

RESOLUTION NO. 76-05

COUNCIL OF THE CHEROKEE NATION

A RESOLUTION REGARDING THE LIMITED WAIVER OF THE SOVEREIGN IMMUNITY OF WILL ROGERS DOWNS, LLC, CHEROKEE NATION ENTERPRISES, INC. AND THE CHEROKEE NATION

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, Will Rogers Downs, LLC, hereinafter referred to as WRD, is a for-profit business organized under the Laws of the Cherokee Nation; and as such enjoys sovereign immunity from suit under tribal and federal law;

WHEREAS, Cherokee Nation Enterprises, Inc., hereinafter referred to as CNE, is a for-profit business organized under the Laws of the Cherokee Nation; and as such enjoys sovereign immunity from suit under tribal and federal law;

WHEREAS, the Cherokee Nation deems it to be both necessary and appropriate that WRD be permitted to apply for an organizational license and conduct pari-mutual horse racing pursuant to the Oklahoma Horseracing Act, Title 3A Section 200 et seq; and conduct gaming pursuant to the State Tribal Gaming Act;

WHEREAS, the Oklahoma Horse Racing Commission, hereinafter referred to as OHRC or Commission, has granted a Conditional Organization license, 2005-OHRC-003, which requires a waiver of sovereign immunity of WRD and CNE as well as a limited waiver from Cherokee Nation as a condition of the license.

BE IT RESOLVED BY THE CHEROKEE NATION, that the Cherokee Nation does hereby authorize the principal Chief of the Cherokee Nation to execute a waiver of the sovereign immunity of WRD as to suit, liability, judgment and collection as to all parties and entities, as well as regulation by the Commission, with respect to all actions or omissions arising out of or related to the operation of Will Rogers Downs racetrack/gaming facility and all matters ancillary thereto; and,

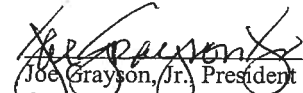
BE IT FURTHER RESOLVED BY THE CHEROKEE NATION, that the Cherokee Nation does hereby authorize the principal Chief of the Cherokee Nation to execute a waiver of the sovereign immunity of CNE as to suit, liability, judgment and collection as to all parties and entities, as well as regulation by the Commission, with respect to all actions or omissions arising out of or related to the operation of Will Rogers Downs racetrack/gaming facility and all matters ancillary thereto; and,

BE IT FURTHER RESOLVED BY THE CHEROKEE NATION, that the Cherokee Nation does hereby authorize the principal Chief of the Cherokee Nation to execute a limited waiver of the sovereign immunity of the Cherokee Nation from suit, liability, judgment and collection as to all parties and entities, as well as regulation by the Commission, with respect to any acts or omissions of Cherokee Nation regarding obligations or ability of WRD or CNE to pay or maintain horseman's purse monies and any and all other funds required to be held by an OHRC licensed racetrack/gaming facility, or in the alternative, to establish an escrow or indemnity account in an amount sufficient to cover any horseman's purse monies and any and all other funds required to be held by an OHRC licensed racetrack/gaming facility; and,

BE IT FINALLY RESOLVED BY THE CHEROKEE NATION, that except as specifically set forth herein, 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.

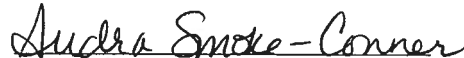
CERTIFICATION

The foregoing resolution was adopted by the Council of the Cherokee Nation at a duly called meeting on the 11 day of July, 2005, having 13 members present, constituting a quorum, by the vote of 12 yea; 1 nay; 0 abstaining.



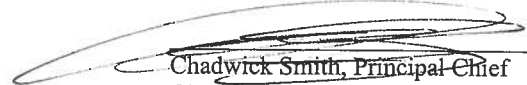
Joe Grayson, Jr. President
Council of the Cherokee Nation

ATTEST:




Audra Smoke-Conner, Secretary
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 13th day of JULY, 2005.



Chadwick Smith, Principal Chief
Cherokee Nation

ATTEST:



Callie Catcher, Secretary/Treasurer
Cherokee Nation

Cherokee Nation Act/Resolution Proposal Form

ADMINISTRATIVE CLEARANCE:

Program/Project Manager:

Signature Date

Department Director:

Signature Date

Executive Director:

Signature Date

Controller (if needed):

Signature Date

Government Resources Group:

Rita May 7/08/05
Signature Date

Administration Approval:

Melanie Knight 7-8-05
Signature Date

Act
 Resolution

TITLE: A RESOLUTION REGARDING THE LIMITED WAIVER OF THE SOVERIGN IMMUNITY OF WILL ROGERS DOWNS, LLC, CHEROKEE NATION ENTERPRISES, INC. AND THE CHEROKEE NATION

Department Contact: A. Diane Hammons

Resolution Presenter: A. Diane Hammons

Sponsor: Bill John Baker

NARRATIVE:
(See Attached Outline for Information Needed)

This resolution authorizes the Principal Chief to execute a limited waiver of sovereign immunity of Will Rogers Downs (WRD), LLC, Cherokee Nation Enterprises (CNE), Inc., and the Cherokee Nation in order for WRD to apply for an organizational license and conduct pari-mutual horse racing and gaming. This resolution replaces the resolution formerly approved by the Council.

LEGISLATIVE CLEARANCE

Legislative Aide: *5:15pm*

gb 7-8-05
Signature/Initial Date

Standing Committee:

Next Meeting Date

Chairperson:

Signature/Initial Date

Returned to Presenter: _____
Date

07-08-05 P05:24 RCVD

**LIMITED WAIVER OF SOVEREIGN IMMUNITY OF
WILL ROGERS DOWNS, LLC
CHEROKEE NATION ENTERPRISES, INC
AND THE CHEROKEE NATION**

Pursuant to the authority granted by Legislative Act No. 23-04, adopted on the 14th day of June 2004, as amended by LA 16-05 and Resolution No. , adopted on the day of July 2005, the undersigned Principal Chief of the Cherokee Nation hereby approves and agrees to the limited waivers of sovereign immunity set forth herein, including a Limited Waiver of Sovereign immunity of Cherokee Nation (CN). These waivers are meant to comply with the Conditional License, 2005-OHRC-003 issued by the Oklahoma Horse racing Commission.

1. Limited Waiver of Will Rogers Downs, LLC. The undersigned Principal Chief on behalf of the Cherokee Nation And Will Rogers Downs, LLC (WRD) hereby waives the sovereign immunity of WRD from suit, liability, judgment and collection as to all parties and entities, as well as regulation by the Oklahoma Horseracing Commission, hereinafter referred to as the Commission, with respect to all actions or omissions arising out of or related to the operation of Will Rogers Downs racetrack and the conduct of gaming pursuant to the State Tribal Gaming Act; and all matters ancillary thereto.

2. Limited Waiver of Cherokee Nation Enterprises, Inc. The undersigned Principal Chief on behalf of the Cherokee Nation and Cherokee Nation Enterprises, Inc, (CNE) hereby waives the sovereign immunity of CNE from suit, liability, judgment and collection as to all parties and entities, as well as regulation by the Commission, with respect to all actions or omissions arising out of or related to the operation of Will Rogers Downs racetrack and the conduct of gaming pursuant to the State Tribal Gaming Act, and all matters ancillary thereto.


3. Limited Waiver of the Cherokee Nation. The undersigned Principal Chief on behalf of the Cherokee Nation hereby agrees to place tribal monies of the Nation into an escrow account in an amount sufficient to cover any horseman's purse monies and any and all other funds required to be held (in escrow or otherwise) by a Commission-licensed racetrack or gaming facility.

4. The Cherokee Nation agrees that the Limited Waivers Contained herein shall not be repealed, rescinded or modified in any manner until all obligations of WRD, CN, CNE, are fully satisfied , with respect to all actions or omissions arising out of or related to the operation of Will Rogers Downs racetrack/gaming facility and all matters ancillary thereto. That the above waivers are limited to the duration of the period in which WRD is licensed as a horse racing or gaming facility and up to 5 years thereafter to accommodate any applicable statute of limitations.

5. As to the Cherokee Nation and CNE, the above waivers are specifically limited to actual or liquidated damages. Recovery of punitive and/or exemplary damages against CNE or the Cherokee Nation are not allowed.

6. Except as specifically set forth herein, 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.

Approved and signed by the Principal Chief of the Cherokee Nation this day of July, 2005.


Chadwick Smith
Principal Chief of the Cherokee Nation

ATTEST:

Callie Catcher
Secretary/Treasurer of the Cherokee Nation

[Seal]