant	East: C-3
West: Daycare	West: C-2/C-3

Historic Context

The subject property was rezoned from R-3 to C-1 in 1989.

Relationship with Comprehensive Plan

The Comprehensive Plan identifies the subject property as Corridor Commercial. The most widely commercial land use, Corridor Commercial, is characteristically large-parcel, corridor-oriented development which is disconnected from adjacent parcels. In Tahlequah, corridor commercial uses dominate Muskogee in use, form, and character. This type of commercial development concentrated along high-traffic corridors.

Relationship with Zoning Ordinance

If the zoning change is approved the owner will be required to be granted a special exception by the Board of Adjustment to occupy the property for a wholesale establishment.

Staff Comments

- a. The intended use of the property fell into one of three different use categories identified in the code. One was a laboratory which was excluded to do the nature of sales associated with the use. The other was light manufacturing, examples of light manufacturing within the definitions section of the code include, indoor production of airplane, automobile, or truck assembly; bottling works, computer chip manufacturing, blacksmith shops, metalworking or welding shops; paint shops; and printing and publishing shops. The proposed use is a small scale production of plastics that are molded with technical equipment. With the above examples in mind, the impact of the proposed use does not necessitate a light manufacturing label, therefore, wholesale establishment is an appropriate use category.
- b. The requested zoning aligns with the comprehensive plan's framework map.

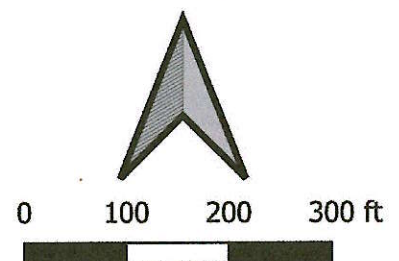
Planning Commission Discussion

- a. The owner representative gave an explanation of the intended use. Informed that some phone calls were made requesting information about the business. The representative also mentioned the operation of the business produces no noise, odors of other objectionable offenses to neighboring properties.
- b. Planning Commission voted unanimously (3-0) to recommend approval of the zoning change request.



 Subject Property

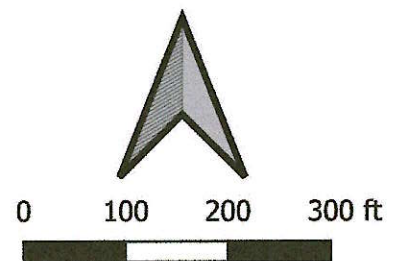
Case Map #2-2023-Zoning

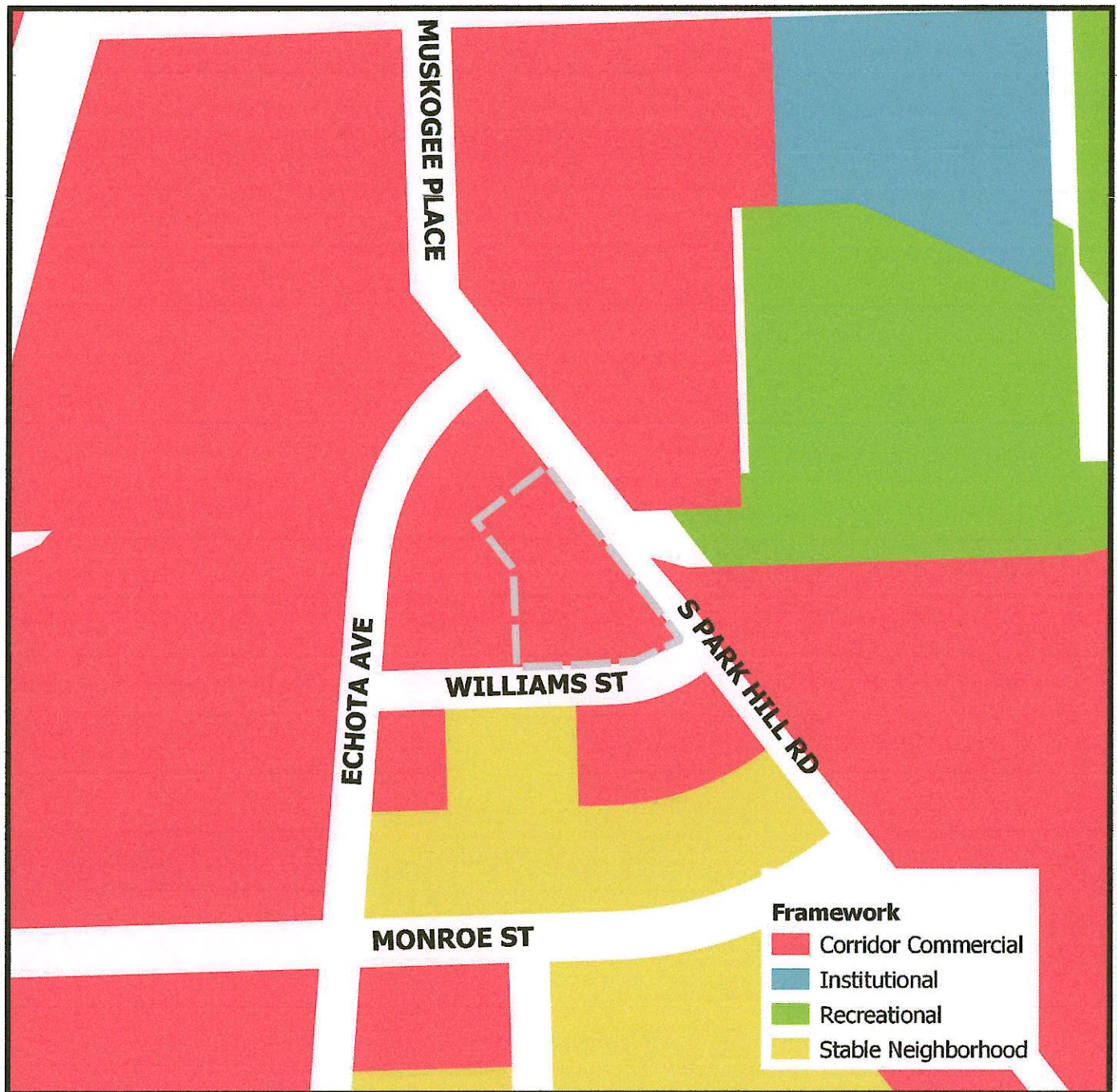




 Subject Property

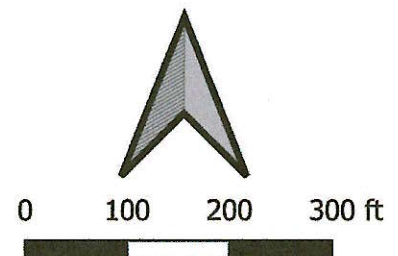
Aerial Map #2-2023-Zoning





 Subject Property

Framework Map #2-2023-Zoning



COPY

RESOLUTION NO. 06-05-2023(C)

**A RESOLUTION TO CHANGE THE ZONING OF THE HEREINAFTER DESCRIBED
REAL ESTATE.**

WHEREAS, the Tahlequah City Council adopted Ordinance No. 1329-2021 on August 16, 2022. Ordinance No. 1329-2021 established Part 12, Chapter 1 – City of Tahlequah Zoning Ordinance.

WHEREAS, Section 7.D.2.f of the City of Tahlequah Zoning Ordinance authorizes zoning map amendments to be approved by City Council by Resolution.

WHEREAS, the applicant has met all notification requirements for a public hearing held by the Planning Commission of the City of Tahlequah on May 30, 2023.

WHEREAS, the Planning Commission of the City of Tahlequah recommended unanimously by a vote of 3-0 to approve Case #2-2023-Zoning.

WHEREAS, the Board of Adjustment of the City of Tahlequah voted unanimously by a vote of 3-0 to approve a special exception request to use the property for a Wholesale Establishment in the Regional Commercial District (C-3) contingent upon City Council's approval.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
TAHLEQUAH, OKLAHOMA, THAT** the following described real in Cherokee County,
Oklahoma, to-wit:

LEGAL DESCRIPTION

Lots 3 through 5, Block 2, Cherokee Hills Addition, City of Tahlequah, Cherokee County,
Oklahoma.

Shall be, and the same is, hereby changed from Local Commercial District (C-1) to Regional
Commercial District (C-3).

PASSED AND ADOPTED by the City Council of the City of Tahlequah on this 5th day of June,
2023, after full compliance with the Oklahoma Open Meeting Act.

CITY OF TAHLEQUAH

Suzanne Myers, Mayor

ATTEST:

Whitney Shaw, City Clerk
[Seal]

COPY

SUPPLEMENTAL AGREEMENT NO. 1 (the "Agreement")

Owner: **City of Tahlequah, Oklahoma**

Client: **Tahlequah Municipal Airport (TQH)**

Consultant: **H.W. Lochner, Inc. ("Lochner")**

Date: _____

Referenced Master-On-Call (MOC) Agreement: **City of Tahlequah, Oklahoma – 5-Year MOC Agreement Dated June 4, 2019.**

Referenced Task Order Project: **TQH-14905-TO04 – Construction Services for: Rehabilitate Apron and Runway Safety Area Grading at TQH.**

- **Base Bid: Rehabilitate Apron**
- **Add Alternate No. 1: Runway Safety Area Grading**
- **Add Alternate No. 2: Alternate Asphalt Pavement Mixture**

at Tahlequah Municipal Airport.

Lochner and the Client (collectively, the "Parties" and individually, a "Party") agree as follows:

1. Supplemental Agreement. *This agreement supplements the Original Agreement, dated April 7, 2022 by adding the Construction Services necessary to complete the construction phase of the Rehabilitate Apron and Runway Safety Area Grading project beyond the allowable contract time. This agreement covers construction administration and observation costs and materials acceptance testing incurred over the original contract amount through ten calendar days after the contractor's surety was notified of termination of contract.*

**ARTICLE I
SCOPE OF SERVICES**

WHEREAS, the Sponsor desires to add by this Supplemental Agreement No. 1 the additional professional engineering services necessary for the Construction Phase beyond the original contract time allowed for the contractor by providing construction management and documentation, and on-site observation for the Project. Liquidated Damages will be assessed on the contractor with a change order reducing the contractor's final payment in the amount of the actual cost incurred to the city for the additional construction services.

The following is a detailed description of the specific engineering services that are a duty of this Agreement.

A. CONSTRUCTION SERVICES

1. BASE BID AND ADD ALTERNATE NOS. 1&2 –

No Changes to Base Bid and Add Alternate Nos. 1 & 2 of the Original Agreement

B. PROJECT CLOSEOUT SERVICES

No Changes to Project Closeout Services of the Original Agreement

Add Part C. Additional Construction Observation and Administration of the Original Agreement as follows:

C. ADDITIONAL CONSTRUCTION SERVICES

1. *The original construction contract included 80 calendar days for the Contractor to complete the project. As of May 4, 2023, 262 calendar days had elapsed on the contract. Additional construction observation, administration, oversight, and coordination is required through the project's physical completion.*
2. *Provide construction observation services, including preparation of daily reports, weekly reports, material test results and other reports as required by the FAA and OAC to document the prosecution and progress of the Project.*
3. *Provide observation of construction materials.*
4. *Prepare Contractor's progress estimates, Sponsor's request for reimbursement of funds, and FAA quarterly reports.*
5. *Prepare change orders and supplements necessary for construction of the Project.*
6. *Provide engineer's response to contractor's requests for information.*
7. *Attend and conduct weekly construction progress meetings over Teams, prepare agenda and meeting minutes, and distribute minutes to attendees.*
8. *Provide construction observation during completion of punchlist work.*
9. *Coordinate completion of project with Sponsor and contractor through completion of the project and close of the grant.*

**ARTICLE II
TIME SCHEDULE**

The Consultant agrees to proceed with the services immediately upon receipt of a written Notice to Proceed (NTP) by the Owner, and to employ such personnel as required to complete the Scope of Services in accordance with the following time schedule:

SCHEDULED PERFORMANCE IN CALENDAR DAYS

A. CONSTRUCTION SERVICES

1. BASE BID AND ADD ALTERNATE NOS. 1&2 –

No Changes to Base Bid and Add Alternate Nos. 1 & 2 of the Original Agreement

B. PROJECT CLOSEOUT SERVICES

No Changes to Project Closeout Services of the Original Agreement

C. CONSTRUCTION SERVICES

1. Construction Services BASE BID
AND ADD ALTERNATE NOS. 1&2As Required for 80 Calendar
Day Construction Project
2. Construction Project Closeout 90 Calendar Days
After Construction Final Acceptance

Add Part 3 Additional Construction Observation and Administration to C. Construction Services of the original agreement as follows:

3. *Additional Construction Observation
And Administration estimated Additional 205 Calendar
Days Construction over original contract*

The schedule presented above does not include review time by the Owner, OAC, FAA or other interested agencies.

ARTICLE III COMPENSATION

A. CONSTRUCTION SERVICES

1. BASE BID AND ADD ALTERNATE NOS. 1&2 –

No Changes to Base Bid and Add Alternate Nos. 1 & 2 of the Original Agreement

B. PROJECT CLOSEOUT SERVICES

No Changes to Project Closeout Services of the Original Agreement

Add Part C. Additional Construction Observation and Administration to C. CONSTRUCTION SERVICES of the Original Agreement as follows:

C. CONSTRUCTION SERVICES

1. Construction Services BASE BID AND
ADD ALTERNATE NO. 1&2 \$ 138,500.00 Not-to-Exceed
2. Construction Project Closeout\$ 11,900.00 Lump Sum
3. Additional Construction Observation
And Administration \$ 172,975.46 Not-to-Exceed

**Total Base Bid, Add Alternate Nos. 1&2, Closeout
And Additional Construction Observation and
Administration \$323,375.46**

The fixed payment to the Consultant for services outlined in Item C.1, Construction Services Base Bid and Add Alternate Nos. 1&2, and Additional Construction Observation and Administration, shall be \$13,721.00, and the total payment to the Consultant shall not exceed \$323,375.46.

If the Contractor exceeds a construction contract period of 205 additional calendar days, the Consultant may renegotiate with the Sponsor the respective fixed payment and not-to-exceed amount. The renegotiated fixed payment and not-to-exceed amount will be estimated based on direct salary costs, labor and general overhead, out-of-pocket expenses, and profit similar to those used in this Supplemental Agreement.

The Consultant will use an independent laboratory for all pavement materials acceptance testing.

Travel on and off the Project site required of Consultant personnel will be compensated at the current rate allowed by the Internal Revenue Service.

For engineering services applicable to Item C.1 through C.3, the Consultant will submit monthly statements to the Sponsor for payroll costs times a factor for labor and general administrative overhead (2.9088) and all other expenses incurred on the Project. A pro rata share of the fixed payment in proportion of the statement amount to the not-to-exceed amount will be included on the monthly statement.

Costs other than personnel services incurred by the Consultant will be documented in the written statement and will be at the cost to the Consultant from the vendor.

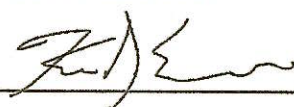
For Item C. 2, Construction Project Closeout, partial payment shall be made to the Consultant for those portions of the services completed. The Consultant shall submit to the Sponsor a monthly statement showing an estimate of completion, and the portion of compensation requested for each element and phase of the services. The request for partial payments will not be in excess of the value of the services completed at the time the statement is rendered.

Progress payments shall be made to the Consultant within thirty (30) calendar days of receipt of proper billing statement.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement No.1 to be signed by their duly authorized officers. This Supplemental Agreement shall be binding upon the undersigned parties, their successors, partners, assigns, and legal representatives. All other stipulations of the Master On Call Agreement dated June 4, 2019 shall remain in effect.

H.W. LOCHNER, INC.

CITY OF TAHLEQUAH, OKLAHOMA

By: 

By: _____

Title: Vice President

Title: _____

Date: 6/1/2023

Date: _____