

**RESOLUTION NO. 97-09**

**COUNCIL OF THE CHEROKEE NATION**

**A RESOLUTION AUTHORIZING THE WAIVER OF SOVEREIGN IMMUNITY FOR  
THE AT&T MASTER AGREEMENT WITH THE CHEROKEE NATION**

**WHEREAS**, the Cherokee Nation since time immemorial has exercised the sovereign rights of self-government on behalf of the Cherokee people;

**WHEREAS**, the Cherokee Nation is a federally recognized Indian Nation with a historic and continual government to government relationship with the United States of America;

**WHEREAS**, being a federally recognized Indian Tribe, the Cherokee Nation enjoys governmental immunity from suit under federal and tribal law;

**WHEREAS**, the Cherokee Nation ("Nation") has through inherent sovereign authority and by constitution and tribal law the authority to enter into contractual agreements to benefit the Nation and the citizenry thereof;

**WHEREAS**, the Cherokee Nation Information Systems Group, a division of the Executive Branch of the Nation, wishes to enter into a contractual agreement, known as the AT&T Master Agreement, with AT&T Corp.;

**WHEREAS**, the other parties to the AT&T Master Agreement have requested a limited waiver of sovereign immunity from the Nation so that the agreement may be enforced if necessary.

**BE IT RESOLVED BY THE CHEROKEE NATION**, that for the sole purpose of allowing for enforcement of the terms of the AT&T Master Agreement, established as set forth in Attachment 1, which is incorporated by reference and made a part of this resolution as if stated herein in full, the Cherokee Nation Council agrees to a limited waiver of sovereign immunity, only if all of the following conditions are met:

(1) The entity seeking to bring suit against the Nation is AT&T Corp., or a corporate affiliate of AT&T Corp. that provides services to the Nation under the AT&T Master Agreement (collectively "AT&T"); and

(2) The claim is for breach of contract and seeks only compensatory damages resulting from Nation's noncompliance with the attached agreement, provided that Nation's waiver of sovereign immunity in an action for compensatory damages shall be limited to damages incurred through the date of the termination of the attached agreement; and

(3) That in the event of an award of compensatory monetary damages, the award may be paid out of any assets of the Cherokee Nation, excluding real property and improvements by way of fixtures and excluding funds held in trust by the United States on behalf of the Cherokee Nation and shall not be a lien or encumbrance upon tribal property or allow recovery from any elected officials, officers, or employees of the Cherokee Nation for monetary damages, punitive or exemplary damages, court costs or attorney fees;

**BE IT FURTHER RESOLVED BY THE CHEROKEE NATION**, that nothing herein shall be construed as a waiver of immunity from suit seeking attorneys fees, punitive damages or any other form of damages from any party whatsoever, or as a waiver extended for the benefit of any entity, person, partnership, or firm whatsoever, other than AT&T as a party to the AT&T Master Agreement for enforcement of said agreement;

**BE IT FURTHER RESOLVED BY THE CHEROKEE NATION**, that this waiver shall not be construed to authorize any action or claim against the Nation sounding in tort or any other type of claim or recovery not expressly authorized herein, for which purposes the Cherokee Nation's sovereign immunity is and shall be reserved.

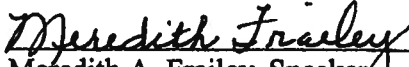
**BE IT FURTHER RESOLVED BY THE CHEROKEE NATION**, that AT&T as a party to the AT&T Master Agreement may not assign or transfer any rights under this waiver.

**BE IT FURTHER RESOLVED BY THE CHEROKEE NATION**, that this waiver shall not allow recovery from any elected officials, officers or employees of the Cherokee Nation for monetary damages, punitive or exemplary damages, court costs, attorney fees or any other damages whatsoever.


**BE IT FINALLY RESOLVED BY THE CHEROKEE NATION**, that the Principal Chief is authorized to execute an agreement on behalf of the Nation pursuant to which the Nation would not object or cause Information Systems Group to object to the contract known as the AT&T Master Agreement, or any subcontract of the AT&T Master Agreement, being governed by and in accordance with the Laws of the United States of America; to the jurisdiction of the Federal District Courts of the State of Oklahoma, or to the venue of any federal court in Oklahoma in connection with an action by AT&T as a current member who has also agreed to abide by the terms of the AT&T Master Agreement, to enforce its rights under the AT&T Master Agreement.

#### **CERTIFICATION**

The foregoing resolution was adopted by the Council of the Cherokee Nation at a duly called meeting on the 10<sup>th</sup> day of August, 2009, having 17 members present, constituting a quorum, by the vote of 17 yea; 0 nay; 0 abstaining.

  
Meredith A. Frailey, Speaker  
Council of the Cherokee Nation

**ATTEST:**

  
Don Garvin, Secretary  
Council of the Cherokee Nation

Approved and signed by the Principal Chief this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

~~-NOT SIGNED-~~  
Chadwick Smith, Principal Chief  
Cherokee Nation

**ATTEST:**

\_\_\_\_\_  
Melanie Knight, Secretary of State  
Cherokee Nation

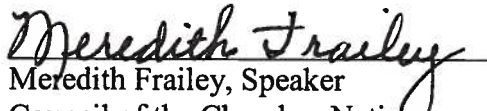


## Memorandum

**To:** Cherokee Nation Tribal Council Members  
**From:** Meredith Frailey, Speaker  
**Date:** March 23, 2010  
**Re:** R-97-09 "A Resolution Authorizing the Waiver of Sovereign Immunity for the AR&T Master Agreement with the Cherokee Nation"

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In accordance with Article VI Section 10 of the Cherokee Nation Constitution, this resolution having been returned, unsigned, becomes law after the fifth (5<sup>th</sup>) day of which it was presented to the Principal Chief (Sundays and holidays excepted). Therefore, this resolution is valid and enforceable.

  
Meredith Frailey, Speaker  
Council of the Cherokee Nation

