

RESOLUTION NO. 88-06

COUNCIL OF THE CHEROKEE NATION

A RESOLUTION AMENDING RS #34-06 AUTHORIZING THE INCURRING OF INDEBTEDNESS IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$30,000,000.00 AND THE ISSUANCE OF THE CHEROKEE NATION HEALTH CARE SYSTEM BONDS (HEALTH CARE PROJECTS) SERIES 2006 (THE "BONDS"); PROVIDING FOR THE PURPOSE FOR WHICH THE BONDS MAY BE ISSUED; AUTHORIZING THE SALE AND DELIVERY OF THE BONDS; AUTHORIZING A BOND INDENTURE AND OTHER DOCUMENTS AS MAY BE NECESSARY OR REQUIRED; AUTHORIZING THE LIMITED WAIVER OF SOVEREIGN IMMUNITY OF THE CHEROKEE NATION IN CONNECTION WITH THE BONDS; PROVIDING FOR THE COMPLIANCE WITH APPLICABLE FEDERAL LAW RELATING TO THE EXCLUSION FROM GROSS INCOME FOR FEDERAL INCOME TAXATION PURPOSES OF INTEREST ON THE BONDS; CONTAINING OTHER PROVISIONS RELATING THERETO; AND DECLARING AN EMERGENCY

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

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

WHEREAS, the Cherokee Nation has through inherent sovereign authority and by constitution and tribal law, the authority to incur indebtedness and to issue obligations to evidence such indebtedness, to secure such indebtedness by a pledge of the full faith and credit of the Cherokee Nation and a pledge of the revenues of the Cherokee Nation's Health Care System (as such term is defined in the Bond Indenture), and to enter into contractual agreements for such purposes; and

WHEREAS, pledges of credit for any loans require approval by the Council in accordance with Article X of the Constitution and Title 62, Section 61 and Section 62 of the Cherokee Nation Code (62 CNCA Sections 61-62); and

WHEREAS, the Cherokee Nation has determined that it is in the Nation's best interest to authorize the issuance of its permanent financing bonds for the purpose of paying off a two-year loan and hereby agree to issue its bonds in the principal amount of not to exceed \$30,000,000.00, denominated "Cherokee Nation Health Care System Bonds (Health Care Projects)" Series 2006 with other appropriate series designation (the "Bonds"), in order to permanently finance the Projects; and

WHEREAS, the Cherokee Nation has determined that the proceeds of the Bonds shall be used for essential governmental functions of the Cherokee Nation and that the Projects constitute a need of the Cherokee Nation which is an essential governmental function of the Cherokee Nation; and

WHEREAS, the Principal Chief and/or his designee have negotiated arrangements with BOSC, Inc., a subsidiary of BOK Financial Corp. ("BOSC"), relating to the limited waiver of sovereign immunity of the Cherokee Nation relating to the issuance and sale of the Bonds be granted and determined only as set forth in this Resolution and the documentation approved herein relating to the Bonds; and

WHEREAS, the Cherokee Nation has determined that it is in the Nation's best interest that the Bonds be issued pursuant to the terms of a Bond Indenture (the "Bond Indenture") by and between the Cherokee Nation and a bond trustee (the "Trustee") and the Bonds shall be sold to BOSC, and such Bond Indenture and such other documents as may be necessary or required to consummate the transactions contemplated hereby shall be drafted by Bond Counsel, Counsel to the Cherokee Nation and Counsel to BOSC., and shall be consistent with this resolution and presented to the Principal Chief and/or his designee for his review and approval prior to execution and delivery of the Bonds.

BE IT RESOLVED BY THE CHEROKEE NATION:

Section 1. The Cherokee Nation hereby finds and determines that the Projects constitute an essential governmental function of the Cherokee Nation and that in the exercise of prudent fiscal

management, it is in the best financial interest of the Cherokee Nation to authorize the issuance of the Bonds to finance the Projects with the proceeds of the Bonds.

Section 2. The incurring of indebtedness by the Cherokee Nation in order to permanently finance the Projects in the aggregate principal amount of not to exceed \$30,000,000.00 and a term of not to exceed 15 years to be evidenced by and pursuant to the terms of the Bonds, is hereby approved. The Bonds shall be a general obligation of the Cherokee Nation payable by the full faith and credit of the Cherokee Nation together with a pledge of revenues from the Cherokee Nation's Health Care System (as such term is defined in the Bond Indenture).

Section 3. The Bonds and the Bond Indenture be, and the same hereby are, approved, and the Principal Chief and/or his designee be, and he hereby is, authorized, directed and empowered to execute and deliver in the name and on behalf of the Cherokee Nation the Bonds and the Bond Indenture with such additions or modifications as shall be approved by the officers executing the Bonds and Bond Indenture, the execution thereof by such officers being conclusive evidence of such approval, and to execute and deliver in the name and on behalf of the Cherokee Nation all documents, closing papers, certificates and such other documents as are necessary to accomplish the issuance and delivery of the Bonds.

Section 4. The signatures of the officers of the Cherokee Nation appearing on the Bonds and Bond Indenture, and other agreements, documents, closing papers and certificates executed and delivered pursuant to this Resolution, shall be conclusive evidence of their authority to execute and deliver such agreements and documents on behalf of the Cherokee Nation.

Section 5. The Principal Chief and/or his designee be, and he hereby is, authorized and empowered for and on behalf of the Cherokee Nation, to execute and deliver such further agreements and documents and to take such action as such officer or officers may deem necessary or desirable in order to carry out and perform the Bonds and Bond Indenture, as the same may be amended, and to effect the purposes thereof and to consummate the transactions contemplated by the Bond Indenture and by the issuance and delivery of the Bonds.

Section 6. The Cherokee Nation recognizes that it is necessary in conjunction with the issuance of the Bonds, in order to obtain the most advantageous borrowing cost and most favorable terms, to grant a limited waiver of sovereign immunity so that the holders of the Bonds may maintain a cause of action against the Cherokee Nation in the event of a default by the Cherokee Nation pursuant to the terms of the Bonds, the Bond Indenture or any other documents executed and delivered by the Cherokee Nation in connection with the issuance, sale and delivery of the Bonds. The 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 Bond Indenture and the Bonds.

Section 7. The Cherokee Nation elects to expressly waive the sovereign immunity of the Cherokee Nation as it applies to the Series 2006 Documents (as defined below) according to the following provisions:

(a) The Cherokee Nation hereby expressly waives any and all defenses based upon tribal sovereign immunity from suit with respect to any breach of contract, action for damages or action in mandamus or other proceedings in law or in equity to compel the Cherokee Nation to perform the obligations, covenants and agreements undertaken in the Bonds or the Bond Indenture or any other document executed and delivered by the Cherokee Nation in connection with consummating the transactions contemplated by the Bonds and the Bond Indenture, including all closing certificates and opinions contained in the Transcript of Proceedings relating to the issuance, sale and delivery of the Bonds (hereinafter collectively referred to as the "Series 2006 Documents"), as limited pursuant to the provisions hereinafter set forth, with respect to any action against the Cherokee Nation in the United States District Court for the Eastern District of Oklahoma including all rights of appeal under federal law. If the U.S. District Court for the Eastern District of Oklahoma determines that it does not have jurisdiction over such an enforcement action, then the Cherokee Nation hereby agrees to waive any sovereign immunity defenses for the limited purpose of enforcing the Series 2006 Documents in the courts of the State of Oklahoma and if the courts of the State of Oklahoma determine that it does not have jurisdiction over such an enforcement action, then the Cherokee Nation hereby agrees to waive any sovereign immunity defense, for the limited purpose of enforcing the Series 2006 Documents in the tribal courts of the Cherokee Nation.

(b) The waiver of sovereign immunity from suit described in paragraph (a) is limited to breach of contract or mandamus actions brought by any holder or owner of the Bonds, a party to the

Series 2006 Documents, or other creditor subrogated to the rights of one or more of such owners or parties for enforcement of such obligations, covenants and agreements of the Cherokee Nation under the Series 2006 Documents.

(c) The Cherokee Nation agrees that the waiver of sovereign immunity contained herein shall not be repealed, rescinded or modified in any manner until the obligations, covenants and agreements contained in the Series 2006 Documents are fully satisfied. The Cherokee Nation expressly does not waive any defense of sovereign immunity against and does not consent to be sued for, any action by persons not party to the Series 2006 Documents. The Cherokee Nation does not waive any defense of sovereign immunity against any action based upon tortious conduct (unless based upon an untrue statement of a material fact or an omission of a material fact resulting in misleading statements, or other fraudulent conduct, in connection with the offering or sale of the Bonds), and this waiver shall not be deemed to authorize the recovery from the Cherokee Nation of incidental, consequential, exemplary or punitive damages, or lost profits.

(d) The Cherokee Nation agrees that the law governing the Series 2006 Documents shall be the law of the State of Oklahoma including, but not limited to, the Uniform Commercial Code as adopted by the State of Oklahoma.

(e) This paragraph concerns the resolution of any controversies or claims between the Cherokee Nation and the other parties to the Series 2006 Documents, whether arising in contract, tort or by statute, including but not limited to controversies or claims that arise out of or relate to: (i) this Agreement (including any renewals, extensions or modifications); or (ii) any document related to this Agreement; (collectively a "Claim").

(i) At the request of the parties to the Series 2006 Documents, any Claim shall be resolved by binding arbitration in accordance with the Federal Arbitration Act (Title 9, U. S. Code) (the "Act"). The Act will apply even though this Agreement provides that it is governed by the law of a specified state.

(ii) Arbitration proceedings will be determined in accordance with the Act, the applicable rules and procedures for the arbitration of disputes of JAMS or any successor thereof ("JAMS"), and the terms of this paragraph. In the event of any inconsistency, the terms of this paragraph shall control.

(iii) The arbitration shall be administered by JAMS and conducted in the State of Oklahoma. All Claims shall be determined by one arbitrator; however, if Claims exceed \$5,000,000.00, upon the request of any party, the Claims shall be decided by three (3) arbitrators. All arbitration hearings shall commence within ninety (90) days of the demand for arbitration and close within ninety (90) days of commencement and the award of the arbitrator(s) shall be issued within thirty (30) days of the close of the hearing. However, the arbitrator(s), upon a showing of good cause, may extend the commencement of the hearing for up to an additional sixty (60) days. The arbitrator(s) shall provide a concise written statement of reasons for the award. The arbitration award may be submitted to any court having jurisdiction to be confirmed and enforced.

(iv) The arbitrator(s) will have the authority to decide whether any Claim is barred by the statute of limitations and, if so, to dismiss the arbitration on that basis. For purposes of the application of the statute of limitations, the service on JAMS under applicable JAMS rules of a notice of Claim is the equivalent of the filing of a lawsuit. Any dispute concerning this arbitration provision or whether a Claim is arbitrable shall be determined by the arbitrator(s). The arbitrator(s) shall have the power to award legal fees pursuant to the terms of this Agreement.

(v) This paragraph does not limit the right of the Cherokee Nation to: (i) exercise self-help remedies, such as but not limited to, setoff; (ii) initiate judicial or non judicial foreclosure against any real or personal property collateral; (iii) exercise any judicial or power of sale rights, or (iv) act in a court of law to obtain an interim remedy, such as but not limited to, injunctive relief, writ of possession or appointment of a receiver, or additional or supplementary remedies.

Section 8. The Bonds shall be issued to comply with requirements imposed by applicable federal law providing that the interest on such Bonds shall be excluded from gross income for federal income taxation purposes, including without limitation the requirement that substantially all of the proceeds of the Bonds be used in the exercise of any "essential governmental function" within the meaning of Section 7871 of the Internal Revenue Code of 1986, as amended (the "Code"), and the requirement that certain arbitrage profits be rebated to the United States, as set forth in the Tax Certificate to be delivered by the Cherokee Nation in connection with the issuance of the Bonds.

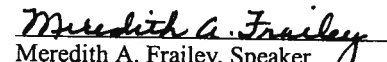
It is anticipated that the costs of the Projects shall be expended by the Cherokee Nation prior to the issuance of the Bonds. It is the intent of this Resolution to express the official intent of the Cherokee Nation to reimburse itself for expenditures made on the Projects from the proceeds of the Bonds. Any costs of the Projects incurred by the Cherokee Nation from the date of this Resolution shall be qualified to be funded from the tax exempt proceeds of the Bonds, even though such expenditures may temporarily be funded from taxable proceeds of other loans or from any other source available to the Cherokee Nation.

Section 9. An emergency is hereby determined to exist and this Resolution shall take effect upon its adoption. Any provision of any resolution adopted by the Council prior to the effective date hereof which is in conflict with the provisions of this Resolution are superseded by the provision of this Resolution and shall be considered to be repealed as of such date.

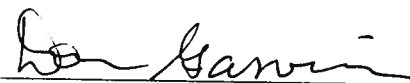
Section 10. This Resolution may be amended or supplemented at any time by the Council by resolution, provided that no such amendment or supplement shall materially adversely affect the interests of any holder of the Bonds without the written consent of such holder and any such amendment or supplement shall be void and of no effect with respect to any holder that has not so consented.

CERTIFICATION

The foregoing resolution was adopted by the Council of the Cherokee Nation at a duly called meeting on the 11th day of September, 2006, 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

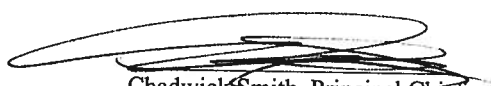
ATTEST:


Don Garvin, Secretary
Council of the Cherokee Nation

Approved this 19th day of September, 2006.

ATTEST:


Melanie Knight, Secretary of State
Cherokee Nation


Chadwick Smith, Principal Chief
Cherokee Nation