

# AGENDA

## TAHLEQUAH CITY COUNCIL - SPECIAL MEETING

A **Special meeting** was called by the **Mayor** to be held at the following location and purposes.

Date/Time of

City Council Meeting:

**Friday, May 19, 2023 at 8:30 a.m.**

Place of Meeting:

The meeting will be held at **111 S. Cherokee Ave. Tahlequah, OK 74464** (voting members of the public body will be present in person) and by Videoconference and/or Teleconference.

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

**ZOOM ID: 886 3897 3882    PASSWORD: 4560651**

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1. Meeting called to Order
  2. Roll Call
  3. Discussion and possible action to allow the Mayor to sign a Memorandum of Agreement with, and accept a **donation** from, **the Cherokee Nation** in the amount of **2.2 million dollars** to be used to purchase a **ladder truck** for the **Tahlequah Fire Department**. *Fire Chief Casey Baker*
  4. **PROPOSED EXECUTIVE SESSION-Motion to exit Regular Session and enter into Executive Session**
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- ❖ **Receive confidential information from the City Attorney concerning the claim against H&G Paving Contractors, Inc. and take appropriate action in open session as provided by 25 O.S. 307 (B)(4).**

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5. Reconvene
  6. Discussion and possible action regarding the **claim against H&G Paving Contractors, Inc.**
  7. Adjourn

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (hereinafter referred to as the "Agreement") is between **Cherokee Nation Businesses, LLC** (hereinafter referred to as "**CNB**") doing business as a wholly-owned tribal limited liability company of the Cherokee Nation (hereinafter referred to as "**CN**"), a federally recognized Indian Tribe which has jurisdiction over "Indian lands" as defined in Title 25, Section 2703 (4) the United States Code located at 777 West Cherokee Street, Catoosa, Oklahoma 74015 and the **City of Tahlequah, Oklahoma** (hereinafter referred to as "**Tahlequah**"), an Oklahoma municipality with its principal office of which is located at 111 S. Cherokee Ave., Tahlequah, Oklahoma 74464.

**WHEREAS, CNB, its subsidiaries and affiliates,** and **CN** own and operate several facilities, within the Tahlequah Fire Department's fire protection district (collectively, the "Cherokee Businesses"); and

**WHEREAS, Tahlequah** is a Jurisdiction as that term is defined in the Oklahoma Intrastate Mutual Aid Compact ("OIMAC") and is considered a participant in the OIMAC system which provides for intrastate mutual aid for Emergencies and Disasters as those terms are defined in the OIMAC; and

**WHEREAS, Tahlequah** has expressed a need for a new fire truck in order to provide necessary level of emergency response to the citizens within their fire protection district for the protection of their persons and property, including the Cherokee Businesses, located within the Tahlequah Fire District; and

**WHEREAS, CNB** is in agreement to provide a one-time financial contribution to Tahlequah to facilitate the purchase of a new fire truck; and

**WHEREAS, CNB and Tahlequah** desire to enter into this Agreement to delineate the parties' respective responsibilities.

**NOW, THEREFORE** in consideration of the foregoing premises and mutual promises and covenants of the parties hereto, the receipt and sufficiency of which is hereby acknowledged, **CNB and Tahlequah** agree to the following:

I. **Statement of Intent**

The parties enter into this Agreement to confirm (A) CNB's agreement to provide the Funds, as defined below, to Tahlequah and (B) Tahlequah's agreement to use the Funds from CNB to purchase a new fire truck for the Tahlequah Fire Department.

II. **CNB Responsibilities**

A. CNB shall provide one-time funding to the City of Tahlequah in the amount quoted in the seller's/manufacture's apparatus quote and/or proposal for the specific fire truck to be ordered by Tahlequah, provided that such amount shall not to exceed Two Million Two Hundred Thousand Dollars (\$2,200,000.00) (the "Funds"). Such Funds shall be used for the sole purpose of facilitating Tahlequah's purchase of a new fire truck and any ancillary equipment for such truck required to meet the needs of the Tahlequah Fire Department as expressed herein.

- B. CNB shall provide the Fund's to Tahlequah within fifteen (15) days following the receipt of confirmation evidencing the seller's/manufacturer's acceptance of Tahlequah's order for the fire truck identified in the apparatus quote and/or proposal..

**III. City of Tahlequah's Responsibilities**

- A. Tahlequah shall use the Funds from CNB to purchase a new fire truck that can meet the increased needs of the community and provide necessary fire response to each of the Cherokee Businesses that the Tahlequah Fire Department would respond (directly and through mutual aid requests).
- B. The City of Tahlequah agrees to select and order a fire truck as soon as possible.
- C. In the event that Tahlequah does not complete the order, remit the amount of Funds to the seller/manufacturer necessary to commence assembly of the fire truck, or take other actions necessary to fulfill the purchase of the fire truck within thirty (30) days after receipt of the Funds, then Tahlequah shall return the Funds to CNB upon CNB's demand. Notwithstanding the foregoing, if Tahlequah fails to meet the deadline set forth above and such failure is directly attributable to a force majeure event or exceptional circumstances beyond its reasonable control, (a) Tahlequah shall exercise reasonable diligence to eliminate the cause of such inability to perform, and (b) such deadline may be extended for a period of time equal to the period of delay directly attributable to such event or circumstance, provided that in no event shall any of the deadlines set forth above be extended more than one (1) year.

**IV. Entire Agreement**

- A. This Agreement constitutes the entire agreement of the parties relative to the subject matter hereof.
- B. This Agreement shall not supersede any other Agreements or MOU's between CNB, any of its subsidiary companies, and the City of Tahlequah. The terms of any other agreements, between the City of Tahlequah and CNB and any of its subsidiary companies, shall remain in full effect.
- C. The parties agree that this Agreement *does not* constitute a waiver of sovereign immunity of the Cherokee Nation.

**V. Modifications**

This Agreement may only be supplemented, amended, or modified by the mutual agreement of the parties. No supplement, amendment, or modification of this Agreement shall be binding unless it is in writing and signed by all parties.

**VI. Effective Date**

This Agreement shall be effective upon the date of the last signature below (the "Effective Date").

[EXECUTION PAGE IMMEDIATELY FOLLOWS]

**Cherokee Nation Businesses, LLC**

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Name

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Title

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Date

**City of Tahlequah**

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Name

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Title

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Date