



Action Requested/Required:

- Vote/Action Requested
- Discussion or Presentation Only
- Public Hearing
- Report Date: _____
- Hearing Date: _____
- Voting Date: _____

Department: City Management **Presenter(s) & Title:** Nathan Ingram, Assistant City Manager

Agenda Item Title:

Discussion and Possible Action for History Cherokee to Defer Annual Installment on the Note between the City and History Cherokee to Purchase the E. Marietta Street Property.

Summary:

History Cherokee approached the City requesting that the City permit them to defer their annual \$25,000 installment payment for one year. This installment, which is due annually for payment on the note to purchase 221 E. Marietta Street. This will defer that \$25,000 installment for one year and will ultimately extend the terms of the original note by the same. Council previously requested that details of such installment, be incorporated into the Agreement between the City and History Cherokee, and that this agreement identifies the uses of the requested \$25,000 deferment.

Budget Implications:

Budgeted? Yes No N/A

Total Cost of Project: Check if Estimated

Fund Source: General Fund Water & Sewer Sales Tax Other:

Staff Recommendations:

Consideration for: Move to Approve History Cherokee to defer their annual installment of \$25,000 to purchase 221 E. Marietta St., for one year, and approve the City Manager to sign an agreement for use of Hotel/Motel Taxes for Fiscal Year 2024.

Reviews:

Has this been reviewed by Management and Legal Counsel, if required? Yes No

Attachments:

Draft Copy of the Proposed Agreement to Expend Hotel/Motel Taxes

AGREEMENT

This Agreement is entered into on _____, 2024, by THE CITY OF CANTON, Georgia, referred to as “City”, and CHEROKEE COUNTY HISTORICAL SOCIETY, INC. a non-profit 501(c) organization in Cherokee County, Georgia, hereinafter referred to as “Organization”.

WITNESSETH:

WHEREAS, the City may expend funds per Georgia Code Section 48-13-51(b) subject to the following limitations: a.... municipality levying a tax pursuant to the paragraph shall expend an amount equal to at least 50% of the total taxes collected, over what was collected at 5%, for tourism, conventions, and trade shows by the Organization pursuant to O.C.G.A. 48-13-50(4); and

WHEREAS, the City may expend funds for promoting tourism; and

WHEREAS, such expenditures are permissible pursuant to a contract with a private sector non-profit organization; and

WHEREAS, Organization is a private sector non-profit organization exempt from income tax under IRC §501(c)(3) which is willing and authorized to expend such funds for the purpose of promoting tourism in Canton as provided by law; and

NOW THEREFORE, in consideration of the premises herein, the parties agree to the following:

1. City shall grant Organization the sum of **\$75,000** during the City’s Fiscal Year ending September 30, 2024. This shall be a one-time grant; any further grants must be made pursuant to separate written agreement between the parties. All sums received by Organization from City shall be expended within one year after the grant has been paid by the City and solely for the benefit of City residents and only as follows: Promoting tourism in the City through operation of a museum in historic downtown Canton. It is intended that these funds be used for the following projects:
 - a. Administration of the new History Cherokee Center and the Rock Barn rental facility. Both facilities are operated as tourist attractions and will be marketed as such. The History Center opened to the public in November, 2022 and will be advertised in online markets such as Exploregeorgia.org, tripadvisor.com and n-georgia.com, as well as Facebook and Instagram. The Rock Barn is represented online in Weddingwire.com, Zola.com and theKnot.com. It is anticipated that the facilities will bring in 20,000 visitors a year, and provide a major cultural asset to the Downtown area, which aligns with the City’s Roadmap as adopted by Council. Grant funding will allow the History Center to be open Wednesday – Sunday. Over the prior years, the Rock Barn hosted over 10,000 visitors, with 70% of the rentals being provided to individuals who reside outside the City of Canton.
 - b. Produce a line of tourism products, including rack cards and brochures to promote History Cherokee's facilities and programming. These will be professionally printed and distributed to county-wide hotels, the Chamber of Commerce, city halls and other local attractions
2. City shall make a one-time deferment of the required 2024 annual installment as described in the Purchase and Sale Agreement dated April 23, 2019. The Purchase and Sale Agreement for the property at 221 E. Marietta St. calls for a \$720,000 promissory note providing for annual payments of \$25,000. Those annual installments started in July of 2020, due July of each year thereafter, and continue until the note is paid in full. The installment payment due July 2024 will be deferred for the 2024 year and will not cause the original Purchase and Sale Agreement to be in default.

In acceptance of this one-time deferment of their \$25,000 installment payment, History Cherokee agrees to utilize \$25,000 of the funds as described in paragraph #1 above towards; a \$10,000 Diamond Sponsorship for Derby Days, \$5,000 toward interpretive sign designs located within historic areas of Canton, and \$10,000 towards the operations of a visitors center within the current History Cherokee Museum which shall remain open and accessible to the public Wed-Sat 10am-5pm and Sundays 12pm-5pm.

- 3 Organization shall provide audit verification to the City demonstrating that the Organization uses the funds solely and exclusively for the purpose of promoting tourism in conformance with this Agreement. Such verification shall be provided to the city within two weeks of City's written request for the audit verification, and in no instance later than 30 days after expenditure of the funds granted herewith.
- 4 By executing this Agreement, Organization hereby affirms that it will use the funds received solely and exclusively in compliance with this Agreement, and will further expend such funds in full compliance with City and State laws. Organization agrees to defend, indemnify, and hold harmless City from and against all claims that arise from its failure or alleged failure to spend funds in compliance with this paragraph, and shall defend the City from and against all claims that arise therefrom, including the reasonable attorneys' fees and court costs of City.
- 5 All notices, requests, demands or other communication required or permitted to be given hereunder shall be in writing and shall be addressed and delivered to each party at the addresses set forth below. Any such notice, request, demand, or other communication shall be considered given or delivered, as the case may be, on the date of receipt. Rejection or other refusal to accept or inability to deliver because of changed address of which proper notice was not given shall be deemed to be receipt of the notice, request, demand or other communication. By giving prior notice thereof, any party may, from time to time and at any time change its address for notices hereunder. Legal counsel for the respective parties may send to the other party any notices, requests, demands or other communications required or permitted to be given hereunder by such party.
 - a. City of Canton, 110 Academy Street, Canton GA 30114
 - b. Cherokee County Historical Society, 221 E. Marietta St., Canton GA 30114
- 6 The parties hereto may not assign, sublet, or transfer their interest in and responsibilities under this Agreement without written approval of all parties hereto.
- 7 It is the intention of the parties that the laws Georgia shall govern the validity of the Agreement, the construction of its terms and the interpretation of the rights or duties of the parties.
- 8 In the event any provision or portion of this Agreement is held by any court of competent jurisdiction to be invalid or unenforceable, such holdings shall not affect the remainder hereof and the remaining provisions shall continue in full force and effect to the same extent as would have been the case had such invalid or unenforceable provision or portion had never been a part hereof.
- 9 On and after the date of this Agreement, both parties shall, at the request of the other, make, execute, and deliver or obtain and deliver all instruments and documents and shall do or cause to be done all such other things which either party may reasonably require to effectuate the provisions and intentions of this Agreement.
- 10 Time is and shall be of the essence under this Agreement.
- 11 The parties signing this Agreement hereby state that they have the authority to bind the entity on whose behalf they are signing.
- 12 This Agreement supersedes all prior discussions and agreements between the parties and contains the sole and entire understanding between the parties with respect to transactions contemplated by this Agreement. All promises, inducements, offers, solicitations, agreements, representations, and warranties heretofore made between the parties, if any, are superseded by this Agreement. This Agreement shall not be modified or amended except by written instrument executed by or on

behalf of the parties in the same manner in which this Agreement is executed. No course of action or waiver of rights hereunder shall constitute a waiver of such right or action.

- 13 This Agreement shall be binding upon the parties hereto, their heirs, administrators, executors, successors, and assigns.
- 14 Except as expressly limited by the terms of this Agreement, all rights, powers, and privileges conferred hereunder shall be cumulative and not restrictive of those provided at law or in equity. No failure of any party to exercise any power given under this Agreement or to insist upon strict compliance with any obligation specified in this Agreement, and no custom or practice at variance with the terms of this Agreement, shall constitute a waiver of any party's right to demand exact compliance with the terms of this Agreement.
- 15 On and after the date of this Agreement, the parties shall, at request of the other, make, execute, and deliver or obtain and deliver all instruments and documents and shall do or cause to be done all such other things which any party may reasonably require to effectuate the provision and intentions of this Agreement.
- 16 This Agreement shall be construed without regard to the identity of the person who drafted the various provisions hereof. Each provision of this Agreement shall be construed as though all the parties participated equally in its drafting. Consequently, the parties acknowledge and agree that any rule of construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

IN WITNESS WHEREOF, the parties have signed this Agreement under their hand and seal on the date set forth above.

CITY OF CANTON, GEORGIA

William Peppers, City Manager

Arrest: _____
Annie Fortner, City Clerk
Affix City Seal

Organization: CHEROKEE COUNTY HISTORICAL SOCIETY

Attest: _____
Affix Corporate Seal