

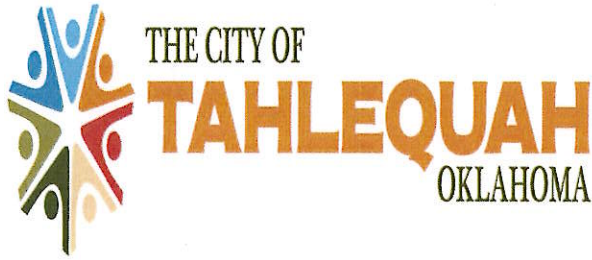
Detailed Document Packet

City Council Meeting 07-03-2023

Agenda Item Reports (sample below) appear in front of each set of backup documents. The "Item No." matches the letter or number on the Agenda.



Item No.	Consent (p)
Meeting Date	7-3-23
Initiator	Ray Hammons
Office/Department:	Managerial



Tahlequah City Council
AGENDA ITEM REPORT

Item No. Consent (a)

Meeting Date 07-03-2023

Initiator Whitney Shaw

Office/Department: City Clerk

Item Title

To approve minutes from June Council Meetings.

Background

Normal recurring monthly consent item.

Exhibits

Exhibit 1: 06-05-2023 Regular Meeting Minutes
Exhibit 2: 06-20-2023 2:30 pm Special Meeting Minutes
Exhibit 3: 06-20-2023 5:30 pm Special Meeting Minutes
Exhibit 4: 06-30-2023 Special Meeting Minutes

Funding Source

N/A

Request

Approve the minutes from the June 5th, 20th (2:30pm & 5:30pm), and June 30th, 2023 City Council meetings.

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

1. MEETING CONVENED

Meeting **called to order** by 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 IV Josh Allen

Absent: Councilor Ward III Stephen Highers

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

Invocation: Rev. Clifton Lohman, First Lutheran
Flag salute.

2. PUBLIC INSTRUCTIONS

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 comments from the public.

4. CONSENT AGENDA

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

- a) Approve the **minutes** from the **May 1st, 15th, 19th, and May 23rd, 2023** City Council meetings.
- b) Acknowledge receipt of the **April 2023 financial statement**.
- c) Acknowledge receipt of the **April 2023 purchasing card statement**.
- d) Acknowledge receipt of the **April 2023 investment schedule**.
- e) Acknowledge receipt of the **May 2023 check register**.
- f) **Removed by Councilor Bree Long**
- g) Accept **donation of 8 signs from TSET Healthy Living Program** for the City of Tahlequah **pickle ball courts**.

- h) Appoint Mrs. Susannah Plumb Scott to the **Tahlequah Regional Development Authority Board**.
- i) Appoint Ms. Amber Wooten for the remaining term of the **At-Large Ward** of the **Tahlequah Planning Commission** with term ending May 2024.
- j) Reappoint Mr. Robert Batson to **Ward III** of the **Tahlequah Planning Commission** with term ending May 2025.
- k) Appoint Mr. Andy Harris to **Ward I** of the **Tahlequah Planning Commission** with term ending May 2026.
- l) Reappoint Ms. Tammy Phillips on the **Historic Preservation Board** with term ending May 2028.
- m) Reappoint Dr. Louis White to **seat IV** of the **Airport Board** with term ending May 2028.
- n) Reappoint Mr. Dower Combs as **at-large member** of the **Airport Board** with term ending May 2028.
- o) Approve **construction of a 48'x48' hangar**, by Mr. Steve Kurtz, on **Lot 40** of the airport, as approved by the Airport Board on May 18, 2023.
- p) Accept **public utility easements** from Edna Bluebird and Kenneth T. Bluebird, Burl Berry, Robert Poor and Julie Poor, and Michele Norman.
- q) Authorize the Mayor to sign the **location release** for a **commercial filmed in Sequoyah Park**.
- r) Authorize the Mayor to sign a **Cherokee Nation Public Safety Partners Grant** for each of the following departments: Fire, Police, and Emergency Management.
- s) Accept **donation** in the amount of **\$3500**, from the **Cherokee Nation**, to the **Tahlequah Fire Dept.** donation account to be used at their discretion.
- t) Authorize the Mayor to sign the **certificate of project completion** for **Project No. SRS-211E(015)ST. State Job No. 31480(08)** and closeout grand fund.
- u) Approve **contract for CivicClerk**, a component of **CivicPlus**, in the budgeted amount of \$12,442.00, for agenda and meeting management.
- v) Approve the **Interlocal Agreement** on the handling of **Juvenile Cases** between the **District Court** and the City of Tahlequah with a term ending June 30, 2024.
- w) Approve **Resolution No. 06-05-2023(B)**: The City of Tahlequah supports participation in the **2023-2024 Oklahoma Main Street Center** with the specific goal of revitalizing the historic business district using the Main Street 4-Point Approach™ to economic revitalization.
- x) Accept the **resignation of Nathanal Brown**, Driver in the Solid Waste Department, effective May 31, 2023.
- y) Accept the **resignation of Taylor Mootry**, PT Laborer (999) in the Parks and Recreation Department, effective May 31, 2023.
- z) Accept the **resignation of Alayna McAlpine** and **Anahi Sierra**, Lifeguards in the Parks and Recreation Department, effective May 31, 2023.
- aa) **Promote Kendall Collins**, PT IT Support in the IT Department to Full-time IT Support Specialist at \$35,000 annually, effective May 22, 2023.
- bb) **Removed by Mayor Suzanne Myers. Increase the rate of pay for** Laborer/Operator Jeffery Titus, Street Department, from \$30,148.00 annually and **pay retro difference** back to hire date of 02/15/2023.
- cc) **Removed by Mayor Suzanne Myers. Increase the rate of pay for** Laborer/Operator Dalton Tolliver, Street Department, from \$30,148.00 annually and **pay retro difference** back to hire date of 02/16/2023.

- dd) ~~Removed by Mayor Suzanne Myers.~~ Increase the rate of pay for Laborer/Operator Tacoma Maples, Street Department, from \$30,148.00 annually and **pay retro difference** back to hire date of 08/11/2022.
- ee) ~~Removed by Mayor Suzanne Myers.~~ Increase the rate of pay for Laborer/Operator Colin Girdner, Street Department, from \$31, 887.90 annually to \$35,531.10 annually and **pay retro difference** back to 04/28/2023.

Vote: *Ayes: Allen, Baker, Long*

Nays: None

Motion carried

5. ANNOUNCEMENTS, PRESENTATIONS, AND REPORTS

Recognition of **May Employee of the Month: Compliance Officer Ryan Young**
Report from Library-Not present
Report from Chamber of Commerce-Not present
Report from Tour Tahlequah-Alex McBride
Report from Tahlequah Main Street Association-Jamie Hale

REGULAR SESSION

6. Discussion and possible action on items removed from the **consent** agenda.

Councilor Baker made a motion and Councilor Allen seconded to approve **item (f)**:
Approve the Hotel/Motel fund **budget amendment** request #652023.

Vote: *Ayes: Baker, Allen, Long*

Nays: None

Motion carried

City Attorney recommended that **items (bb) through (ee)** be tabled and brought back before the Council at the mid-month meeting. **No motion, action, or vote taken.**

7. **Discussion only** for clarity and direction from Council and City Attorney as to the responsibilities of staff to provide any and all legal open records request in a timely and complete manner.
8. Councilor Long made a motion and Councilor Allen seconded to acknowledge receipt of **Fiscal Year June 30, 2022 audit** from Arledge & Associates.

Vote: *Ayes: Long, Allen, Baker*

Nays: None

Motion carried

9. Councilor Long made a motion and Councilor Allen seconded to approve **Resolution No. 06-05-2023**, a resolution adopting the Fiscal Year 2023-2024 City of Tahlequah Budget.

Vote: *Ayes: Long, Allen, Baker*

Nays: None

Motion carried

10. Councilor Long made a motion and Councilor Allen seconded to approve **Resolution 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 other documents as may be necessary or required.

Vote: Ayes: Long, Allen, Baker

Nays: None

Motion carried

11. Councilor Long made a motion and Councilor Allen seconded to approve entering into an **urban project agreement** with ODOT for **Project No. TAP3-79678(004) TP, State Job No. 37967(04)**. Sidewalk on S. Muskogee Ave. (U.S. 62) from S. Muskogee to SH-51 to the S. Muskogee and Southridge Rd. /Nancy Ward Dr. intersection. Total Project Estimate \$1,498,478.00. ODOT to provide up to \$1,123,858.00 (75%) and City to provide \$374,620.00 (25%).

Vote: Ayes: Long, Allen

Nays: Baker

Motion carried

12. Councilor Allen made a motion and Councilor Long seconded to approve entering into an **urban project agreement** with ODOT for **Project No. TAP3-8036(004) TP, State Job No. 38036(04)**. Connect to trail near Basin and then North to 1st Street. Then on the alley between Muskogee Ave. and Water Ave., North to Grant along Smith Street to the North and Oak to the East. Total Project Estimate \$1,817,045.00. ODOT to provide up to \$1,345,767.00 (75%) and City to provide \$471,278.00 (25%).

Vote: Ayes: Allen, Long

Nays: Baker

Motion carried

13. Councilor **Allen** made a motion and Councilor Long seconded to approve Resolution **No. 06-05-2023(C)**, a Resolution changing the zoning from Local Commercial District (C-1) to Regional Commercial District (C-3) on a property located at 1598 Park Hill Rd. Tahlequah, OK more particularly described as follows:

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

Vote: Ayes: Allen, Long, Baker

Nays: None

Motion carried

14. Councilor Long made a motion and Councilor Allen seconded **to table** the Supplemental Agreement for inspection services provided by Lochner Engineering.

Vote: Ayes: Long, Allen, Baker

Nays: None

Motion carried

15. No action taken.
16. No action taken.
17. No action taken.
18. **Mid-month** meeting set for Tuesday, June 20, 2023 at 5:30pm.
19. **Meeting adjourned** at 6:30pm.

MINUTES
TAHLEQUAH CITY COUNCIL - SPECIAL MEETING
TUESDAY, JUNE 20, 2023 - 5:30 PM
CITY HALL COUNCIL CHAMBERS – 111 S. CHEROKEE AVE.

Public Notice of meeting provided **June 15, 2023 at 11:10 a.m.** at 111 S. Cherokee Ave. Tahlequah, OK.

1. Meeting **called to order** by Mayor Myers at 5:30 pm.
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 Treasurer Marty Hainzinger, City Clerk Whitney Shaw, IT Support Kendall Collins

3. Councilor Baker made a motion and Councilor Highers seconded to exit Regular Session and enter into Executive Session.

Vote: Ayes: Baler, Highers, Allen, Long

Nays: None

Motion carried

4. **Reconvened** into Special Meeting at 4:40pm. **No votes or actions were taken.**
5. **Meeting adjourned** at 4:42pm.

MINUTES
TAHLEQUAH CITY COUNCIL - SPECIAL MEETING
TUESDAY, JUNE 20, 2023 - 5:30 PM
CITY HALL COUNCIL CHAMBERS – 111 S. CHEROKEE AVE.

1. MEETING CONVENED

Meeting **called to order** by Mayor Suzanne Myers at 5:30 pm.
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 Treasurer Marty Hainzinger, City Clerk Whitney Shaw, IT Support Kendall Collins

2. PUBLIC INSTRUCTIONS:

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. CONSENT AGENDA

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

- a) Appoint **Craig Clifford** to **Abatement Board**.
- b) Appoint **Ryan Cannonie** to **Board of Adjustment**.
- c) **Removed by Councilor Bree Long.**
- d) Hire **Chance Parson**, PT Concession Laborer in the **Parks and Recreation Department**, effective June 20, 2023.
- e) Reinstate **Alayna McAlpine**, Lifeguard in the **Parks and Recreation Department** at \$12.00 per hour effective June 1, 2023.
- f) Increase the rate of pay for Laborer/Operator **Jeffery Titus, Street Department**, from \$30,148.00 annually to \$31,887.90 annually, effective February 15, 2023.
- g) Increase the rate of pay for Laborer/Operator **Dalton Tolliver, Street Department**, from \$30,148.00 annually to \$31,887.90 annually, effective February 16, 2023.
- h) Increase the rate of pay for Laborer/Operator **Tacoma Maples, Street Department**, from \$30,148.00 annually to \$31, 887.90 annually, effective August 11, 2022.

- i) Increase the rate of pay for Laborer/Operator **Colin Girdner, Street Department**, from \$31, 887.90 annually to \$35,531.10 annually, effective April 28, 2023.
- j) **Removed by Councilor Josh Allen.**
- k) Approve **Lease Agreement** with **MC Nutrition** related to the Senior Citizens Building located at 230 E. 1st Street, Tahlequah, OK 74464.

Vote: Ayes: Allen, Baker, Long

Nays: None

Motion carried

REGULAR SESSION

4. The following items were removed from the Consent Agenda:

"c": No action taken to appoint Chris Pruitt to Cemetery Board.

"j": Councilor Highers made a motion and Councilor Long seconded to permit the Street Department to clean, stripe, and landscape the old Shawnee Playhouse/Theater parking lot for Public parking.

Vote: Ayes: Highers, Long, Baker, Allen

Nays: None

Motion carried

5. Councilor Allen made a motion and Councilor Highers seconded to approve Ordinance 1357-2023. An Ordinance amending section **5-103.1 Building Code**-Construction Documents, Permit Applications of the City of Tahlequah Code of Ordinances and **declaring an emergency.**

Vote: Ayes: Allen, Highers, Baker, Long

Nays: None

Motion carried

6. Councilor Allen made a motion and Councilor Baker seconded to declare Ordinance 1357-2023 and emergency.

Vote: Ayes: Allen, Baker, Long, Highers

Nays: None

Motion carried

7. Councilor Allen made a motion and Councilor Highers seconded to approve with modifications (exempt fuel, asphalt, gravel, and concrete), Ordinance 1358-2023. An Ordinance amending City Code **Part 7, Finance and Taxation**; Chapter 1, Finance and Budget Administration; by amending section 7-105, Purchases, Bidding or Quantitation Requirements; by amending Section 7-108, Purchase of Goods, Services, and Capital; by adding Section 7-901, Definitions; Section 7-902, Authority to Make Purchases; Section 7-904, Contract Negotiation; Section 7-905, Emergency Purchases; Providing for Codification, Severability, Repealer, and **Declaring an Emergency.**

Vote: Ayes: Allen, Highers, Baker, Long

Nays: None

Motion carried

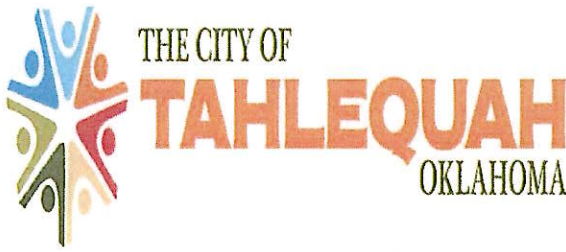
8. Councilor Allen made a motion and Councilor Highers seconded to declare Ordinance 1358-2023 an emergency.

Vote: Ayes: Allen, Highers, Long

Nays: Baker

Motion carried

9. Councilor Highers made a motion and Councilor Baker seconded to approve **Resolution No. 06-20-2023**. A Resolution relating to the incurring of indebtedness by the trustees of the **Tahlequah Regional Development Authority** relating to the **economic development** agreement between the **Tahlequah Regional Development Authority** and **Optomi, LLC. DBA Provalus**.
- Vote: Ayes: Highers, Baker, Allen Nays: Long Motion carried*
10. No action taken to approve, approve with modification or deny **Supplemental Agreement** for inspection services provided by **Lochner Engineering**.
11. Councilor Long made a motion and Councilor Allen seconded to exit Regular Session and **enter into Executive Session at 6:02 pm**.
- Vote: Ayes: Long, Allen, Baker, Highers Nays: None Motion carried*
12. Council reconvened into Regular Session at 8:01 pm.
13. Councilor Highers made a motion and Councilor Allen seconded to authorize the City Attorney to file the appropriate **paperwork** as discussed in Executive Session.
- Vote: Ayes: Highers, Allen, Baker, Long Nays: None Motion carried*
14. Councilor Allen made a motion and Councilor Highers seconded to authorize the Mayor or her designee to make offers, negotiate, and make final payments related to the purchase and/or appraisal of real property for **right-of-way** purposes for the **Park Hill Road Project**.
- Vote: Ayes: Allen, Highers, Baker, Long Nays: None Motion carried*
15. Councilor Allen made a motion and Councilor Long seconded to **make an offer of employment** related to the **City Administrator position**.
- Vote: Ayes: Allen, Long, Baker, Highers Nays: None Motion carried*
16. Meeting adjourned at 8:03 pm.



Tahlequah City Council
AGENDA ITEM REPORT

Item No.

1, 2, 3 - Consent (b), (c), & (d)

Meeting Date

7/03/2023

Initiator

Alan Chapman

Office/Department:

Finance Department

Item Title

Consent Agenda Items: 1. To Acknowledge Receipt of the May 31, 2023 Financial Statement.
2. To Acknowledge Receipt of the May 2023 Investment Statement.
3. To Acknowledge Receipt of the May 2023 Purchasing Card Stmt.

Background

Normal reoccurring business items that monthly are placed in consent.

Exhibits

Exhibit 1 – May Financial Statement
Exhibit 2 – May Investment Statement
Exhibit 3 – May Purchasing Card Statement

Founding Source

Not Applicable

Request

Approval as part of Consent Agenda



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 [Monthly Financial Statements](#)
- CLICK ON [2023](#) then [May 2023 Financial Statement](#)

City of Tahlequah Working Fund Investments as of May 31, 2023

BANK	AMOUNT	PERCENTAGE
Bank Accounts		
Reserve Operating Armstrong	\$2,754,622.22	4.25%
Streets & Sidewalks Armstrong	\$4,364,310.00	4.25%
General Fund Sweep Bank First	\$6,774,153.32	4.59%

BANK	MATURITY VALUE	PERCENTAGE	MATURITY DATE
Edward Jones			
American Express Natl Bk	\$248,000.00	1.60%	3/4/2024
Atlantic Un Bk Richmond VA	\$128,000.00	5.15%	5/17/2024
Bmo Harris Bk Natl Assn	\$244,000.00	4.45%	5/24/2028
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
UBs BK USA Salt Lake City UT	\$150,000.00	2.85%	5/13/2024
Univest Natl Bk Tr Souderton	\$249,000.00	4.50%	5/17/2027
Cash			
TOTAL	\$3,861,000.00		

Statement Closing Date: 05/31/23

Corporate Account Summary

Previous Balance		\$3,336.00
Purchases and other Charges	+	\$4,845.00
Cash Advances	+	\$0.00
Credits	-	\$1,085.87
Payments	-	\$3,336.00
Late Payment Charge	+	\$0.00
Finance Charges	+	\$0.00
New Balance		\$3,759.13
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	\$46,240.87
Cash Advance Credit Limit	\$0.00
Days in Billing Cycle	33
Statement Closing Date	05/31/23
Minimum Payment Due	\$113.00
Payment Due Date	06/24/23

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
05/22	05/22		AUTO PAYMENT DEDUCTION	-\$3,336.00

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	\$820.30	\$0.00	\$820.30
POLICE DEPARTMENT 2 XXXX XXXX XXXX 9110	\$1,000	\$0.00	\$465.34	\$0.00	\$465.34
MANAGERIAL 1 XXXX XXXX XXXX 9136	\$2,000	\$488.87	\$1,803.86	\$0.00	\$1,314.99
SOLID WASTE XXXX XXXX XXXX 9151	\$1,000	\$0.00	\$187.62	\$0.00	\$187.62

(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

Account Number XXXX XXXX XXXX 3494
New Balance \$3,759.13
Minimum Payment Due \$113.00
Payment Due Date 06/24/23

Amount enclosed \$

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

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

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

***N0001144

Arvest Bank
PO BOX 2149
Lowell AR 72745



4485630000803494 0011300 0375913

XXXX XXXX XXXX 3494
 TAHEQUAH
 Statement Closing Date: 05/31/23

Cardholder Account Summary cont.

Name and Account Number	Credit Limit	Credits	Purchases	Cash Advances	Total Activity
STREET DEPARTMENT XXXX XXXX XXXX 9169	\$1,000	\$0.00	\$243.61	\$0.00	\$243.61 ✓
FIRE DEPARTMENT XXXX XXXX XXXX 9177	\$1,000	\$0.00	\$563.50	\$0.00	\$563.50 ✓
FIRE DEPARTMENT 2 XXXX XXXX XXXX 1597	\$1,000	\$0.00	\$49.26	\$0.00	\$49.26 ✓
MANAGERIAL 2 XXXX XXXX XXXX 9287	\$1,000	\$0.00	\$695.52	\$0.00	\$695.52 ✓
RANDY POWELL XXXX XXXX XXXX 8454	\$1,000	\$597.00	\$15.99	\$0.00	-\$581.01 ✓

Cardholder Account Activity

Trans Date	Post Date	Reference Number	Description	Amount
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RAY HAMMONS XXXX XXXX XXXX 4179	Credit Limit \$1,000	Credits \$0.00	Purchases \$820.30	Cash Advances \$0.00	Total Activity \$820.30
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05/16	05/17	24435653136762335032754	GALLS 859-266-7227 KY	\$820.30 ✓
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POLICE DEPARTMENT 2 XXXX XXXX XXXX 9110	Credit Limit \$1,000	Credits \$0.00	Purchases \$465.34	Cash Advances \$0.00	Total Activity \$465.34
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05/12	05/15	24037613134900017628659	WWW.RESERVATIONS.COM 855-9562201 FL	\$19.99 ✓
05/12	05/15	24692163132106167067144	CCI*RESERVATIONS.COM 855-956-2201 TX	\$304.96 ✓
05/15	05/17	24445003136500422879257	DOMINO'S 6482 TAHEQUAH OK	\$140.39 ✓

MANAGERIAL 1 XXXX XXXX XXXX 9136	Credit Limit \$2,000	Credits \$488.87	Purchases \$1,803.86	Cash Advances \$0.00	Total Activity \$1,314.99
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05/02	05/03	24492153122743801384165	VISTAPRINT 866-207-4955 MA	\$125.78 ✓
05/08	05/09	74492153128743720922169	VISTAPRINT 8662074955 MA	-\$9.87 ✓
05/10	05/11	24492153130719993675305	ZIPRECRUITER, INC. 855-747-5493 CA	\$479.00 ✓
05/17	05/18	24435653137762180031900	GALLS 859-266-7227 KY	\$198.19 ✓
05/18	05/19	24445003139400191498289	WM SUPERCENTER #10 TAHEQUAH OK	\$311.76 ✓
05/19	05/22	24426293141030102671652	RAFA'S BURRITO CO. TAHEQUAH OK	\$25.00 ✓
05/19	05/22	24692163139101598433414	SQ *KRONER AND BAER TAHEQUAH OK	\$25.00 ✓
05/19	05/22	24692163140102219847583	TST* THE GRILL - OK TAHEQUAH OK	\$25.00 ✓
05/19	05/22	24000973141850207561222	THE BRANCH 918-4561500 OK	\$50.00 ✓
05/19	05/22	24013393139002327029482	FAMILY SHOE STORE TAHEQUAH OK	\$50.00 ✓
05/19	05/22	24137463140100467684945	TAHEQUAH LUMBER CO 1869 TAHEQUAH OK	\$119.99 ✓
05/22	05/23	24011343142000029952454	PTI* RIVERBENDFLOATS WWW.PEEK.COM UT	\$102.24 ✓
05/22	05/24	24193043144003861913885	TOO FOND OF BOOKS TAHEQUAH OK	\$25.00 ✓
05/23	05/24	24270743143900013300428	VIDALIA'S 918-4565551 OK	\$25.00 ✓
05/23	05/24	24193043144003863382717	EL MOLCAJETE - TAHEQUAH TAHEQUAH OK	\$25.81 ✓
05/23	05/24	24013393143002799757875	NAPOLIS OF TAHEQUAH TAHEQUAH OK	\$50.00 ✓
05/23	05/24	24692163143101876976153	SQ *LINNEY BREAUX'S CAJUN TAHEQUAH OK	\$50.00 ✓
05/24	05/25	24692163144102687962498	SQ *THE ROLLIE POLLIE TAHEQUAH OK	\$25.00 ✓
05/24	05/25	24492153144855543850784	SQ *LIFT COFFEE BAR TAHEQUAH OK	\$26.10 ✓
05/23	05/25	24733093144091493000645	ATWOOD 40 TAHEQUAH TAHEQUAH OK	\$64.99 ✓
05/26	05/29	74492153146715540944928	ZIPRECRUITER, INC. 8557475493 CA	-\$479.00 ✓

SOLID WASTE XXXX XXXX XXXX 9151	Credit Limit \$1,000	Credits \$0.00	Purchases \$187.62	Cash Advances \$0.00	Total Activity \$187.62
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05/10	05/11	24540453130182500022584	CHEROKE COUNTY TAG 918-4532889 OK	\$187.62 ✓
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STREET DEPARTMENT XXXX XXXX XXXX 9169	Credit Limit \$1,000	Credits \$0.00	Purchases \$243.61	Cash Advances \$0.00	Total Activity \$243.61
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05/18	05/19	24269753138900019718507	M & D DISTRIBUTORS 866-4102442 TX	\$243.61 ✓
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FIRE DEPARTMENT XXXX XXXX XXXX 9177	Credit Limit \$1,000	Credits \$0.00	Purchases \$563.50	Cash Advances \$0.00	Total Activity \$563.50
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05/20	05/22	24692163140102344687896	COURTYARD BY MARRIOTT TUSCALOOSA AL	\$563.50 ✓
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05/20/23 140021					
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(transactions continued on next page)

Account Number: XXXX XXXX XXXX 3494

CITY OF TAHLEQUAH

Statement Closing Date: 05/31/23

Page 4 of 4



Cardholder Account Activity cont.

FIRE DEPARTMENT 2		Credit Limit	Credits	Purchases	Cash Advances	Total Activity
XXXX XXXX XXXX 1597		\$1,000	\$0.00	\$49.26	\$0.00	\$49.26

Trans Date	Post Date	Reference Number	Description	Amount
05/21	05/22	24231683142400041497335	HARBOR FREIGHT TOOLS3160 TAHLEQUAH OK	\$49.26 ✓

MANAGERIAL 2		Credit Limit	Credits	Purchases	Cash Advances	Total Activity
XXXX XXXX XXXX 9287		\$1,000	\$0.00	\$695.52	\$0.00	\$695.52

Trans Date	Post Date	Reference Number	Description	Amount
05/11	05/12	24540453131182500029208	CHEROKE COUNTY TAG 918-4532889 OK	\$51.22 ✓
05/20	05/22	24692163140102344687946	COURTYARD BY-MARRIOTT TUSCALOOSA AL 05/20/23 140027	\$563.50 ✓
05/30	05/31	74208473150000014591251	FOREIGN CURRENCY CONVERSION MARKUP	\$0.80 ✓
05/30	05/31	74208473150000014591251	TOCKIFY WEB CALENDAR BRIGHTON	\$80.00 ✓

RANDY POWELL		Credit Limit	Credits	Purchases	Cash Advances	Total Activity
XXXX XXXX XXXX 8454		\$1,000	\$597.00	\$15.99	\$0.00	-\$581.01

Trans Date	Post Date	Reference Number	Description	Amount
05/23	05/24	24011343143000036297637	ZOOM.US 888-799-9666 WWW.ZOOM.US CA	\$15.99 ✓
04/02	05/25	24492163092000021242474	FRAUD PROV CREDIT ZOHO-MANAGENG EM	-\$597.00 ✓



Tahlequah City Council
AGENDA ITEM REPORT

Item No. Consent (e)

Meeting Date 7-3-23

Initiator Ray Hammons

Office/Department: admin

Item Title

TMSA contract for 2023-2024

Background

Renew amended TMSA contract

Exhibits

Attached contract

Founding Source

Request

Place on consent with Attorney Hammons approval

CONTRACT FOR SERVICES

COPY

THIS CONTRACT AGREEMENT made and entered into on this 3rd day of July, 2023 between the CITY OF TAHLEQUAH, 111 S. Cherokee Ave., Tahlequah, Oklahoma, a municipal corporation (hereinafter "City") and TAHLEQUAH MAIN STREET ASSOCIATION, INCORPORATED (hereinafter "TMSA") a 501 c 3 non-profit corporation whose mailing address is 118 E. Shawnee Street, Tahlequah, Oklahoma 74464, for the purpose of providing services necessary for the effective operation and maintenance of certain municipal properties and facilities located in Tahlequah "Main Street Corridor".

It is hereby understood and agreed by the parties that the term "Main Street Corridor" as used herein refers to the area defined by Muskogee Avenue bounded on the north by Goingsnake Street, on the east by Water Avenue, on the west by College Avenue, and on the south by Chickasaw Street.

WITNESSETH:

ARTICLE 1. Agreement. TMSA, for and in consideration of the mutual covenants, terms, and agreements herein contained, promises and agrees to perform all services as set forth hereunder.

ARTICLE 2. Services. TMSA shall provide all labor, supplies, and such other materials and services as necessary to perform the following within the main street corridor and such other locations as may be specified:

- A. TMSA agrees to organize the "Adopt a Parklet" program to clean, plant and maintain the parklets located within the "Main Street Corridor".
- B. TMSA agrees to organize and conduct two (2) cleanup days annually removing trash, debris, and other waste materials from the street and public rights-of-way and from within the City's Sequoyah Park and Norris Park properties and coordinating disposal of all collected waste materials with the City.
- C. TMSA agrees to actively recruit new events and provide support (economic, operational, and promotional) to outside organizations or businesses who have identified Tahlequah for relocation or considering moving their next event and/or are actively planning to host new event(s) in the downtown corridor.
- D. TMSA agrees to manage a flag program; i.e., to display the American flag in the downtown corridor six (6) days a year. Those dates are, but not limited to, President's Day (third Monday in February), Memorial Day (last Monday in May), Independence Day (July 4th), Patriot Day (September 11th), Veterans Day (November 11th), Pearl Harbor Day (December 7th).
- E. TMSA agrees to, whenever possible, assist organizers with production or events taking place in the downtown area by providing resources, expertise, volunteer labor, and logistical assistance.
- F. TMSA agrees to provide merchant and property services to the designated downtown corridor which can include interior layout and design assistance, architectural façade design assistance, actionable data acquisition, digital marketing of products and services, special events that promote downtown, retail events, merchant training and seminars, technical assistance, web and social media assistance, logo design assistance and to develop new programs that position downtown as the center of commerce, culture, and community life.
- G. TMSA agrees to coordinate any outside requests and installation of banners and/or decorations on city street light poles with each such request being first submitted to the City's Mayor for review and approval prior to installation.

- H. TMSA agrees to assist in yearly organization, design, and installation of downtown Christmas decorations and lights. In addition, TMSA will organize yearly fundraising initiatives for Christmas decorations, lights, and event support.
- I. For the sum of ninety-five thousand dollars (\$95,000.00), TMSA agrees to seek new economic opportunities, provide marketing services, business development support, and coordinate events for the purpose of enhancing economic prospects of existing and prospective merchants in the downtown corridor. This includes but is not limited to hosting the Red Fern Festival, as well as many other great events. TMSA's services will fall within four unique tracks: Signature Festivals, Beautification/Experiential, Seasonal/Shopping, and Arts/Heritage. Details as follows:
1. **Signature Festivals** – TMSA's signature festivals are extraordinary events focused on highlighting regional characteristics, culture and/or history of important aspects of the Tahlequah community (ex. Red Fern Festival, OksWagen Festival, Gather Downtown Festival). These events bring in thousands of visitors to Tahlequah each and every year.
 - i. Forty-five thousand dollars (\$45,000.00) will be allocated to in support of the Signature Festivals track.
 2. **Beautification/Experiential** – TMSA's beautification and experiential track is focused on creating a vibrant experience for the community when visiting downtown merchants. Experiences in this category will invest in the overall design of downtown while energizing business attraction, retention, and expansion efforts (ex. The Big Impact, façade grants, pole and parklet maintenance).
 - i. Twenty thousand dollars (\$20,000.00) will be allocated in support of the Beautification/Experiential track.
 3. **Seasonal/Shopping** – TMSA's seasonal and shopping track is focused on creating economic opportunities for the City and downtown merchants with activities geared towards sales. Experiences in this category will encourage community engagement and create an opportunity to market to weekend tourists by partnering with regional partners, lake and river outfitters (ex. Ladies Night Out, Cookie Stroll).
 - i. Fifteen thousand dollars (\$15,000.00) will be allocated in support of the Seasonal/Shopping track.
 4. **Arts/Heritage** – TMSA's arts and heritage track is focused on promoting and fostering a community steeped in rich connections to the arts, American history, and Native American traditions and culture. Experiences in this category are purposely planned to promote and encourage revitalization of the communities' arts and historical aspects (ex. 5th Saturday Art Market, downtown walking tours).
 - i. Fifteen thousand dollars (\$15,000.00) will be allocated in support of the Arts/Heritage track.
- J. TMSA will articulate a focused, deliberate path to revitalize and strengthen the economy of the downtown corridor and therefore the City within a Transformation Strategy Report. TMSA's Transformation Strategy Report will engage the community, be informed by careful analysis of the downtown corridors market position, and guide TMSA's revitalization work with the Four Point Economic Vitality, Design, Promotion and Organization approach. The Transformation Strategy Report will be provided to the City Mayor and City Council.
- K. TMSA understands and agrees that establishment of quantitative and qualitative outcomes by which to judge the organizations performance is necessary and an important part of this Agreement. As part of its reports to the City Council and in any event no less than quarterly,

TMSA shall provide the City Council, with the following information related to the downtown City area:

- a. Business Expansion and/or Relocation
 - i. Number of businesses that have relocated or expanded within the downtown corridor; This can include businesses that were located inside the city limits of the City but outside the downtown corridor that moved to the downtown corridor;
- b. New Businesses
 - i. Number of new businesses that have opened in the downtown corridor in the last month; This will include new business startups or a business that was previously located inside/outside of the city limits that has moved to the downtown corridor;
- c. Business Closure
 - i. Number of businesses that closed in the downtown corridor; this will also include businesses located in the downtown corridor that relocated outside the corridor but stayed within City limits, relocated outside city limits or to another community.
- d. Jobs Created
 - i. Number of full-time people employed by each new business (or full-time equivalent); If a business has relocated or expanded within the district, new jobs will be created only if additional people are employed after the move or expansion.
- e. Jobs Lost
 - i. Number of jobs lost due to business closure, consolidation or downsizing; the number of jobs lost to the businesses relocating outside of the downtown corridor will always be zero unless the business decreases the number of its employees with the move.
- f. Public Investment Dollars
 - i. The amount of public improvement dollars spent within the district, i.e. city, county, state, or federal money spent on building rehabilitations, public improvements, or new construction. Types of public improvement projects are improvements to public buildings, installation and improvement of street lighting, street and sidewalk repairs, parking improvements, public signage, marketing and tourism, and landscaping.
- g. Volunteer Hours
 - i. Number of volunteer hours contributed to the organization; this includes hours spent in both board and committee meetings; In addition, TMSA will maintain a volunteer program.
- h. In addition, TMSA will report any other relevant data and provide the City of Tahlequah with quarterly financial reports.

ARTICLE 3. Term. This Agreement shall be effective for a term commencing on July 1, 2023 and ending on June 30, 2024. Unless otherwise terminated or cancelled as herein provided, this contract shall be automatically renewed on July 1, 2024 for an additional one-year term and thereafter on the same date of each succeeding year. Either party seeking to terminate, cancel, or otherwise modify this Agreement shall give written notice in writing to the other party by June 1st of the year in which termination, cancelation, or modification is sought.

ARTICLE 4. Compensation. In consideration of full performance hereunder, City shall be requested to pay TMSA a sum of Ninety-Five Thousand Dollars and no cents (\$95,000.00) annually. Monthly payments in the amount of three thousand dollars (\$3,000.00). Any payment(s) for services rendered for a term of less than twelve (12) months shall be prorated accordingly; twenty-nine thousand five hundred dollars (\$29,500) paid in July and twenty-nine thousand five hundred (\$29,500) paid in January of each fiscal year.

Payments shall be made monthly and in arrears to TMSA upon receipt by the City of an invoice describing services by TMSA. Invoices shall be submitted in such form and content as shall be required by the City.

ARTICLE 5. Relationship. TMSA is an independent contractor retaining sole control of the manner and means of performing this contract and at no time shall it be considered an agent or representative of the City.

ARTICLE 6. Event Support. TMSA's signature festivals such as the Red Fern Festival will be supported by the City with fee waivers associated with the use of City property, resources, and/or equipment. Fee waivers may associated with but not be limited to the use of road closures, park usage, pavilion usage, equipment usage, waste removal, and other fees as typically required for events. Signature festivals have a multi-million dollar yearly economic impact on the City of Tahlequah and directly support local business.

ARTICLE 7. Indemnity. TMSA agrees to indemnify and hold harmless the City for any pecuniary or tort liability perpetrated as a result of any activity or action on behalf of TMSA or any other participants.

ARTICLE 8. Cancellation. This agreement may be cancelled by either party at any time upon thirty (30) days written notice delivered by certified mail or hand-delivered to the addresses herein specified. Upon such cancellation, TMSA shall be entitled to receive just compensation for any work completed prior to cancellation and found satisfactory by the City.

ARTICLE 9. Modification. No change or modification of this agreement shall be effective unless reduced to writing and executed by both parties hereto. Either party seeking modifications to this Agreement shall give written notice in writing to the other party by June 1st of the year in which modification is sought.

THIS AGREEMENT is made the day and year first written above.

TAHLEQUAH MAIN STREET ASSOCIATION

ATTEST:

By _____

President

President-Elect

CITY OF TAHLEQUAH

ATTEST:

By _____

Mayor

City Clerk



Tahlequah City Council
AGENDA ITEM REPORT

Item No. Consent (k)

Meeting Date 07-03-2023

Initiator Ray Hammons

Office/Department: Managerial

Item Title

Consider approval of agreement with Cherokee County for Emergency Management for fiscal year 2023-2024.

Background

Contract/Agreement between County Commissioners to allow payment through the City of Tahlequah to Emergency Management. Emergency Management is an inter-local department serving both the City of Tahlequah and Cherokee County.

Exhibits

Exhibit 1: Contract/Agreement

Funding Source

Cherokee County Commissioners

Request

CONSENT: Approve agreement with Cherokee County for Emergency Management Services for fiscal year 2023-2024.

AGREEMENT FOR EMERGENCY MANAGEMENT SERVICES

THIS AGREEMENT is made and entered into by and between CHEROKEE COUNTY, a political subdivision of the State of Oklahoma, (hereinafter referred to as "County") and the CITY OF TAHLEQUAH, a municipal corporation of the State of Oklahoma, (hereinafter referred to as "City")

WHEREAS, County has established an Emergency Management Plan pursuant to the provisions of Oklahoma § 683.11; and

WHEREAS, County and City believe it to be in the best interests of their citizens that County and City share and coordinate services in the event of an emergency situation; NOW THEREFORE,

IT IS HEREBY AGREED AS FOLLOWS:

1. Purpose. It is the purpose of this agreement to provide an economical mechanism to provide for the common defense and protect the public peace, health, and safety and to preserve the lives and property of the people of the signatory jurisdictions against the existing and increasing possibility of the occurrence of major emergencies or disasters, either man-made or from natural causes.

2. Duration. The duration of this agreement shall be that period commencing on the 1st day of July, 2023 and terminating at midnight on the 31st day of June 2024, unless this agreement is sooner extended or terminated in accordance with the terms hereof.

3. Definitions. As used in this agreement, the following definitions will apply.

A. "Emergency Management" or "Comprehensive Emergency Management" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergency and disasters, and aid victims suffering from injury or damage resulting from disasters caused by all-hazards, whether natural or man-made, and to provide support for search and rescue operations for persons and property in distress.

B. "Emergency or Disaster" shall mean an event or set of circumstances which: (a) demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences or (b) reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to Oklahoma § 683.11.

4. Services. County shall provide emergency management services as outlined in Oklahoma § 683.11 in accordance with the provisions of said chapter and as defined herein during the term of this agreement. Cherokee County shall perform all

services required by its Emergency Management Plan and/or Attachment "A" to this document.

and

5. Compensation. County shall pay City upon execution of this agreement sum of \$10,000 per year for additional salaries and an additional \$ 10,000 for Assistance salaries rendered under the terms of this agreement. Payment is due and payable on the 1st of each year of the contract beginning July 1st, 2023. Cherokee County shall perform all services required by its Emergency Management Plan. Nothing herein shall prevent County from making a claim for additional compensation in the event of an actual emergency or disaster as authorized by the State of Oklahoma. The City's unilateral decision to change its Emergency Management Plan to increase the services provided by the City to the County under this inter local agreement shall not result in an increase in the annual payment made by the County to the City as described in this Section, unless the same is incorporated into an amendment to this Agreement and executed by the authorized representatives of both parties.

6. Termination. Either party may terminate this Agreement with or without cause upon ninety (90) days written notice to the other party. Notices and other communications shall be transmitted in writing by U.S. Mail, postage prepaid, addressed to the parties as follows:

If to Cherokee County: Cherokee County
Board of Commissioners
213 W Delaware
Tahlequah, OK 74464

If to City of Tahlequah: City of Tahlequah
Mayor
111 S. Cherokee Ave.
Tahlequah, OK 74464

7. Renewal. This agreement may be renewed for agreed upon terms upon the mutual agreement of the parties as signified by a Memorandum of Renewal signed by the duly authorized representatives of each of the parties.

8. General. Neither party may assign or transfer this contract or any rights or obligations hereunder without the prior written consent of the other party. This contract constitutes the entire agreement between the parties with respect to the

Subject matter hereof and supersedes all previous negotiations, proposals, commitments, writings, and understandings of any nature whatsoever. Any changes to this contract requested by either party may only be affected if mutually agreed upon in writing by duly authorized representatives of the parties hereto.

9. Privileges and Immunities. Whenever the employees of the City or County are rendering outside aid pursuant to the authority contained in the Emergency Management Plan, such employees shall have the same powers, duties, rights, privileges and immunities as if they were performing their duties in the County or City in which they are normally employed. Nothing in this Agreement shall affect any other power, duty, right, privilege or immunity afforded the City or the County in Oklahoma § 683.11

10. Waiver. Failure by either party at any time to require performance by the other party under this Agreement or to claim a breach of any provision of this Agreement shall not be construed as affecting any subsequent breach or the right to require performance or affect the ability to claim a breach with respect thereto.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be duly executed, such parties acting by their representatives being thereunto duly authorized.

Date this _____ day of _____, _____

CHEROKEE COUNTY

Attest:

By _____ Date _____

Approved:

By _____ Date _____

Bobby "Cub" Whitewater
District 1 Commissioner

By _____ Date _____

Chris Jenkins
District 2 Commissioner

By _____ Date _____

Clif Hall
District 3 Commissioner

CITY OF TAHLEQUAH

Approved:

By _____ Date _____

Suzanne Myers
Mayor, City of Tahlequah

Attest:

By _____ Date _____

Whitney Shaw
City Clerk

By _____ Date _____

John Tyler Hammons
City Attorney

ATTACHMENT A

Emergency Management Services

Preparedness and Prevention Support

- Provide guidance, training, and tools in development of Emergency Operations Plan (EOP)
- Provide emergency management overview for leaders and elected officials
- Provide introductory emergency management training/education for liaisons
- Provide Incident Command System (ICS) training opportunities
- Facilitate regional training and exercise program (needs assessment, coordination with State, course/exercise administration)
- Provide access to and training for the WebEOC application
- Prepare and submit annual emergency management program report to Oklahoma State Emergency Management Division
- Manage volunteer program

Mitigation Support

- Maintain the Hazard Mitigation Plan (HMP) coordination, development, and review
- Provide guidance, training, and tools in development of a Threat Hazard Identification Risk Assessment (THIRA); and subsequent annual review of THIRA

Response Support

- Provide access to and support from our 24-hour Duty Officer
- Activate and manage the Tahlequah/ Cherokee County Emergency Operations Center (EOC) as necessary
- Support coordination of multi-agency response to emergency incidents
- Provide alert, warning, and emergency public information (methods include, but are not limited to social media, and traditional media)
- Provide Public Information Officer and Joint Information System support
- Provide direction and control for emergency coordination efforts
- Establish and maintain situational awareness
- Provide logistical support

Recovery Support

- Facilitate disaster assessment
- Provide communication and general administrative assistance for Individual Assistance and Public Assistance programs with the ODEMHS in the event of declared disaster.



Tahlequah City Council
AGENDA ITEM REPORT

Item No. Consent (I)

Meeting Date 7-3-2023

Initiator Brian Lambert

Office/Department: Airport

Item Title

Approve Construction Authorization for John & Janet Thompson for Hangar space 41 at Tahlequah Municipal Airport.

Background

The Thompsons have requested to build a 50'x50' hangar on space 41 (vacant), the Airport Advisory Board has approved the request. This is only the authorization to build as stated on the agreement the Thompsons are responsible for all building permits and inspection and fees as required by the City.

Exhibits

Exhibit 1 - Contract
Exhibit 2 - Bid Tabulation Sheet

Funding Source

No City funds required

Request

Approve of the "Construction Authorization" agreement between the City and the Thompsons.

Thompson
20594 Stick Ross Mtn. Rd
Tahlequah, OK 74464

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) John M. and Janet A. Thompson 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: _____

MINUTES
TAHLEQUAH CITY AIRPORT BOARD MEETING
Regular Meeting

Date: Thursday, June 15, 2023 Time: 5:30 p.m.

Held at 2100 Airport Parkway, Tahlequah, OK 74464

Agenda for the meeting was posted Wednesday, June 14, 2023 at 11:00 a.m.

1. Meeting called *to order* by James Mahaney at 5:30 p.m.

2. Roll call.

Present:

Ward II Mark Hodson
Ward III James Mahaney
Ward IV Louis White

Others present:

Airport Manager Brian Lambert

Absent:

Ward I Matt Cochran
At Large Dower Combs

3. Approval of May meeting minutes.

Board Member Louis White made a motion to approve, Board Member Mark Hodson seconded the motion.

Vote Ayes: White, Mahaney Nays: None
 Hodson, Motion Carried

4. Airport Manager's monthly report.

Fuel Sales for April

Fuel Type	Gallons	Sale
100LL	124	\$793.60
Jet A	1,380	\$7,107.00
 Total	 1,504	 \$7,900.60

- Airport Manager Brian Lambert said as of June 15, there 4,213 gallons of Jet A fuel on hand and 4,058 gallons of 100LL on hand.



Tahlequah City Council AGENDA ITEM REPORT

Item No. Consent (m)

Meeting Date 7-3-2023

Initiator Nathan Reed

Office/Department: Tahlequah Regional Development Authority

Item Title

Consider approval of the TRDA FY 2023-2024 budget.

Background

The budget has been approved by the TRDA Board of Trustees. TRDA has operated at a deficit for many years. That continues with this budget, but progress is being made towards a recurring revenue source to change that and have a net positive budget.

Exhibits

Exhibit 1 – Budget Sheet

Founding Source

Cash on Hand

Request

Approve the budget as presented.

TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY REVENUE/EXPENDITURE SCHEDULE FY 2023-2024

ACCOUNT #	ACCOUNT DESCRIPTION	2022-2023 BUDGET	2022-2023 10 MO ACTUAL	2022-2023 12 MO PROJECTED	2022-2023 VARIANCE	2023-2024 PROJECTED BUDGET
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MISCELLANEOUS REVENUES

300-40-4010	LEASE REVENUE C3	90,675.00	71,250.00	87,500.00	(19,425.00)	97,500.00
	LEASE REVENUE BACKWOODS FOODS	11,000.00	8,250.03	8,250.03	(2,749.97)	-
300-40-4025	LEASE REVENUE CONSOLIDATED	20,400.00	17,000.00	20,400.00	(3,400.00)	21,900.00
300-40-4100	SALE OF HAY	7,105.00	-	10,250.50	(7,105.00)	7,000.00
300-40-4150	INTEREST INCOME	5,000.00	2,739.36	3,000.00	(2,260.64)	2,000.00
300-40-4300	TACC SHARED SERV. REIMBURSEMENT	-	-	-	-	-
	GRANTS/CONTRACTS	-	-	-	-	-
	SALE OF LAND	-	116,646.19	116,646.19	116,646.19	-
						176,000.00

SUB-TOTAL:	134,180.00	215,885.58	246,046.72	81,705.58	304,400.00
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FUND TRANSFERS

300-40-4810	CITY OF TAHLEQUAH GENRAL FUND	-	-			-
	SUB-TOTAL:	-	-			-

TOTAL REVENUES	134,180.00	215,885.58	246,046.72	81,705.58	304,400.00
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OTHER SERV & CHARGES

	RECRUITMENT	3,000	712.14	950.00	(2,287.86)	1,000.00	
	ADVERTISING	10,000	2,839.55	9,959.55	(7,160.45)	1,000.00	
	BUILDING MAINTENANCE	7,500	939.00	2,000.00	(6,561.00)	17,500.00	7500 for Everise; 10,000 for Provalus
	ACCOUNTING	3,600	3,000.00	3,600.00	(600.00)	3,600.00	
	AUDIT	3,500	3,500.00	3,500.00	-	3,500.00	
	LEGAL FEES	12,000	10,240.00	12,000.00	(1,760.00)	4,000.00	
	DUES & MEMBERSHIPS	1,250	955.00	955.00	(295.00)	1,250.00	
	GROUNDS MAINTENANCE	6,500	5,490.00	5,490.00	(1,010.00)	-	No longer completing
	HAMMRC	12,000	9,000.00	12,000.00	(3,000.00)	12,000.00	
	PROFESSIONAL DEVELOPMENT	0	-	-	-	-	
	PROFESSIONAL FEES	60,000	37,544.10	59,744.10	(22,455.90)	50,000.00	Design and Construction Manager
	SIGN MAINTENANCE & REPAIR	2,000	1,500.00	1,500.00	(500.00)	-	All complete
	TELEPHONE AND INTERNET	1,200	932.45	1,135.00	(267.55)	1,200.00	
	TRAVEL & INCENTIVES	4,000	1,815.88	2,200.00	(2,184.12)	-	
	UTILITIES	1,500	1,144.91	1,500.00	(355.09)	2,000.00	Additional sites
	PROVALUS TEMP SITE MAINTENANCE	3,200	3,139.94	3,139.94	(60.06)	-	none
	PROVALUS TEMP SITE LEASE	27,000	21,000.00	27,000.00	(6,000.00)	36,000.00	12 months at \$3000/month
	PROVALUS JOB CREATION INCENTIVE					176,000.00	All Provalus lines from ED Agreement
	PROVALUS INSURANCE REIMBURSEMENT					10,000.00	
	PROVALUS TRAVEL AND RELOCATION					40,000.00	
	SETTLEMENT CHARGES	5,000	2,300.00	2,300.00	(2,700.00)	-	no additional purchases
	SHARED SERVICES AGREEMENT	100,000	76,203.15	92,203.15	(23,796.85)	101,500.00	75% of President/CEO; 50% of Operations

SUB-TOTAL:	263,250.00	182,256.12	241,176.74	(80,993.88)	460,550.00
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TOTALS:	(129,070.00)	33,629.46	4,869.98	162,699.46	(156,150.00)
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Tahlequah City Council AGENDA ITEM REPORT

Item No. _____ Consent (n) _____
Meeting Date _____ 07-03-2023 _____
Initiator _____ Stephen Highers-Councilman Ward 3 _____
Office/Department: _____ **Tahlequah Hospital Authority** _____

Item Title

THA monthly report (new)

Background

THA will now submit written reports each month in an effort to open communication and keep everyone updated on what is happening with our City trust.

Exhibits

Exhibit 1: Report

Funding Source

N/A

Request

Acknowledge receipt of Tahlequah Hospital Authority monthly report.

MEMORANDUM

DATE: JUNE 19, 2023

TO: CITY OFFICIALS

FROM: NORTHEASTERN HEALTH SYSTEM

RE: ADMINISTRATIVE REPORT - JUNE 2023

I. HOSPITALS, EXPERIENCING EFFECTS OF INFLATION, AND END OF THE PUBLIC HEALTH EMERGENCY

The latest national hospital flash report from Kaufman Hall indicates hospital finances broke even in April. High expenses, lower volumes and the unwinding of Medicaid continuous coverage requirements of COVID-19, Public Health Emergency (PHE) are leading contributing factors.

NHS like the 900 hospitals included in the national hospital flash report experienced increases in contractual allowances, bad debt and charity, combined with decreased patient volumes. Experts suggest that these indicators are the effects of widespread disenrollment from Medicaid following the end of PHE, which is likely to continue as states continue to unwind from the supplemental program. In Oklahoma, it's estimated that hundreds of thousands could be disenrolled by the end of 2023.

Inflation pressures from high expenses and supply shortages have been placing added strain on NHS and American Hospitals. Additionally, while trying to recover from the challenges of the pandemic, labor expense rose 3% per adjusted discharged. Additionally, in March and April the cost of goods and services continue to be well above pre-pandemic prices. Kaufman goes on to report operating revenues are declining 5% month over month.

The median calendar year-to-date operating margin index for hospitals is 0.0 in April, up slightly from March's negative number. With operating margins remaining at or below zero, hospitals have been left with little financial flexibility.

II. NHS EMPLOYEES PARTICIPATING IN THE HIGH DEDUCTIBLE HEALTH PLAN ARE ELIGIBLE FOR NEW PRETAX LIMITS

The 2024 Health Savings Account (HSA) contribution limits have been released by the IRS, which refers to the maximum dollar amount that account holders are permitted to contribute each year to their health savings. Participating NHS employees should make note of this important information for future financial planning. In 2024, individuals can contribute up to

\$4,150 which is a \$300 increase from 2023, and for families in 2024 contributions are capped at \$8,300 which is up \$550 from 2023. Additionally, there is a catch-up contribution amount

for those 55 and older that remains at \$1,000 in 2024. NHS employees are encouraged to reach out to Avidia Bank for more information about their HSA accounts at 855-248-6311.

III. NHS INTERNAL MEDICINE RESIDENTS AWARDED BY OSU CENTER FOR HEALTH SCIENCES

Drs. Bastible, Brown, Tran, and Khan submitted a project for consideration at the 2023 Quality Symposium held by Oklahoma State University Center for Health Sciences. The Symposium is designed for residents and fellows to present quality improvement in patient safety initiatives. Their submittal was considered the winning project.

The Residents under Faculty Advisor, Dr. Kelly Marak aimed at improving outpatient diabetic management through electronic health record (EHR), based quality measure tracking. The objective is to increase the identification of diabetic complications and prevent disease progression in the NHS Internal Medicine Resident Clinic patient population by increasing the rates of routine testing. A positive result indicated compliance with HB A1C screenings maintained above the national goal for 11 months. Future recommendations include: Populate in the EHR on the health maintenance tab for any patient with an established or new diabetes diagnosis, and continuing education on the use of the "recommendations" tab to address patient needs proactively.

IV. GRADUATE MEDICAL EDUCATION SUMMIT

Members of the Northeastern Health System leadership team, including Dr. Doug Nolan, Trustee, Dr. Muneeza Afif Program Director of Internal Medicine Residency, and myself attended the OSU College of Osteopathic Medicine Graduate Medical Education Summit. We joined the leadership from the OSU Center for Health Sciences, Hospital leaders across the state and legislative representatives to discuss the current and future needs in graduate medical education. Administrators and legislators discussed the pitfalls in collaboration between the C-suite and graduate medical education, maximizing the cost report opportunities, enhanced Medicaid and its impact on GME training and Rural track programs and their pathways for expansion. NHS is positioned well to benefit from the expansion of residency programs, enhanced Medicaid payments, and GME cost reporting.

V. TEAMBIRTH AT NORTHEASTERN HEALTH SYSTEM

NHS is joining the Oklahoma Perinatal Quality Improvement Collaborative working towards a goal of every hospital implementing the TeamBirth initiative.

The TeamBirth initiative aims to operationalize best practices and communication, teamwork, and clinical care. It invites patients into conversation and provides a structure that is easy to understand and participate. Regular team huddles involving the patient, nurse, and delivery provider aims to promote roles of the care team with equally valuable input for decision making.

Northeastern Health System like many Hospitals post pandemic are researching innovative delivery models to improve patient safety, and patient satisfaction.

VI. NHS PHYSICIANS AND EMS EMPLOYEES PROVIDE HIGH SCHOOL STUDENT PHYSICALS

Northeastern Health System physicians and EMS personnel performed nearly 1,000 physical exams on Tahlequah and Fort Gibson High School students. This community benefit activity has been ongoing for over 20 years, helping students, conveniently access a pre-participation physical evaluation. The physical exam aims to reduce risk for students participating in school activities such as sports and band. This year, NHS collaborated with Indian Capital Technology Center (ICTC), utilizing students from the health career certification program to assist. Please join me and thanking the physicians and employees who generously gave their time serving the community and demonstrating we are here to help promote wellness and safety.

VII. LEGISLATIVE UPDATE

Oklahoma

- a. The Oklahoma Legislature overwhelmingly passed SB 32X which does several things. Requires the Oklahoma Health Care Authority to disburse \$200 million to critical access hospitals and hospitals participating in the Supplemental Hospital Offset Payment Program. Provides \$30 million for grants to providers for the one-time connection cost to the statewide health information exchange. \$47 million to increase reimbursement to long-term care facilities by \$35 per day and reimbursement to intermediate care facilities for individuals with intellectual disabilities by \$17 per day.
- b. The Oklahoma Health Care Authority announced the selection of contracted entities for SoonerSelect, Medicaid managed care. The selected contracted entities serving the medical plans are Aetna Better Health of Oklahoma, Humana Healthy Horizons of Oklahoma and Oklahoma Complete Health.
- c. The Oklahoma Legislature passed SB 563 (Sen, John Haste/Rep. Marcus McEntire). The bill put into statute the existing Medicaid anesthesia fee schedule as the Oklahoma Health Care Authority. It safeguards anesthesia services from Medicaid rate cuts while allowing these providers to enter into value-based payments under SoonerSelect, Medicaid managed care. The bill went into effect on May 25th.
- d. Education
The OHA Health Care Leaders Forum is June 25-27.
Our Blood Institute (OBI) will present an important webinar for hospital administration, nurses and media relations focusing on avoiding blood shortages. "Diagnosis/Prognosis/Treatment: Avoiding Blood Allocation Splitting Units and Cancelled Surgeries" will be held at 1:00 p.m., Tuesday June 20th.

Washington

President Biden signed the Fiscal Responsibility Act (FRA) into law, suspending the debt limit until January 1, 2025 and avoiding a default on the nation's debt. It will also claw back most unobligated federal funds to respond to the COVID-19 pandemic. The law will expand work or community engagement requirements to receive SNAP benefits. Hospitals and other healthcare providers need to closely watch for broader spending reduction efforts focused on Medicare and Medicaid. CMS releases a final rule withdrawing COVID-19 vaccination requirements for staff as a condition of participation in Medicare and Medicaid.

VIII. PEOPLE

A. MEDICAL STAFF

1. Recruitment

- a. Sarah Oberste, M.D. – Gastroenterologist – will be starting August 2023
- b. Lana Myers, D.O. – Family Medicine will start seeing patients three days per week at the bypass clinic in mid-August.
- c. Edith Lubin, M.D. – Family Medicine will be starting as soon as insurance credentialing is complete.
- d. Anand Khurana, M.D. – Nephrology will be treating patients in the clinic 5 days per week as soon as insurance credentialing is complete.
- e. Martin Musumbi, M.D. – Hospitalist/Critical Care Specialist will be treating patients at NHS in the ICU, CCU, and Med Surg through our staffing partner, ESS.
- f. Cheryl Gray has been promoted to Director of Health Information.

B. RN RECRUITMENT

Our results for the number of RN's hired per year are encouraging. See the table below:

Year	Total New Hires	RN New Hires	Projected New Hires	Projected RN New Hires
2021	335	34		
2022	369	36		
2023	191	26	458	62

C. RECOGNITION

- a. June Employee of the Month – Annelle Suasnavas, Pharmacy Tech, Pharmacy
- b. June Rookie of the Month – Madison Coldwell, Housekeeper, Environmental Services

D. EDUCATION

1. Resident Graduation – June 7, 2023

The NHS Internal Medicine Residency had two graduates this year; Xuanchinh Tran, D.O. and Matthew Nunley, D.O. Both of whom have served as Chief Residents. They are now eligible to take their Board Exams and both plan on taking the ABIM in the fall. They plan to continue their medical careers as Hospitalists.

IX. QUALITY

A. HEALTH

Tablequah Medical Group received a Rural Health Clinic grant in the amount of \$99,058, through the RHC Vaccine Confidence Program, which supports vaccine outreach in rural communities. The program is a Health Resources and Services Administration initiative to improve vaccine confidence and counter vaccine hesitancy in rural communities where COVID-19 vaccine uptake lags in comparison to more populated areas.

B. PERFORMANCE IMPROVEMENT

1. New Projects

- a. Social Services: DCP Assessment Completion within 48 hours of admit
The goal of the project is for DC planners to complete 90% of Discharge Planning Assessment within 48 hours of hospital admission
- b. Several departments have started the hospital-wide PI project of Supply Scanning; the goal of the project is expected to improve supply scanning and reach 85% compliance

X. SERVICE

1. Construction/Repairs

- a. Poured stairs at MP building parking lot; once the forms are removed handrails will be installed and Sod will be laid; next step will be striping
- b. Drainage project at NHS West building has started

2. Capital Improvements

- a. Phone System Upgrade: Tech from Carousel came on May 19 to begin installing equipment

3. Over Memorial Day weekend, Purchasing moved supplies to the newly renovated office area behind the Kiosk.

XI. GROWTH

A. MEDIA

1. Social Media & Internet Presence

- a. Facebook – From May 2 to May 30, Ads/Posts reached 13,444 people with 8,801 post engagements.
- b. Web Site Traffic – From May 2 to May 30, nhs-ok.org site traffic recorded 5,572 sessions with 1,390 direct engagements. Google was the top search engine utilized with 3,513 engagements.
- c. Job posting/flyers include Accountant, Scrub Tech, and Heart Center RN
- d. Physician Spotlights for the month of May: Dr. Lori Ford, 109 post engagements; Dr. Theodore Pollock, 103 post engagements; Dr. Brent Rotton, 594 post engagements; and Deanna Wright, APRN, 443 post engagements

B. EVENTS

1. NHS Blood Drive was held on May 22 in partnership with the Oklahoma Blood Institute, who supplies 100% of the blood products for NHS. The event was open to the public and each donor received their choice of T-shirt and free entry to Science Museum Oklahoma, Frontier City of Hurricane Harbor. The goal was to receive 17 donations and they received 17.



Tahlequah City Council
AGENDA ITEM REPORT

Item No. Consent (o)

Meeting Date 7-3-23

Initiator Ray Hammons

Office/Department: Managerial

Item Title

Farmers Market contract placed on consent

Background

Annual request to use the park pavilion for farmers market.

Exhibits

Founding Source

Marla with the Farmers Market

Request

To approve the Farmers Market contract with date corrected dates

COPY

**AGREEMENT BETWEEN THE CITY OF TAHLEQUAH AND
TAHLEQUAH FARMERS MARKET FOR 2023 AND 2024 MARKET SEASONS**

This Agreement is entered into this 3rd day of July, 2023, between the City of Tahlequah, a municipality organized under the laws of the State of Oklahoma [hereinafter "City"] and Tahlequah Farmers Market, a charitable organization [hereinafter "Market"].

WHEREAS, the parties desire to engage into a contractual relationship formalizing the existing relationship between the Market and the City.

WHEREAS, the City also recognizes the Market gives residents the opportunity to reconnect with the sources of their food often in a festive socially-engaging atmosphere, locally grown food provides premium taste and maximum freshness along with unique varieties sometimes not found in stores, and knowing where food comes from and how it is grown or raised enables residents to choose safe food from farmers who avoid or reduce their use of chemicals, pesticides, hormones, antibiotics or genetically modified seed in their operations.

WHEREAS, the City finds that it is for the public purpose and in furtherance of the public good to continue to allow the Market to utilize City property and/or premises as herein mentioned.

THEREFORE, the parties agree to the following:

Section 1. Agreement

Property Description. The City property and/or premises referred to throughout this Agreement is described as the Large and Small Pavilions south of Norris Park a/k/a the Leoser Pavilions, located at 120 E. Morgan, Tahlequah, OK 74464.

Use. The City agrees to allow the Market to utilize the premises for the purpose of allowing vendor members of the Market to sell exclusively Oklahoma grown produce and products made in Oklahoma. The City agrees to not charge the Market a rental fee for said utilization of the premises during its 2021 and 2022 Market Seasons, in exchange for the Market agreeing to ensure that the premises is cleaned of any refuse and returned to the condition it was prior to its use by the Market during the above mentioned Market Seasons and the Market agreeing to provide at least THREE THOUSAND AND NO/100 DOLLARS (\$3,000.00) in annual "free food" to the following community programs: Farm 2 School, Senior Farmers Market, and/or Double up. The Market shall provide evidence of all free food provided during the term of this Agreement to the City, upon the City's request. The "Market Season", as referenced herein, commences on the first Saturday in April, reoccurring each Saturday of every week through the last Saturday in October.

Duty to Ensure Access. Subject to the provisions in this Agreement concerning City use of the premises, it shall be the sole responsibility of the City to ensure that the premises is unsecured and

available for occupancy by the Market in accordance with the time periods of its Market Seasons. The Market assumes sole responsibility for providing dates when the Market will be open for business.

Reserved Right to Use. The City hereby expressly reserves the right to utilize and/or occupy the premises for its own use, or to lease or rent the same for use by a third-party during any other period of time when the premises is not utilized and/or occupied by the Market for its scheduled use. It is expressly understood by the parties that as the owner of the premises the City, through the City Council, has the exclusive right to preempt the use by the Market for a governmental purpose. A governmental purpose includes, but is not limited to, economic development and tourism. In doing so, the City agrees to make its best efforts to avoid disrupting the regular use of the premises by the Market; however, if such disruption is desired and approved by the City Council, the City agrees to provide the Market with no less than two weeks' notice, except in the case of an emergency, and to also provide an alternative site for the Market if available. It is understood by the Market that the alternate site may not have electricity available.

Alterations, Additions and Improvements. The Market shall not make any alterations in, or additions to, the premises nor make any contract therefore.

Sub-Agreement forbidden. The Market is hereby prohibited from entering into any sub-agreement and/or conveyance of any of its rights to any third party, other than with the vendor members of the Market selling produce or other goods.

Maintenance and Repair. The Market shall bear no maintenance or repairs costs for the premises and/or property it utilizes except those costs and expenses those incurred by an intentional or negligent act attributable to the Market, its vendors, employees, or agents, which damages any City property utilized pursuant to this Agreement.

Non-Discrimination. The Market will not, in its use of any City property and/or premises, discriminate or permit discrimination on the grounds of race, color, sex, and national origin, handicap status against any person or group of persons in any manner prohibited by any regulation, ordinance, or law.

Sales Tax. The Market, and its vendors, employees or agents shall bear total and complete responsibility for the payment of any applicable sales or use taxes due from the sale of products sold or bartered.

Insurance. The Market shall secure and maintain, at its own expense, public liability insurance in the amount of ONE MILLION AND No/100 DOLLARS (\$1,000,000.00) which shall remain in place during all utilization of the premises.

All of such insurance shall be written and maintained in responsible companies satisfactory to the City. The Market shall cause the City to be named as an additional insured in said policies and said

policies shall be payable to the Market and the City as their respective interests may appear. The Market shall provide policies of all insurance to the City. The Market shall pay all premiums necessary to keep such insurance policies in effect within ten (10) days after the same shall become due or within fifteen (15) days of demand. Should the Market at any time fail to insure or keep insured as aforesaid, the City may do all things necessary to effect or maintain such insurance, and any monies expended by the City for that purpose shall be repayable by the Market on demand and failure thereof shall be considered breach of a material term of this Agreement and shall constitute a default.

Section 2. Hold Harmless Clause.

This Agreement is made upon the express condition that the City, its agents and employees shall be free from all liabilities and claims for damages and/or suits for or by reason of any injury, or death to any person, or destruction, damages, or theft of any property owned, operated, or otherwise utilized by the Market, its agents, vendors, employees or third parties, from any cause or causes whatsoever, while in or upon said premises, or any part thereof during the term of this Agreement or occasioned by any occupancy or use of said premises or activity carried on by the Market, its vendors, and/or employees in connection herewith. Market hereby covenants and agrees to indemnify, defend, save and hold harmless the City, its agents and employees from all liabilities, charges, expenses and costs on account of or by reason of any such injuries, deaths, liabilities, claims, suits or losses, however occurring, or damages, demands, costs, and attorney's fees growing out the same.

Section 3. Ratification/Term.

This Agreement is effective upon signature by all parties for the term of **two (2)** Market Seasons, concluding October 31, 2024.

Section 4. Authorization.

Each party to this Agreement represents and warrants to the other that:

- It has the right, power, and authority to enter into and perform its obligations under the Agreement.
- It has taken all requisite actions (Corporate, Statutory, or otherwise) to approve execution, delivery and performance of this Agreement, and this Agreement constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

Section 5. Execution.

IN WITNESS WHEREOF, in consideration of the mutual covenants set forth above and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are

hereby acknowledged, the parties, by their signatures or marks, hereby agree to be bound by the provisions herein.

"City"

By: _____

Suzanne Myers, Mayor

Attest: _____

(Seal)

Whitney Shaw, City Clerk

Approved as to form this 3rd day of July, 2023.

John Tyler Hammons, City Attorney

"Market"

Please print name: _____

On behalf of Tahlequah Farmers Market



Tahlequah City Council
AGENDA ITEM REPORT

Item No. (1)

Meeting Date 7/03/2023

Initiator Alan Chapman

Office/Department: Finance

Item Title

Consent Agenda Item: To approve the Fiscal Year 2023 Audit Engagement Letter

Background

The City is required to have an annual audit performed in accordance with the Charter and State Law. This agreement meets those requirements and is substantially in the same form and content as last year's engagement letter.

Exhibits

Engagement Letter Attached

Funding Source

Managerial Department – Professional Services

Request

Recommend approval of engagement letter



FY-2023 AUDIT ENGAGEMENT LETTER

May 4, 2023

To the Honorable Mayor and Members of the City Council

We are pleased to confirm our understanding of the services we are to provide for City of Tahlequah, Oklahoma (the "City") for the year ended June 30, 2023.

Audit Scope and Objectives

We will audit 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, including the disclosures, which collectively comprise the basic financial statements, of the City as of and for the year ended June 30, 2023. Accounting standards generally accepted in the United States of America (GAAS) provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement the City's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the City's RSI in accordance with auditing standards generally accepted in the United States of America (GAAS). These limited procedures will consist 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 will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient appropriate evidence to express an opinion or provide any assurance. The following RSI is required by GAAS and will be subjected to certain limited procedures, but will not be audited:

- 1) Management's Discussion and Analysis
- 2) Budgetary Comparison Schedules
- 3) Pension Plan Funding Schedules; and
- 4) Schedule of OPEB Funding

We have also been engaged to report on supplementary information other than RSI that accompanies the City's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with GAAS, and we will provide an opinion on it in relation to the financial statements as a whole in a report combined with our auditor's report on the financial statements:

- 1) Schedule of Expenditures of Federal Awards
- 2) General Fund Accounts Combining Schedules
- 3) Nonmajor Governmental Combining Statements

The objectives of our audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and issue an auditor's report that includes our opinions about whether your financial statements are fairly presented, in all material respects, in conformity with GAAS, and report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not

a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment of a reasonable user made based on the financial statements. The objectives also include reporting on:

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

Auditor's Responsibilities for the Audit of the Financial Statements and Single Audit

We will conduct our audit in accordance with GAAS; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major program(s) in accordance with Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. As part of an audit in accordance with GAAS and *Government Auditing Standards*, we exercise professional judgment and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall presentation of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of waste and abuse is subjective, *Government Auditing Standards* do not expect auditors to perform specific procedures to detect waste or abuse in financial audits nor do they expect auditors to provide reasonable assurance of detecting waste or abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is an unavoidable risk that some material misstatements or noncompliance may not be detected by us, even though the audit is properly planned and performed in accordance with GAAS and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or on major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

We will also conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the government's ability to continue as a going concern for a reasonable period of time.

In connection with this engagement, we may communicate with you or others via email transmission. As emails can be intercepted and read, disclosed, or otherwise used or communicated by an unintended third party, or may not be delivered to each of the parties to whom they are directed and only to such parties, we cannot guarantee or warrant that emails from us will be properly delivered and read only by the addressee. Therefore, we specifically disclaim and waive any liability or responsibility whatsoever for interception or unintentional disclosure of emails transmitted by us in connection with the performance of this engagement. In that regard, you agree that we shall have no liability for any loss or damage to any person or entity resulting from the use of email transmissions, including any consequential, incidental, direct, indirect, or special damages, such as loss of revenues or anticipated profits, or disclosure or communication of confidential or proprietary information.



Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, tests of the physical existence of inventories, and direct confirmation of receivables and certain assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will also request written representations from your attorneys as part of the engagement.

We have identified the following significant risk(s) of material misstatement as part of our audit planning:

- 1) Management override of controls
- 2) Improper revenue recognition due to fraud

Our audit of financial statements does not relieve you of your responsibilities.

Audit Procedures—Internal Control

We will obtain an understanding of the government and its environment, including internal control relevant to the audit, sufficient to identify and assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and obtain evidence that is sufficient and appropriate to provide a basis for our opinions. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentation, or the override of internal control. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City's compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance, and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the City's major programs. For federal programs that are included in the Compliance Supplement, our compliance and internal control procedures will relate to the compliance requirements that the Compliance Supplement identifies as being subject to audit. The purpose of these procedures will be to express an opinion on the City's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Responsibilities of Management for the Financial Statements and Single Audit

Our audit will be conducted on the basis that you acknowledge and understand your responsibility for (1) designing, implementing, establishing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including internal controls over federal awards, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives



are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal awards, and all accompanying information in conformity with accounting principles generally accepted in the United States of America; and for compliance with applicable laws and regulations (including federal statutes), rules, and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

You are also responsible for making drafts of financial statements, schedule of expenditures of federal awards, all financial records, and related information available to us and for the accuracy and completeness of that information (including information from outside of the general and subsidiary ledgers). You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, identification of all related parties and all related-party relationships and transactions, and other matters; (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance; (3) additional information that we may request for the purpose of the audit; and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence. At the conclusion of our audit, we will require certain written representations from you about the financial statements; schedule of expenditures of federal awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and related matters.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements of each opinion unit taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants. You are also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan.

You are responsible for identifying all federal awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal awards (including notes and noncash assistance received, and COVID-19-related concepts, such as lost revenues, if applicable) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal awards in any document that contains, and indicates that we have reported on, the schedule of expenditures of federal awards. You also agree to make the audited financial statements readily available to intended users of the schedule of expenditures of federal awards no later than the date the schedule of expenditures of federal awards is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards.



You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting standards (GAAS). You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAS; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAS; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

With regard to publishing the financial statements on your website, you understand that websites are a means of distributing information and, therefore, we are not required to read the information contained in those sites or to consider the consistency of other information on the website with the original document.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Scope and Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions for the report, and for the timing and format for providing that information.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditor's reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditor's reports or nine months after the end of the audit period.

We will provide copies of our reports to the Mayor and City Council of the City; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Arledge & Associates, P.C. and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to oversight agent or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Arledge & Associates, P.C. personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the State Auditor and Inspector. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

Jake Winkler, CPA is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

Our fee for these services will be \$36,225. This fixed price includes an electronic pdf copy of the report for distribution to your board members and others and 1 bound copy. Additional bound copies are available for \$.50 per page. This fee includes our miscellaneous charges, such as travel and meals. Our invoices for these fees will be rendered each month as work



progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report(s). You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. The fee is also based on the assistance of Crawford & Associates, P.C. in preparing the City's financial statements. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

Because our Engagement Letter provides ongoing access to the accounting and business advice you need on a fixed-price basis, you are not inhibited from seeking timely advice from us. While the fixed price entitles you to unlimited consultation with us, if your questions or issues require additional research and analysis beyond consultation, that work will be subject to an additional price negotiation before the service is to be performed, an Addendum to the Engagement Letter will be issued before delivery of the additional service is to be performed, with payment terms agreed to in advance. By virtue of signing this document, you have indicated that your reporting entity has been appropriately defined, all trial balances will be reasonably adjusted, your key accounts will be reconciled, unusual transactions, significant financial estimates and disclosures have been communicated to us prior to the date at the top of this letter. Also, you have indicated that the entity has competent personnel in key financial positions and there has been no turnover in the accounting/finance department. If we find that the facts are different for any of the preceding assumptions, we will negotiate an Addendum to the Engagement Letter and negotiate a new engagement fee before we issue our final report.

Reporting

We will issue written reports upon completion of our Single Audit. Our reports will be addressed to the Mayor and City Council of the City. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions, add a separate section, or add an emphasis-of-matter or other-matter paragraph to our auditor's report, or if necessary, withdraw from this engagement. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or we may withdraw from this engagement.

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will state that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will state that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

Cost of Consequential Damages

Any liability of Arledge & Associates, P.C. and its personnel to the City is limited to the amount of the annual fee the City paid for this audit engagement as liquidated damages.

The City agrees that any dispute regarding this engagement will, prior to resorting to litigation, be submitted to mediation upon request by either party. Both parties agree to try in good faith to settle the dispute in mediation. The American Arbitration Association will administer any such mediation in accordance with its Commercial Mediation Rules. The results of the mediation proceeding shall be binding only if both Arledge & Associates, P.C. and the City agree to be bound. Arledge & Associates, P.C. and the City will share any cost of mediation equally.

We appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the attached copy and return it to us.



Sincerely,

Arledge & Associates PC

Arledge & Associates, P.C.

RESPONSE:

This letter correctly sets forth the understanding of the City of Tahlequah, Oklahoma.

Management signature: _____

Title: _____

Governance signature: _____

Title: _____





Tahlequah City Council
AGENDA ITEM REPORT

Item No. (7)

Meeting Date 7/3/23

Initiator Brian Speake

Office/Department: Parks and Rec Dept.

Item Title

TSL yearly numbers

Background

Trae Ratliff would like to present the year end numbers for TSL

Exhibits

NA

Founding Source

NA

Request



DATE (MM/DD/YYYY)

CERTIFICATE OF LIABILITY INSURANCE

04.14.2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER:

Aon/Albert G. Ruben Insurance Services, Inc.
171 Madison Avenue Suite 401

New York, NY 10016

CONTACT NAME: Rachel Garben

PHONE
(A/C, No, Ext): 212-337-4357FAX
(A/C, No):

E-MAIL ADDRESS: rachel.garben3@aon.com

Insurer(s) Affording Coverage

NAIC #

INSURER A : Great Divide Insurance Company

INSURER B :

INSURER C :

INSURER D :

INSURER E :

INSURER F :

INSURED

Versatile Studios, Inc.
866 6th Avenue, 8th Floor
New York, NY 10001

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. LIMITS SHOWN ARE AS REQUESTED.

INSR	TYPE OF INSURANCE	ADDL	SUBR	POLICY NUMBER	POLICY EFF	POLICY EXP	LIMITS
LTR		INSD	WVD		(MM/DD/YYYY)	(MM/DD/YYYY)	
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC ☐ OTHER:	X		CNA7514495-11	07/01/2022	07/01/2023	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) EXCLUDED PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$1,000,000
A	☐ AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS ONLY	X		CNA7514495-11	07/01/2022	07/01/2023	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) Auto Physical Damage: \$1,000,000
A	☒ UMBRELLA LIAB ☒ EXCESS LIAB ☐ DED ☐ RETENTION ☐ OCCUR ☐ CLAIMS-MADE			CUA7504496-11	07/01/2022	07/01/2023	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ Y / ☐ N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		NOT COVERED HEREUNDER			PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT
A	WORLDWIDE PRODUCTION PACKAGE MISCELLANEOUS EQUIPMENT PROPERTY DAMAGE (THIRD PARTY) PROPS, SETS & WARDROBE			CNA7514495-11	07/01/2022	07/01/2023	Limit: \$5,000,000 Deductible: \$0 Limit: \$5,000,000 Deductible: \$0 Limit: \$3,000,000 Deductible: \$0

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, If more space is required)

-Apple Studios LLC.-Marcom Photography-Q3 REJI REFRESH-P-22-35265-1151994

Certificate Holder is Additional Insured (by 'Blanket' Endorsement) under General and Auto Liability but only with regard to claims arising from the negligence of the Named Insured and as required by written contract. Certificate Holder is Loss Payee as respects Miscellaneous Equipment (covered at Replacement Cost when required by contract), Props, Sets & Wardrobe, and Hired/Non-owned Auto Physical Damage. All coverage is subject to terms and conditions of policies of insurance. This Certificate does not amend, extend or alter the coverage afforded by the policies above.

CERTIFICATE HOLDER

CANCELLATION

City of Tahlequah
111 S. Cherokee Ave.
Tahlequah, Ok 74464

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon/Albert G. Ruben Insurance Services, Inc.



Tahlequah City Council
AGENDA ITEM REPORT

Item No. 8

Meeting Date 7-3-2023

Initiator Josh Allen

Office/Department: City Council

Item Title

Approve, approve with modification, or deny Ordinance No. 1360-2023, an ordinance prohibiting shopping carts in public parks, public streets, and public sidewalks.

Background

The proposed ordinance bans the use of shopping carts in public parks or on public streets and sidewalks. Violations of the ban are punishable by fine through the municipal court.

Exhibits

Exhibit 1 – Ordinance No. 1360-2023

Funding Source

N/A

Request

1st Reading of Ordinance No. 1360-2023.

ORDINANCE NO. 1360-2023

AN ORDINANCE OF THE CITY OF TAHLEQUAH, OKLAHOMA, AMENDING THE TAHLEQUAH CITY CODE, PART 11, PARKS, RECREATION AND CULTURAL AFFAIRS; CHAPTER 1, GENERAL PROVISIONS; BY ADDING SECTION 11-106, SHOPPING CARTS PROHIBITED; PROVIDING FOR CODIFICATION, SEVERABILITY, REPEALER, AND SETTING AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED BY The City Council of the City of Tahlequah, Oklahoma:

SECTION 1. NEW LAW. Section 1-106 of Chapter 1 of Part 11 of the Tahlequah City Code is hereby added to read as follows:

- A. **Purpose.** The use of shopping carts on public facilities in the City creates a potential hazard to the health and safety of the public, interferes with pedestrian and vehicle traffic, and creates a public nuisance. The accumulation of shopping carts on public facilities tends to create conditions which reduce property values and promote blight and deterioration. The use of shopping carts on public facilities results in the obstruction of free access to public and private sidewalks, streets, parking lots, and interferes with pedestrian and vehicular traffic upon the same and impede the timely provision of emergency services. In recognition of the same, it is the policy of the City of Tahlequah to prohibit the use of shopping carts on the public facilities of the City.
- B. **Definition.** As used in this Section, the term “*shopping cart*” means a basket which is mounted on wheels, or a similar device, generally used in a retail, laundry, dry cleaning, or other establishment by a customer or an attendant for the purpose of transporting goods of any kind. The term does not refer to wheeled ice chests which are being used to store food and drinks in a temporary fashion.
- C. **Prohibition.** It shall be unlawful for any person to use or possess any shopping cart in or upon the public parks, the public roadways, the public parking areas, or the public sidewalks within the limits of the City. Any person violating the provisions of this section shall be guilty of an offense and, upon conviction thereof, shall be fined as provided by Section 1-108 of this Code.

SECTION 2. CODIFICATION. The City Clerk is hereby directed to enter the added section into the appropriate place in the Tahlequah City Code of Tahlequah, Oklahoma, as authorized and approved by this Ordinance.

SECTION 3. SEVERABILITY. If any provision, paragraph, word, section of article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

SECTION 4. REPEALER. All other Ordinances and parts of other Ordinances Inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days after its publication as provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF TAHLEQUAH, OKLAHOMA, THIS 3RD DAY OF JULY, 2023.

Suzanne Myers, Mayor

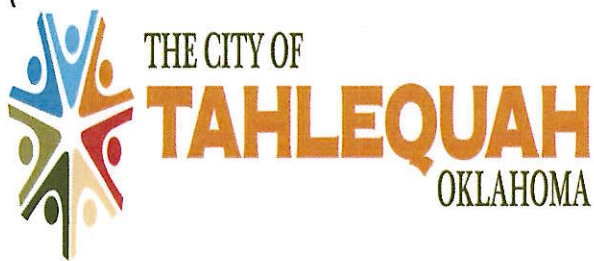
(SEAL)

ATTEST:

City Clerk

Approved as to form and legality this 3rd day of July, 2023.

John Tyler Hammons, City Attorney



Tahlequah City Council
AGENDA ITEM REPORT

Item No. (9) & (10)

Meeting Date 7-3-2023

Initiator John Tyler Hammons

Office/Department: City Attorney

Item Title

Approve, approve with modification, or deny Ordinance No. 1361-2023, an ordinance amending the City of Tahlequah Hotel/Motel Tax Ordinance, and declaring an emergency.

Background

Since at least 1987, the City of Tahlequah has contracted with the Tahlequah Area Chamber of Commerce to conduct tourism development services on behalf of the City. The City and Chamber have negotiated a new contract which requires the terms of the Tahlequah Hotel/Motel Tax Ordinance to be updated to reflect the new role the Chamber will fulfill for the City.

Exhibits

Exhibit 1 – Ordinance No. 1361-2023

Founding Source

N/A

Request

Approve Ordinance No. 1361-2023 and declare an emergency.

COPY

ORDINANCE NO. 1361-2023

AN ORDINANCE OF THE CITY OF TAHLEQUAH, OKLAHOMA, AMENDING PART 7, FINANCE AND TAXATION, CHAPTER 5, HOTEL/MOTEL TAX, BY AMENDING SECTION 7-504, USE OF FUNDS; PROVIDING FOR CODIFICATION, SEVERABILITY, REPEALER, AND DECLARING AN EMERGENCY.

NOW THEREFORE, BE IT ORDAINED BY The City Council of the City of Tahlequah, Oklahoma:

SECTION 1. AMENDATORY. Chapter 5 of Part 7 of the Tahlequah City Code is hereby amended to read as follows:

Section 7-504 Use of Funds

All taxes collected pursuant to the provisions of this chapter shall be set aside and used for the purpose of encouraging, promoting, fostering tourism and tourism development in the City, and the sums shall be applied as follows:

- ~~1. On August 5, 1987, and at the commencement of each fiscal year thereafter, the City will contract with the Tahlequah Area Chamber of Commerce whereby the Chamber of Commerce will act as the agent of the City, in the distribution and use of the funds to be appropriated by the City derived from the enactment of this chapter and in such endeavor the Chamber of Commerce shall be considered a quasi-governmental agency of the City. At the conclusion of the fiscal years, the Chamber of Commerce shall submit to the City Council a detailed account of the expenditures of all such funds disbursed as such agent of the City, and shall make an annual report of such disbursements, and at the appropriate date prior to the commencement of the fiscal year of the City, the Chamber of Commerce shall submit its budget proposal for the coming year wherein the budget request shall be made in conformity of meeting contractual requirements between the City and the Chamber of Commerce as its agent; and~~
2. Ninety-Seven percent (97%) of the net proceeds collected pursuant to the provisions of this chapter shall be used for the promoting, solicitation and development of tourism within and for the City, including, but not limited to, contracting with external parties to achieve the same. Three Percent (3%) of the funds to be retained by the City to meet necessary administrative expenses of enforcement of this chapter.

SECTION 2. CODIFICATION. The City Clerk is hereby directed to enter the added section into the appropriate place in the Tahlequah City Code of Tahlequah, Oklahoma, as authorized and approved by this Ordinance.

SECTION 3. SEVERABILITY. If any provision, paragraph, word, section of article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, Paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

SECTION 4. REPEALER. All other Ordinances and parts of other Ordinances Inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 5. EFFECTIVE DATE. It being necessary to preserve the public health, safety, welfare, and morals, this Ordinance shall take effect immediately after its publication as provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF TAHLEQUAH, OKLAHOMA, THIS 3RD DAY OF JULY, 2023.

Suzanne Myers, Mayor

(SEAL)

ATTEST:

City Clerk

Approved as to form and legality this 3rd day of July, 2023.

John Tyler Hammons, City Attorney



Tahlequah City Council
AGENDA ITEM REPORT

Item No. (11)

Meeting Date 07-03-2023

Initiator Brian Lambert

Office/Department: Airport

Item Title

Consideration of approval of supplemental agreement for inspection services provided by Lochner Engineering

Background

Lochner Engineering has been providing engineering inspection services for the airport ramp improvement project. This project was originally scheduled and budgeted as an eighty-day project, the project is now over two hundred days. Lochner's original contract with the City accounted for the original eighty-day time period, this supplemental agreement covers inspection services provided to date. This amount should be covered by the bonding company or the final payment from the city to the completing contractor.

Exhibits

Exhibit 1: Supplemental Agreement

Funding Source

Liquidated damages through bonding company

Request

Approval of Supplemental Agreement No. 1 with HW Lochner Inc. in the amount of, not to exceed, **\$172975.46** for continued construction observation and administration for the "Rehabilitate Apron and Runway Safety Area Grading at Tahlequah Municipal Airport.

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.

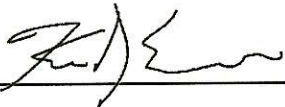
For Item C. 2, Construction Project Closeout, partial payment shall be made to the Consultant for those portions of the services completed. The Consultant shall submit to the Sponsor a monthly statement showing an estimate of completion, and the portion of compensation requested for each element and 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:_____



Tahlequah City Council
AGENDA ITEM REPORT

Item No. (12)

Meeting Date 07-03-2023

Initiator Taylor Tannehill

Office/Department: Planning & Development/Planning Commission

Item Title

Discussion and possible action to approve, approve with modifications, or deny Case #3-2023-Zoning/**Resolution 07-03-2023**, a resolution to amend the zoning map from Residential Single Family Medium Density District (RS-2) and General Commercial District (C-2) to Regional Commercial District (C-3) to use the property for vehicle sales and rentals on a property located at 5232 S. Muskogee Avenue, more particularly described as follows:

Lots 1 & 2 and the East half of Lot 3, Block 1, Sharon Hills, City of Tahlequah, Cherokee County, Oklahoma

Background

The applicant has requested the zoning change for a vehicle sales and rental use. The planning commission held a public hearing on Tuesday, June 27th and unanimously voted to recommend approval of the zoning change request. There were no objections at the meeting.

Exhibits

Exhibit 1 – Staff Report

Exhibit 2 - Resolution

Founding Source

N/A

Request

Staff and Planning Commission recommend approval the resolution.

COPY

RESOLUTION NO. 07-03-2023

**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 held on Tuesday, June 27, 2023.

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

**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 1 & 2 and the East half of Lot 3, Block 1, Sharon Hills, City
of Tahlequah, Cherokee County Oklahoma.

Shall be, and the same is, hereby changed from Residential Single Family Medium Density
District (RS-2) and General Commercial District (C-2) to Regional Commercial District (C-3)

PASSED AND ADOPTED by the City Council of the City of Tahlequah on this 3rd day of
July, 2023, after full compliance with the Oklahoma Open Meeting Act.

CITY OF TAHLEQUAH

Suzanne Myers, Mayor

ATTEST:

Whitney Shaw, City Clerk

[Seal]

City of Tahlequah**PLANNING & DEVELOPMENT STAFF REPORT**

TO: City of Tahlequah City Council

FROM: Taylor Tannehill, Tahlequah Planning & Development Director

DATE: July 3, 2023

RE: Case #3-2023-Zoning

Recommendation: Staff recommends approval of Case #3-2023-Zoning a zoning map amendment to change the zoning of the referenced property from RS-2 and C-2 to C-3.

Background

Subject Property Address: 5232 S. Muskogee Avenue
Current Zoning: Residential Single Family Medium Density District (RS-2) & General Commercial District (C-2)
Proposed Zoning: Regional Commercial District (C-3)
Property Owner: Michelle McCarthy
Owner Representative: Jimmy Long

Attachments

Zoning Map
Aerial Map
Framework Map

Project Summary

The applicant is requesting a zoning change to use the property for vehicle sales and rentals.

Existing Context

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

<i>Existing Land Use</i>	<i>Existing Zoning</i>
Vacant	RS-2 & C-2
<i>Proposed Land Use</i>	<i>Proposed Zoning</i>
Vehicle Sales & Rentals	C-3
<i>Surrounding Land Use</i>	<i>Surrounding Zoning</i>
North: ODOT Maintenance	North: Public
South: Vacant	South: C-3
East: Highway/General Retail	East: C-2
West: Residential	West: RS-2

Historic Context

The subject property was platted in the county in 1966 for residential purposes. The property was annexed into the City during a large annexation project in 1998. At the time of annexation, the subject property was given its current zoning designation. The site was formerly used as a carwash.

Relationship with Comprehensive Plan

The Comprehensive Plan identifies lots 1 and 2 as corridor commercial. Corridor commercial is the most widely commercial land use, Corridor Commercial, is characteristically large-parcel, corridor-oriented development which is disconnected from adjacent parcels. The east half of lot 3 is identified as stable neighborhood. Stable neighborhoods are characterized as slightly newer residential neighborhoods typically developed in a single-use, suburban format.

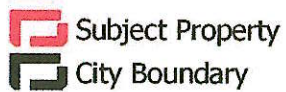
Due to the properties being under single ownership it's reasonable to consider the parcels collectively as zoning change requests come in and therefore would not be in conflict with the comprehensive plan. Additionally, the east half of the lot does not meet minimum frontage requirements within the current zoning designation. The single family structure that is allowed could not receive a building permit without a variance.

Relationship with Zoning Ordinance

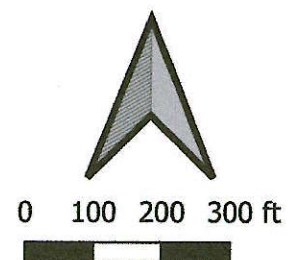
If approved, the proposed use would be required to submit a site plan that would be administratively approved to meet all zoning and development codes of the City.

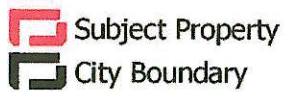
Planning Commission Discussion

The planning commission voted unanimously by a vote of 3-0 to recommend approval of the zoning change request.

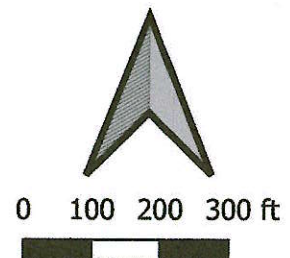


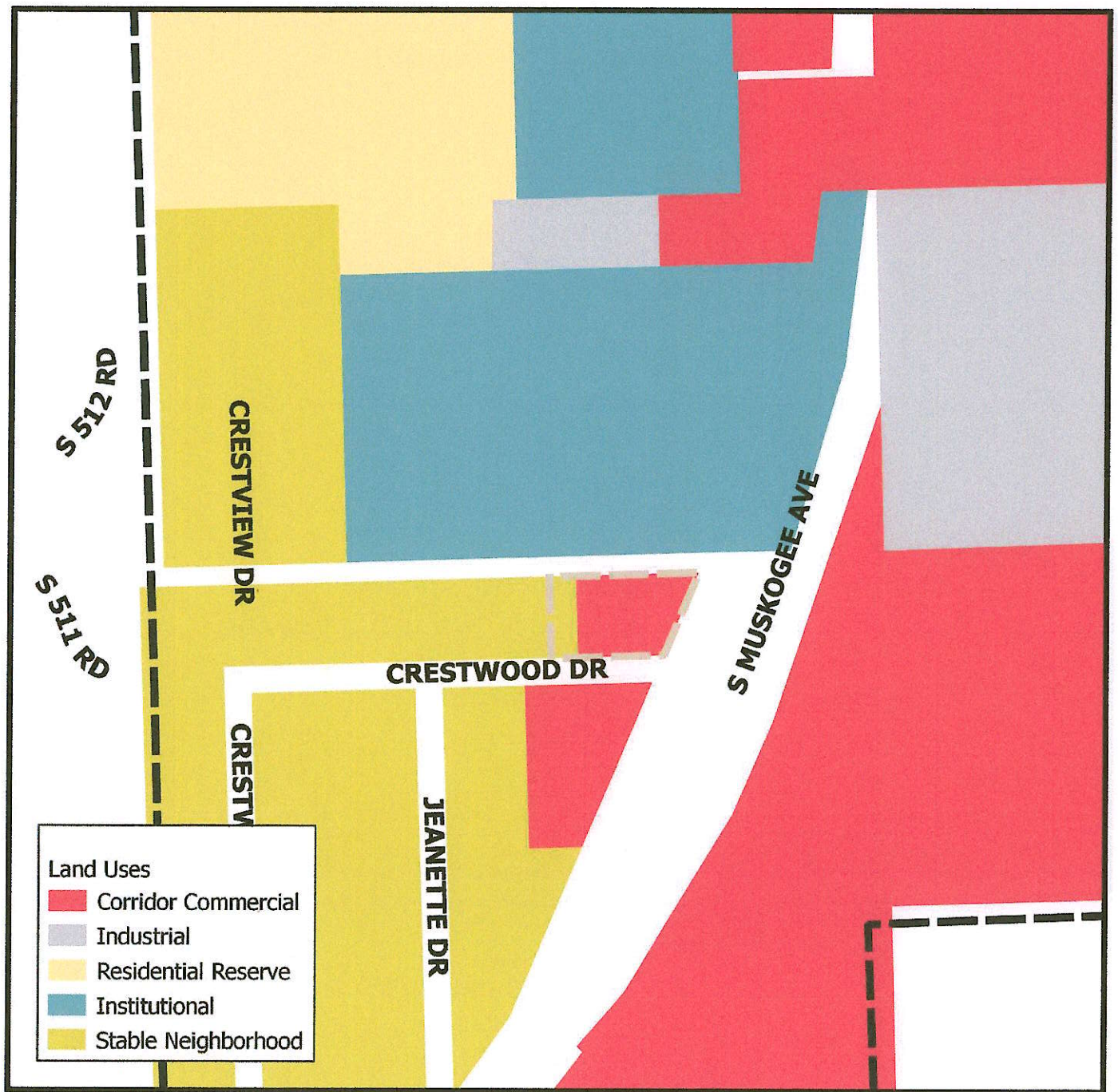
Zoning Map Case #3-2023-Zoning





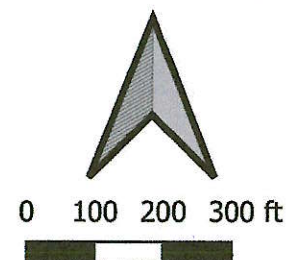
**Aerial Map
Case #3-2023-Zoning**

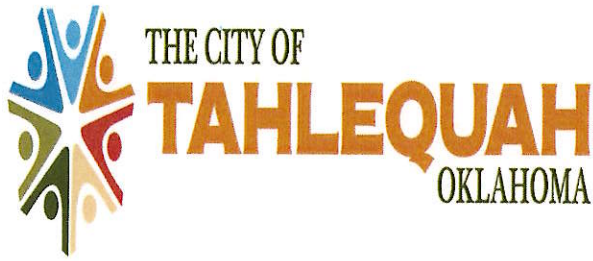




 Subject Property
 City Boundary

Framework Map Case #3-2023-Zoning





Tahlequah City Council AGENDA ITEM REPORT

Item No. (13)

Meeting Date 07-03-2023

Initiator Taylor Tannehill

Office/Department: Planning & Development/Planning Commission

Item Title

Discussion and possible action to approve, approve with modifications, or deny **Resolution 07-03-2023(A)**, a resolution to supporting the City of Tahlequah's application for Safe Streets and Roads for All grant program (SS4A), a program supporting the U.S. Department of Transportation's National Roadway Safety Strategy.

Background

The Bipartisan Infrastructure Bill (BIL) established a new Safe Streets and Roads for All (SS4A) discretionary program, with \$5 billion in approved funds over 5 years, 2022-2026. The City of Tahlequah intends to apply for an Action Plan grant costing \$200,000. Once completed, the City will be eligible to apply for grant funds through the same program to implement recommendations from the Action Plan. The grant requires 20% matching funds.

Exhibits

Exhibit 1 – Resolution

Funding Source

ARPA Fund – Grant Matching or other available funding source.

Request

Approval of Resolution.

COPY

City of Tahlequah

RESOLUTION NO. 07-03-2023(A)

**A RESOLUTION SUPPORTING THE CITY OF TAHLEQUAH'S APPLICATION FOR
SAFE STREETS AND ROADS FOR ALL GRANT PROGRAM (SS4A), A PROGRAM
SUPPORTING THE U.S. DEPARTMENT OF TRANSPORTATION'S NATIONAL
ROADWAY SAFETY STRATEGY.**

WHEREAS, the City of Tahlequah recognizes the need to improve roadway safety within the City of Tahlequah jurisdiction; and

WHEREAS, the City of Tahlequah intends to apply for \$200,000 to develop an Action Plan and said plan is critical to establishing the goal of zero roadway deaths; and

WHEREAS, the City of Tahlequah has available funding in FY 2023-2024 to provide the required 20% matching funds for said grant; and

NOW THEREFORE, BE IT RESOLVED, by the elected Council of the City of Tahlequah that it supports and directs staff to apply for the Safe Streets and Roads for All (SS4A) grant and authorizes the Mayor to sign all documentation related to said grant.

PASSED AND APPROVED by the City Council of the City of Tahlequah on this 3rd day of July, 2023.

City of Tahlequah

By _____

Title: Mayor

ATTEST:

City Clerk

(SEAL)



Tahlequah City Council AGENDA ITEM REPORT

Item No. (14)

Meeting Date 7-3-2023

Initiator Nathan Reed

Office/Department: Tahlequah Regional Development Authority

Item Title

Consider approval of a lease with Cherokee Nation at 106 W Shawnee St., Tahlequah, OK 74464.

Background

The lease has been approved by the TRDA Board of Trustees. Cherokee Nation has been a crucial partner in the recruitment of Provalus and purchased this site for TRDA to renovate as part of the incentive package used to recruit them to our community.

Exhibits

Exhibit 1 – Lease Document

Founding Source

Cash on Hand

Request

Approve the lease as written.

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") is made as of the 13th day of June, 2023 (the "Effective Date"), by and between **Cherokee Nation Property Management, LLC**, a Cherokee Nation limited liability company ("Lessor"), and **Tahlequah Regional Development Authority**, a public trust of the State of Oklahoma ("Lessee").

RECITALS:

A. Lessor owns that certain real property located at 106 W. Shawnee St., 112 W. Shawnee St., 201 N. Muskogee Ave. and 203 N. Muskogee Ave., all in Tahlequah, Oklahoma, and more particularly described in Exhibit "A" attached hereto and made a part hereof, together with all structures, improvements, buildings, parking areas, utilities, building systems, equipment and fixtures attached to or otherwise serving such real property (the "Property").

B. Lessor desires to lease to Lessee and Lessee desires to lease from Lessor all areas of that certain premises described on Exhibit "B" attached hereto and made a part hereof (the "Premises"), upon terms and conditions set forth in this Lease.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee hereby agree to the following terms and conditions of this Lease Agreement.

ARTICLE I **Premises and Term**

1.1 Premises. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, on the terms and conditions herein set forth, all areas of that certain premises located in Cherokee County, Oklahoma, more particularly described in Exhibit "B" attached hereto and made a part hereof (the "Premises").

1.2 Initial Term. The term of this Lease shall be five (5) years, commencing on June 15, 2023 (the "Commencement Date") and terminating on the day prior to the fifth (5th) year anniversary of the Commencement Date (the "Initial Term").

1.3 Renewal Term. Lessee shall have the option to renew the Lease for two (2) consecutive five (5) year terms (each a "Renewal Term", collectively, the "Renewal Terms", and together with the Initial Term, the "Term"), provided that prior to the Renewal Term (a) Lessee shall not be in default or breach of any term, condition or provision of this Lease, and (b) Lessee shall provide Lessor written notice ("Renewal Notice") of its election to renew the Lease at least one hundred eighty (180) days prior to the expiration date of the then-existing term.

1.4 Termination by Lessor. Lessor and Lessee acknowledge and agree that the

purpose and intent of this Lease is for Lessee to construct certain improvements to the Premises in accordance with Section 4.1 of this Lease and sublease the Premises to Optomi, LLC, a Delaware limited liability company d/b/a *Provalus* ("Provalus"). If, at any time after Lessee enters into a sublease agreement with Provalus (the "Sublease") (with such Sublease to be approved by Lessor in accordance with the terms of this Lease), Provalus terminates the Sublease or otherwise vacates or abandons the Premises, then Lessor, upon written notice to Lessee, may immediately terminate this Lease.

ARTICLE II

Rent

2.1 Base Rent. The parties acknowledge and agree that rent payments shall commence on the Commencement Date. From the Commencement Date through the end of the Term, Lessee agrees to pay Lessor, without deduction or offset, on the Commencement Date of the Initial Term and each anniversary thereafter, at such places as may be designated from time to time by Lessor base rent in the amount of One Dollar and No/100ths (\$1.00) per year (the "**Base Rent**").

2.2 Additional Rent.

(a) **Definition of Additional Rent.** "**Additional Rent**" shall mean all costs and expenses and other sums to be paid by Lessee as additional rent under this Lease as further set forth herein. Base Rent and Additional Rent shall be referred to herein as "**Rent**."

(b) **Definition of Lessee's Prorata Share.** Lessee's Prorata Share" is defined as the quotient of dividing the rentable square feet of the Premises by the total rentable square feet of the building on the Property. For purposes of this Lease, Lessee's Prorata Share shall be thirty-eight percent (38%).

(c) **Additional Rent Based on Real Estate Taxes.** As Additional Rent, Lessee shall pay Lessor Lessee's Prorata Share of the annual real estate taxes and assessments assessed and levied against the Property, on or before March 31 of each year, in advance, in a sum equal to the annual real estate taxes and assessments due and payable for the then calendar year. If at a time a payment is required the amount of the real estate taxes and assessments for the then calendar year shall not be known, Lessee shall pay Lessor, as Additional Rent, the real estate taxes and assessments for the preceding calendar year and upon ascertaining the real estate taxes and assessments for the current calendar year, Lessee shall pay Lessor any difference upon demand, or if Lessee shall be entitled to a credit, Lessor shall credit the excess against the next installment(s) of Additional Rent due, or if at the end of the Term, then paid in full to Lessee. Additional Rent based upon real estate taxes and assessments payable for the first and last years of the Term shall be adjusted and prorated, so that Lessor shall be responsible for Lessor's prorated share for the period prior to and subsequent to the Term, and Lessee shall pay Lessor its prorated share for the Term. Further, Lessee shall pay for all applicable personal property taxes, if any, assessed to the Premises.

(d) Additional Rent Based on Property Insurance. As Additional Rent, Lessee shall pay Lessor Lessee's Prorata Share of Lessor's cost of property insurance as carried by Lessor with respect to the Property, including, without limitation, fire and extended coverage, in an amount equal to the full replacement value of the buildings and all improvements on the Property, on or before March 31 of each year, in advance, in a sum equal to the annual insurance premiums due and payable for the then calendar year. For purposes of this Section 2.2(d), "full replacement value" shall mean the actual replacement cost of the building and improvements on the Property from time to time during the Term, including increased costs of construction. Lessee acknowledges that it shall not be entitled to receive any proceeds from such insurance policy, that Lessor shall not have any obligation to carry insurance of any kind on any of Lessee's furniture or furnishings or any of Lessee's fixtures, equipment or improvements to the Premises and that Lessor shall have no obligation to repair any damage to, or replace any of Lessee's furniture, fixtures, equipment or improvements.

(e) Additional Rent Based on Operating Expenses. As Additional Rent, Lessee shall pay Lessor Lessee's Prorata Share of all estimated Operating Expenses (defined hereinafter). Payments of Lessee's Prorata Share of Operating Expenses are due and payable monthly, in advance on March 31 of each year. Operating Expenses may be adjusted by Lessor on an annual basis should Operating Expenses exceed the then-current estimate. After each calendar year of the Term, Lessor shall provide Lessee with a reasonably detailed statement showing the actual increases or decreases in Operating Expenses, real estate taxes for the Property and premiums for property and liability insurance for the Property over the prior year, except in the case that no reconciliation occurs from the prior year, then Landlord is not obligated to provide such statement to Lessee as set forth herein. If payments made by Lessee pursuant to this Section 2.2(e) are less than or exceed the amounts shown in any statement then Lessee's account will be adjusted to reflect the amounts due. All deficiencies are payable upon receipt of invoice and all credits will be applied by Lessor to the next installment of Additional Rent. Concurrently, with the remittance of the prior year statement, or as soon thereafter as is reasonably possible, Lessor shall advise Lessee of the then current year's estimate of Operating Expenses, real estate taxes for the Property and insurance premiums for property and liability insurance for the Property as well as the monthly payment due thereon. As used herein, "Operating Expenses" shall mean all direct costs incurred by Lessor in the exercise of its reasonable discretion for (i) the operation, repair, maintenance and replacements, in a neat, clean, safe, good order and condition, of the Property, including, but not limited to all common areas of the Property, including their surfaces, coverings, decorative items and parking areas, trash areas, driveways, sidewalks, walkways, stairways, parkways, landscaped areas, irrigation systems, lighting facilities, building exteriors and roofs, fences and gates and all heating, air conditioning, plumbing, electrical systems, life safety equipment, telephone equipment, fire detection systems, building sprinkler systems and other equipment used in common by, or for the benefit of all occupants of the Property; (ii) trash disposal and security services; (iii) water, sewer, gas, electricity and other utilities provided to the Property (if not separately metered and, if not, then the amount owed by Lessee for such non-separately metered water, sewer, gas,

electricity and other utilities provided to Lessee shall be based on Lessee's usage in accordance with Section 4.2 hereof); and (iv) replacing and/or adding any equipment, devices or capital improvement to reduce the operation or maintenance expenses with respect to the Property, amortized over its useful life, as reasonably determined by Lessor's accountant. Operating Expenses shall not include debt service, the cost of leasehold improvements for any other tenants of the Property, leasing commissions and other expenses incurred in leasing, marketing or improving the space for any other occupants of the Property and costs separately billed and paid by specific tenants of the Property.

(f) Additional Rent Based Upon Assessments for Public Improvements. As Additional Rent, commencing on the Rent Commencement Date, upon demand, Lessee shall reimburse Lessor Lessee's Prorata Share of all assessments for public improvements assessed and levied against the Property during the Term. If any assessment for public improvements shall be payable in installments, Lessor shall pay such assessment in the maximum number of installments permitted by law, prorated for any partial month during the Term.

(g) Additional Rent Based Upon Other Sums. Lessee shall pay Lessor, as Additional Rent, all other sums of money on Lessee's part to be paid pursuant to the terms and conditions of this Lease.

(h) Additional Rent Based Upon Reimbursement to Lessor. If Lessee shall fail after applicable notice and cure periods to comply with or to perform any of the terms or conditions of this Lease, Lessor may (but with no obligation to do so) carry out and perform such terms or conditions, at the expense of Lessee, which expense shall be payable by Lessee, as Additional Rent, within ten (10) days after receipt of written demand of Lessor for reimbursement of such expenses, together with interest at the prime rate of eighteen (18%) *per annum*, which interest shall accrue from the date of Lessor's demand.

(i) Additional Rent Based Upon Late Payment. In the event Lessee defaults for more than five (5) days in the payment of annual installments of Base Rent, any Additional Rent or any of the sums required of Lessee under this Lease, or if Lessee fails to reimburse Lessor for any expenses incurred by Lessor pursuant to this Lease, together with interest, then after ten (10) days' written notice to cure, Lessee shall pay Lessor, as Additional Rent, a late charge of five percent (5%) of the rent or expense.

(j) Additional Rent Based Upon Lessor's Legal Expenses in Enforcing Lease. As Additional Rent, Lessee shall pay Lessor, all reasonable attorneys' fees that may be incurred by Lessor in enforcing Lessee's obligations under this Lease; provided, however, that in the event Lessor commences a suit against Lessee to enforce Lessee's obligations under this Lease, and such suit is tried to conclusion and judgment is entered in favor of Lessee, then in that event Lessee shall not be under any obligation to pay Lessor's attorneys' fees that Lessor may have incurred.

(k) Additional Rent Based Upon Property Owners Association Assessments. If at any time during the Term, annual assessments are required to be paid pursuant to the

terms of any restrictive covenants or declarations enforceable against the Property and other lots located in the same subdivision the Property is situated, as Additional Rent, upon demand, Lessee shall pay Lessor Lessee's Prorata Share of such annual assessments assessed against the Property.

2.3 Net Lease. Except as otherwise provided herein, it is the intention of the parties that this Lease is a "triple net lease", and Lessor shall receive the Base Rent, Additional Rent and other sums required of Lessee under this Lease, undiminished from all costs, expenses and obligations of every kind relating to Lessee's use and occupancy of the Premises, which shall arise or become due during the Term, all of which shall be paid by Lessee in accordance with the provisions of this Lease. During the first (1st) year of the Initial Term, Additional Rent is estimated to be Two and 50/100ths Dollars (\$2.50) per square foot. Additional Rent is estimated to increase three percent (3%) during each year of the Term.

2.4 No Setoff. Except as otherwise provided herein, Lessee shall pay Lessor all Base Rent, Additional Rent and other sums required of Lessee under this Lease without abatement, deduction or setoff and irrespective of any claim Lessee may have against Lessor.

2.5 Application. No payment by Lessee or receipt by Lessor of an amount less than the Base Rent, Additional Rent, or other sums required of Lessee under the Lease, shall be deemed anything other than a payment on account of the earliest Base Rent, Additional Rent, or other sums due from Lessee under the Lease. No endorsements or statements on any check for the payment of Base Rent, Additional Rent, or other sums required of Lessee under the Lease shall be deemed an accord and satisfaction of Lessor. Lessor may accept any check for payment from Lessee without prejudice to Lessor's right to recover the balance of Base Rent, Additional Rent, or other sums required of Lessee under the Lease or to pursue any other right or remedy provided under this Lease or by applicable law.

2.6 Security Deposit. No security deposit shall initially be paid by Lessee to Lessor. If Lessee defaults with respect to any provision of this Lease, including but not limited to the provisions relating to the payment of Base Rent, Additional Rent or other sums due from Lessee under this Lease, Lessor may (but shall not be required to) require Lessee, within five (5) days after written demand therefor, to deposit cash with Lessor in an amount equal to Five Thousand Dollars and No/100ths (\$5,000.00) (the "Security Deposit"). Further, if Lessee then defaults with respect to any provision of this Lease, including but not limited to the provisions relating to the payment of Base Rent, Additional Rent or other sums due from Lessee under this Lease, Lessor may (but shall not be required to) use, apply or retain all or any part of the Security Deposit for the payment of any Base Rent, Additional Rent or any other sum in default or for the payment of any amount which Lessor may spend or become obligated to spend by reason of Lessee's default, or to compensate Lessor for any other loss or damage which Lessor may suffer by reason of Lessee's default. If any portion of the Security Deposit is so used or applied, Lessee shall, within five (5) days after written demand therefor, deposit cash with Lessor in an amount sufficient to restore the Security Deposit to its original amount. Lessor shall not be required to keep the Security Deposit, if any, separate from its general funds, and Lessee shall not be entitled to interest on the Security Deposit. If Lessee shall fully and faithfully perform every provision of this Lease to be

performed by it, the Security Deposit (if any), or any balance thereof, shall be returned to Lessee within thirty (30) days following the expiration of the Term. Lessor may deliver the Security Deposit to a purchaser of Lessor's interest in the Premises, and in the event that such interest is sold thereunder, Lessor shall be discharged from any further liability with respect to the Security Deposit.

ARTICLE III **Use, Care, Maintenance and Repair**

3.1 Use and Care of Premises. Lessee shall use and occupy the Premises solely for the purposes of office use. Lessee shall not use and occupy the Premises for any other purpose whatsoever, without the express written consent of Lessor. Lessee shall take good care of the Premises and keep the same neat, clean and free from trash or rubbish at all times. Lessee shall not commit or allow waste to be committed on the Premises, and Lessee shall not allow any hazardous activity to be engaged in upon the Premises. Lessee shall not cause or allow any nuisance to neighboring businesses to exist on or within the Premises. Lessee shall fully comply with any requirements or notice from any governmental authority having jurisdiction over the Premises in connection with Lessee's use and occupancy thereof, and agrees to indemnify and hold Lessor harmless from any penalties, fines, costs or damages resulting from its failure to do so.

3.2 Maintenance. LESSEE HEREBY ACCEPTS THE PREMISES "AS IS," WITH NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, BY LESSOR AS TO THE CONDITION THEREOF. Lessee shall at all times at its own expense maintain the Premises in good condition and repair and replace portions thereof, as necessary. Lessor shall have no obligation whatsoever to perform any maintenance, repair or replacement to the Premises including any building, structures or improvements thereon or any portion thereof, provided, however, if Lessee fails to perform such maintenance hereunder, Lessor shall have the right to perform such maintenance and bill the cost to Lessee, plus an administration fee of ten percent (10%) of such cost.

(a) **HVAC.** During the Term, Lessee shall be responsible for all maintenance and repairs to the heating and air conditioning system ("HVAC") equipment. Lessee shall contract with a qualified and licensed HVAC contractor (approved by Lessor) who will inspect and maintain the HVAC on a routine basis. Lessee will provide Lessor copies of the HVAC service contract and routine inspection reports upon demand. If Lessee fails, at any time during the Term, to execute and maintain a service contract for the HVAC equipment in compliance with this Section 3.3(a), Lessor may contract with a service company of its own choosing and bill Lessee for the cost of the same, plus an administration fee of ten percent (10%) on all HVAC expenses billed to Lessee. Any material repairs and/or replacement of any HVAC components that will involve any change to the size, weight and placement of existing HVAC components on the roof or near exterior walls of the Premises or may involve any penetration of the roof or exterior walls or affect the watertight seal of the roof or exterior walls, require Lessor's prior written consent, which may be withheld in Lessor's sole discretion.

(b) Damages Caused by Lessee. Notwithstanding anything contained herein to the contrary, any damage to the Premises caused by Lessee, its directors, trustees, officers, employees, agents, representatives, guests or invitees, shall be promptly repaired or replaced to its former condition by Lessee, at Lessee's own expense and as required by Lessor in its sole discretion.

(c) Lessee's Negative Covenants. Lessee shall not injure, deface, permit waste nor otherwise harm any part of the Premises, permit any nuisance at the Premises or permit the emission of any objectionable noise or odor from the Premises.

3.3 Surrender of Premises. Upon the expiration of the Term or earlier termination of this Lease, Lessee shall surrender the Premises in the condition it existed on the Commencement Date of this Lease, reasonable wear and tear excepted.

ARTICLE IV **Improvements, Utilities & Signage**

4.1 Improvements and Construction. Lessee shall not make any improvements or alterations to the Premises or begin any construction on the Premises without the prior written consent of Lessor, which consent may be withheld in Lessor's discretion. Lessee intends to make improvements and alterations of the Premises according to the preliminary design plans described in Exhibit "C" attached hereto and made a part hereof (the "Lessee Improvements"). Lessee shall submit final construction plans and drawings for the Lessee Improvements to Lessor for Lessor's final approval, which such approval shall not be unreasonably withheld, conditioned or delayed. Except as otherwise provided herein, Lessee shall bear all costs of any construction on the Premises and hereby agrees that any contractors or subcontractors Lessee hires to construct any improvements or make any alterations to the Premises will be licensed and insured and approved by Lessor prior to the commencement of any construction. Lessee covenants that all such work shall be carried out in accordance with the requirements, orders and limitations of all local, state or federal departments or bureaus having jurisdiction, and upon completion, the Premises shall be in compliance with all governmental requirements for the use which the Lessee may make of them.

4.2 Utilities. Lessee shall arrange for and shall promptly pay as and when due all charges for electricity, water, gas, telephone service, sewer and other utilities furnished to the Premises during the Term. Lessor may, if so elects, furnish one or more utility services to Lessee, and in such event Lessee agrees to pay to Lessor its share of all charges for utility services supplied to the Premises for which there is no separate meter or sub-meter upon billing by Lessor of Lessee's share, as reasonably determined by Lessor based upon estimated actual usage. Lessor may at any time discontinue furnishing any such service without obligation to Lessee other than to connect the Premises to the public utility, if any, furnishing such service. Lessor shall not be liable for any interruption in utility services whatsoever, and Lessee acknowledges that Lessor shall have no liability for any failure or interruption of any utility or service resulting from government imposed restrictions, or utility "blackouts" resulting from a usage overload on the state, county or city

electrical grid, and Lessee shall have no right to a reduction or abatement of Base Rent, Additional Rent or any other sums due hereunder in connection with an interruption of any utility or service.

4.3 Signage. Lessee shall have the right to install, at Lessee's expense, signage in such form and at such locations on the Premises as Lessor shall deem reasonably appropriate. Each such sign Lessee installs shall at all times conform to all applicable rules, regulations, codes and ordinances of any governmental agency having jurisdiction over the Premises. All such signs shall be removed at the termination of this Lease, at Lessee's sole cost and expense.

4.4 Removal. Subject to Lessee's obligation to remove signs at the termination of this Lease pursuant to Section 4.3, any addition to or alteration of the Premises shall be deemed a part thereof and shall belong to Lessor at the expiration of the Term. Lessor shall bear no obligation to reimburse Lessee for the costs and expenses of any alterations, improvements and construction.

4.5 Discharge of Liens. Lessee will not create or permit to be created or to remain, and will promptly discharge, any lien, encumbrance or charge (including without limitation any mechanic's, laborer's or materialman's lien) against the Premises or any part thereof arising from Lessee's actions. If any mechanic's, laborer's or materialman's lien shall at any time be filed against the Premises or any part thereof, Lessee shall cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction, or otherwise. If Lessee shall fail to effect such discharge within thirty (30) days from notice provided by Lessor, then, in addition to any other available right or remedy, the Lessor may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring discharge by deposit or by bonding proceedings, all in accordance with applicable laws. Lessee shall pay all costs and expenses incurred by Lessor in connection therewith, together with interest thereon at eighteen percent (18%) *per annum* from the date such costs and expenses were incurred.

ARTICLE V

Insurance and Indemnification

5.1 Fire & Casualty Insurance. During the Term, Lessor shall obtain and keep in force an all-risk insurance policy covering the Property and all improvements, except any lessee improvements, located thereon in an amount of one hundred percent (100%) of the replacement value of the buildings and all improvements on the Premises, and with such deductible as Lessor considers appropriate in Lessor's sole discretion. Commencing on the Commencement Date through the expiration of the Term, as Additional Rent, Lessee agrees to reimburse Lessor for such all-risk insurance policy premiums pursuant to Section 2.2(d) hereof. Lessee acknowledges that it shall not be entitled to receive any proceeds from such insurance policy, that Lessor shall not have any obligation to carry insurance of any kind on any of Lessee's furniture or furnishings or any of Lessee's fixtures, equipment or improvements to the Premises and that Lessor shall have no obligation to repair any damage to, or replace any of Lessee's furniture, fixtures, equipment or improvements.

5.2 Liability Insurance. During the Term, Lessee shall, at Lessee's own expense, obtain and keep in force Commercial general liability insurance and personal injury liability insurance, insuring Lessee against liability for injury to persons or damage to property occurring

in or about the Premises or arising out of the ownership, maintenance, use or occupancy thereof. The minimum acceptable limits of liability are, as follows: \$1,000,000 for each occurrence and \$2,000,000 aggregate. This insurance shall also name Lessor, its mortgagees, if any, and their respective members, managers, officers, employees, agents and representatives as additional insureds.

5.3 Worker's Compensation. During the Term, Lessee shall, at Lessee's own expense, obtain and keep in force workers' compensation and employer's liability insurance as required by law.

5.4 Other Insurance Policies. During the Term, Lessee shall, at Lessee's own expense, obtain and keep in force insurance covering all of Lessee's personal property, inventory, fixtures, equipment, furnishings and any improvements made by Lessee or its contractors (subject to the terms of this Lease); and any other insurance coverages that Lessor or Lessor's mortgagees may reasonably require.

5.5 Insurance Requirements. Lessee shall also name Lessor (and Lessor's mortgagees, if any and if required by Lessor's mortgagees) an additional insured with respect to any insurance policies and shall provide Lessor or its designees upon written request with certificates of insurance or copies of insurance policies evidencing that insurance satisfying the requirements of this Lease is in effect at all times. All insurance policies shall provide that coverage may not be canceled or reduced without at least ten (10) days' written notice first being given to Lessor. If Lessee shall fail to procure and maintain the insurance required hereunder, Lessor may but shall not be required to procure and maintain the same, and any amounts paid by Lessor for such insurance shall be Additional Rent, which shall be due and payable to Lessor on the next succeeding date on which Base Rent is due.

5.6 Increase in Premiums. Lessee shall not, without Lessor's prior written consent, keep anything within the Premises for any purpose that increases the insurance premium cost or invalidates any insurance policy carried on the Premises. Lessee shall pay as Additional Rent, upon demand of Lessor, any such increased premium cost due to Lessee's use or occupation of the Premises. All property kept, stored or maintained within the Premises by Lessee shall be at Lessee's sole risk.

5.7 Insured Loss; Waiver of Subrogation. Lessor and Lessee agree and covenant that neither shall be liable to the other for loss arising out of damage to or destruction of the Premises or contents thereof when such loss is caused by any perils included within the all-risk insurance policy. This provision shall be binding whether or not such damage or destruction is caused by negligence of either party or their respective members, managers, officers, employees, agents, representatives, guests or invitees. Lessor and Lessee each waive any rights each may have against the other on account of any loss or damage occasioned to Lessor or Lessee, as the case may be, their respective property, the Premises or its contents. The insurance policies obtained by Lessee pursuant to this Lease shall contain endorsements waiving any right of subrogation which the insurer may otherwise have against Lessor.

5.8 Indemnification. Except for the gross negligence or willful misconduct of Lessor, Lessee shall indemnify and hold Lessor, its members, managers, officers, employees, agents and representatives, harmless from and against any and all claims, demands, causes of action, suits, proceedings, liabilities, damages, losses, costs and expenses, including attorney's fees, caused by, incurred or resulting from Lessee's use or occupancy of the Premises, by Lessee or any of its members, managers, officers, employees, agents, guests or invitees. It is expressly understood that Lessee's obligation under this Section 5.8 shall survive the expiration or earlier termination of this Lease for any reason.

ARTICLE VI

Compliance with Laws

6.1 General Compliance with Laws & Requirements. Lessee's use of the Premises shall comply with each and every applicable federal, State of Oklahoma, county and municipal statute, ordinance, code, rule, regulation, order, directive or requirement, currently or hereafter existing, including, but not limited to, the Americans with Disabilities Act of 1990 ("ADA") and all environmental laws, together with all amending and successor federal, State of Oklahoma, county and municipal statutes, ordinances, codes, rules, regulations, orders, directives or requirements (the "**Requirements**"). The failure to mention any specific statute, ordinance, rule, code, regulation, order, directive or requirement shall not be construed to mean that Lessee was not intended to comply with such statute, ordinance, rule, code, regulation, order, directive or requirement. Because compliance with the ADA is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises complies with the ADA or any similar legislation. If, at any time during the Term, modifications or additions are required to be made in order for the Premises to be in compliance with the ADA, Lessee hereby agrees to make such modifications and/or additions at Lessee's own expense.

6.2 Environmental Compliance.

(a) **Notice.** Lessee shall give notice to Lessor at least seven (7) days in advance of any production, generation, handling, storage, treatment, transportation, disposal, release or removal of any Hazardous Substance from, on or within the Premises, and of any arrangement for transport, disposal, storage or treatment of any Hazardous Substance from, on or within the Premises. As used herein, the term "**Hazardous Substance**" shall mean any and all pollutants, contaminants, toxic or hazardous wastes or any other substances the use and/or removal of which is restricted, prohibited, regulated or penalized under or pursuant to any applicable environmental, health, safety or similar law, ordinance, order, rule or regulation now or at any time and from time to time. Notwithstanding the foregoing, Lessee may use and store on the Premises *de minimis amounts* of substances customarily used in an office building.

(b) **Lessee's Covenants.** Lessee covenants, warrants and represents that it will not use or employ all or any portion of the Premises to handle, transport, store, treat or dispose of any Hazardous Substance, whether or not it was generated or produced from, on or within the Premises; and Lessee further covenants, warrants and represents that any

activity on or relating to the Premises shall be conducted in full compliance with all applicable laws.

(c) Indemnity. If the covenants, warranties and representations contained in this Section 6.2 are false or breached, Lessee agrees to defend, indemnify, protect and hold harmless Lessor against any and all Claims (hereinafter defined), that Lessor may be liable for, suffer, incur, or pay by reason of the false or breached covenants, warranties and representations. LESSEE ALSO AGREES TO DEFEND, INDEMNIFY, PROTECT AND HOLD HARMLESS LESSOR AGAINST ANY AND ALL CLAIMS WHICH LESSOR MAY HEREAFTER BE LIABLE FOR, SUFFER, INCUR OR PAY ARISING UNDER ANY APPLICABLE LAW AND RESULTING FROM OR ARISING OUT OF ANY ACT, ACTIVITY, OR VIOLATION OF ANY APPLICABLE LAWS ON THE PART OF LESSEE, ITS AGENTS, EMPLOYEES, OR ASSIGNS, AND AGAINST ANY AND ALL CLAIMS WHICH LESSOR MAY HEREAFTER BE LIABLE FOR, SUFFER, INCUR OR PAY RESULTING FROM OR ARISING OUT OF ANY HANDLING, STORAGE, TREATMENT, TRANSPORTATION, DISPOSAL, RELEASE OR THREAT OF RELEASE OF HAZARDOUS WASTE OR HAZARDOUS SUBSTANCES FROM, ON OR WITHIN THE PREMISES ON THE PART OF LESSEE, ITS AGENTS, EMPLOYEES, OR ASSIGNS. The liability of Lessee pursuant to this Section 6.2 shall survive the expiration or earlier termination of this Lease.

(d) Event of Default. Any violation or breach of this Section 6.2 shall be considered an Event of Default.

(e) Claims. For purposes of this Section 6.2, the term "Claims" shall include and mean all actions, causes of action, whether common law or statutory, remedies, demands, out-of-pocket costs, liabilities, charges, suits, judgments, expense, damage, personal injuries, property damage, incidental or consequential damages, clean-up costs, civil penalties, attorneys' fees, litigation expenses, abatement costs, abatement and corrective injunctive relief, injunctive relief requiring removal and/or remedial action, all costs of removal or remedial action, and damages to natural resources.

(f) Survival. This Section 6.2 shall survive the expiration or earlier termination of this Lease. Without limiting any other remedy available to Lessor under this Lease or by Requirements, Lessee's failure to abide by the terms of this Section 6.2 shall be restrainable or enforceable, as the case may be, by injunction.

ARTICLE VII

Casualty and Repairs; Entry

7.1 Total Destruction. In the event of a total destruction of the Premises during the term hereof from any cause, or partial destruction of such a nature as to render the Premises totally unfit for Lessee's use as determined in Lessor's reasonable discretion, this Lease shall automatically terminate as of the date of such damage or destruction, and Lessee shall surrender the Premises and all interests therein to Lessor, with the remainder of Lessee's unearned Rent obligations abating as of the date of total surrender. Notwithstanding the above, Lessor retains the

right, in its sole election, to restore the Premises to substantially the condition as existed, not including any improvements made by Lessee, prior to the occurrence of such casualty. Lessor shall notify Lessee in writing of its election to restore the Premises within sixty (60) days of the date the damage occurred. Lessor's election to restore the Premises shall operate to keep this Lease in full force and effect, but pending restoration of the Premises any unearned Rent payable by Lessee shall abate until restoration of the Premises is substantially complete. The term of this Lease shall then be extended for the time it took to substantially restore the Premises. In the event Lessor shall determine that restoration of the Premises will take longer than one eighty (180) days after Lessor elects to restore the Premises, Lessor shall provide written notice of the same to Lessee, and Lessee may terminate this Lease by providing written notice to Lessor prior to the commencement of restoration of the Premises.

7.2 Partial Destruction. If the Premises, not including any improvements made by Lessee, are ever partially destroyed by casualty, but not rendered wholly unfit for Lessee's use as determined in Lessor's reasonable discretion, then this Lease shall continue in full force and effect, and any unearned Rent shall be abated in proportion to the part of the Premises that is unusable by Lessee, until such time as Lessor shall effect and substantially complete repairs at least to the extent of insurance proceeds available. Once repairs are substantially complete, any such partial abatement of Rent shall cease, and Lessee shall once again pay the full amount of Rent due hereunder. A partial destruction of the Premises which does not substantially impair Lessee's use of the Premises shall in no way annul or void this Lease or result in any abatement of Rent for the benefit of Lessee. In the event (a) Lessor shall determine substantial completion of the repairs to the Premises will take longer than sixty (60) days from the date of casualty or (b) insurance proceeds available to Lessor will prevent Lessor from substantially completing the repairs, Lessor shall provide written notice of the same to Lessee, and Lessee may terminate this Lease by providing written notice to Lessor prior to the commencement of repairs of the Premises.

7.3 Notice of Casualty. If the improvements situated upon the Premises shall be damaged or destroyed at any time, whether covered by insurance or not, Lessee shall give prompt notice thereof to Lessor.

7.4 Entry and Inspection. Lessee shall permit Lessor and its agents to enter the Premises after twenty-four (24) hours' prior notice (except in an emergency, in which case no notice shall be required) and at all reasonable times to inspect the same or to make such repairs as Lessor may elect to make. Lessor shall have such right to fulfill the purpose thereof without any rebate of Rent to Lessee for any loss of occupancy or quiet enjoyment of the Premises thereby occasioned. In addition, Lessor shall have the right to enter the Premises after twenty-four (24) hours' prior notice and at any reasonable time within one hundred eighty (180) days of any forthcoming termination hereof for the purpose of offering and showing the Premises for sale or lease to third parties.

ARTICLE VIII **Eminent Domain**

8.1 Substantial Taking. If twenty-five percent (25%) or more of the area of the

Premises should be taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or by private purchase in lieu thereof, this Lease may, at the election of the Lessee, be terminated, and the consideration given herein shall be abated during the unexpired portion of this Lease, effective on the date physical possession is taken by the condemning authority.

8.2 Partial Taking. If less than twenty-five percent (25%) of the area of the Premises should be taken as aforesaid, this Lease shall not terminate; however, the consideration given hereunder during the unexpired portion of this Lease shall be reduced in proportion to the area taken, effective on the date physical possession is taken by the condemning authority, following such partial taking.

8.3 Compensation to Lessor. The entire award of damages or compensation for all or part of the Property taken or condemned shall belong to and be the property of Lessor, and Lessee hereby assigns to Lessor any and all such award or compensation; provided, however, Lessor shall have no interest in any award made to Lessee for loss of business or for the taking of any improvements made by Lessee if a separate award for such items is made to Lessee.

ARTICLE IX

Assignment, Subletting, Attornment, Subordination & Estoppel Certificate

9.1 Assignment. Lessee shall not assign or sublease any rights under this Lease to any third party, without the prior written consent of Lessor; provided, however, Lessee may sublease the Premises to Provalus, so long as the terms and conditions of the Sublease are approved by Lessor in its reasonable discretion. Regardless of Lessor's consent, no assignment or subletting shall release Lessee from this Lease. Consent to one assignment or subletting shall not be deemed a consent to any subsequent assignment or subletting.

9.2 Attornment. Lessee shall attorn and be bound to any of Lessor's successors under all terms, covenants and conditions of this Lease.

9.3 Subordination. This Lease shall be subordinate to the lien of any mortgage or the lien resulting from any other method of financing or refinancing now or hereafter in force against the Premises, or any portion thereof, and to any and all advances to be made under such mortgages and all renewals, modifications, extensions, consolidations and replacements thereof. The aforesaid provisions shall be self-operative and no further instrument shall be required to evidence such subordination. Lessee covenants and agrees to execute and deliver upon demand such further instruments subordinating this Lease on the foregoing basis to the lien of any such mortgage or mortgages as shall be desired by Lessor and any mortgagees or proposed mortgagees and hereby irrevocably appoints Lessor the attorney-in-fact of Lessee to execute and deliver such instruments within ten (10) days after written notice to do so.

9.4 Estoppel Certificate. Within ten (10) days after request by Lessor, or in the event that upon any sale, assignment or hypothecation of the Premises or the Property, Lessee agrees to deliver a certificate to any proposed mortgagee or purchaser, or to Lessor, certifying that this Lease

is unmodified and in full force and effect (or, if modified, that the same is in full force and effect as modified, and stating the modifications), that there are no defenses or offsets thereto and the dates to which Rent have been paid and whether there is any breach or default existing under the Lease.

ARTICLE X

Enjoyment, Occupation and Security

10.1 Quiet Enjoyment. So long as Lessee shall pay Rent and other sums herein provided and shall keep and perform all of the terms, covenants and conditions on its part herein contained, Lessor covenants that, subject to Lessor's rights herein, Lessee shall have the right to the peaceful and quiet occupancy of the Premises.

10.2 Occupation and Abandonment. Lessee agrees not to vacate or abandon the Premises at any time during the Term. Should Lessee vacate or abandon the Premises or be dispossessed by process of law or otherwise, such abandonment, vacation or dispossession shall be a breach of this Lease and, in addition to any other rights which Lessor may have, Lessor may remove any personal property belonging to Lessee which remains on or about the Premises and store the same, for the account of Lessee. Further, Lessor may proceed to dispose of said personal property either by public or private sale after posting notice of its intent to sell such property for five (5) days upon the front door of the Premises. It is agreed that Lessor may be the purchaser of all or a portion of such personal property at such sale. Lessee may redeem said property at any time prior to sale or other disposition thereof upon full payment to Lessor of the reasonable expenses incurred by Lessor taking, holding and preparing the property for sale and of any amount due from Lessee to Lessor for Rent or otherwise. Should said property be disposed of by sale or other means, the proceeds shall be applied to satisfy any amount due from Lessee to Lessor for Rent or otherwise, and to the reasonable expenses incurred for taking, holding and disposing of said property.

ARTICLE XI

Default and Remedies

11.1 Default. Each of the following events shall be deemed a breach of this Lease and a default by Lessee (each, an "Event of Default"):

- (a) **Monetary Obligations.** If any Rent or other monetary sum due remains unpaid for five (5) days after written notice thereof to Lessee;
- (b) **Insolvency.** If Lessee becomes insolvent, performs any act of insolvency or is not generally paying its debts as the same become due;
- (c) **Non-Monetary Obligations.** If Lessee fails to perform any of the covenants, conditions or obligations of this Lease; or
- (d) **Other Agreements.** If there is a breach or default under any other agreement

between Lessor and Lessee or under any license or franchise permitting Lessee to operate the Premises in the manner authorized, or if such license or franchise otherwise terminates or expires.

11.2 Cure. If any Event of Default does not involve the payment of any Rent or other monetary sum, is not willful or intentional, does not place any rights or property of Lessor in immediate jeopardy, is not known to Lessee and is within the reasonable power of Lessee to cure within thirty (30) days after receipt of notice thereof, as determined by Lessor in its reasonable discretion, then such Event of Default shall not constitute a breach or default hereunder, until Lessor shall have given Lessee notice thereof and a period of thirty (30) days shall have elapsed. During such period Lessee may correct or cure such Event of Default, but upon Lessee's failure to accomplish such cure within such period, an Event of Default shall be deemed to have occurred hereunder without further notice or demand of any kind. If such Event of Default cannot reasonably be cured within the 30-day period, as determined by Lessor in its sole discretion, and Lessee is diligently pursuing a cure of such Event of Default, then Lessee shall after receiving notice specified herein have a reasonable period to cure such Event of Default.

11.3 Remedies upon Default. Upon the occurrence of an Event of Default, and without any notice, except, if applicable, the notice required under certain circumstances by Sections 11.1 and 11.2 above, or such other notice as may be required by law and may not be waived by Lessee (all other notices being hereby waived), Lessor shall be entitled to exercise, at its option, separately, concurrently, successively or in any combination, all remedies available at law or in equity, including without limitation any one or more of the following:

(a) Terminate Lease. To terminate this Lease;

(a) Re-Entry. To reenter (which reentry shall not operate to terminate this Lease unless Lessor expressly so elects) and take possession of the Premises or any part thereof, any or all personal property or fixtures of Lessee upon the Premises and all franchises, licenses, permits and other rights or privileges of Lessee pertaining to the use and operation of the Premises and to conduct business thereon in the name of Lessor or of Lessee, but for the sole profit and benefit of Lessor and without compensation to Lessee;

(b) Lien. To seize all personal property or fixtures upon the Premises which Lessee owns or in which it has an interest, against which property Lessor shall have a Lessor's lien and continuing security interest (which are hereby granted), and to dispose of such property in accordance with laws prevailing at the time and place of such seizure or remove all or any portion of such property and cause the same to be stored in a public warehouse or elsewhere at the cost of Lessee;

(c) Reletting of Premises. To relet the Premises or any part thereof for such term or terms (including a term which extends beyond the original term of this Lease), at such rentals and upon such other terms as Lessor, in its sole discretion, may determine, with all proceeds of such reletting being applied to the rentals and other sums due from Lessee in such order as Lessor may, in its sole discretion, determine, with Lessee remaining

liable for any deficiency;

(d) Rent. To recover from Lessee an amount equal to the difference between the lease rentals and such other sums payable from the date of such breach to the expiration of the original term hereof and the reasonable long-term rental value of the Premises for the same period; and/or

(e) Attorney's Fees. To recover from Lessee all expenses, but not limited to including attorney's fees, reasonably paid or incurred by Lessor as a result of such breach.

In addition, in the event of any breach or default by Lessee, Lessor may, but shall not be obligated to, immediately or at any time thereafter, and without notice, except as required herein, correct such breach or default (without, however, curing the same) for the account and at the expense of Lessee. Any sum or sums so paid by Lessee, together with interest at the rate of eighteen percent (18%) per annum, and all costs and damages shall be deemed to be additional rent hereunder immediately due and payable by Lessee to Lessor.

11.4 Nonwaiver of Default. The subsequent acceptance of Rent hereunder by Lessor shall not be deemed a waiver of any preceding breach of any obligation by Lessee hereunder (other than Lessee's failure to pay the particular rental so accepted), and the waiver of any breach of any covenant or condition by Lessor shall not constitute a waiver of any other breach regardless of knowledge thereof.

ARTICLE XII

Options

12.1 Options. The option to renew the Lease granted to Lessee pursuant to Section 1.3 and the option to purchase the Property pursuant to Section 12.2 shall not be assignable without Lessor's prior written consent; provided, however, Lessee shall have the right to assign the purchase option set forth in Section 12.2 to Provalus without obtaining Lessor's prior written consent.

12.2 Purchase Option

(a) Grant. Lessor hereby grants to Lessee the option to purchase the Property upon terms and conditions set forth in this Section 12.2 (the "**Purchase Option**"). The Purchase Option shall be exercisable from the Commencement Date until May 31, 2027. The Purchase Option shall be exercised by Lessee's delivering to Lessor written notice of Lessee's intent to exercise the Purchase Option ("**Option Exercise Notice**").

(b) Purchase Price. If Lessee elects to exercise the Purchase Option, Lessor and Lessee agree the purchase price (the "**Purchase Price**") shall be calculated as follows:

i. Lessor agrees the Purchase Price will be Lessor's initial investment of Lessor's in the Property (including any fees, closing costs, commissions, and other costs incurred by Lessor to acquire the Property and provide to Lessee) plus its

additional Property expenses (including any/all costs associated with site preparation, planning and engineering, and construction). If the parties have not agreed in writing as to the Purchase Price of the Property by the date that is sixty (60) days after Lessor's receipt of the Option Exercise Notice (the "**Purchase Price Determination Trigger Date**"), then the Parties shall use the following procedure in order to determine the Fair Market Rental Value of the Premises:

ii. Within five business (5) days after the Purchase Price Determination Trigger Date, the parties shall submit the issue of determining the Purchase Price to a qualified appraiser, mutually selected by Lessor and Lessee, who shall be a certified M.A.I. appraiser in good standing and shall have had at least ten (10) years of experience in appraising commercial real estate in Oklahoma. Concurrently with the appraiser's selection, Lessor and Lessee shall submit to the appraiser in writing their respective determinations of the Purchase Price.

iii. In the event Lessor and Lessee are unable to agree on a qualified appraiser within such five (5) day period, each party shall select its own qualified appraiser satisfying the requirements for an appraiser as set forth above within five (5) days thereafter and the two (2) qualified appraisers shall select a third (3rd) qualified appraiser satisfying the requirements for an appraiser as set forth above within five (5) days thereafter. Within ten (10) days after selection of the appraiser agreed upon by Lessor and Lessee, or the third (3rd) qualified appraiser, as the case may be, such appraiser shall determine the Purchase Price, and in determining such Purchase Price, the appraiser shall take into consideration the terms in this Lease relating to payment of Base Rent or otherwise and instructions to that effect shall be given to the appraiser. All costs associated with the appraisal(s) shall be borne equally by Lessor and Lessee.

(c) Exercise. If Lessee does exercise its Purchase Option, the date on which the Purchase Price is determined shall be deemed the "**Option Exercise Date**". As soon as reasonably practicable, but in no event more than fifteen (15) days from the Option Exercise Date, the parties agree to enter into a contract of sale of real estate with the earnest money deposit equal to one percent (1%) of the Purchase Price, a sixty (60) day due diligence and inspections period and a closing date fifteen (15) days after the expiration of such due diligence and inspections period. The contract shall contain terms, conditions and provisions set forth in this Section 12.2 and as are customary for commercial real estate transactions in Cherokee County, Oklahoma.

(e) Lessee's Default; Lessor's Remedies. In the event that Lessee, having exercised the Purchase Option (barring any rightful rescission thereof) fails to consummate its purchase of the Property, the contract described in (c) above shall contain remedies for Lessor that are customary for commercial real estate transactions in the State of Oklahoma. Under no circumstances whatsoever shall Lessee be released from its obligations under this Lease once it has exercised the Purchase Option. If Lessee consummates its purchase of the Property, then this Lease shall terminate as of the date of closing of the purchase. If Lessee fails to consummate its purchase of the Property, this Lease shall continue in full

force and effect, and Lessee shall perform all of its obligations under the Lease until the expiration of the Term.

ARTICLE XIII

Miscellaneous

13.1 Incorporation of Recitals. The Recitals to this Agreement are incorporated into and shall constitute a part of this Lease.

13.2 Time is of the Essence. Time is of the essence in this Lease and all provisions hereof.

13.3 Holding Over. Any holding over after the expiration of the Term, with the consent of Lessor, shall be construed to be a tenancy from month to month, and shall be on the terms and conditions herein specified, so far as applicable but Base Rent shall be equal to one hundred fifty percent (150%) of that payable at the expiration of this Lease.

13.4 Furniture and Fixtures. All furniture, fixtures and equipment placed in the Premises by Lessee shall remain the property of Lessee, subject to the rights of Lessor as provided by law or this Lease. Lessee may, at the expiration of the term of this Lease, remove such furniture, fixtures and equipment if removal is done so as not to damage the Premises, provided that there are no current defaults in the obligations of Lessee under this Lease which would entitle Lessor to a lien on such furniture, fixtures and equipment.

13.5 No Brokers. Lessor and Lessee each represent and warrant one to the other that neither of them has employed any other broker, realtor or agent in connection with the negotiations of the terms of this Lease or the execution thereof. Lessor and Lessee hereby agree to indemnify and to hold each other harmless against any loss, expense or liability with respect to any claims for commissions or brokerage fees arising from or out of any breach of the foregoing representation and warranty.

13.6 Confidentiality. Lessee acknowledges that the terms and conditions of this Lease are to remain confidential, and may not be disclosed by Lessee to anyone, by any manner or means, directly or indirectly, without Lessor's prior written consent; provided, however, Lessee may disclose the terms and conditions of this Lease if required by law or court order, and to its attorneys, accountants, lenders, brokers, employees and existing or prospective financial partners provided same are advised by Lessee of the confidential nature of such terms and conditions and agree to maintain the confidentiality thereof (in each case, prior to disclosure). Lessee shall be liable for any disclosures made in violation of this Section 13.6 by Lessee or by any entity or individual to whom the terms of and conditions of this Lease were disclosed or made available by Lessee. The consent by Lessor to any disclosures shall not be deemed to be a waiver on the part of Lessor of any prohibition against any future disclosure.

13.7 Rules and Regulations. Lessee and its directors, trustees, officers, employees,

agents, representatives, guests and invitees shall observe faithfully and comply with any and all rules and regulations, if any, governing the Premises, which may be prescribed from time to time by Lessor, in Lessor's reasonable discretion. Lessor agrees to provide a copy of any rules and regulations to Lessee upon their adoption by Lessor, including any amendments or modifications thereto. Upon receipt of such rules and regulations, or amendments or modifications, thereto, Lessee agrees to carry out, observe and comply with the same.

13.8 Force Majeure. Whenever a period of time is herein prescribed for action to be taken by Lessor or Lessee, Lessor or Lessee shall not be liable or responsible for and there shall be excluded from the computation of any such period of time, any delays due to Force Majeure Events. As used herein, the term "**Force Majeure Events**" means actual delays caused by unusually adverse weather conditions, fire, or other acts of God, strikes, lockouts, pandemics, epidemics, acts of public enemy, riots or insurrections, war or any other unforeseen circumstances or events beyond the control of Lessor or Lessee (except financial circumstances or events or matters which may be resolved by the payment of money); provided, however, no delay shall suspend or abate any obligation of Lessee to pay Base Rent, Additional Rent or any other sums due from Lessee under this Lease.

13.9 Limitation on Lessor's Liability. Lessee agrees that it shall look only to the Premises in seeking to enforce any obligations or liabilities whatsoever of Lessor under this Lease or to satisfy a judgment (or any other charge, directive or order) of any kind against Lessor. Lessee shall not look to the property or assets of any of the members, managers, officers, employees, agents or representatives of Lessor in seeking to enforce any obligations or liabilities whatsoever of Lessor under this Lease or to satisfy a judgment (or any other charge, directive or order) of any kind against Lessor, and in no event shall any deficiency judgment be sought or obtained against Lessor. No person or legal entity who or which is a member, manager, officer, employee, agent or representative of Lessor shall be personally liable for any obligations or liabilities of Lessor under this Lease. Lessor shall in no event ever be liable for any punitive damages, consequential damages, special damages or business losses.

13.10 Lessor's Performance of Lessee's Obligations. The performance by Lessor of any obligation required of Lessee under this Lease shall not be construed to modify this Lease, nor shall it create any obligation on the part of Lessor with respect to any performance required of Lessee under this Lease, whether Lessor's performance was undertaken with the knowledge that Lessee was obligated to perform, or whether Lessor's performance was undertaken as a result of mistake or inadvertence.

13.11 Relationship of Parties. The relationship of the parties hereto is strictly that of Lessor and Lessee; Lessor has no ownership in Lessee's enterprise and this Lease shall not be construed as a joint venture or partnership. Lessee is not and shall not be deemed to be an agent or representative of Lessor.

13.12 Notices. All notices to be given hereunder shall be in writing, deposited in the United States mail, certified or registered, with postage prepaid, or sent by overnight delivery, and addressed as follows:

If to Lessor: Cherokee Nation Property Management, LLC
777 W. Cherokee St.
Catoosa, OK 74105
Attn: Chuck Garrett, Manager
Email: chuck.garrett@cn-bus.com

With a copy to: Brian Hunt and Jan Eames
Cherokee Nation Property Management, LLC
777 W. Cherokee St.
Catoosa, OK 74105
Phone: (918) 439-6546
Email: brian.hunt@cn-bus.com and jan.eames@cn-bus.com

If to Lessee: Tahlequah Regional Development Authority
111 S. Cherokee Ave.
Tahlequah, OK 74464
Attn: Nathan Reed
Phone: 918-316-0083
Email: nathan@tahlequahchamber.com

Notices shall be deemed delivered one (1) day after deposited in the United States mail or with such overnight courier, as above provided. Change of address by either party must be by notice to the other in the same manner as above specified.

13.13 Captions. The captions in this Lease are for convenience only and shall not in any way limit or be utilized to construe or interpret the terms and provisions hereof.

13.14 Applicable Law. This Lease shall be construed and enforced in accordance with the laws of the State of Oklahoma. All disputes arising under this Lease shall be adjudicated in the courts of sitting in Cherokee County, Oklahoma, and in furtherance of this provision the parties hereby waive any objection to such jurisdiction and venue.

13.15 Binding Effect. All the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the respective heirs, executors, administrators, successors and assigns of the parties hereto; provided that nothing in this Section 13.15 shall be deemed to permit any assignment, subletting, occupancy or use contrary to any other provisions hereof.

13.16 Entire Agreement. This Lease and the covenants and conditions contained herein represent the full and complete agreement of the parties hereto, and neither this Lease, nor any of its provisions, may be modified except by a written instrument signed by both parties hereto.

13.17 Attorney Fees. In the event any dispute between the parties results in litigation to enforce the terms of this Lease, the prevailing party in litigation shall be entitled, in addition to all

other remedies provided under this Lease or by law, to recover from the non-prevailing party any and all costs and expenses, including, without limitation, reasonable attorney fees.

13.18 Interpretation. In interpreting any provision of this Lease, no weight shall be given to nor shall any construction or interpretation be influenced by the fact that counsel of one of the parties drafted this Lease, each party recognizing that it and its own counsel have had an opportunity to review this Lease, and have contributed to the final form of this Lease.

13.19 No Recordation. Lessee's recordation of this Lease or any memorandum or short form of it will be void and a default under this Lease unless with Lessor's consent.

13.20 Authority. Lessor and Lessee have the legal right, power and authority to enter into this Lease. Each party's execution, delivery and performance of this Lease has been duly authorized, and no other action is requisite to the valid and binding execution, delivery and performance of this Lease, except as expressly set forth herein.

13.21 Counterparts. This Lease may be executed and delivered in any number of counterparts, with the same effect as if all parties had signed and delivered the same document, and all counterparts shall be construed together to be an original and will constitute one and the same agreement. To the maximum extent permitted by applicable law, this Lease, any resolutions, and any document, instrument, agreement, certificate, or other item that can be reduced to paper format may be executed by means of an electronic signature, including facsimile, .PDF, DocuSign or comparable software, and other similar means to become available in the future, all of which "signatures" shall have the same force and effect as an originally executed version hereof.

[The remainder of this page is blank; signature page follows.]

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Lease as of the Effective Date.

"Lessor"

Cherokee Nation Property Management, LLC, a Cherokee Nation limited liability company

DocuSigned by:
By: Chuck Garrett
93F2A78976A248F
Printed Name: Chuck Garrett
Title: CEO

"Lessee"

Tahlequah Regional Development Authority, a public trust of the State of Oklahoma

By: Josh Hutchins
Printed Name: Josh Hutchins
Title: Chairman

Exhibit "A"

Lots 10, 11, 12 and 13 in Block 56, in the City of Tahlequah, Oklahoma, according to the recorded Plat thereof, Cherokee County, Oklahoma, and commonly known as 106 W. Shawnee St., 112 W. Shawnee St., 201 N. Muskogee Ave. and 203 N. Muskogee Ave., all in Tahlequah, Oklahoma.

Exhibit "B"

Premises - 106 W Shawnee, Phase I

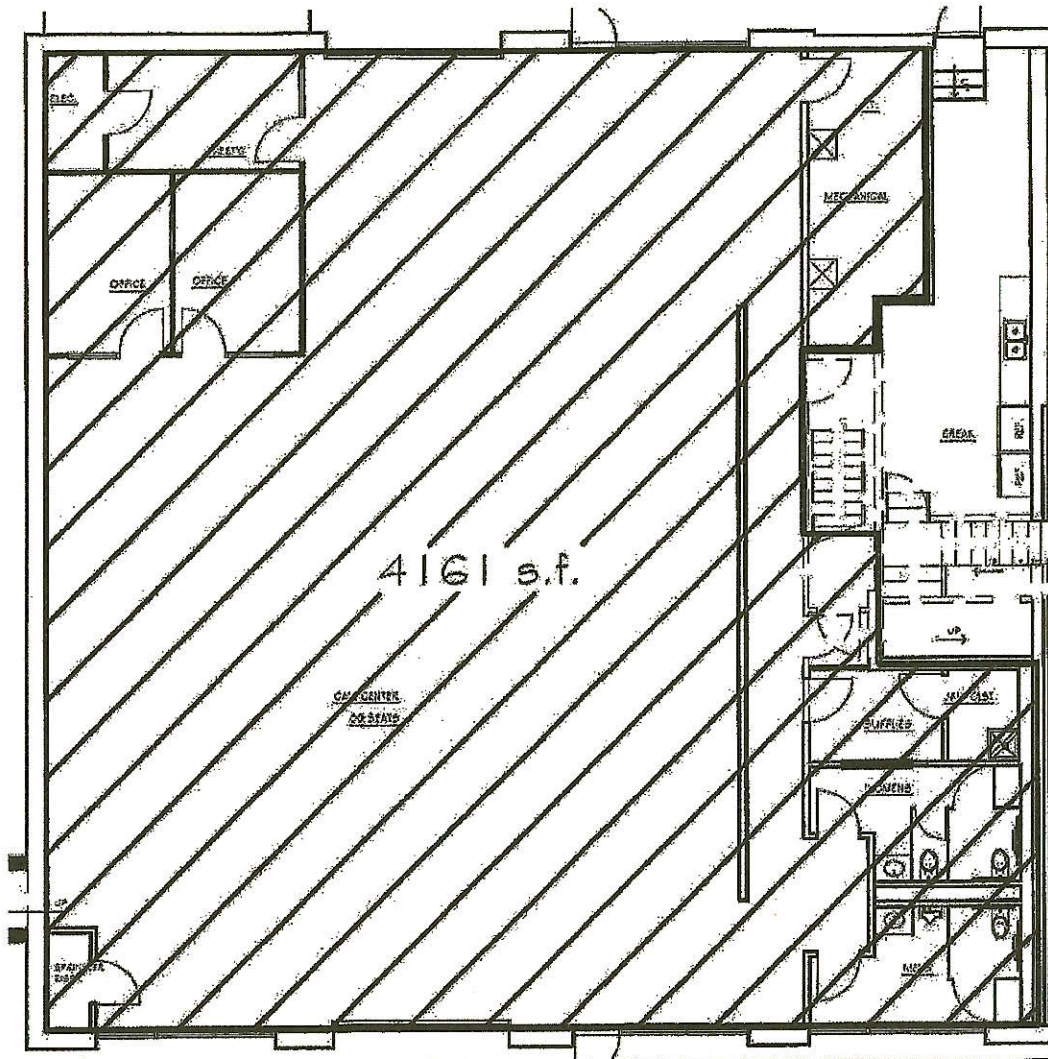
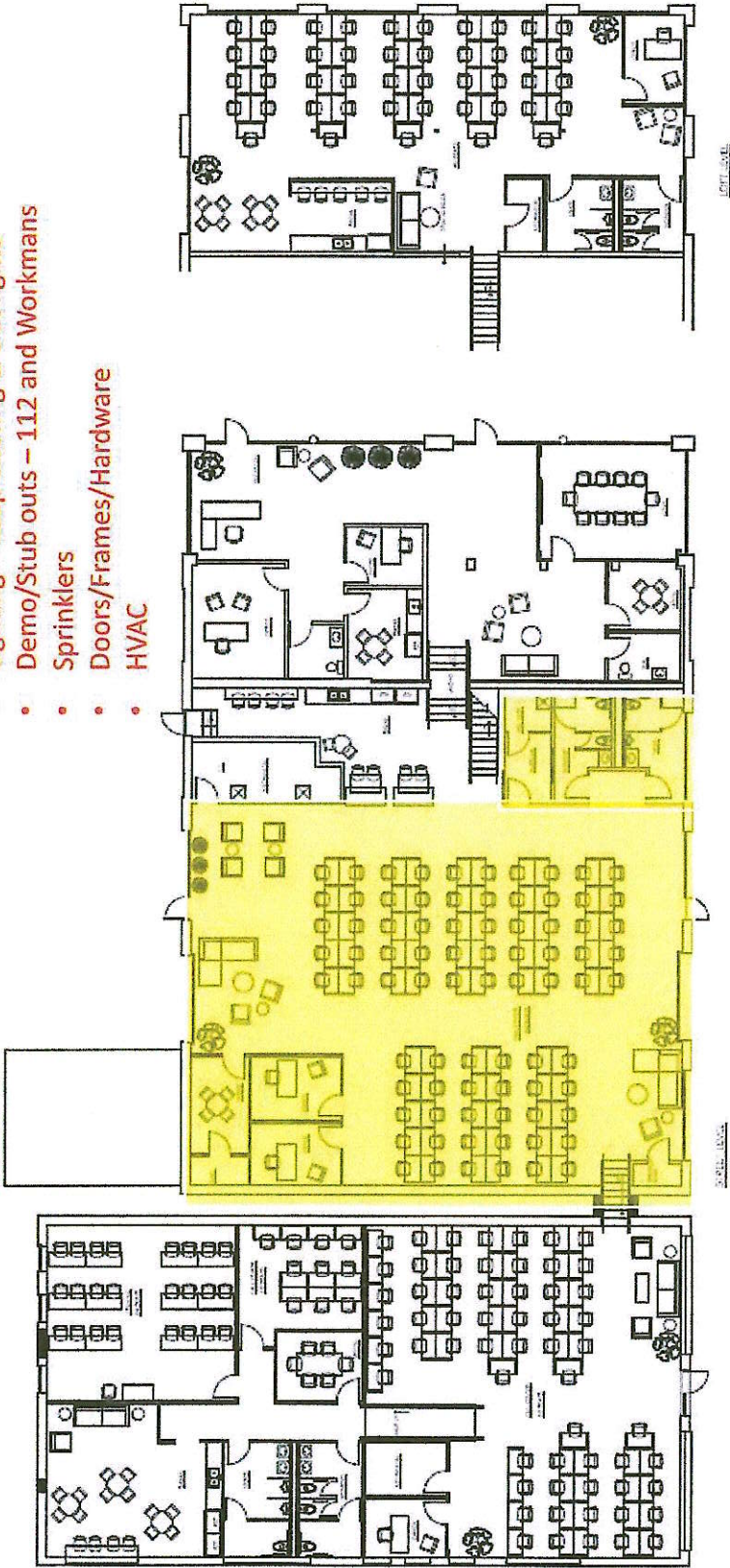


Exhibit C – Work Letter (Phase I)

PRELIMINARY CONCEPT DESIGN - NOT FOR CONSTRUCTION

Need plan details on:

- Flooring – *Need specs*
- Power with pony wall & IT closet/minisplit
- Low Voltage – Cat 6 every chair = 80+ (*Need cube specs*)
- Walls – *Need paint specs "passive gray"*
- Lighting – keep existing & exit lights
- Demo/Stub outs – 112 and Workmans
- Sprinklers
- Doors/Frames/Hardware
- HVAC



PRELIMINARY DESIGN FLOOR PLANS
DATE: 10/1/12

These plans are preliminary and are not to be used for construction. They are for informational purposes only. The owner is responsible for obtaining all necessary permits and approvals. The architect is not responsible for any errors or omissions in these plans.

TAHLEQUAH REG. DEVELOP. AUTHORITY
PROVALUS PROJECT
201 & 203 N. MUSKOGEE AVE. 106 & 112 W. SHAWNEE
TAHLEQUAH, OK

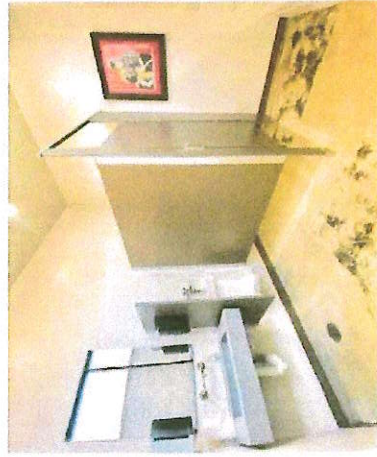
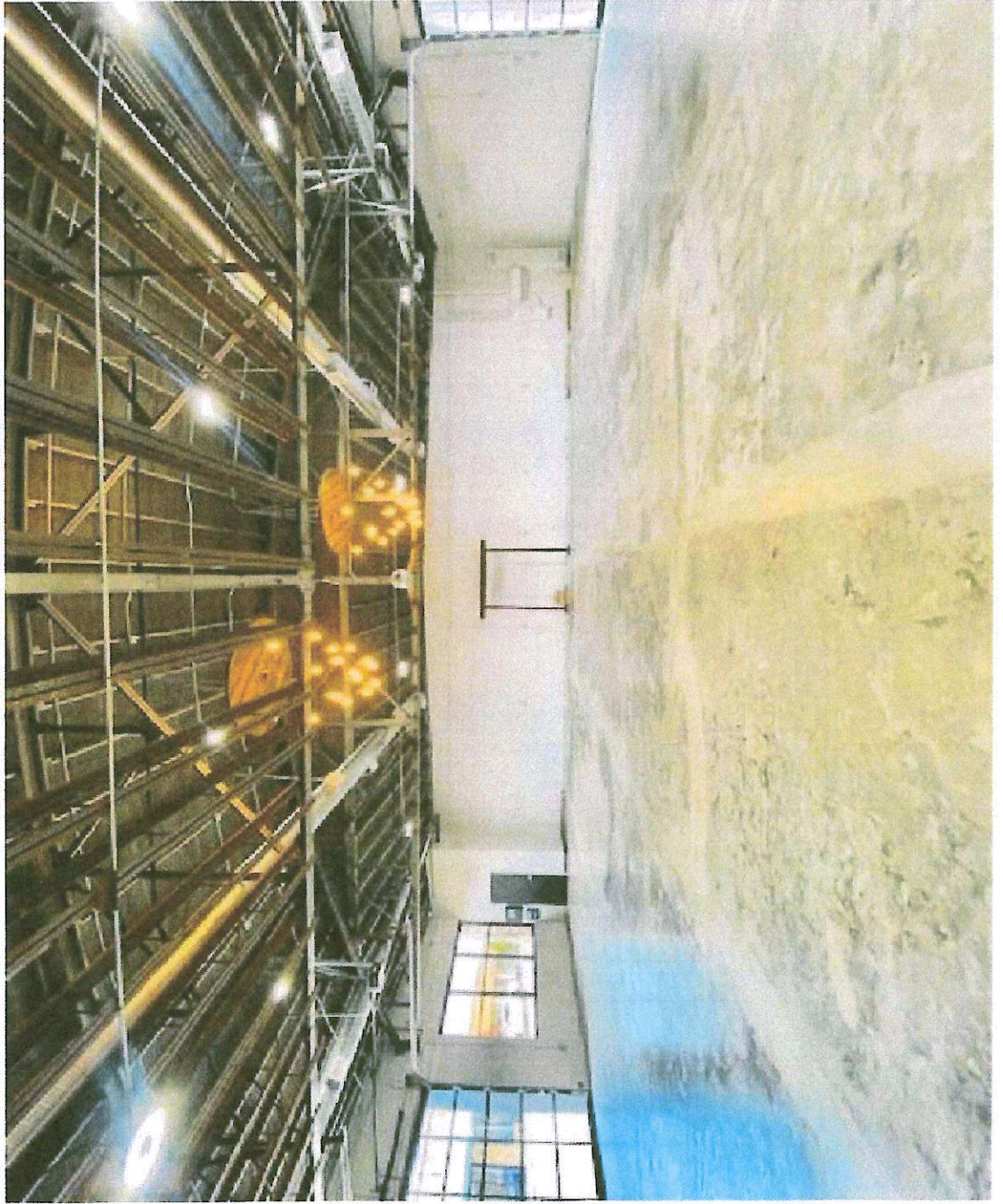
DESIGN FIRM: CEE
INTERIOR SPACES
DESIGN STUDIO, INC.
MARTINA GARDNER
OKLAHOMA REGISTERED
INTERIOR DESIGNER # 5493

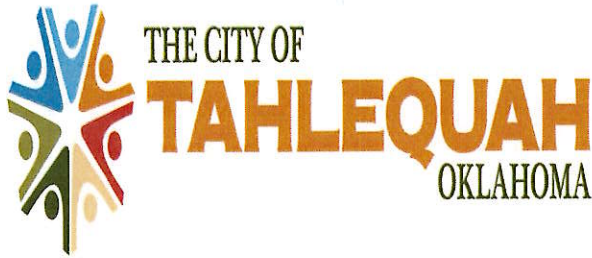
DATE: MARCH 7, 2013

SHEET: PRELIMINARY DESIGN PHASE

REVISIONS:

Exhibit C – Work Letter (Existing Conditions)





Tahlequah City Council AGENDA ITEM REPORT

Item No. (15)

Meeting Date 7-3-2023

Initiator Nathan Reed

Office/Department: Tahlequah Regional Development Authority

Item Title

Consider approval of a loan with Local Bank in relation to the Economic Development Agreement and incentives provided to Optomi, LLC.

Background

The loan has been approved by TRDA Board of Trustees. The funds will be used for purchase and renovation of structures in downtown Tahlequah to locate 250+ new jobs in the community.

Exhibits

Exhibit 1 – Promissory Note and Mortgage documents

Founding Source

Cash on Hand

Request

Approve the loan for TRDA to incur debt.

FirsTitle & Abstract Services, LLC
ALTA Universal ID: 0002392
316 S Cherokee Ave
Tahlequah, OK 74464

File No./Escrow No. : 657167
 Print Date & Time: June 26, 2023 2:57 pm
 Officer/Escrow Officer : Rhonda Sams
 Settlement Location : 316 S Cherokee Ave
 Tahlequah, OK 74464

Property Address: 235 N Muskogee Avenue
 Tahlequah, OK 74464

Borrower: Tahlequah Regional Development Authority
 123 E Delaware St
 Tahlequah, OK 74464

Lender: Local Bank

Settlement Date: July 05, 2023
 Disbursement Date: July 05, 2023

Seller		Description	Borrower	
Debit	Credit		Debit	Credit
		Financial		
		Loan Amount		1,504,801.92
		Loan Charges to Local Bank		
		Appraisal	250.00	
		Doc Prep	350.00	
		Flood Cert	15.50	
		Title Charges and Escrow/Settlement Charges		
		Attorney's Exam to RAV	250.00	
		FCC to FirsTitle & Abstract Services, LLC	80.00	
		Final Search to Smith Brothers Abstract of Tahlequah	200.00	
		Lender's Title Insurance to FirsTitle & Abstract Services, LLC Coverage: 1,504,801.92 Premium: 2,946.46	2,946.46	
		Title Service Fee to FirsTitle & Abstract Services, LLC	350.00	
		Government Recording and Transfer Charges		

Seller		Description	Borrower	
Debit	Credit		Debit	Credit
		Government Recording and Transfer Charges (continued)		
		Recording Fees to County Clerk	34.00	
		File Mtg to County Clerk	34.00	
		File Release to County Clerk	18.00	
		Future Releases FBO - Cherokee County Clerk to Local Bank	20.00	
		Mtg tax & Cert Fee to County Treasurer	305.96	
		Transfer Tax to County Treasurer	305.96	
		Miscellaneous		
		HELOC holdback to Local Bank	1,500,000.00	
Seller			Borrower	
Debit	Credit		Debit	Credit
		Subtotals	1,505,159.88	1,504,801.92
		Due from Borrower		357.96
0.00	0.00	Totals	1,505,159.88	1,505,159.88

Acknowledgement

We/I have carefully reviewed the ALTA Settlement Statement and find it to be a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction and further certify that I have received a copy of the ALTA Settlement Statement. We/I authorize FirsTitle & Abstract Services, LLC to cause the funds to be disbursed in accordance with this statement.

Borrower

Tahlequah Regional Development Authority

BY: _____

Josh Hutchins
Trustee Chairman

Rhonda Sams
Escrow Officer

CERTIFICATE OF MAYOR AND CITY CLERK OF
THE CITY OF TAHLEQUAH

I, Suzanne Myers, Mayor and Whitney Shaw, City Clerk, of the City of Tahlequah, an Oklahoma Municipality, organized and existing under the laws of the State of Oklahoma, (hereinafter the "City") do hereby certify that the City Council of the City at a legal duly called meeting on _____, 2023, adopted the following resolution:

IN WITNESS WHEREOF, we have hereunto set our hands of this
this _____ day of _____, 2023.

Suzanne Myers, Mayor

Whitney Shaw, City Clerk
(SEAL)

CERTIFICATE OF PRESIDENT AND SECRETARY OF
TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY

I, Josh Hutchins, President and _____, Secretary of Tahlequah Regional Development Authority, an Oklahoma Public Trust, organized and existing under the laws of the State of Oklahoma, (hereinafter the "Trust") do hereby certify that the Trustees of the Trust at a legal duly called meeting on July __, 2023, adopted the following resolution:

IN WITNESS WHEREOF, we have hereunto set our hands of this
this ____ day of _____, 2023.

Josh Hutchins, Chairman

(SEAL) ' Secretary

<u>TAHLEQUAH REGIONAL</u> <u>DEVELOPMENT AUTHORITY</u> <u>111 S CHEROKEE</u> <u>TAHLEQUAH, OK 74464</u> BUYER'S NAME AND ADDRESS "You" means each buyer named above.	Local Bank Plaza Branch 125 E First St Tahlequah, OK 74464 LENDER'S NAME AND ADDRESS "We" means the lender named above.	Date: <u>07/05/2023</u> Identifying Information: <u>235 N</u> <u>MUSKOGEE AVE, TAHLEQUAH, OK</u> <u>74464</u>
---	--	--

NOTICE REGARDING TITLE PROTECTION DOCUMENTS

With respect to the loan for which you are applying, we intend to obtain the following title protection document(s):

☐ Attorney's Title Opinion Letter ☒ Title Insurance Policy ☐ _____

Any title protection document(s) we obtain ☐ will ☒ will not provide protection to you. You should seek independent, competent advice as to whether you should obtain any additional title protection document(s). In the event you desire additional title protection, you must obtain it in a timely manner in order to avoid undue delay of the closing under the terms of the contract of sale and such additional protection will be at your expense.

By signing below, you acknowledge receipt of a copy of this notice on the above date.

 JOSH HUTCHINS, TRUSTEE CHAIRMAN

 PAUL MUTZIG, ATTEST: SECRETARY

 (Buyer)

 (Buyer)

 (SEAL OF THE TRUST)

LOAN NUMBER	LOAN NAME	ACCT. NUMBER	NOTE DATE	INITIALS
3051745	TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY	T0004321	07/05/23	DCS
NOTE AMOUNT	INDEX (w/Margin)	RATE	MATURITY DATE	LOAN PURPOSE
\$1,504,801.92	Not Applicable	4.490%	07/15/24	Commercial
Creditor Use Only				

PROMISSORY NOTE

(Commercial - Draw)

DATE AND PARTIES. The date of this Promissory Note (Note) is July 5, 2023. The parties and their addresses are:

LENDER:

LOCAL BANK
Plaza Branch
125 E First St
Tahlequah, OK 74464
Telephone: 918-456-3900

BORROWER:

TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY
an Oklahoma Public Trust
111 S CHEROKEE
TAHLEQUAH, OK 74464

1. DEFINITIONS. As used in this Note, the terms have the following meanings:

- A. Pronouns.** The pronouns "I," "me," and "my" refer to each Borrower signing this Note and each other person or legal entity (including guarantors, endorsers, and sureties) who agrees to pay this Note. "You" and "Your" refer to the Lender, any participants or syndicators, successors and assigns, or any person or company that acquires an interest in the Loan.
- B. Note.** Note refers to this document, and any extensions, renewals, modifications and substitutions of this Note.
- C. Loan.** Loan refers to this transaction generally, including obligations and duties arising from the terms of all documents prepared or submitted for this transaction such as applications, security agreements, disclosures or notes, and this Note.
- D. Loan Documents.** Loan Documents refer to all the documents executed as a part of or in connection with the Loan.
- E. Property.** Property is any property, real, personal or intangible, that secures my performance of the obligations of this Loan.
- F. Percent.** Rates and rate change limitations are expressed as annualized percentages.
- G. Dollar Amounts.** All dollar amounts will be payable in lawful money of the United States of America.

2. PROMISE TO PAY. For value received, I promise to pay you or your order, at your address, or at such other location as you may designate, amounts advanced from time to time under the terms of this Note up to the maximum total principal balance of **\$1,504,801.92 (Principal)**, plus interest from the date of disbursement, on the unpaid outstanding Principal balance until this Note is paid in full and you have no further obligations to make advances to me under the Loan.

3. ADVANCES. Advances under this Note are made according to the following terms and conditions.

- A. Requests for Advances.** My requests are a warranty that I am in compliance with all the Loan Documents. When required by you for a particular method of advance, my requests for an advance must specify the requested amount and the date and be accompanied with any agreements, documents, and instruments that you require for the Loan. Any payment by you of any check, share draft or other charge may, at your option, constitute an advance on the Loan to me. All advances will be made in United States dollars. I will indemnify you and hold you harmless for your reliance on any request for advances that you reasonably believe to be genuine. To the extent permitted by law, I will indemnify you and hold you harmless when the person making any request represents that I authorized this person to request an advance even when this person is unauthorized or this person's signature is not genuine.

I or anyone I authorize to act on my behalf may request advances by the following methods.

- (1) I make a request in person.
- (2) I make a request by phone.
- (3) I make a request by mail.
- (4) I make a request by email.

B. Advance Limitations. In addition to any other Loan conditions, requests for, and access to, advances are subject to the following limitations.

- (1) Discretionary Advances. You will make all Loan advances at your sole discretion.
- (2) Advance Amount. Subject to the terms and conditions contained in this Note, advances will be made in exactly the amount I request.
- (3) Disbursement of Advances. On my fulfillment of this Note's terms and conditions, you will disburse the advance in any manner as you and I agree.
- (4) Credit Limit. I understand that you will not ordinarily grant a request for an advance that would cause the unpaid principal of my Loan to be greater than the Principal limit. You may, at your option, grant such a request without obligating yourselves to do so in the future. I will pay any overadvances in addition to my regularly scheduled payments. I will repay any overadvance by repaying you in full within days after the overadvance occurs.
- (5) Records. Your records will be conclusive evidence as to the amount of advances, the Loan's unpaid principal balances and the accrued interest.

4. **INTEREST.** Interest will accrue on the unpaid Principal balance of this Note at the rate of **4.490 percent (Interest Rate).**

A. Post-Maturity Interest. After maturity or acceleration, interest will accrue on the unpaid Principal balance of this Note at the Interest Rate in effect from time to time, until paid in full.

B. Maximum Interest Amount. Any amount assessed or collected as interest under the terms of this Note will be limited to the maximum lawful amount of interest allowed by applicable law. Amounts collected in excess of the maximum lawful amount will be applied first to the unpaid Principal balance. Any remainder will be refunded to me.

C. Accrual. Interest accrues using an Actual/365 days counting method.

5. **ADDITIONAL CHARGES.** As additional consideration, I agree to pay, or have paid, the fees and charges listed on the APPENDIX: FEES AND CHARGES, which is attached to and made part of this Note.

6. **REMEDIAL CHARGES.** In addition to interest or other finance charges, I agree that I will pay these additional fees based on my method and pattern of payment. Additional remedial charges may be described elsewhere in this Note.

A. Late Charge. If a payment is more than 10 days late, I will be charged 4.000 percent of the Amount of Payment. However, this charge will not be greater than \$25.00. I will pay this late charge promptly but only once for each late payment.

7. **PAYMENT.** I agree to pay this Note on demand, but if no demand is made, I agree to pay this Note in installments of accrued interest beginning August 15, 2023, and then on the 15th day of each month thereafter. I agree to pay the entire unpaid Principal and any accrued but unpaid interest on July 15, 2024.

Payments will be rounded to the nearest \$.01. With the final payment I also agree to pay any additional fees or charges owing and the amount of any advances you have made to others on my behalf. Payments scheduled to be paid on the 29th, 30th or 31st day of a month that contains no such day will, instead, be made on the last day of such month.

Each payment I make on this Note will be applied first to interest that is due, then to principal that is due, then to late charges that are due, then to escrow that is due, and finally to any charges that I owe other than principal and interest. If you and I agree to a different application of payments, we will describe our agreement on this Note. You may change how payments are applied in your sole discretion without notice to me. The actual amount of my final payment will depend on my payment record.

8. **PREPAYMENT.** I may prepay this Loan in full or in part at any time. Any partial prepayment will not excuse any later scheduled payments until I pay in full.

9. **LOAN PURPOSE.** This is a business-purpose loan transaction.

10. **ADDITIONAL TERMS.** LOAN STRUCTURE: Straight line of credit in the amount of \$1,500,000 plus closing costs at a fixed rate of 4.49% fixed for 12 months. At maturity date of 06/01/2024 the loan will convert to 300 monthly principal and interest payments at a rate of 5.59%, fixed for 5 years.

11. **SECURITY.** The Loan is secured by separate security instruments prepared together with this Note as follows:

Document Name	Parties to Document	Date of Security Document
Mortgage - 235 N MUSKOGEE AVE, TAHLEQUAH, OK 74464	TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY	07/05/2023

12. **DEFAULT.** I understand that you may demand payment anytime at your discretion. For example, you may demand payment in full if any of the following events (known separately and collectively as an Event of Default) occur:

A. Payments. I fail to make a payment in full when due.

B. Insolvency or Bankruptcy. The death, dissolution or insolvency of, appointment of a receiver by or on behalf of, application of any debtor relief law, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against me or any co-signer, endorser, surety or guarantor of this Note or any other obligations I have with you.

C. Failure to Perform. I fail to perform any condition or to keep any promise or covenant of this Note.

D. Other Documents. A default occurs under the terms of any other Loan Document.

E. Other Agreements. I am in default on any other debt or agreement I have with you.

F. Misrepresentation. I make any verbal or written statement or provide any financial information that is untrue, inaccurate, or conceals a material fact at the time it is made or provided.

G. Judgment. I fail to satisfy or appeal any judgment against me.

H. Forfeiture. The Property is used in a manner or for a purpose that threatens confiscation by a legal authority.

I. Name Change. I change my name or assume an additional name without notifying you before making such a change.

J. Property Transfer. I transfer all or a substantial part of my money or property.

K. Property Value. You determine in good faith that the value of the Property has declined or is impaired.

L. Insecurity. You determine in good faith that a material adverse change has occurred in my financial condition from the conditions set forth in my most recent financial statement before the date of this Note or that the prospect for payment or performance of the Loan is impaired for any reason.

13. **DUE ON SALE OR ENCUMBRANCE.** You may, at your option, declare the entire balance of this Note to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law, as applicable.

14. **WAIVERS AND CONSENT.** To the extent not prohibited by law, I waive protest, presentment for payment, demand, notice of acceleration, notice of intent to accelerate and notice of dishonor.

A. Additional Waivers By Borrower. In addition, I, and any party to this Note and Loan, to the extent permitted by law, consent to certain actions you may take, and generally waive defenses that may be available based on these actions or based on the status of a party to this Note.

(1) You may renew or extend payments on this Note, regardless of the number of such renewals or extensions.

(2) You may release any Borrower, endorser, guarantor, surety, accommodation maker or any other co-signer.

(3) You may release, substitute or impair any Property securing this Note.

(4) You, or any institution participating in this Note, may invoke your right of set-off.

(5) You may enter into any sales, repurchases or participations of this Note to any person in any amounts and I waive notice of such sales, repurchases or participations.

(6) I agree that any of us signing this Note as a Borrower is authorized to modify the terms of this Note or any instrument securing, guarantying or relating to this Note.

B. No Waiver By Lender. Your course of dealing, or your forbearance from, or delay in, the exercise of any of your rights, remedies, privileges or right to insist upon my strict performance of any provisions contained in this Note, or any other Loan Document, shall not be construed as a waiver by you, unless any such waiver is in writing and is signed by you.

15. REMEDIES. After I default, you may at your option do any one or more of the following.

A. Acceleration. You may make all or any part of the amount owing by the terms of this Note immediately due. This remedy is subject to my limited right to cure certain defaults and to receive any notice informing me of such a right under 46 OSA 44.

B. Sources. You may use any and all remedies you have under state or federal law or in any Loan Document.

C. Insurance Benefits. You may make a claim for any and all insurance benefits or refunds that may be available on my default.

D. Payments Made On My Behalf. Amounts advanced on my behalf will be immediately due and may be added to the balance owing under the terms of this Note, and accrue interest at the highest post-maturity interest rate.

E. Termination. You may terminate my rights to obtain advances or other extensions of credit by any of the methods provided in this Note.

F. Set-Off. You may use the right of set-off. This means you may set-off any amount due and payable under the terms of this Note against any right I have to receive money from you.

My right to receive money from you includes any deposit or share account balance I have with you; any money owed to me on an item presented to you or in your possession for collection or exchange; and any repurchase agreement or other non-deposit obligation. "Any amount due and payable under the terms of this Note" means the total amount to which you are entitled to demand payment under the terms of this Note at the time you set-off.

Subject to any other written contract, if my right to receive money from you is also owned by someone who has not agreed to pay this Note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement.

Your right of set-off does not apply to an account or other obligation where my rights arise only in a representative capacity. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set-off against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right of set-off.

G. Waiver. Except as otherwise required by law, by choosing any one or more of these remedies you do not give up your right to use any other remedy. You do not waive a default if you choose not to use a remedy. By electing not to use any remedy, you do not waive your right to later consider the event a default and to use any remedies if the default continues or occurs again.

16. COLLECTION EXPENSES AND ATTORNEYS' FEES. On or after the occurrence of an Event of Default, to the extent permitted by law, I agree to pay all expenses of collection, enforcement or protection of your rights and remedies under this Note or any other Loan Document. Expenses include, but are not limited to, attorneys' fees, court costs and other legal expenses. These expenses are due and payable immediately. If not paid immediately, these expenses will bear interest from the date of payment until paid in full at the highest interest rate in effect as provided for in the terms of this Note. All fees and expenses will be secured by the Property I have granted to you, if any. In addition, to the extent permitted by the United States Bankruptcy Code, I agree to pay the reasonable attorneys' fees incurred by you to protect your rights and interests in connection with any bankruptcy proceedings initiated by or against me.

17. COMMISSIONS. I understand and agree that you (or your affiliate) will earn commissions or fees on any insurance products, and may earn such fees on other services that I buy through you or your affiliate.

18. WARRANTIES AND REPRESENTATIONS. I have the right and authority to enter into this Note. The execution and delivery of this Note will not violate any agreement governing me or to which I am a party.

19. INSURANCE. I agree to obtain the insurance described in this Loan Agreement.

A. Property Insurance. I will insure or retain insurance coverage on the Property and abide by the insurance requirements of any security instrument securing the Loan.

B. Flood Insurance. Flood insurance is not required at this time. It may be required in the future should the property be included in an updated flood plain map. If required in the future, I may obtain flood insurance from anyone I want that is reasonably acceptable to you.

C. Insurance Warranties. I agree to purchase any insurance coverages that are required, in the amounts you require, as described in this or any other documents I sign for the Loan. I will provide you with continuing proof of coverage. I will buy or provide insurance from a firm licensed to do business in the State where the Property is located. If I buy or provide the insurance from someone other than you, the firm will be reasonably acceptable to you. I will have the insurance company name you as loss payee on any insurance policy. You will apply the insurance proceeds toward what I owe you on the outstanding balance. I agree that if the insurance proceeds do not cover the amounts I still owe you, I will pay the difference. I will keep the insurance until all debts secured by this agreement are paid. If I want to buy the insurance from you, I have signed a separate statement agreeing to this purchase.

20. APPLICABLE LAW. This Note is governed by the laws of Oklahoma, the United States of America, and to the extent required, by the laws of the jurisdiction where the Property is located, except to the extent such state laws are preempted by federal law.

21. JOINT AND SEVERAL LIABILITY AND SUCCESSORS. My obligation to pay the Loan is independent of the obligation of any other person who has also agreed to pay it. You may sue me alone, or anyone else who is obligated on the Loan, or any number of us together, to collect the Loan. Extending the Loan or new obligations under the Loan, will not affect my duty under the Loan and I will still be obligated to pay the Loan. This Note shall inure to the benefit of and be enforceable by you and your successors and assigns and shall be binding upon and enforceable against me and my successors and assigns.

22. AMENDMENT, INTEGRATION AND SEVERABILITY. This Note may not be amended or modified by oral agreement. No amendment or modification of this Note is effective unless made in writing. This Note and the other Loan Documents are the complete and final expression of the agreement. If any provision of this Note is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable. No present or future agreement securing any other debt I owe you will secure the payment of this Loan if, with respect to this loan, you fail to fulfill any necessary requirements or fail to conform to any limitations of the Truth in Lending Act (Regulation Z) or the Real Estate Settlement Procedures Act (Regulation X) that are required for loans secured by the Property or if, as a result, this Loan would become subject to Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007.

23. INTERPRETATION. Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Note.

24. NOTICE, FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS. Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail or via a nationally recognized overnight courier to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Notice to one Borrower will be deemed to be notice to all Borrowers. I will inform you in writing of any change in my name, address or other application information. I will provide you any correct and complete financial statements or other information you request. I agree to sign, deliver, and file any additional documents or certifications that you may consider necessary to perfect, continue, and preserve my obligations under this Loan and to confirm your lien status on any Property. Time is of the essence.

25. CREDIT INFORMATION. I agree to supply you with whatever information you reasonably request. You will make requests for this information without undue frequency, and will give me reasonable time in which to supply the information.

26. ERRORS AND OMISSIONS. I agree, if requested by you, to fully cooperate in the correction, if necessary, in the reasonable discretion of you of any and all loan closing documents so that all documents accurately describe the loan between you and me. I agree to assume all costs including by way of illustration and not limitation, actual expenses, legal fees and marketing losses for failing to reasonably comply with your requests within thirty (30) days.

27. WAIVER OF JURY TRIAL. All of the parties to this Note knowingly and intentionally, irrevocably and unconditionally, waive any and all right to a trial by jury in any litigation arising out of or concerning this Note or any other Loan Document or related obligation. All of these parties acknowledge that this section has either been brought to the attention of each party's legal counsel or that each party had the opportunity to do so.

28. SIGNATURES. By signing, I agree to the terms contained in this Note. I also acknowledge receipt of a copy of this Note.

BORROWER:

TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY

By _____ Date _____
JOSH HUTCHINS, TRUSTEE CHAIRMAN

(SEAL OF THE TRUST)

By _____ Date _____
PAULA MUTZIG, ATTEST: SECRETARY

APPENDIX: FEES AND CHARGES

As described in the ADDITIONAL CHARGES section of the attached Note, I agree to pay, or have paid these additional fees and charges.

Nonrefundable Fees and Charges. The following fees are earned when collected and will not be refunded if I prepay this Note before the scheduled maturity date.

Title - Title Service Fee. A(n) Title - Title Service Fee fee of \$350.00 payable from the loan proceeds.
Title - Final Title Search. A(n) Title - Final Title Search fee of \$200.00 payable from the loan proceeds.
Title - FCC. A(n) Title - FCC fee of \$80.00 payable from the loan proceeds.
Transfer Taxes. A(n) Transfer Taxes fee of \$305.96 payable from the loan proceeds.
Recording - Releases. A(n) Recording - Releases fee of \$20.00 payable from the loan proceeds.
Recording - Mortgage. A(n) Recording - Mortgage fee of \$34.00 payable from the loan proceeds.
Lender's Title Insurance. A(n) Lender's Title Insurance fee of \$2,946.46 payable from the loan proceeds.
Flood Certification. A(n) Flood Certification fee of \$15.50 payable from the loan proceeds.
Document Preparation. A(n) Document Preparation fee of \$350.00 payable from the loan proceeds.
Attorneys. A(n) Attorneys fee of \$250.00 payable from the loan proceeds.
Appraisal. A(n) Appraisal fee of \$250.00 payable from the loan proceeds.

Space Above This Line For Recording Data

When recorded return to , Local Bank, 125 E 1st St, Tahlequah, OK 74464

MORTGAGE
(With Future Advance Clause)

DATE AND PARTIES. The date of this Mortgage (Security Instrument) is 07/05/2023. The parties and their addresses are:

MORTGAGOR:
TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY
An Oklahoma Public Trust
111 S CHEROKEE
TAHLEQUAH, OK 74464-0000

LENDER:
LOCAL BANK
Organized and existing under the laws of Oklahoma
Plaza Branch
125 E First St
Tahlequah, OK 74464

1. DEFINITIONS. For the purposes of this document, the following term has the following meaning.

A. Loan. "Loan" refers to this transaction generally, including obligations and duties arising from the terms of all documents prepared or submitted for this transaction.

2. CONVEYANCE. For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debts and Mortgagor's performance under this Security Instrument, Mortgagor does hereby grant, bargain, convey, sell and mortgage to Lender, with the power of sale, the following described property:

LOTS TWO (2), THREE (3), FOUR (4), AND THE NORTH 12.70 FEET OF LOT FIVE (5), ALL IN BLOCK FIFTY-SIX (56), IN THE CITY OF TAHLEQUAH, CHEROKEE COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

The property is located in CHEROKEE County at 235 N MUSKOGEE AVE, TAHLEQUAH, Oklahoma 74464.

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber including timber to be cut now or at any time in the future, all diversion payments or third party payments made to crop producers, all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real

estate described (all referred to as Property). The term Property also includes, but is not limited to, any and all water wells, water, ditches, reservoirs, reservoir sites and dams located on the real estate and all riparian and water rights associated with the Property, however established. This Security Instrument will remain in effect until the Secured Debts and all underlying agreements have been terminated in writing by Lender.

3. SECURED DEBTS AND FUTURE ADVANCES. The term "Secured Debts" includes and this Security Instrument will secure each of the following:

A. Specific Debts. The following debts and all extensions, renewals, refinancings, modifications and replacements. A promissory note or other agreement, No. 3051745, dated July 5, 2023, from Mortgagor to Lender, with a loan amount of \$1,504,801.92 and maturing on July 15, 2024.

B. Future Advances. All future advances from Lender to Mortgagor under the Specific Debts executed by Mortgagor in favor of Lender after this Security Instrument. If more than one person signs this Security Instrument, each agrees that this Security Instrument will secure all future advances that are given to Mortgagor either individually or with others who may not sign this Security Instrument. All future advances are secured by this Security Instrument even though all or part may not yet be advanced. All future advances are secured as if made on the date of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future advances in any amount. Any such commitment must be agreed to in a separate writing.

C. All Debts. All present and future debts from Mortgagor to Lender, even if this Security Instrument is not specifically referenced, or if the future debt is unrelated to or of a different type than this debt. If more than one person signs this Security Instrument, each agrees that it will secure debts incurred either individually or with others who may not sign this Security Instrument. Nothing in this Security Instrument constitutes a commitment to make additional or future loans or advances. Any such commitment must be in writing. This Security Instrument will not secure any debt for which a non-possessory, non-purchase money security interest is created in "household goods" in connection with a "consumer loan," as those terms are defined by federal law governing unfair and deceptive credit practices. This Security Instrument will not secure any debt for which a security interest is created in "margin stock" and Lender does not obtain a "statement of purpose," as defined and required by federal law governing securities. This Security Instrument will not secure any other debt if Lender, with respect to that other debt, fails to fulfill any necessary requirements or fails to conform to any limitations of the Truth in Lending Act (Regulation Z) or the Real Estate Settlement Procedures Act (Regulation X) that are required for loans secured by the Property.

D. Sums Advanced. All sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

4. PAYMENTS. Mortgagor agrees that all payments under the Secured Debts will be paid when due and in accordance with the terms of the Secured Debts and this Security Instrument.

5. WARRANTY OF TITLE. Mortgagor covenants that Mortgagor is lawfully seized of the estate conveyed by this Mortgage and has the right to grant, bargain, convey, sell, and mortgage, with the power of sale, the Property and warrants that the Property is unencumbered, except for encumbrances of record.

6. PRIOR SECURITY INTERESTS. With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgagor agrees:

A. To make all payments when due and to perform or comply with all covenants.

B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.

C. Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.

7. CLAIMS AGAINST TITLE. Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgagor may have against parties who supply labor or materials to maintain or improve the Property.

8. DUE ON SALE OR ENCUMBRANCE. Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law, as applicable.

9. TRANSFER OF AN INTEREST IN THE MORTGAGOR. If Mortgagor is an entity other than a natural person (such as a corporation, partnership, limited liability company or other organization), Lender may demand immediate payment if:

A. A beneficial interest in Mortgagor is sold or transferred.

B. There is a change in either the identity or number of members of a partnership or similar entity.

C. There is a change in ownership of more than 25 percent of the voting stock of a corporation, partnership, limited liability company or similar entity.

However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Security Instrument.

10. WARRANTIES AND REPRESENTATIONS. Mortgagor has the right and authority to enter into this Security Instrument. The execution and delivery of this Security Instrument will not violate any agreement governing Mortgagor or to which Mortgagor is a party.

11. PROPERTY CONDITION, ALTERATIONS, INSPECTION, VALUATION AND APPRAISAL. Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor will not commit or allow any waste, impairment, or deterioration of the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor, and of any loss or damage to the Property.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Security Instrument. Mortgagor will not partition or subdivide the Property without Lender's prior written consent.

Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time and frequency for the purpose of inspecting, valuing, or appraising the Property. Lender will give Mortgagor notice at the time of or before an on-site inspection, valuation, or appraisal for on-going due diligence or otherwise specifying a reasonable purpose. Any inspection, valuation or appraisal of the Property will be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection, valuation or appraisal for its own purpose, except as otherwise provided by law.

12. AUTHORITY TO PERFORM. If Mortgagor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. Lender's right to perform for Mortgagor will not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.

13. ASSIGNMENT OF LEASES AND RENTS. Mortgagor assigns, grants, bargains, conveys and mortgages to Lender as additional security all the right, title and interest in the following (Property).

A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including but not limited to any extensions, renewals, modifications or replacements (Leases).

B. Rents, issues and profits, including but not limited to security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which

Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement. Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Mortgagor may collect, receive, enjoy and use the Rents so long as Mortgagor is not in default. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the Mortgagor's default when Lender takes the affirmative action required by the law where the Property is located. Amounts collected will be applied at Lender's discretion to the Secured Debts, the cost of managing, protecting and preserving the Property, and other necessary expenses. This Security Instrument does not apply when it secures an extension of credit related to a consumer loan or made primarily for an agricultural purpose where Mortgagor is either a natural person or a farm or ranching business corporation. As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance. Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases. This section does not secure any extension of credit made primarily for personal, family or household purposes.

14. DEFAULT. Mortgagor will be in default if any of the following events (known separately and collectively as an Event of Default) occur:

A. Payments. Mortgagor fails to make a payment in full when due.

B. Insolvency or Bankruptcy. The death, dissolution or insolvency of, appointment of a receiver by or on behalf of, application of any debtor relief law, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against Mortgagor, Borrower, or any co-signer, endorser, surety or guarantor of this Security Instrument or any other obligations Borrower has with Lender.

C. Failure to Perform. Mortgagor fails to perform any condition or to keep any promise or covenant of this Security Instrument.

D. Other Documents. A default occurs under the terms of any other document relating to the Secured Debts.

E. Other Agreements. Mortgagor is in default on any other debt or agreement Mortgagor has with Lender.

F. Misrepresentation. Mortgagor makes any verbal or written statement or provides any financial information that is untrue, inaccurate, or conceals a material fact at the time it is made or provided.

G. Judgment. Mortgagor fails to satisfy or appeal any judgment against Mortgagor.

H. Forfeiture. The Property is used in a manner or for a purpose that threatens confiscation by a legal authority.

I. Name Change. Mortgagor changes Mortgagor's name or assumes an additional name without notifying Lender before making such a change.

J. Property Transfer. Mortgagor transfers all or a substantial part of Mortgagor's money or property. This condition of default, as it relates to the transfer of the Property, is subject to the restrictions contained in the DUE ON SALE section.

K. Property Value. Lender determines in good faith that the value of the Property has declined or is impaired.

L. Insecurity. Lender determines in good faith that a material adverse change has occurred in Mortgagor's financial condition from the conditions set forth in Mortgagor's most recent financial statement before the date of this Security Instrument or that the prospect for payment or performance of the Secured Debts is impaired for any reason.

M. Death or Incompetency of a Guarantor. Any guarantor of payment of the Secured Debts dies or is declared legally incompetent.

N. Failure to Comply with Laws. Mortgagor fails to comply with all applicable laws, statutes, ordinances and governmental rules, regulations and orders to which Mortgagor is subject or which apply to Mortgagor's business, property or assets.

O. Fraud. Mortgagor engages in fraud or material misrepresentation in connection with this transaction.

15. REMEDIES. On or after the occurrence of an Event of Default, Lender may use any and all remedies Lender has under state or federal law or in any document relating to the Secured Debts, including without limitation, the power to sell the Property. Any amounts advanced on Mortgagor's behalf will be immediately due and may be added to the balance owing under the Secured Debts. Lender may make a claim for any and all insurance benefits or refunds that may be available on Mortgagor's default.

Subject to any right to cure, required time schedules or any other notice rights Mortgagor may have under federal and state law, Lender may make all or any part of the amount owing by the terms of the Secured Debts immediately due and foreclose this Security Instrument in a manner provided by law upon the occurrence of an Event of Default or anytime thereafter.

Lender has the power to sell the Property. If Lender invokes the power of sale, Lender will give notice in the manner required by applicable law to Mortgagor and any other persons prescribed by law. Lender will also publish the notice of sale, and the Property will be sold, as prescribed by applicable law. Upon any sale of the Property, Lender will make and deliver a deed without warranty or appropriate deed required by applicable law that conveys all right, title and interest to the Property that was sold to the purchaser(s).

All remedies are distinct, cumulative and not exclusive, and Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debts after the balance is due or is accelerated or after foreclosure proceedings are filed will not constitute a waiver of Lender's right to require full and complete cure of any existing default. By not exercising any remedy, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

16. COLLECTION EXPENSES AND ATTORNEYS' FEES. On or after the occurrence of an Event of Default, to the extent permitted by law, Mortgagor agrees to pay all expenses of collection, enforcement, valuation, appraisal or protection of Lender's rights and remedies under this Security Instrument or any other document relating to the Secured Debts. Mortgagor agrees to pay expenses for Lender to inspect, value, appraise and preserve the Property. Expenses include, but are not limited to, attorneys' fees, court costs and other legal expenses. These expenses are due and payable immediately. If not paid immediately, these expenses will bear interest from the date of payment until paid in full at the highest interest rate in effect as provided for in the terms of the Secured Debts. In addition, to the extent permitted by the United States Bankruptcy Code, Mortgagor agrees to pay the reasonable attorneys' fees incurred by Lender to protect Lender's rights and interests in connection with any bankruptcy proceedings initiated by or against Mortgagor.

17. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES. As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substance," "hazardous waste," "hazardous substance," or "regulated substance" under any Environmental Law.

Mortgagor represents, warrants and agrees that:

A. Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.

B. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.

C. Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.

D. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.

E. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor and every tenant have been, are and will remain in full compliance with any applicable Environmental Law.

F. Except as previously disclosed and acknowledged in writing to Lender, there are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.

G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.

H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.

I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.

J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.

K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Security Instrument and in return Mortgagor will provide Lender with collateral of at least equal value to the Property without prejudice to any of Lender's rights under this Security Instrument.

L. Notwithstanding any of the language contained in this Security Instrument to the contrary, the terms of this section will survive any foreclosure or satisfaction of this Security Instrument regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.

18. CONDEMNATION. Mortgagor will give Lender prompt notice of any pending or threatened action by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds will be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

19. INSURANCE. Mortgagor agrees to keep the Property insured against the risks reasonably associated with the Property. Mortgagor will maintain this insurance in the amounts Lender requires. This insurance will last until the Property is released from this Security Instrument. What Lender requires pursuant to the preceding two sentences can change during the term of

the Secured Debts. Mortgagor may choose the insurance company, subject to Lender's approval, which will not be unreasonably withheld.

All insurance policies and renewals shall include a standard "mortgage clause" (or "lender loss payable clause") endorsement that names Lender as "mortgagee" and "loss payee". If required by Lender, all insurance policies and renewals will also include an "additional insured" endorsement that names Lender as an "additional insured". If required by Lender, Mortgagor agrees to maintain comprehensive general liability insurance and rental loss or business interruption insurance in amounts and under policies acceptable to Lender. The comprehensive general liability insurance must name Lender as an additional insured. The rental loss or business interruption insurance must be in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing).

Mortgagor will give Lender and the insurance company immediate notice of any loss. All insurance proceeds will be applied to restoration or repair of the Property or to the Secured Debts, at Lender's option. If Lender acquires the Property in damaged condition, Mortgagor's rights to any insurance policies and proceeds will pass to Lender to the extent of the Secured Debts.

Mortgagor will immediately notify Lender of cancellation or termination of insurance. If Mortgagor fails to keep the Property insured, Lender may obtain insurance to protect Lender's interest in the Property and Mortgagor will pay for the insurance on Lender's demand. Lender may demand that Mortgagor pay for the insurance all at once, or Lender may add the insurance premiums to the balance of the Secured Debts and charge interest on it at the rate that applies to the Secured Debts. This insurance may include lesser or greater coverages than originally required of Mortgagor, may be written by a company other than one Mortgagor would choose, and may be written at a higher rate than Mortgagor could obtain if Mortgagor purchased the insurance. Mortgagor acknowledges and agrees that Lender or one of Lender's affiliates may receive commissions on the purchase of this insurance.

20. ESCROW FOR TAXES AND INSURANCE. Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.

21. WAIVER OF APPRAISEMENT. Appraisal of the Property is waived or not waived at Lender's option, which shall be exercised before or at the time judgment is entered in any foreclosure.

22. USE OF PROPERTY. Mortgagor shall not use or occupy the Property in any manner that would constitute a violation of any state and/or federal laws involving controlled substances, even in a jurisdiction that allows such use by state or local law or ordinance. In the event that Mortgagor becomes aware of such a violation, Mortgagor shall take all actions allowed by law to terminate the violating activity.

In addition to all other indemnifications, obligations, rights and remedies contained herein, if the Lender and/or its respective directors, officers, employees, agents and attorneys (each an "Indemnitee") is made a party defendant to any litigation or any claim is threatened or brought against such Indemnitee concerning this Security Instrument or the related property or any part thereof or therein or concerning the construction, maintenance, operation or the occupancy or use of such property, then the Mortgagor shall (to the extent permitted by applicable law) indemnify, defend and hold each Indemnitee harmless from and against all liability by reason of said litigation or claims, including attorneys' fees and expenses incurred by such Indemnitee in connection with any such litigation or claim, whether or not any such litigation or claim is prosecuted to judgment. To the extent permitted by applicable law, the within indemnification shall survive payment of the Secured Debt, and/or any termination, release or discharge executed by the Lender in favor of the Mortgagor.

Violation of this provision is a material breach of this Security Instrument and thereby constitutes a default under the terms and provisions of this Security Instrument.

23. APPLICABLE LAW. This Security Instrument is governed by the laws of Oklahoma, the United States of America, and to the extent required, by the laws of the jurisdiction where the Property is located, except to the extent such state laws are preempted by federal law.

24. JOINT AND SEVERAL LIABILITY AND SUCCESSORS. Each Mortgagor's obligations under this Security Instrument are independent of the obligations of any other Mortgagor. Lender may sue each Mortgagor severally or together with any other Mortgagor. Lender may release any part of the Property and Mortgagor will still be obligated under this Security Instrument for the remaining Property. Mortgagor agrees that Lender and any party to this Security Instrument may extend, modify or make any change in the terms of this Security Instrument or any evidence of debt without Mortgagor's

consent. Such a change will not release Mortgagor from the terms of this Security Instrument. The duties and benefits of this Security Instrument will bind and benefit the successors and assigns of Lender and Mortgagor.

25. AMENDMENT, INTEGRATION AND SEVERABILITY. This Security Instrument may not be amended or modified by oral agreement. No amendment or modification of this Security Instrument is effective unless made in writing. This Security Instrument and any other documents relating to the Secured Debts are the complete and final expression of the agreement. If any provision of this Security Instrument is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable.

26. INTERPRETATION. Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Security Instrument.

27. NOTICE, ADDITIONAL DOCUMENTS AND RECORDING FEES. Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail or via a nationally recognized overnight courier to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Notice to one Mortgagor will be deemed to be notice to all Mortgagors. Mortgagor will inform Lender in writing of any change in Mortgagor's name, address or other application information. Mortgagor will provide Lender any other, correct and complete information Lender requests to effectively mortgage or convey the Property. Mortgagor agrees to pay all expenses, charges and taxes in connection with the preparation and recording of this Security Instrument. Mortgagor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Security Instrument and to confirm Lender's lien status on any Property, and Mortgagor agrees to pay all expenses, charges and taxes in connection with the preparation and recording thereof. Time is of the essence.

28. WAIVER OF JURY TRIAL. All of the parties to this Security Instrument knowingly and intentionally, irrevocably and unconditionally, waive any and all right to a trial by jury in any litigation arising out of or concerning this Security Instrument or any other documents relating to the Secured Debts or related obligation. All of these parties acknowledge that this section has either been brought to the attention of each party's legal counsel or that each party had the opportunity to do so.

NOTICE TO MORTGAGOR: A POWER OF SALE HAS BEEN GRANTED IN THIS MORTGAGE. A POWER OF SALE MAY ALLOW THE MORTGAGEE TO TAKE THE MORTGAGED PROPERTY AND SELL IT WITHOUT GOING TO COURT IN A FORECLOSURE ACTION UPON DEFAULT BY THE MORTGAGOR UNDER THIS MORTGAGE.

SIGNATURES. By signing, Mortgagor agrees to the terms and covenants contained in this Security Instrument. Mortgagor also acknowledges receipt of a copy of this Security Instrument.

MORTGAGOR:

TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY

By _____ Date _____
JOSH HUTCHINS, TRUSTEE CHAIRMAN

(SEAL OF THE TRUST)

By _____ Date _____
PAULA MUTZIG, ATTEST: SECRETARY

ACKNOWLEDGMENT.

_____ OF _____, _____ OF _____ ss.

This instrument was acknowledged before me this _____ day of _____, _____ by JOSH HUTCHINS and PAULA MUTZIG as TRUSTEE CHAIRMAN and ATTEST: SECRETARY of TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY.

My commission expires:

Commission number:

(Notary Public)

AGREEMENT TO PROVIDE INSURANCE

DATE AND PARTIES. The date of this Agreement to Provide Insurance (Agreement) is July 5, 2023. The parties and their addresses are:

OWNER:

TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY
an Oklahoma Public Trust
111 S CHEROKEE
TAHLEQUAH, OK 74464-0000

SECURED PARTY:

LOCAL BANK
Plaza Branch
125 E First St
Tahlequah, OK 74464

The pronouns "you" and "your" refer to the Secured Party. The pronouns "I," "me" and "my" refer to each person or entity signing this Agreement as Owner.

1. LOAN DESCRIPTION (Loan).

- A. Date. July 5, 2023
- B. Loan Number. 3051745
- C. Loan Amount. \$1,504,801.92

2. AGREEMENT TO PROVIDE INSURANCE. As part of my Loan, I agree to do all of the following.

- A. I will insure the Property as listed and with the coverages shown in the DESCRIPTION OF PROPERTY section.
- B. I will have you named on the policy, with the status listed under the STATUS section.
- C. I will arrange for the insurance company to notify you that the policy is in effect and your status has been noted.
- D. I will pay for this insurance, including any fee for this endorsement.
- E. I will keep the insurance in effect until the Property is no longer subject to your security interest. (I understand that the Property may secure debts in addition to any listed in the LOAN DESCRIPTION section.)

3. DESCRIPTION OF PROPERTY. The Property subject to this Agreement is described as follows.

Real estate located at 235 N MUSKOGEE AVE, TAHLEQUAH, Oklahoma 74464.

I agree to insure this Property according to the following described risks, amount of coverage, and maximum deductible allowed. I will insure the Property with the coverages necessary to protect the Property from all risks and liability reasonably associated with the Property. The insurable value of this Property is _____ The term of coverage will be _____. The maximum deductible allowed is _____.

Effective Date: _____

INSURANCE COMPANY. The insurance policy covering the Property and the insurance company issuing the policy are as follows:

Policy Number. _____

Insurance Company Name, Address, and Phone Number. _____

INSURANCE AGENCY AND AGENT. The insurance agency through which I have purchased, or intend to purchase, the required insurance is as follows:

Agent Name. _____

Agency Name, Address, and Phone Number. _____

4. STATUS. Your status shall be listed on the insurance policy as Lienholder. The current lien position of the Secured Party is First lien.

5. MAILING ADDRESS. Please return to Secured Party at the address listed in the DATE AND PARTIES section.

SIGNATURES FOR OWNERS AND AUTHORIZATION TO INSURANCE AGENT AND COMPANY. By signing below, I agree to the terms contained in this Agreement and acknowledge receipt of a copy of this Agreement. I request the listed insurance company and agency to provide the indicated coverage, and list you on the policy with the indicated status. I also request the insurance company or its authorized agent to immediately confirm that the policy is in effect by signing this form and forwarding a copy of the policy to you.

OWNER:

TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY

By _____ Date _____
JOSH HUTCHINS, TRUSTEE CHAIRMAN

By _____ Date _____
PAULA MUTZIG, ATTEST: SECRETARY

(SEAL OF THE TRUST)

ERRORS AND OMISSIONS AGREEMENT

DATE AND PARTIES. The date of this Errors and Omissions Agreement is July 5, 2023. The parties and their addresses are:

LENDER:

LOCAL BANK
Plaza Branch
125 E First St
Tahlequah, OK 74464
Telephone: 918-456-3900

BORROWER:

TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY
an Oklahoma Public Trust
111 S CHEROKEE
TAHLEQUAH, OK 74464

The undersigned parties, in consideration of the closing of a certain loan by Local Bank the "Lender" to TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY "Borrower(s)" in the amount of \$1,504,801.92, as evidenced by a promissory note and secured by a Deed of Trust or mortgage against real property located at 235 N MUSKOGEE AVE, TAHLEQUAH, Oklahoma 74464 and dated the date of this Errors and Omissions Agreement, agree(s), if requested by "Lender" or its agent, to fully cooperate in the correction, if necessary in the reasonable discretion of the "Lender" of any and all loan closing documents so that all documents accurately describe the loan between the undersigned parties and the "Lender" and thus allow the "Lender" to sell, convey, seek a guaranty or obtain insurance for, or market said loan to any purchaser, including but not limited to any investor or institution, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Department of Veterans Affairs, or Municipal Bonding Authority.

All of the undersigned parties, including all owners of the real property described above, agree(s) to comply with all above noted reasonable requests by the "Lender." The undersigned agree(s) to assume all costs including by way of illustration and not limitation, actual expenses, legal fees and marketing losses for failing to reasonably comply with the "Lender" requests within the specified thirty (30) days.

SIGNATURES.

BORROWER:

TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY

By _____ Date _____
JOSH HUTCHINS, TRUSTEE CHAIRMAN

(SEAL OF THE TRUST)

By _____ Date _____
PAULA MUTZIG, ATTEST: SECRETARY

Request for Transcript of Tax Return

- ▶ Do not sign this form unless all applicable lines have been completed.
▶ Request may be rejected if the form is incomplete or illegible.
▶ For more information about Form 4506-T, visit www.irs.gov/form4506t.

OMB No. 1545-1872

Tip: Get faster service: Online at www.irs.gov, **Get Your Tax Record** (Get Transcript) or by calling **1-800-908-9946** for specialized assistance. We have teams available to assist. **Note:** Taxpayers may register to use Get Transcript to view, print, or download the following transcript types: **Tax Return Transcript** (shows most line items including Adjusted Gross Income (AGI) from your original Form 1040-series tax return as filed, along with any forms and schedules), **Tax Account Transcript** (shows basic data such as return type, marital status, AGI, taxable income and all payment types), **Record of Account Transcript** (combines the tax return and tax account transcripts into one complete transcript), **Wage and Income Transcript** (shows data from information returns we receive such as Forms W-2, 1099, 1098 and Form 5498), and **Verification of Non-filing Letter** (provides proof that the IRS has no record of a filed Form 1040-series tax return for the year you request).

1a Name shown on tax return. If a joint return, enter the name shown first.

TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY

1b First social security number on tax return, individual taxpayer identification number, or employer identification number (see instructions)
73-1526822

2a If a joint return, enter spouse's name shown on tax return.

2b Second social security number or individual taxpayer identification number if joint tax return

3 Current name, address (including apt., room, or suite no.), city, state, and ZIP code (see instructions)

TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY, 111 S CHEROKEE, TAHLEQUAH, OK 74464

4 Previous address shown on the last return filed if different from line 3 (see instructions)

5 Customer file number (if applicable) (see instructions)

Note: Effective July 2019, the IRS will mail tax transcript requests only to your address of record. See **What's New under Future Developments** on Page 2 for additional information.

6 **Transcript requested.** Enter the tax form number here (1040, 1065, 1120, etc.) and check the appropriate box below. Enter only one tax form number per request. ▶

- a **Return Transcript**, which includes most of the line items of a tax return as filed with the IRS. A tax return transcript does not reflect changes made to the account after the return is processed. Transcripts are only available for the following returns: Form 1040 series, Form 1065, Form 1120, Form 1120-A, Form 1120-H, Form 1120-L, and Form 1120S. Return transcripts are available for the current year and returns processed during the prior 3 processing years. Most requests will be processed within 10 business days. ☐
- b **Account Transcript**, which contains information on the financial status of the account, such as payments made on the account, penalty assessments, and adjustments made by you or the IRS after the return was filed. Return information is limited to items such as tax liability and estimated tax payments. Account transcripts are available for most returns. Most requests will be processed within 10 business days. ☐

c **Record of Account**, which provides the most detailed information as it is a combination of the Return Transcript and the Account Transcript. Available for current year and 3 prior tax years. Most requests will be processed within 10 business days. ☐

7 **Verification of Nonfiling**, which is proof from the IRS that you **did not** file a return for the year. Current year requests are only available after June 15th. There are no availability restrictions on prior year requests. Most requests will be processed within 10 business days. ☐

8 **Form W-2, Form 1099 series, Form 1098 series, or Form 5498 series transcript.** The IRS can provide a transcript that includes data from these information returns. State or local information is not included with the Form W-2 information. The IRS may be able to provide this transcript information for up to 10 years. Information for the current year is generally not available until the year after it is filed with the IRS. For example, W-2 information for 2016, filed in 2017, will likely not be available from the IRS until 2018. If you need W-2 information for retirement purposes, you should contact the Social Security Administration at 1-800-772-1213. Most requests will be processed within 10 business days. ☐

Caution: If you need a copy of Form W-2 or Form 1099, you should first contact the payer. To get a copy of the Form W-2 or Form 1099 filed with your return, you must use Form 4506 and request a copy of your return, which includes all attachments.

9 **Year or period requested.** Enter the ending date of the year or period, using the mm/dd/yyyy format. If you are requesting more than four years or periods, you must attach another Form 4506-T. For requests relating to quarterly tax returns, such as Form 941, you must enter each quarter or tax period separately.

Caution: Do not sign this form unless all applicable lines have been completed.

Signature of taxpayer(s). I declare that I am either the taxpayer whose name is shown on line 1a or 2a, or a person authorized to obtain the tax information requested. If the request applies to a joint return, at least one spouse must sign. If signed by a corporate officer, 1 percent or more shareholder, partner, managing member, guardian, tax matters partner, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute Form 4506-T on behalf of the taxpayer. **Note:** This form must be received by IRS within 120 days of the signature date.

☐ Signatory attests that he/she has read the attestation clause and upon so reading declares that he/she has the authority to sign the Form 4506-T. See instructions.

Phone number of taxpayer on line 1a or 2a

918-456-0651

Sign
Here

Signature (see instructions)

Date

Title (if line 1a above is a corporation, partnership, estate, or trust)

Spouse's signature

Date

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about Form 4506-T and its instructions, go to www.irs.gov/form4506t. Information about any recent developments affecting Form 4506-T (such as legislation enacted after we released it) will be posted on that page.

The filing location for the Form 4506-T has changed. Please see **Chart for individual transcripts or Chart for all other transcripts** for the correct mailing location.

What's New. As part of its ongoing efforts to protect taxpayer data, the Internal Revenue Service announced that in July 2019, it will stop all third-party mailings of requested transcripts. After this date masked Tax Transcripts will only be mailed to the taxpayer's address of record.

If a third-party is unable to accept a Tax Transcript mailed to the taxpayer, they may either contract with an existing IVES participant or become an IVES participant themselves. For additional information about the IVES program, go to www.irs.gov and search IVES.

General Instructions

Caution: Do not sign this form unless all applicable lines have been completed.

Purpose of form. Use Form 4506-T to request tax return information. Taxpayers using a tax year beginning in one calendar year and ending in the following year (fiscal tax year) must file Form 4506-T to request a return transcript.

Note: If you are unsure of which type of transcript you need, request the Record of Account, as it provides the most detailed information.

Customer File Number. The transcripts provided by the IRS have been modified to protect taxpayers' privacy. Transcripts only display partial personal information, such as the last four digits of the taxpayer's Social Security Number. Full financial and tax information, such as wages and taxable income, are shown on the transcript.

An optional Customer File Number field is available to use when requesting a transcript. This number will print on the transcript. See Line 5 instructions for specific requirements. The customer file number is an optional field and not required.

Tip. Use Form 4506, Request for Copy of Tax Return, to request copies of tax returns.

Automated transcript request. You can quickly request transcripts by using our automated self-help service tools. Please visit us at IRS.gov and click on "Get a Tax Transcript..." under "Tools" or call 1-800-908-9946.

Where to file. Mail or fax Form 4506-T to the address below for the state you lived in, or the state your business was in, when that return was filed. There are two address charts: one for individual transcripts (Form 1040 series and Form W-2) and one for all other transcripts.

If you are requesting more than one transcript or other product and the chart shows two different addresses, send your request to the address based on the address of your most recent return.

Line 1b. Enter your employer identification number (EIN) if your request relates to a business return. Otherwise, enter the first social security number (SSN) or your individual taxpayer identification number (ITIN) shown on the return. For example, if you are requesting Form 1040 that includes Schedule C (Form 1040), enter your SSN.

Line 3. Enter your current address. If you use a P.O. box, include it on this line.

Line 4. Enter the address shown on the last return filed if different from the address entered on line 3.

Note: If the addresses on lines 3 and 4 are different and you have not changed your address with the IRS, file Form 8822, Change of Address. For a business address, file Form 8822-B, Change of Address or Responsible Party—Business.

Line 5. Enter up to 10 numeric characters to create a unique customer file number that will appear on the transcript. The customer file numbers **should not** contain an SSN. Completion of this line is not required.

Note: If you use an SSN, name or combination of both, we will not input the information and the customer file number will reflect a generic entry of "9999999999" on the transcript.

Line 6. Enter only one tax form number per request.

Signature and date. Form 4506-T must be signed and dated by the taxpayer listed on line 1a or 2a. The IRS must receive Form 4506-T within 120 days of the date signed by the taxpayer or it will be rejected. Ensure that all applicable lines are completed before signing.



You must check the box in the signature area to acknowledge you have the authority to sign and request the information. The form will not be processed and returned to you if the box is unchecked.

Individuals. Transcripts of jointly filed tax returns may be furnished to either spouse. Only one signature is required. Sign Form 4506-T exactly as your name appeared on the original return. If you changed your name, also sign your current name.

Corporations. Generally, Form 4506-T can be signed by: (1) an officer having legal authority to bind the corporation, (2) any person designated by the board of directors or other governing body, or (3) any officer or employee on written request by any principal officer and attested to by the secretary or other officer. A bona fide shareholder of record owning 1 percent or more of the outstanding stock of the corporation may submit a Form 4506-T but must provide documentation to support the requester's right to receive the information.

Partnerships. Generally, Form 4506-T can be signed by any person who was a member of the partnership during any part of the tax period requested on line 9.

All others. See section 6103(e) if the taxpayer has died, is insolvent, is a dissolved corporation, or if a trustee, guardian, executor, receiver, or administrator is acting for the taxpayer.

Note: If you are Heir at law, Next of kin, or Beneficiary you must be able to establish a material interest in the estate or trust.

Documentation. For entities other than individuals, you must attach the authorization document. For example, this could be the letter from the principal officer authorizing an employee of the corporation or the letters testamentary authorizing an individual to act for an estate.

Signature by a representative. A representative can sign Form 4506-T for a taxpayer only if the taxpayer has specifically delegated this authority to the representative on Form 2848, line 5. The representative must attach Form 2848 showing the delegation to Form 4506-T.

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to establish your right to gain access to the requested tax information under the Internal Revenue Code. We need this information to properly identify the tax information and respond to your request. You are not required to request any transcript; if you do request a transcript, sections 6103 and 6109 and their regulations require you to provide this information, including your SSN or EIN. If you do not provide this information, we may not be able to process your request. Providing false or fraudulent information may subject you to penalties.

Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation, and cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file Form 4506-T will vary depending on individual circumstances. The estimated average time is: Learning about the law or the form, 10 min.; Preparing the form, 12 min.; and Copying, assembling, and sending the form to the IRS 20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making Form 4506-T simpler, we would be happy to hear from you. You can write to:

Internal Revenue Service
Tax Forms and Publications Division
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Do not send the form to this address. Instead, send *here* to file on this page.

Chart for individual transcripts (Form 1040 series and Form W-2 and Form 1099)

If you filed an individual return and lived in:

Mail or fax to:

Florida, Louisiana, Mississippi, Texas, a foreign country, American Samoa, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or A.P.O. or F.P.O. address	Internal Revenue Service RAIVS Team Stop 6716 AUSC Austin, TX 73301 855-587-9604
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Alabama, Arkansas, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Massachusetts, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, South Carolina, Tennessee, Vermont, Virginia, Wisconsin	Internal Revenue Service RAIVS Team Stop 6705 S-2 Kansas City, MO 64999 855-821-0094
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Alaska, Arizona, California, Colorado, Connecticut, District of Columbia, Hawaii, Idaho, Kansas, Maryland, Michigan, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Washington, West Virginia, Wyoming	Internal Revenue Service RAIVS Team P.O. Box 9941 Mail Stop 6734 Ogden, UT 84409 855-298-1145
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Chart for all other transcripts

If you lived in or your business was in:

Mail or fax to:

Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, a foreign country, American Samoa, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, A.P.O. or F.P.O. address	Internal Revenue Service RAIVS Team P.O. Box 9941 Mail Stop 6734 Ogden, UT 84409 855-298-1145
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Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin	Internal Revenue Service RAIVS Team Stop 6705 S-2 Kansas City, MO 64999 855-821-0094
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Request for Taxpayer Identification Number and Certification

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Give Form to the requester.
Do not send to the IRS.

Print or type
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes:

☐ Individual/sole proprietor or single-member LLC

☐ C Corporation

☐ S Corporation

☐ Partnership

☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ►

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☒ Other (see instructions) ► **AN OKLAHOMA PUBLIC TRUST**

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemptions from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

111 S CHEROKEE

6 City, state, and ZIP code

TAHLEQUAH, OK 74464

7 List account number(s) here (optional)

Requester's name and address (optional).

**Local Bank
Plaza Branch
125 E First St
Tahlequah, OK 74464**

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note. If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

or

Employer identification number

73-1526822

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign
Here

Signature of
U.S. person ►

Date ►

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
 - Form 1099-C (canceled debt)
 - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

Note. If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note. ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C Corporation, or S Corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

IF the entity/person on line 1 is a(n)...	THEN check the box for...
☐ Corporation	Corporation
☐ Individual ☐ Sole proprietorship, or ☐ Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
☐ LLC treated as a partnership for U.S. federal tax purposes, ☐ LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or ☐ LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
☐ Partnership	Partnership
☐ Trust/estate	Trust/estate

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.

- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1-An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2-The United States or any of its agencies or instrumentalities
- 3-A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4-A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5-A corporation
- 6-A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7-A futures commission merchant registered with the Commodity Futures Trading Commission
- 8-A real estate investment trust
- 9-An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10-A common trust fund operated by a bank under section 584(a)
- 11-A financial institution
- 12-A middleman known in the investment community as a nominee or custodian
- 13-A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate

that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A-An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B-The United States or any of its agencies or instrumentalities

C-A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D-A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E-A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F-A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G-A real estate investment trust

H-A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I-A common trust fund as defined in section 584(a)

J-A bank as defined in section 581

K-A broker

L-A trust exempt from tax under section 664 or described in section 4947(a)(1)

M-A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note. You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.SSA.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/Businesses and clicking on Employer Identification Number (EIN) under Starting a Business. Go to www.irs.gov/Forms to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to www.irs.gov/OrderForms to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will

have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code* earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1983 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor ²
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
6. Sole proprietorship or disregarded entity owned by an individual	The owner ³
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor [*]

For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity ⁴
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

* **Note.** Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or report them at www.ftc.gov/complaint. You can contact the FTC at www.ftc.gov/idtheft or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see www.IdentityTheft.gov and Pub. 5027.

Visit www.irs.gov/IdentityTheft to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

Instructions for the Requester of Form W-9

(Rev. October 2018)

Request for Taxpayer Identification Number and Certification



Department of the Treasury
Internal Revenue Service

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [IRS.gov/FormW9](https://www.irs.gov/FormW9).

What's New

Backup withholding rate. The backup withholding rate is 24% for reportable payments.

Reminders

FATCA and backup withholding exemptions. FATCA requires a participating foreign financial institution to report all U.S. account holders that are specified U.S. persons. Form W-9 has an *Exemptions* box on the front of the form that includes entry for the *Exempt payee code (if any)* and *Exemption from FATCA Reporting Code (if any)*. The references for the appropriate codes are in the *Exemptions* section of Form W-9, and in the *Payees Exempt From Backup Withholding and Payees and Account Holders Exempt From FATCA Reporting* sections of these instructions.

The *Certification* section in Part II of Form W-9 includes certification relating to FATCA reporting.

Backup withholding liability. If you do not collect backup withholding from affected payees as required, you may become liable for any uncollected amount.

TIN matching e-services. The IRS website offers TIN Matching e-services for certain payers to validate name and TIN combinations. See *Taxpayer Identification Number (TIN) Matching*, later.

How Do I Know When To Use Form W-9?

Use Form W-9 to request the taxpayer identification number (TIN) of a U.S. person (including a resident alien) and to request certain certifications and claims for exemption. (See *Purpose of Form on Form W-9*.)

Withholding agents may require signed Forms W-9 from U.S. exempt recipients to overcome a presumption of foreign status. For federal tax purposes, a U.S. person includes but is not limited to:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- Any estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

A partnership may require a signed Form W-9 from its U.S. partners to overcome a presumption of foreign status and to avoid withholding on the partner's allocable share of the partnership's effectively connected income. For more information, see Regulations section 1.1446-1.

A participating foreign financial institution (PFFI) should request Form W-9 from an account holder that is a U.S. person. If an account is jointly held, the PFFI should request a Form W-9 from each holder that is a U.S. person.

Advise foreign persons to use the appropriate Form W-8 or Form 8233, *Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual*. See Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*, for more information and a list of the W-8 forms.

Electronic Submission of Forms W-9

Requesters may establish a system for payees and payees' agents to submit Forms W-9 electronically, including by fax. A requester is anyone required to file an information return. A payee is anyone required to provide a taxpayer identification number (TIN) to the requester.

Payee's agent. A payee's agent can be an investment advisor (corporation, partnership, or individual) or an introducing broker. An investment advisor must be registered with the Securities and Exchange Commission (SEC) under the Investment Advisers Act of 1940. The introducing broker is a broker-dealer that is regulated by the SEC and the National Association of Securities Dealers, Inc., and that is not a payer. Except for a broker who acts as a payee's agent for "readily tradable instruments," the advisor or broker must show in writing to the payer that the payee authorized the advisor or broker to transmit the Form W-9 to the payer.

Electronic system. Generally, the electronic system must:

- Ensure the information received is the information sent, and document all occasions of user access that result in the submission;

- Make reasonably certain that the person accessing the system and submitting the form is the person identified on Form W-9, the investment advisor, or the introducing broker;

- Provide the same information as the paper Form W-9;
- Be able to supply a hard copy of the electronic Form W-9 if the Internal Revenue Service requests it; and
- Require as the final entry in the submission an electronic signature by the payee whose name is on Form W-9 that authenticates and verifies the submission. The electronic signature must be under penalties of perjury and the perjury statement must contain the language of the paper Form W-9.

TIP For Forms W-9 that are not required to be signed, the electronic system need not provide for an electronic signature or a perjury statement.

For more details, see the following.

- Announcement 98-27, which is on page 30 of Internal Revenue Bulletin 1998-15 at [IRS.gov/pub/irs-irbs/irb98-15.pdf](https://www.irs.gov/pub/irs-irbs/irb98-15.pdf).

• Announcement 2001-91, which is on page 221 of Internal Revenue Bulletin 2001-36 at IRS.gov/pub/irs-irbs/irb01-36.pdf.

Individual Taxpayer Identification Number (ITIN)

Form W-9 (or an acceptable substitute) is used by persons required to file information returns with the IRS to get the payee's (or other person's) correct name and TIN. For individuals, the TIN is generally a social security number (SSN).

However, in some cases, individuals who become U.S. resident aliens for federal tax purposes are not eligible to obtain an SSN. This includes certain resident aliens who must receive information returns but who cannot obtain an SSN.

These individuals must apply for an ITIN on Form W-7, Application for IRS Individual Taxpayer Identification Number, unless they have an application pending for an SSN. Individuals who have an ITIN must provide it on Form W-9.

Note. ITINs that haven't been included on a U.S. federal tax return at least once in the last 3 consecutive tax years will expire. Expired ITINs must be renewed in order to avoid delays in processing the ITIN holder's tax return. If the IRS deactivates the ITIN because it has expired, the ITIN may still be used on Form W-9. However, the ITIN holder will have to apply to renew the deactivated ITIN if there is a need to file a tax return. For more information, see the Instructions for Form W-7.

Substitute Form W-9

You may develop and use your own Form W-9 (a substitute Form W-9) if its content is substantially similar to the official IRS Form W-9 and it satisfies certain certification requirements.

You may incorporate a substitute Form W-9 into other business forms you customarily use, such as account signature cards. However, the certifications on the substitute Form W-9 must clearly state (as shown on the official Form W-9) that under penalties of perjury:

1. The payee's TIN is correct,
2. The payee is not subject to backup withholding due to failure to report interest and dividend income,
3. The payee is a U.S. person, and
4. The FATCA code entered on this form (if any) indicating that the payee is exempt from FATCA reporting is correct.

You may provide certification instructions on a substitute Form W-9 in a manner similar to the official form. If you are not collecting a FATCA exemption code by omitting that field from the substitute Form W-9 (see *Payees and Account Holders Exempt From FATCA Reporting*, later), you may notify the payee that item 4 does not apply.

You may not:

1. Use a substitute Form W-9 that requires the payee, by signing, to agree to provisions unrelated to the required certifications, or
2. Imply that a payee may be subject to backup withholding unless the payee agrees to provisions on the substitute form that are unrelated to the required certifications.

A substitute Form W-9 that contains a separate signature line just for the certifications satisfies the requirement that the certifications be clearly stated.

If a single signature line is used for the required certifications and other provisions, the certifications must be highlighted, boxed, printed in bold-face type, or presented in some other manner that causes the language to stand out from all other information contained on the substitute form. Additionally, the following statement must be presented to stand out in the same manner as described above and must appear immediately above the single signature line:

"The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding."

If you use a substitute form, you are required to provide the Form W-9 instructions to the payee only if he or she requests them. However, if the IRS has notified the payee that backup withholding applies, then you must instruct the payee to strike out the language in the certification that relates to underreporting. This instruction can be given orally or in writing. See item 2 of the *Certification* on Form W-9. You can replace "defined below" with "defined in the instructions" in item 3 of the *Certification* on Form W-9 when the instructions will not be provided to the payee except upon request. For more information, see Rev. Proc. 83-89, 1983-2 C.B. 613; amplified by Rev. Proc. 96-26, which is on page 22 of Internal Revenue Bulletin 1996-8 at IRS.gov/pub/irs-irbs/irb96-08.pdf.

TIN Applied for

For interest and dividend payments and certain payments with respect to readily tradable instruments, the payee may return a properly completed, signed Form W-9 to you with "Applied For" written in Part I. This is an "awaiting-TIN" certificate. The payee has 60 calendar days, from the date you receive this certificate, to provide a TIN. If you do not receive the payee's TIN at that time, you must begin backup withholding on payments.

Reserve rule. You must backup withhold on any reportable payments made during the 60-day period if a payee withdraws more than \$500 at one time, unless the payee reserves an amount equal to the current year's backup withholding rate on all reportable payments made to the account.

Alternative rule. You may also elect to backup withhold during this 60-day period, after a 7-day grace period, under one of the two alternative rules discussed below.

Option 1. Backup withhold on any reportable payments if the payee makes a withdrawal from the account after the close of 7 business days after you receive the awaiting-TIN certificate. Treat as reportable payments all cash withdrawals in an amount up to the reportable payments made from the day after you receive the awaiting-TIN certificate to the day of withdrawal.

Option 2. Backup withhold on any reportable payments made to the payee's account, regardless of whether the payee makes any withdrawals, beginning no later than 7 business days after you receive the awaiting-TIN certificate.



The 60-day exemption from backup withholding does not apply to any payment other than interest, dividends, and certain payments relating to readily tradable instruments. Any other reportable payment, such as nonemployee compensation, is subject to backup withholding immediately, even if the payee has applied for and is awaiting a TIN.

Even if the payee gives you an awaiting-TIN certificate, you must backup withhold on reportable interest and

dividend payments if the payee does not certify, under penalties of perjury, that the payee is not subject to backup withholding.

If you do not collect backup withholding from affected payees as required, you may become liable for any uncollected amount.

Payees Exempt From Backup Withholding

The following payees are exempt from backup withholding with respect to the payments below, and should enter the corresponding exempt payee code on Form W-9. You may rely on the payee's claim of exemption unless you have actual knowledge that the exempt payee code and/or classification selected are not valid, or if they are inconsistent with each other. In that case, you may rely on the Form W-9 for purposes of obtaining the payee's TIN, but you must treat the payee as non-exempt. If the payee failed to enter an exempt payee code, but the classification selected indicates that the payee is exempt, you may accept the classification and treat the payee as exempt unless you have actual knowledge that the classification is not valid.

If a payee is not exempt, you are required to backup withhold on reportable payments if the payee does not provide a TIN in the manner required or does not sign the certification, if required.

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2);
2. The United States or any of its agencies or instrumentalities;
3. A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions, agencies, or instrumentalities;
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities;
5. A corporation;
6. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession;
7. A futures commission merchant registered with the Commodity Futures Trading Commission;
8. A real estate investment trust;
9. An entity registered at all times during the tax year under the Investment Company Act of 1940;
10. A common trust fund operated by a bank under section 584(a);
11. A financial institution;
12. A middleman known in the investment community as a nominee or custodian; or
13. A trust exempt from tax under section 664 or described in section 4947.

The following types of payments are exempt from backup withholding as indicated for payees listed in 1 through 13 above.

Interest and dividend payments. All listed payees are exempt except the payee in item 7.

Broker transactions. All payees listed in items 1 through 4 and 6 through 11 are exempt. Also, C corporations are exempt. A person registered under the Investment Advisers Act of 1940 who regularly acts as a broker also is exempt.

Barter exchange transactions and patronage dividends. Only payees listed in items 1 through 4 are exempt.

Payments reportable under sections 6041 and 6041A. Payees listed in items 1 through 5 generally are exempt.

However, the following payments made to a corporation and reportable on Form 1099-MISC, Miscellaneous Income, are not exempt from backup withholding.

- Medical and health care payments.
- Attorneys' fees (also gross proceeds paid to an attorney, reportable under section 6045(f)).
- Payments for services paid by a federal executive agency. (See Rev. Rul. 2003-66, which is on page 1115 of Internal Revenue Bulletin 2003-26 at [IRS.gov/pub/irs-irbs/irb03-26.pdf](https://www.irs.gov/pub/irs-irbs/irb03-26.pdf).)

Payments made in settlement of payment card or third party network transactions. Only payees listed in items 1 through 4 are exempt.

Payments Exempt From Backup Withholding

Payments that are not subject to information reporting also are not subject to backup withholding. For details, see sections 6041, 6041A, 6042, 6044, 6045, 6049, 6050A, 6050N, and 6050W and their regulations. The following payments generally are exempt from backup withholding.

Dividends and patronage dividends

- Payments to nonresident aliens subject to withholding under section 1441.
- Payments to partnerships not engaged in a trade or business in the United States and that have at least one nonresident alien partner.
- Payments of patronage dividends not paid in money.
- Payments made by certain foreign organizations.
- Section 404(k) distributions made by an ESOP.

Interest payments

- Payments of interest on obligations issued by individuals. However, if you pay \$600 or more of interest in the course of your trade or business to a payee, you must report the payment. Backup withholding applies to the reportable payment if the payee has not provided a TIN or has provided an incorrect TIN.
- Payments described in section 6049(b)(5) to nonresident aliens.
- Payments on tax-free covenant bonds under section 1451.
- Payments made by certain foreign organizations.
- Mortgage or student loan interest paid to you.

Other types of payment

- Wages.
- Distributions from a pension, annuity, profit-sharing or stock bonus plan, any IRA, an owner-employee plan, or other deferred compensation plan.
- Distributions from a medical or health savings account and long-term care benefits.
- Certain surrenders of life insurance contracts.
- Distribution from qualified tuition programs or Coverdell ESAs.
- Gambling winnings if regular gambling winnings withholding is required under section 3402(q). However, if regular gambling winnings withholding is not required under section 3402(q), backup withholding applies if the payee fails to furnish a TIN.
- Real estate transactions reportable under section 6045(e).
- Cancelled debts reportable under section 6050P.
- Fish purchases for cash reportable under section 6050R.

Payees and Account Holders Exempt From FATCA Reporting

Reporting under chapter 4 (FATCA) with respect to U.S. persons generally applies only to foreign financial institutions (FFI) (including a branch of a U.S. financial institution that is treated as an FFI under an applicable intergovernmental agreement (IGA)). Thus, for example, a U.S. financial institution maintaining an account in the United States does not need to collect an exemption code for FATCA reporting. If you are providing a Form W-9, you may pre-populate the FATCA exemption code with "Not Applicable," "N/A," or a similar indication that an exemption from FATCA reporting does not apply. Any payee that provides such a form, however, cannot be treated as exempt from FATCA reporting. For details on the FATCA reporting requirements, including specific information regarding which financial institutions are required to report, see sections 1471 to 1474 and related regulations. See Regulations section 1.1471-3(d)(2) for when an FFI may rely on documentary evidence to treat a U.S. person as other than a specified U.S. person and see Regulations section 1.1471-3(f)(3) for when an FFI may presume a U.S. person as other than a specified U.S. person.

If you receive a Form W-9 with a FATCA exemption code and you know or have reason to know the person is a specified U.S. person, you may not rely on the Form W-9 to treat the person as exempt from FATCA reporting. However, you may still rely on an otherwise completed Form W-9 to treat a person as a specified U.S. person. An exemption from FATCA reporting (or lack thereof) does not affect backup withholding as described earlier in these instructions. The following are not specified U.S. persons and are thus exempt from FATCA reporting.

- A. An organization exempt from tax under section 501(a), or any individual retirement plan as defined in section 7701(a)(37);
- B. The United States or any of its agencies or instrumentalities;
- C. A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions, agencies, or instrumentalities;
- D. A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations 1.1472-1(c)(1)(i);
- E. A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations 1.1472-1(c)(1)(i);
- F. A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any State;
- G. A real estate investment trust;
- H. A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940;
- I. A common trust fund as defined in section 584(a);
- J. A bank as defined in section 581;
- K. A broker;
- L. A trust exempt from tax under section 664 or described in section 4947; or
- M. A tax-exempt trust under a section 403(b) plan or section 457(g) plan.

Joint Foreign Payees

If the first payee listed on an account gives you a Form W-8 or a similar statement signed under penalties of

perjury, backup withholding applies unless:

1. Every joint payee provides the statement regarding foreign status, or
 2. Any one of the joint payees who has not established foreign status gives you a TIN.
- If any one of the joint payees who has not established foreign status gives you a TIN, use that number for purposes of backup withholding and information reporting.

For more information on foreign payees, see the Instructions for the Requester of Forms W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, and W-8IMY.

Names and TINs To Use for Information Reporting

Show the full name and address as provided on Form W-9 on the information return filed with the IRS and on the copy furnished to the payee. If the payee has marked their address "NEW", you should update your records. If you made payments to more than one payee or the account is in more than one name, enter on the first name line of the information return only the name of the payee whose TIN is shown on Form W-9. You may show the names of any other individual payees in the area below the first name line on the information return. Forms W-9 showing an ITIN must have the name exactly as shown on line 1a of the Form W-7 application. If you are a PFFI reporting a U.S. account on Form 8966, FATCA Report, and the account is jointly held by U.S. persons, file a separate Form 8966 for each holder.



For more information on the names and TINs to use for information reporting, see section J of the General Instructions for Certain Information Returns.

Notices From the IRS

The IRS will send you a notice if the payee's name and TIN on the information return you filed do not match the IRS's records. (See *Taxpayer Identification Number (TIN) Matching*, next.) If you receive a backup withholding notice, you may have to send a "B" notice to the payee to solicit another TIN. Pub. 1281, Backup Withholding for Missing and Incorrect Name/TIN(s), contains copies of the two types of "B" notices. If you receive a penalty notice, you also may have to send a solicitation to the payee. See Pub. 1586, Reasonable Cause Regulations and Requirements for Missing and Incorrect Name/TINs.

Taxpayer Identification Number (TIN) Matching

TIN Matching allows a payer or authorized agent who is required to file Forms 1099-B, DIV, INT, K, MISC, OID, and/or PATR to match TIN and name combinations with IRS records before submitting the forms to the IRS. TIN Matching is one of the e-services products that is offered and is accessible through the IRS website. Go to IRS.gov and enter "e-services" in the search box. It is anticipated that payers who validate the TIN and name combinations before filing information returns will receive fewer backup withholding (CP2100) notices and penalty notices.

Additional Information

For more information on backup withholding, see Pub. 1281.

FEDERAL CREDIT APPLICATION INSURANCE DISCLOSURE

I have applied for an extension of credit with you. You are soliciting, offering, or selling me an insurance product or annuity in connection with this extension of credit. **FEDERAL LAW PROHIBITS YOU FROM CONDITIONING THE EXTENSION OF CREDIT ON EITHER:**

1. My purchase of an insurance product or annuity from you or from any of your affiliates; or
2. My agreement not to obtain, or a prohibition on me from obtaining, an insurance product or annuity from an unaffiliated entity.

By signing, I acknowledge that I have received a copy of this form on today's date. Unless this disclosure is provided electronically or I have applied for credit by mail, I also acknowledge that you have provided this disclosure to me orally.

.....
Consumer

.....
Date

.....
Consumer

.....
Date

DISBURSEMENT AUTHORIZATION

DATE AND PARTIES. The date of this Disbursement Authorization is 07/05/2023. The parties and their addresses are:

LENDER:

LOCAL BANK
Plaza Branch
125 E First St
Tahlequah, OK 74464
Telephone: 918-456-3900

BORROWER:

TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY
an Oklahoma Public Trust
111 S CHEROKEE
TAHLEQUAH, OK 74464

Loan Number: 3051745

1. DEFINITIONS. As used in this Disbursement Authorization, the terms have the following meanings:

A. Pronouns. The pronouns "I", "me" and "my" refer to all Borrowers signing this Disbursement Authorization, individually and together. "You" and "Your" refer to the Lender.

B. Loan. "Loan" refers to this transaction generally, including obligations and duties arising from the terms of all documents prepared or submitted for this transaction such as applications, security agreements, disclosures or notes, and this Disbursement Authorization.

2. DISBURSEMENT SUMMARY. The following summarizes the disbursements from the Loan.

Loan		\$1,504,801.92
Cash Paid In	\$0.00	
Amount Contributed by Borrower	\$0.00	
Total Cash Received		\$0.00
Disbursed to Borrowers	\$0.00	
Disbursed to Lender	\$600.00	
Disbursed to Other Payees	\$4,201.92	
Total Amounts Disbursed		\$4,801.92
Amount Remaining To Be Disbursed		\$1,500,000.00
Undisbursed Fees/Charges		\$0.00

3. DISBURSEMENT AUTHORIZATION. I authorize you to disburse the following amounts from my Loan.

DISBURSED TO:	DATE:	AMOUNT DISBURSED:
Disbursements to Borrower:		\$0.00
Disbursements to Lender:		\$600.00
Fees & Charges:	07/05/2023	\$350.00
Document Preparation		\$350.00
Fees & Charges:	07/05/2023	\$250.00
Appraisal		\$250.00
Disbursements to third parties:		\$4,201.92
:	07/05/2023	\$20.00
Recording - Releases		\$20.00
:	07/05/2023	\$15.50
Flood Certification		\$15.50
:	07/05/2023	\$250.00
Attorneys		\$250.00
:	07/05/2023	\$2,946.46
Lender's Title Insurance		\$2,946.46
:	07/05/2023	\$34.00
Recording - Mortgage		\$34.00
:	07/05/2023	\$305.96
Transfer Taxes		\$305.96
:	07/05/2023	\$80.00
Title - FCC		\$80.00
:	07/05/2023	\$200.00
Title - Final Title Search		\$200.00
:	07/05/2023	\$350.00
Title - Title Service Fee		\$350.00
TOTAL DISBURSED:		\$4,801.92

Amount remaining to be disbursed, if any: \$1,500,000.00

I acknowledge receipt of a copy of this Disbursement Authorization on 07/05/2023.

BORROWER:

TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY

By _____ Date _____
JOSH HUTCHINS, TRUSTEE CHAIRMAN

By _____ Date _____
PAULA MUTZIG, ATTEST: SECRETARY

DISBURSEMENT AUTHORIZATION

DATE AND PARTIES. The date of this Disbursement Authorization is 07/05/2023. The parties and their addresses are:

LENDER:

LOCAL BANK
Plaza Branch
125 E First St
Tahlequah, OK 74464
Telephone: 918-456-3900

BORROWER:

TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY
an Oklahoma Public Trust
111 S CHEROKEE
TAHLEQUAH, OK 74464

Loan Number: 3051745

1. DEFINITIONS. As used in this Disbursement Authorization, the terms have the following meanings:

A. Pronouns. The pronouns "I", "me" and "my" refer to all Borrowers signing this Disbursement Authorization, individually and together. "You" and "Your" refer to the Lender.

B. Loan. "Loan" refers to this transaction generally, including obligations and duties arising from the terms of all documents prepared or submitted for this transaction such as applications, security agreements, disclosures or notes, and this Disbursement Authorization.

2. DISBURSEMENT SUMMARY. The following summarizes the disbursements from the Loan.

Loan		\$1,504,801.92
Cash Paid In	\$0.00	
Amount Contributed by Borrower	\$0.00	
Total Cash Received		\$0.00
Disbursed to Borrowers	\$0.00	
Disbursed to Lender	\$600.00	
Disbursed to Other Payees	\$4,201.92	
Total Amounts Disbursed		\$4,801.92
Amount Remaining To Be Disbursed		\$1,500,000.00
Undisbursed Fees/Charges		\$0.00

3. DISBURSEMENT AUTHORIZATION. I authorize you to disburse the following amounts from my Loan.

DISBURSED TO:	DATE:	AMOUNT DISBURSED:
Disbursements to Borrower:		\$0.00
Disbursements to Lender:		\$600.00
Fees & Charges:	07/05/2023	\$350.00
Document Preparation		\$350.00
Fees & Charges:	07/05/2023	\$250.00
Appraisal		\$250.00
Disbursements to third parties:		\$4,201.92
:	07/05/2023	\$20.00
Recording - Releases		\$20.00
:	07/05/2023	\$15.50
Flood Certification		\$15.50
:	07/05/2023	\$250.00
Attorneys		\$250.00
:	07/05/2023	\$2,946.46
Lender's Title Insurance		\$2,946.46
:	07/05/2023	\$34.00
Recording - Mortgage		\$34.00
:	07/05/2023	\$305.96
Transfer Taxes		\$305.96
:	07/05/2023	\$80.00
Title - FCC		\$80.00
:	07/05/2023	\$200.00
Title - Final Title Search		\$200.00
:	07/05/2023	\$350.00
Title - Title Service Fee		\$350.00
TOTAL DISBURSED:		\$4,801.92

Amount remaining to be disbursed, if any: \$1,500,000.00

I acknowledge receipt of a copy of this Disbursement Authorization on 07/05/2023.

BORROWER:

TAHLEQUAH REGIONAL DEVELOPMENT AUTHORITY

By _____ Date _____
JOSH HUTCHINS, TRUSTEE CHAIRMAN

By _____ Date _____
PAULA MUTZIG, ATTEST: SECRETARY



Tahlequah City Council
AGENDA ITEM REPORT

Item No. (16)

Meeting Date 7-3-2023

Initiator John Tyler Hammons

Office/Department: City Attorney

Item Title

Approve, approve with modification, or deny a **Tourism Agency Contract** between the City and the Tahlequah Area Chamber of Commerce for the provision of tourism development services.

Background

Since at least 1987, the City of Tahlequah has contracted with the Tahlequah Area Chamber of Commerce to conduct tourism development services on behalf of the City. The City and Chamber have negotiated a new contract which transitions the Chamber to a new service model as an independent contractor rather than a quasi-department of the City.

Exhibits

Exhibit 1 – Tourism Agency Contract

Funding Source

Hotel/Motel Tax Fund

Request

Approve Tourism Agency Contract between the City and the Tahlequah Area Chamber of Commerce

COPY

TOURISM AGENCY CONTRACT

by and between

THE CITY OF TAHLEQUAH, OKLAHOMA

and

THE TAHLEQUAH AREA CHAMBER OF COMMERCE

TOURISM CONTRACT

THIS CONTRACT entered into on the ____ day of July, 2023, and made effective as of July 1, 2023 (the “Effective Date”) between the **City of Tahlequah, Oklahoma, an Oklahoma municipal corporation** (the “City”) and the **Tahlequah Area Chamber of Commerce, an Oklahoma corporation** (the “Agent”) (collectively the “Parties”).

RECITALS

WHEREAS, an Ordinance of the City of Tahlequah at Part 7, Finance and Taxation, Chapter 5, Hotel/Motel Tax, § 7-501 et seq. (referred to herein as “Tax”), levies an excise tax of 4% of the gross rental receipts due from or paid by any transient guests of hotels located with the City. In accordance with the Tax, all taxes collected shall be set aside and used exclusively for the purpose of encouraging, promoting, and fostering tourism and tourism development in the City;

WHEREAS, City Ordinance § 7-504 provides that at the commencement of each fiscal year, the City will contract with the Tahlequah Area Chamber of Commerce, whereby the Agent will act as the agent of the City, in the distribution and use of the funds to be appropriated by the City derived from the Tax;

WHEREAS, the Agent, in addition to its other community activities and functions, has for numerous years served as the Agent; has encouraged, promoted, and fostered tourism in the City as a tourism department; and, as a result thereof, has obtained certain knowledge and expertise in this particular area of endeavor; and

WHEREAS, it is the desire of the Parties that duplication of programs for the encouraging, promoting, and fostering of tourism and tourism development of the City be eliminated and the Parties combine their respective efforts for such purpose and utilize the service and expertise to be provided by the Agent as hereinafter provided.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions herein stated and in consideration of the mutual benefits which will accrue to each of the Parties, the Parties have agreed and do hereby agree as follows:

ARTICLE I – DEFINITIONS

Section 1-01. Definitions. For the purposes of this Contract, the following terms have the meanings provided for in this Section, unless the context clearly requires otherwise:

Affiliate: A person or entity which directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a specified person or entity.

Agent: The Tahlequah Area Chamber of Commerce.

Agent Services: The term “Agent Services” shall have the meaning ascribed to such term in Exhibit A of this Contract.

Council: The Tahlequah Area Tourism Council established by Section 4-04 of this Contract.

Contract: The term "Contract" shall mean this Tourism Contract, together with all schedules and exhibits attached hereto, each of which are incorporated herein as an integral part of this Contract.

Effective Date: The term "Effective Date" shall have the meaning ascribed to such term in the opening paragraph of this Contract.

Event of Force Majeure: An act of God, fire, earthquake, hurricane, flood, riot, civil commotion, terrorist act, terrorist threat, storm, washout, wind, lightning, landslide, explosion, epidemic, inability to obtain materials or supplies, accident to machinery or equipment, any law, ordinance, rules, regulation, or order of any public or military authority stemming from the existence of economic or energy controls, hostilities or war, a labor dispute which results in a strike or work stoppage affecting the City or the Agent, or any other cause or occurrence outside of the reasonable control of the Party claiming an inability to perform and which by the exercise of due diligence could not be reasonably prevented or overcome.

Laws: All applicable federal, state, and local laws, statutes, rules, regulations, and ordinances.

Operating Budget: A line-item budget for the Agent which includes a projection of Operating Expenses presented on an annual basis.

Operating Expenses: All expenses incurred by the Agent in connection with the provision of services under the Contract.

Operating Year: Each twelve (12) month period during the Term, commencing on the Effective Date and continuing until the anniversary of such date.

Program of Work: The term "Program of Work" shall have the meaning ascribed to such term in Exhibit A of this Contract.

Tax Revenue: All revenues received by the City pursuant to the Tax, as provided by Ordinance of the City of Tahlequah at Part 7, Finance and Taxation, Chapter 5, Hotel/Motel Tax, § 7-501 et seq., as amended.

Term: The term "Term" shall have the meaning ascribed to such term in Section 4-01 of this Contract.

Termination Date: The date on which a terminating Party wishes this Contract to terminate.

ARTICLE II – SERVICES

Section 2-01. Engagement.

- A. City hereby engages the Agent, pursuant to the requirements of the Tax, to act as the sole and exclusive tourism development agency of the City, subject to provisions of the Tax and this Contract.
- B. The Agent hereby accepts such engagement, and shall perform the services described herein, subject to the terms and conditions expressly set forth in this Contract, as an independent contractor of the City.

Section 2-02. Services Performed. The Agent agrees to perform the Agent Services described in **Exhibit A**. It is expressly agreed by the Parties that so long as this Contract is in effect, the City shall not interfere with the day-to-day operations of the Agent in the provision of the services under this Contract and shall at no time give or communicate orders or instructions to employees or personnel employed by the Agent hereunder.

Section 2-03. Limitation on Agent's Duties. The Agent's obligations under this Contract are contingent upon and subject to the City making available, in a timely fashion, the funds budgeted for and/or reasonably required by the Agent to carry out such obligations during the Term. The Agent shall not be considered in breach or default of this Contract and shall have no liability to the City or any other party, in the event the Agent does not perform any of its obligations hereunder due to failure by the City to timely provide such funds.

Section 2-04. Other Activities Authorized. Nothing in this Contract shall be deemed to prevent the City from expending funds or employing personnel reasonably related to the operation, promotion, enhancement, or maintenance of public parks, public museums, or public facilities within the City.

ARTICLE III – DURATION

Section 3-01. Term. The term of this Contract (the “**Term**”) shall be one (1) year, beginning on the Effective Date and, unless sooner terminated pursuant to the provisions of this Contract, expiring June 30, 2024. Unless either Party expressly provides for otherwise in writing at least ninety (90) prior to such date, this Contract shall automatically be renewed for an additional one (1) year periods.

Section 3-02. Termination.

- A. This Contract may be terminated:
 - 1. By either Party at any time upon providing the other Party with written notice of such termination at least ninety (90) days prior to the Termination Date, or
 - 2. By the Agent if the City fails to approve the fiscal appropriation necessary to support this Contract. Notwithstanding any other provision of this Contract, the Parties acknowledge and agree that the City may not lawfully appropriate funds outside of a given fiscal year nor may the City authorize expenditures in excess of estimated revenues for a given fiscal year. In the event the City fails to approve the necessary appropriations to support the Contract, the Termination

Date shall be, and the Contract shall terminate on, June 30th of the currently funded Operating Year, provided the Agent shall provide written notice of such termination to the City as soon as reasonably possible.

- B. Except for payment of all fees due the Agent through the effective date of termination, the Agent shall have no right or remedy, at law or at equity, against the City for a termination of this Contract under this Section 3-02.
- C. Upon termination of this Contract for any reason:
 - 1. The Agent shall promptly discontinue the performance of all services hereunder;
 - 2. The City shall promptly pay the Agent all fees due the Agent up to the Termination Date, subject to proration if the Term ends other than at the end of an Operating Year; and
- D. Any obligation of the Parties which are specifically intended to survive expiration or termination of this Contract shall survive expiration or termination hereof.

ARTICLE IV – OPERATIONS

Section 4-01. Operating Budget.

- A.
 - 1. Attached hereto as **Exhibit B** is the Operating Budget for the first (1st) Operating Year. The Parties acknowledge that such Operating Budget was approved by the City prior to the Effective Date.
 - 2. At least sixty (60) days prior to the commencement of each subsequent Operating Year in respect to such year, the Agent shall prepare and submit to the City its proposed Operating Budget for such year. The annual Operating Budget shall include the Agent's good faith projection of Operating Expenses, presented on an annual basis, for the upcoming Operating Year. The City agrees to provide the Agent with all information in its possession necessary to enable the Agent to prepare each Operating Budget, including anticipated projections of Tax Revenues and fund balances available for appropriations to support this Contract.
 - 3. After approval of the year's Operating Budget by the City, the City shall pay Agent one quarter (1/4) of the budgeted Tax revenue from the Operating Budget at the beginning of each quarter of the fiscal year (July 1, October 1, January 1, and April 1) to be paid to the Agent as soon as an invoice is received by the City.
 - 4. Once the Operating Budget is approved for the upcoming fiscal year, the Agent shall have the authority to expend funds as needed in accordance with the Operating Budget. Any expenditure occurring outside of the parameters of the approved Operating Budget must first be approved by the Agent's Board of Directors and the City before the expenditure may occur.
- B.
 - 1. The annual Operating Budget shall be subject to the reasonable review and approval of the City in its sole and absolute discretion, provided approval or disapproval shall not be unreasonably delayed. In order for the City to fully evaluate and analyze such budget proposal, the Agent agrees to provide to the

City such reasonable financial information related to the services performed under this Contract as may be requested by the City from time to time.

2. If the City fails to approve any annual Operating Budget proposed by the Agent, the City shall promptly provide the Agent the specific reasons therefor and its suggested modification to the Agent's proposed Operating Budget in order to make it acceptable. In such an event, the Parties agree to engage in good faith discussions and the use of commercially reasonable efforts to attempt to resolve the matter to the mutual satisfaction of the Parties, provided, in all cases whatsoever, the City shall be entitled to object to any proposed annual Operating Budget for any reason whatsoever.

C.

1. The Agent shall use all reasonable efforts to provide the services under this Contract in accordance with the Operating Budget. However, the City acknowledges that, notwithstanding the Agent's expertise and experience in relation to the provision of services under this Contract, the projections contained in each Operating Budget are subject to and may be affected by changes in financial, economic, and other conditions and circumstances beyond the Agent's control, and that the Agent shall have no independent liability if the numbers within the Operating Budget are not achieved.
2. The Parties agree the Agent may transfer any unexpended and unencumbered funds within the Operating Budget at any time during the Operating Year from one line item within the Operating Budget to another. The Agent agrees to notify the City within thirty (30) days of all such changes even if City approval is not required.

Section 4-02. Records and Reporting.

- A. The Agent agrees to keep and maintain at its principal place of business separate and independent records, in accordance with generally accepted accounting principles, devoted exclusively to its operations in connection with the provision of services under this Contract. Such records shall contain all entries reflecting the business operations of the Agent under this Contract. The City, or its authorized agent, shall have the right to audit and inspect such records from time to time during the Term upon reasonable notice to the Agent and during the Agent's ordinary business hours.
- B. The Agent agrees to provide the City, within thirty (30) days after the end of each month during the Term, unaudited financial reports for its operations under this Contract for such month and year to date in accordance with generally accepted accounting principles. Failure to provide the monthly unaudited financial report shall cause the City to suspend all payments without interest thereupon due hereunder until such time as the unaudited financial report is provided.
- C. The Agent agrees to provide the City, within one hundred twenty (120) days following the end of each Operating Year, an audit report on the accounts and records as kept by the Agent related to its operations under this Contract. Costs associated with such audit report shall be an Operating Expense. Such audit shall be performed by an external auditor approved by the City and shall be conducted in accordance with generally accepted auditing standards. Failure to provide the audit report within such time shall

constitute automatic termination of this agreement by the Agent without further action by the City.

- D. The Agent agrees to provide the City an annual report summarizing its programmatic and financial accomplishments in sufficient detail to allow a determination of value received and goals met by the Agent as a means of measuring success and return on investment. The report shall be provided to the City no later than the first regular meeting of the City's City Council in the month of May in each year during the Term.
- E. The Parties agree no particular official of the City shall be responsible for reviewing individual expenditures incurred by the Agent under this Contract. The Agent agrees to only use the funds made available under this Contract for the purposes permitted by the Tax and no other.
- F. The City shall provide the Agent on the first week of each month or as soon as information is received from the state, reports detailing the amount of Hotel/Motel and Substantial Taxes collected by the City.

Section 4-03. Contract Monitoring. Each Party shall appoint a contract administrator who shall monitor such Party's compliance with the terms of this Contract. The Agent's contract administrator shall be its Tourism Director unless the Agent notifies the City of a substitute contract administrator in writing. The City's contract administrator shall be its City Administrator unless the Agent notifies the City of a substitute contract administrator in writing. Any and all reference in this Contract requiring a Party's participation or approval shall mean the participation or approval of such Party's contract administrator.

Section 4-04. Tourism Council. The Agent's operations under this Contract shall be guided by the Tahlequah Area Tourism Council (the "**Council**"), with input from the Agent's Board of Directors. The Council is a group of no more than thirteen (13) tourism stakeholders established to provide input, oversight, and recommendations on tourism marketing initiatives on behalf of the Agent in accordance with the Agent's policies and procedures. The Mayor of Tahlequah and the City Council of Tahlequah may appoint an individual to be a voting member of the Council to provide input on tourism initiatives.

ARTICLE V – REPRESENTATIONS AND COVENANTS

Section 5-01. City's Representations and Covenants. The City hereby represents and covenants to the Agent as follows, which such representations and covenants shall, unless otherwise stated herein, survive the execution and delivery of this Contract:

- A. The City is a municipality organized pursuant to the laws of the State of Oklahoma and authorize to transact business in the State of Oklahoma.
- B. It has the full legal right, power, and authority to enter in this Contract and to grant the rights and perform the obligations of the City herein, and that no other third-party consent or approval is required to grant such rights or perform such obligations hereunder.
- C. This Contract has been duly executed and delivered by the City and constitute a valid and binding obligation of the City, enforceable in accordance with its terms, except as such enforceability be limited by bankruptcy, insolvency, reorganization, or similar laws affected creditors' rights generally by or general equitable principles.

- D. To the City's best knowledge, without duty of inquiry, neither the execution and delivery of this Contract by the City nor City's performance of any obligation hereunder:
 - 1. Will constitute a violation of any Law to which the City is subject;
 - 2. Shall constitute a default of any term or provision or shall cause an acceleration of the performance required, under any other agreement or document to which the City is a party or otherwise found.
- E. If necessary to carry out the intent of the Contract, the City agrees to execute and provide to the Agent, on or after the Effective Date, any and all other instruments, documents, conveyances, assignments, and agreements which the Agent may reasonably request in connection with the provision of services under this Contract.
- F. The City agrees that it will not expend funds, employ or contract with personnel, hire tourism personnel or agencies to conduct tourism and/or marketing activities while this Contract is in effect.

Section 5-02. Agent's Representations and Covenants. The Agent hereby represents and covenants to the City as follows, which such representations and covenants shall, unless otherwise stated herein, survive the execution and delivery of this Contract:

- A. The Agent is a corporation duly organized, validity existing, and in good standing under the laws of the State of Oklahoma.
- B. It has the full legal right, power, and authority to enter in this Contract and to grant the rights and perform the obligations of the Agent herein, and that no other third party consent or approval is required to grant such rights or perform such obligations hereunder.
- C. This Contract has been duly executed and delivered by the Agent and constitute a valid and binding obligation of the City, enforceable in accordance with its terms, except as such enforceability be limited by bankruptcy, insolvency, reorganization, or similar laws affected creditors' rights generally by or general equitable principles.
- D. The Agent will comply with all Laws applicable to its provision of services under this Contract.
- E. To the best of the Agent's knowledge, without duty of inquiry, neither the execution and delivery of this Contract by the Agent nor Agent's performance of any obligation hereunder:
 - 1. Will constitute a violation of any Law to which the Agent is subject;
 - 2. Shall constitute a default of any term or provision or shall cause an acceleration of the performance required, under any other agreement or document to which the Agent is a party or otherwise found.
- F. If necessary to carry out the intent of the Contract, the Agent agrees to execute and provide to the City, on or after the Effective Date, any and all other instruments, documents, conveyances, assignments, and agreements which the Agent may reasonable request in connection with the provision of services under this Contract.
- G. By executing this Contract, the Agent agrees to comply with the terms of this Contract and the Tax. Except for ensuring compliance with the terms of this Contract, the City shall have no right to assert control over the Agent and the method and manner in which it conducts business and the Agent shall not be required to follow any policies,

procedures or practices of the City, other than those City Ordinances which apply to the Agent as a result of the Tax.

- H. The Parties agree that Agent is not considered a public body pursuant to the laws of the State of Oklahoma and Agent will not be required to comply with either the Oklahoma Open Meeting Act, 25 O.S. § 301 *et seq*, as amended, or the Oklahoma Open Records Act, 51 O.S. § 24A.1 *et seq*, as amend.

ARTICLE VI – GENERAL PROVISIONS

Section 6-01. No Discrimination. The Agent agrees it will not discriminate against any employee or applicant for employment for work under this Contract because of race, religion, color, sex, disability, national origin, ancestry, physical handicap, or age, and will take affirmative steps to ensure applicants are employed, and employees are treated during employment, without regard for race, religion, color, sex, disability, national origin, ancestry, physical handicap, or age.

Section 6-02. Force Majeure. Neither Party shall be liable or responsible to the other Party for any delay, loss, damage, failure, or inability to perform under this Contract due to an Event of Force Majeure, provided that the Party claiming failure or inability to perform provides written notice to the other Party within thirty (30) days of the date on which such Party gains actual knowledge of such Event of Force Majeure. Notwithstanding the foregoing, in no event shall a Party's failure to make payments due hereunder be excusable due to an Event of Force Majeure.

Section 6-03. Assignment. Neither Party may assign this Contract without the prior written consent of the other. Any purported assignment in contravention of this Section shall be void.

Section 6-04. Notices. All notice required or permitted to be given pursuant to this Contract shall be in writing and delivered personally or sent by registered or certified mail, return receipt requested, to the address and positions set forth below. All such notices to either Party shall be deemed to have been provided when delivered, if delivered personally, or three (3) days after mailed, if sent by registered or certified mail.

If to the City:

**City Administrator
City of Tahlequah
111 S Cherokee Street
Tahlequah, Oklahoma 74464**

If to the Agent:

**President and CEO
Tahlequah Chamber of Commerce
123 E Delaware Street
Tahlequah, Oklahoma 74464**

The designation of the positions to be notified and the addresses of such Parties set forth above may be changed from time to time by written notice to the other Party in the manner set forth above.

Section 6-05. Severability. If a court of competent jurisdiction determines that any term of this Contract is invalid or unenforceable to any extend under applicable law, the remainder of this Contract, and the application of this Contract to other circumstances, shall not be affected

thereby, and each remaining term shall be valid and enforceable to the fullest extent permitted by law.

Section 6-06. Entire Agreement. This Contract, including the exhibits and schedules attached hereto, contains the entire agreement between the Parties with respect to the subject matter hereof, and supersedes and replaces all prior negotiations, correspondence, conversations, agreements, and understandings concerning the subject matter hereof. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations, agreements, or understandings, whether oral or written.

Section 6-07. Governing Law.

- A. This Contract is entered into under and pursuant to and is to be construed and enforceable in accordance with, the laws of the State of Oklahoma, without regard to its conflict of laws principles.
- B. All actions or legal proceedings arising out of or relating to this Contract shall be brought in the courts of records of the State of Oklahoma in Cherokee County or in the United States District Court for the Eastern District of Oklahoma. Each Party consents to the sole and proper jurisdiction of such courts in any actions or legal proceedings and waives any objection to the laying of venue of any such action or legal proceeding in such courts.

Section 6-08. Reasonable Actions Required. Notwithstanding any provision of this Contract to the contrary, the Agent agrees to perform all acts reasonably necessary to ensure the City's compliance with any and all laws related to the accounting, reporting, recording, and retention of all revenues and expenditures of public funds.

Section 6-09. Amendments. Neither this Contract nor any of its terms may be changed or modified, waived, or terminated, unless as otherwise provided for herein, except by an instrument in writing signed by an authorized representative of the Party against whom the enforcement of the change, waiver, or termination is sought.

Section 6-10. Waiver and Remedies.

- A. No failure or delay by a Party hereto to insist on the strict performance of any term of this Contract, or to exercise any right or remedy consequent to a breach thereof, shall constitute a waiver of any breach or any subsequent breach of such term. No waiver of any breach hereunder shall affect or alter the remaining terms of this Contract, but each and every term of this Contract shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.
- B. The remedies provided in this Contract are cumulative and not exclusive of the remedies provided by law or in equity. Every remedy given by this Contract may be exercised from time to time and as often as may be deemed expedient by the Party exercising such remedy.

Section 6-11. Relationship of Parties. The Parties acknowledge and agree that they are not joint ventures, partners, or joint venturers with respect to the subject matter of this Contract

and nothing contained in this Contract shall be construed as creating a partnership, joint venture, or similar relationship between the Parties. In performing the services under this Contract, the Agent acts on behalf of and as an independent contractor for the City, subject to the limitations of the Agent's authority as set out in this Contract, with the duties required by law of a party acting in such capacity.

Section 6-12. No Third-Party Beneficiaries. There are no intended third-party beneficiaries under this Contract, and no third party shall have any rights or make any claim thereunder, it being intended that solely the Parties hereto shall have rights and may make claims hereunder.

Section 6-13. Attorney Fees. If any suit or action is instituted by either Party hereunder, included all appeals, the prevailing Party in such suit or action shall be entitled to recover reasonable attorney fees and expenses from the non-prevailing Party, in addition to any other amounts to which it may be entitled.

Section 6-14. Limitation on Damages. In no event shall either Party be liable or responsible for any consequential, indirect, incidental, punitive, or special damages, including, without limitation, lost profits, whether based upon breach of contract or warranty, negligence, strict tort liability, or otherwise, and each Party's liability for damages or losses hereunder shall be strictly limited to direct damages that are actually incurred by the other Party, provided that the foregoing shall not limit or restrict any claim by the Agent for compensation under the Operating Budget in the event of a breach or default of this Contract by the City.

Section 6-15. Headings. All headings and subheadings employed within this Contract and in the accompanying schedules and exhibits are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Contract.

Section 6-16. Counterparts. This Contract may be executed in counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same document. This Contract may be executed by the Parties and transmitted by facsimile or electronic transmission and if so executed and transmitted, shall be effective as if the Parties had delivered and executed original of this Contract.

Section 6-17. Benefits and Obligations. The covenants and agreements contained herein shall inure to the benefit of, and be binding upon, the Parties hereto and their respective successors and assigns.

Section 6-18. Time. Time is of the essence with respect to all payments under this Contract.

Section 6-19. Acknowledgement. The Parties acknowledge that have been provided with a copy of this Contract for review prior to signing it, that they have been given the opportunity to review it prior to signing it, that they have been given the opportunity to have this Contract reviewed by their respective attorneys prior to signing it, and that they understand the purpose and effect of this Contract.

IN WITNESS WEHREOF, each party hereto has caused this Contract to be executed on behalf of such Party by an authorized representative.

CITY OF TAHLEQUAH, OKLAHOMA

**TAHLEQUAH AREA CHAMBER OF
COMMERCE**

Mayor

Chair of the Board

Attest:

Attest:

City Clerk

Board Secretary

Approved as to form:

City Attorney

EXHIBIT A

Agent Duties

During the Term, the Agent will provide services related to a broad range of management, marketing, business development, planning, design, vendor negotiations, branding, and employee and volunteer recruitment necessary to present a viable convention and tourism promotional program for the City (collectively, the “**Agent Services**”).

The Agent Services address the Agent’s responsibility for all aspects of oversight for staffing, marketing, event management, sponsorship and advertising sales, gathering and disseminating information, research, promotional programs, servicing conventions, assisting in the development and promotion of local activities and attraction designed to enhance the City’s tourist desirability, and day-to-day operation for the encouraging, promoting, and fostering the convention and tourism development of the City (collectively, the “**Program of Work**”).

EXHIBIT B
First Operating Budget