

**RESOLUTION NO. 33-13**

**COUNCIL OF THE CHEROKEE NATION**

**A RESOLUTION AUTHORIZING CERTAIN LENDING TRANSACTIONS  
INVOLVING CHEROKEE NATION BUSINESSES, L.L.C., A CHEROKEE NATION  
TRIBAL LIMITED LIABILITY COMPANY AND AUTHORIZING A LIMITED  
WAIVER OF SOVEREIGN IMMUNITY**

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

**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; and

**WHEREAS**, Cherokee Nation Businesses, L.L.C. (“CNB”) is a for-profit limited liability company organized under the laws of the Cherokee Nation, is wholly owned by the Cherokee Nation and enjoys sovereign immunity from suit under federal law; and

**WHEREAS**, Cherokee Nation Entertainment, L.L.C. (“CNE”) is a for-profit limited liability company organized under the laws of the Cherokee Nation, is wholly owned by CNB and enjoys sovereign immunity from suit under federal law; and

**WHEREAS**, the Cherokee Nation has determined it is both appropriate and necessary that CNB, CNE, and CNE’s subsidiaries be authorized and permitted to (i) enter into, borrow under and perform under a proposed loan or financing transaction with BOKF, NA dba Bank of Oklahoma (“BOK”), and certain other lenders, participants or indemnified parties (BOK and such other lenders, participants and indemnified parties being hereinafter collectively referred to as the “Lenders”) in the syndication or transaction, consisting of a senior secured credit facility in the aggregate principal amount of up to \$100,000,000, as such credit facility may from time to time be negotiated, supplemented, modified, amended, restated or extended (the “Senior Credit Facilities”), on the general terms and conditions set forth in the Summary of Terms and Conditions dated March 22, 2013, attached to this Resolution (the “Term Sheet”), and (ii) pledge certain of their respective assets as contemplated in the Term Sheet to secure CNB’s, CNE’s and CNE’s subsidiaries’ obligations under the Senior Credit Facilities (all of the matters in the foregoing clauses (i) and (ii) are hereinafter collectively referred to as the “Loan Transactions”; all documents related to the Loan Transactions, including without limitation loan, guaranty and security agreements, to be executed by CNB, CNE or CNE’s subsidiaries are referred to herein as the “Loan Transaction Documents”; and CNB, CNE and any subsidiary or affiliate of CNB or CNE (but excluding the Cherokee Nation) which is a party to a Loan Transaction Document are referred to herein collectively as the “Loan Parties”); and

**WHEREAS**, the Cherokee Nation has determined it is both appropriate and necessary that the Cherokee Nation enter into and perform a Non-Interference Agreement requested by BOK and as generally described in the Term Sheet wherein the Cherokee Nation agrees, among other

things, that it will not take any action, enter into any agreement, amend its constitution or amend or enact any ordinance, law, rule or regulation that would have a material adverse effect on the economic interests of the Lenders nor impose any unpermitted taxes on the gaming operation, (ii) pass any ordinance impairing contracts related to the Senior Credit Facilities, or (iii) commingle any gaming assets with non-gaming assets (the “Non-Interference Agreement”); and

**WHEREAS**, BOK, on behalf of the Lenders, has requested that the Cherokee Nation grant an irrevocable limited waiver of sovereign immunity from suit and consent to be sued by BOK and any other Lenders to enforce the obligations of the Loan Parties under the Loan Transaction Documents, and with respect to the Cherokee Nation to enforce the Cherokee Nation’s obligations with respect to the Non-Interference Agreement, including the obligation of the Loan Parties and the Cherokee Nation to submit a claim to arbitration or to enforce any resulting arbitration award, or to seek damages for any breach of the Loan Transaction Documents by the Loan Parties, or any breach of the Non-Interference Agreement by the Cherokee Nation, in certain courts as set forth below; and

**WHEREAS**, BOK, on behalf of the Lenders, has requested that, at the request of the Loan Parties, the Cherokee Nation or BOK, certain claims be resolved by arbitration as set forth below, and that such parties waive any right to a jury trial as set forth below; and

**WHEREAS**, BOK, on behalf of the Lenders, has further requested that the Loan Transaction Documents and the Non-Interference Agreement be governed by and construed in accordance with the laws of the State of Oklahoma.

**BE IT RESOLVED BY THE CHEROKEE NATION**, that the Tribal Council authorizes CNB to borrow under the Loan Transaction Documents and further authorizes the Loan Parties to pledge their respective assets and enter into and perform under the Loan Transactions and Loan Transaction Documents as defined above for the purposes set forth above; and

**BE IT FURTHER RESOLVED BY THE CHEROKEE NATION**, that the Chief Executive Officers of the Loan Parties are hereby authorized and directed to execute all Loan Transaction Documents as may be authorized by CNB’s Board of Directors, and the Principal Chief is hereby authorized and directed to execute the Non-Interference Agreement; and

**BE IT FURTHER RESOLVED BY THE CHEROKEE NATION**, that the Tribal Council recognizes that, in order to obtain the most advantageous borrowing costs and most favorable terms in the Loan Transactions, it is necessary to grant a limited waiver of sovereign immunity with respect to the Loan Parties and the Cherokee Nation so that BOK and any other Lenders in the Loan Transactions may maintain causes of action against Loan Parties in the event of default by such Loan Parties pursuant to the terms of the Loan Transaction Documents, or maintain causes of action against the Cherokee Nation in the event of a default by the Cherokee Nation pursuant to the terms of the Non-Interference Agreement; and

**BE IT FURTHER RESOLVED BY THE CHEROKEE NATION**, that the Tribal Council further recognizes that the remedy available as a result of a waiver of sovereign immunity must be carefully and strictly defined, and therefore desires to establish herein the provisions that must be expressly set forth in the Loan Transaction Documents and the Non-Interference Agreement; and

**BE IT FURTHER RESOLVED BY THE CHEROKEE NATION**, that the Tribal Council hereby authorizes the Principal Chief and/or his designee to negotiate as necessary and to expressly waive the sovereign immunity of the Loan Parties as it applies to the Loan Transactions, hereby authorizes the Principal Chief and/or his designee to negotiate as necessary and to expressly waive the sovereign immunity of the Cherokee Nation as it applies to the Non-Interference Agreement, and hereby authorizes the Principal Chief to to negotiate as necessary and execute limited waivers of sovereign immunity, waivers of jurisdiction and additional waivers and agreements as part of the Loan Transaction Documents and the Non-Interference Agreement, as further set forth below:

(a) The Cherokee Nation hereby agrees and consents that (i) the Loan Parties may expressly and irrevocably waive any and all of their respective defenses based upon sovereign immunity from suit and may consent to be sued by BOK and any other Lenders in the Loan Transaction Documents to enforce the obligations of the Loan Parties with respect to the Senior Credit Facilities and the Loan Transaction Documents, and (ii) the Cherokee Nation may expressly and irrevocably waive any and all of its defenses based upon sovereign immunity from suit and may be sued by BOK and any other Lenders in the Loan Transactions to enforce the obligations of the Cherokee Nation with respect to the Non-Interference Agreement, in each case in a court of competent jurisdiction as follows: first, in the United States District Court for the Northern District of Oklahoma, including all rights of appeal under federal law; second, in the event the federal court determines that it does not have jurisdiction over such person or action, then in a state court of the State of Oklahoma; and third, in the event the state court determines that it does not have jurisdiction over such person or action, then in the tribal courts of the Cherokee Nation.

(b) At the request of any Loan Party or the Cherokee Nation as applicable, or BOK, any disputes arising out of the Loan Transactions or the Non-Interference Agreement shall be resolved by binding arbitration, rather than the procedure set forth in the immediately preceding paragraph (a). Such arbitration proceedings shall be in accordance with the Cherokee Nation Uniform Arbitration Act, Legislative Act 25-03 (as amended) (the "Arbitration Act"), except to the extent such rules are modified by the requirements that (A) unless otherwise agreed to in writing by the parties, all arbitration proceedings shall be held in Tulsa, Oklahoma and (B) the arbitration shall be conducted by an arbitration panel consisting of three (3) American Arbitration Association available arbitrators, with at least one arbitrator possessing at least ten (10) years of experience in federal Indian law, with each party choosing one arbitrator and the two arbitrators choosing a third. Such arbitration proceedings shall be determined in accordance with the Arbitration Act and by terms set forth in the Loan Transaction Documents or the Non-Interference Agreement, as applicable. The Cherokee Nation agrees and consents that the courts in the order listed in the immediately preceding paragraph (a) shall have the authority to compel any Loan Party or the Cherokee Nation to submit to such binding arbitration or to enforce the

awards of such binding arbitration against a Loan Party or the Cherokee Nation, as applicable. Additionally, without intending in any way to limit any agreement to arbitrate, to the extent any claim is not arbitrated, each of BOK, the Loan Parties and the Cherokee Nation will irrevocably and voluntarily waive any right it may have to a trial by jury in respect of such claim.

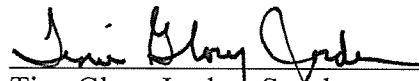
(c) The Loan Transaction Documents and the Non-Interference Agreement shall be governed by and construed in accordance with the laws of the State of Oklahoma.

(d) The Cherokee Nation agrees that the limited waivers of sovereign immunity contained herein shall not be repealed, rescinded or modified in any manner until the obligations, covenants and agreements contained in the Loan Transaction Documents and Non-Interference Agreement are fully satisfied. Except as specifically set forth above, the limited waivers of sovereign immunity described herein shall not be construed, and are not intended by the Cherokee Nation to include or authorize any action against the Cherokee Nation itself, or to include or authorize any action other than actions by BOK and any other Lenders against the Loan Parties to enforce their rights or remedies against the Loan Parties under the Loan Transaction Documents or actions by BOK and any other Lenders against the Cherokee Nation to enforce their rights or remedies against the Cherokee Nation under the Non-Interference Agreement. Further, this waiver shall not be deemed to authorize the recovery of incidental, consequential, exemplary or punitive damages, or lost profits against any of the Cherokee Nation or any Loan Party, or to authorize any action against any officers or employees of the Cherokee Nation; and

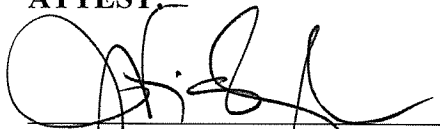
**BE IT FINALLY RESOLVED BY THE CHEROKEE NATION**, that this Resolution shall in no manner or in any respect operate or be construed to operate to waive or otherwise diminish the sovereign immunity of the Cherokee Nation, except as to allow certain actions against the Loan Parties and the Cherokee Nation as provided herein.

#### CERTIFICATION

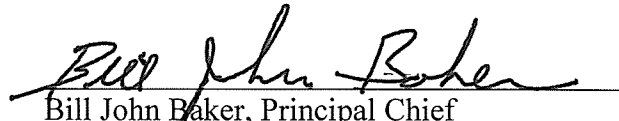
The foregoing resolution was adopted by the Council of the Cherokee Nation at a duly called meeting on the 22<sup>nd</sup> day of April, 2013, having 17 members present, constituting a quorum, by the vote of 16 yea; 1 nay; 0 abstaining.

  
\_\_\_\_\_  
Tina Glory Jordan, Speaker  
Council of the Cherokee Nation

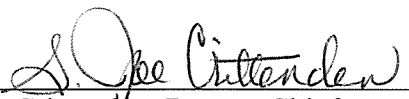
ATTEST:

  
\_\_\_\_\_  
Jodie Fishinghawk, Secretary  
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 26<sup>th</sup> day of April, 2013.

  
Bill John Baker, Principal Chief  
Cherokee Nation

**ATTEST:**

  
S. Joe Crittenden, Deputy Chief  
Cherokee Nation

**ADMINISTRATIVE  
CLEARANCE**

Dept/Program: \_\_\_\_\_

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Executive Director:**

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Treasurer: (Required:  
Grants/Contracts/Budgets)**

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Government Resources:**

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Administration Approval:**

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**LEGISLATIVE CLEARANCE:**

**Legal & Legislative Coordinator:**

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Standing Committee & Date:**

**Chairperson:**

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Returned to Presenter:** \_\_\_\_\_

4-1-13

**Cherokee Nation  
Act/Resolution Proposal Form**

Act  Resolution

**TITLE:** \_\_\_\_\_

**DEPARTMENT CONTACT:** \_\_\_\_\_

**RESOLUTION PRESENTER:** \_\_\_\_\_

**COUNCIL SPONSOR:** \_\_\_\_\_

**NARRATIVE:**

The Cherokee Nation conducts gaming and entertainment operations through Cherokee Nation Entertainment, LLC ("CNE"). CNE is wholly owned by Cherokee Nation Businesses, LLC ("CNB"), which is wholly owned by the Cherokee Nation.

The Board of Directors of CNB has determined that it is in the best interests of CNB and CNE to (i) have CNB obtain a five-year Credit Facility from Bank of Oklahoma ("BOK") in the amount of \$100,000,000, (ii) have CNE guaranty the loan, and (iii) have CNB and CNE pledge their assets relating to gaming and entertainment operations.

As a condition to providing the loan, BOK requires that the Cherokee Nation enter into a Non-Interference Agreement by which it agrees not to take any action that would have a material adverse effect on the economic interests of BOK, nor impose unpermitted taxes on gaming operations, pass an ordinance impairing contracts related to the Credit Facility, or commingle gaming assets with non-gaming assets (the "Non-Interference Agreement").

As an additional condition, BOK requires that the Cherokee Nation provide limited waivers of sovereign immunity to allow BOK to enforce CNB's and CNE's obligations with respect to the Credit Facility and enforce the Cherokee Nation's obligations with respect to the Non-Interference Agreement.