

RESOLUTION NO. 47-22

COUNCIL OF THE CHEROKEE NATION

A RESOLUTION AUTHORIZING CHEROKEE NATION TO GRANT A SIX MONTH EXTENSION OF THE WIND RESOURCE LEASE TO CHILOCCO WIND FARM, LLC LOCATED ON TRIBAL TRUST LANDS IN KAY COUNTY OLAHOMA

WHEREAS, the Cherokee Nation since time immemorial has exercised the sovereign rights of self-government in 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, the Chilocco Wind Farm LLC wishes to obtain a six (6) month extension to the remaining eighteen (18) months of the current Wind Resource Lease to complete construction of the Wind Farm project. This extension and amendment to the Wind Resources Lease will authorize a period of twenty-four (24) months to complete construction, which began on August 23, 2022. The Wind Farm project is located on approximately 4,229 acres of Cherokee Nation Trust land located in Kay County, Oklahoma.

WHEREAS, Pursuant to *25 CFR §162.559(g)* that the Secretary of the Interior will defer to the tribe's determination that a waiver of performance bond or alternate form of security. Cherokee Nation has determined that this is in the best interest of the tribe, and;

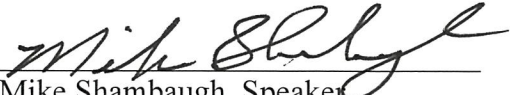
WHEREAS, Cherokee Nation will receive fifty thousand dollars (\$50,000.00) for the lease extension and requests a Waiver of Valuation and that the Negotiated Value be used pursuant to *25 CFR §162.549(a)*.

1. Cherokee Nation has negotiated compensation satisfactory to the tribe.
2. Cherokee Nation waives valuation; and
3. Cherokee Nation has determined that accepting such negotiated compensation and waiving valuation is in the best interest of the Cherokee Nation.

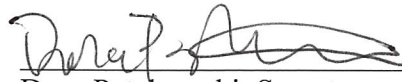
BE IT RESOLVED BY THE CHEROKEE NATION, that the Principal Chief of Cherokee Nation, Chuck Hoskin Jr., and/or his authorized designee(s) be authorized to enter into the above described leasing, with the negotiated compensation and with the appraisal and bond waived, in accordance with 25 CFR § 162 and the Bureau of Indian Affairs policy and procedure for leasing of land owned by United States of America in Trust for Cherokee Nation.

CERTIFICATION

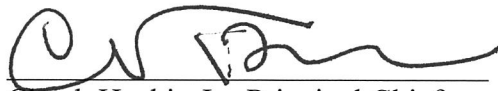
The foregoing resolution was adopted by the Council of the Cherokee Nation at a duly called meeting on the 11th day of October, 2022, having 16 members present, constituting a quorum, by the vote of 16 yea; 0 nay; 0 abstaining.


Mike Shambaugh, Speaker
Council of the Cherokee Nation

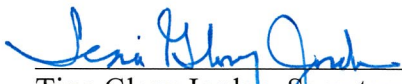
ATTEST:


Dora Patzkowski, Secretary
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 28th day of October, 2022.


Chuck Hoskin Jr., Principal Chief
Cherokee Nation

ATTEST:


Tina Glory Jordan, Secretary of State
Cherokee Nation

ADMINISTRATIVE CLEARANCE

Dept/Program:

Signature/Initial _____ Date _____

Executive Director:


Signature/Initial _____ Date _____


Treasurer (Required: Grants/Contracts/Budgets):

Signature/Initial _____ Date _____

Government Relations:

Signature/Initial _____ Date _____

Administration Approval:

 9/28/22
Signature/Initial _____ Date _____

LEGISLATIVE CLEARANCE:

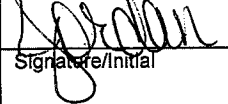
Legal & Legislative Coordinator:

 9/28/22
Signature/Initial _____ Date _____

Standing Committee & Date:

Resource 10/11/22

Chairperson:


Signature/Initial _____ Date _____

**Cherokee Nation
Act/Resolution Proposal Form**

Act Resolution

**TITLE: A RESOLUTION AUTHORIZING A LIMITED
WAIVER OF SOVEREIGN IMMUNITY**

DEPARTMENT CONTACT: Chad Harsha, SONR

RESOLUTION PRESENTER: Chad Harsha, SONR

COUNCIL SPONSOR: _____

NARRATIVE:

This Resolution authorizes the Principal Chief to execute a short-term extension of the construction period for the Chilocco Wind Resource Lease.

SEP 28 '22 AM 7:47

After recording return to:
Chilocco Wind Farm, LLC
c/o PNE USA, Inc.
Attn: Real Estate Department
150 N. Michigan Avenue, Suite 1500
Chicago, IL 60601

AMENDMENT TO WIND RESOURCE LEASE

THIS AMENDMENT TO RESOURCE LEASE (this "Amendment") is signed to be effective as of August 23, 2022 "Amendment Date") by the undersigned.

The CHEROKEE NATION, a federally recognized Indian tribe, with its principal governmental offices located at 17675 S. Muskogee Ave, Tahlequah, Oklahoma 74464 ("Tribe") and Chilocco Wind Farm, LLC, a Delaware limited liability company having a principal business office at 150 North Michigan Avenue, Suite 1500, Chicago, Illinois 60601 ("Company") entered into that certain Wind Resource Lease as more particularly described below (as amended and assigned, collectively, the "Lease"):

Wind Resource Lease dated on or about August 24, 2017 between the CHEROKEE NATION, a federally recognized Indian tribe ("Tribe") and Chilocco Wind Farm, LLC, a Delaware limited liability company ("Company"), recorded on August 25, 2017 in the Cherokee Nation Title Services Office, Reception # 9051005, Book 2017, Pages 2580-2649, with Lease # G08-3253 and Document ID 4200046557; as extended by letter agreement dated August 24, 2020 between the Tribe and Company; and as further extended by letter agreement dated May 24, 2021 between the Tribe and Company.

Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed thereto in the Lease. In the event of any conflict between this Amendment and the Lease, this Amendment shall control.

WHEREAS, the Parties confirm that the Start of Construction timely occurred on August 23, 2022 by written notice from Company to the Tribe; and

WHEREAS, the Parties wish to clarify and confirm certain provisions within the Lease:

NOW, THEREFORE, the Parties hereby agree as follows:

1. Section 5.8. Section 5.8 of the Lease is deleted in its entirety and replaced with the following:

Commercial Operation and Minimum Payment. If the Commercial Operation Date is achieved, the Tribe shall be entitled to the Operation Payment Amount. Company shall make commercially reasonable efforts to achieve the Commercial Operation Date of the Project not later than one (1) year after the Start of Construction. In the event that Commercial Operation of the Project has not commenced on or before eighteen (18) months after the Start of Construction, the Company shall: (a) continue to diligently pursue completion of the Project to achieve Commercial Operation as expeditiously as possible, under the circumstances, and Company shall provide Tribe with regular progress reports on the status of achieving Commercial Operation, and (b) commence making Minimum Payments to the Tribe on each Payment Date based upon the Adjusted NRM set forth in Section 3.2 (5) regardless whether any Turbines have been installed or whether any Turbines are operational for purposes of calculating Minimum Payments under this Section 5.8. If no Turbines have been installed on or before twenty-four (24) months after the Start of Construction, the Company Shall terminate the WRL by delivery of written notice of such intent

to the Tribe at any time before the Project has achieved Commercial Operations, accompanied by (x) a termination fee evidenced by a cashier check payable to the Tribe in the amount of \$50,000.00 and (y) other fees which are due and payable to the Tribe under this WRL, if any, and then commence restoration procedures in accordance with this WRL.”

2. Ratification. As clarified and amended by this Amendment, the Parties agree that the Lease (i) is valid and in full force and effect, enforceable against the Parties, and their successors and assigns in accordance with its respective terms, (ii) has not been waived, surrendered, canceled, terminated or abandoned (orally or in writing), (iii) constitutes the entire agreement between the Parties, and (iv) has not been supplemented, modified, or amended (orally or in writing) except as otherwise provided herein. This Amendment is the valid and binding obligation of the Parties, and their successors and assigns, enforceable against the Parties and their successors and assigns in accordance with its terms.

3. No Termination; No Defaults. The Parties have not commenced any action or sent any presently effective notice for the purpose of terminating, canceling or surrendering the Lease. The Parties are not presently entitled to terminate, cancel or surrender the Lease. The Parties have not given or received any notice of default regarding the Lease. Neither of the Parties are in default under the Lease and they are not presently aware of any breach or default of the Lease. The Parties are not presently aware of any fact or circumstance that, with the passage of time or the giving of notice, or both, would constitute a breach or default under the Lease, or that would entitle any Party to any claim, counterclaim, offset or defense against the other Party in respect of the Lease. There are no legal proceedings commenced or threatened against any Party by the other Party.

4. Payments. All fees and payments due under the Lease through and including the Amendment Date have been paid and received. As consideration for the Tribe’s approval of this Amendment, the Company shall provide a one-time payment of fifty thousand dollars (\$50,000), to be made within sixty (60) days after the execution of this Amendment by the Tribe.

5. No Disputes; No Bankruptcy. (i) No disputes, claims or litigation exist asserting that any part of the Lease is unenforceable or violates any other agreement, (ii) the Lease is not, and has not been, the subject of any bankruptcy or foreclosure proceeding, and (iii) there is presently no judgment, award, litigation, arbitration or proceeding pending or threatened that holds or asserts that the Lease will be unenforceable or violates any existing agreement, or which could otherwise materially and adversely affect the respective rights or obligations of the Parties under the terms and provisions of the Lease. The Parties are not now insolvent, nor have the Parties been insolvent, at any time since execution of the Lease, and there are no proceedings, whether voluntary or involuntary, pending against either Party under the bankruptcy or insolvency laws of the United States of America or any state thereof.

6. Successors and Assigns. This Amendment shall inure to the benefit of, the Parties, any assignee of the Lease, or Party successor, and their respective successors and assigns. This Amendment has been duly authorized by all necessary action on the part of each Party and is a legal, valid and binding obligation on the Parties, and their successors and assigns.

7. Counterparts. This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which together shall constitute one document.

[intentionally blank]

IN WITNESS WHEREOF, the Parties have executed and delivered this Amendment as of the Amendment Date.

TRIBE:

The CHEROKEE NATION, a federally recognized Indian tribe

By: _____

Print name: _____

Its: _____

STATE OF OKLAHOMA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022 by _____ as _____ of the Cherokee Nation on behalf of the Tribe.

Notary Public

COMPANY:

Chilocco Wind Farm, LLC, a Delaware limited liability company

By: _____

Print name: _____

Its: _____

STATE OF OKLAHOMA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022 by _____ as _____ of Chilocco Wind Farm, LLC, a Delaware limited liability company on behalf of the company

Notary Public

Signature Page for Wind Resource Lease G08-3253

Approved: Pursuant to 25 CFR 162.566 and Under Authority delegated by 209 DM 8, 230 DM 1, and 3IAM 4.

Regional Director
Bureau of Indian Affairs of the United
States Department of Interior

DATE