

MISSISSIPPI BAND OF CHOCTAW INDIANS  
101 Industrial Road  
Choctaw, MS 39350

ORDINANCE NO.16- CCCCC

AN ORDINANCE TO ESTABLISH TITLE XXXV OF THE CHOCTAW TRIBAL CODE,  
BUSINESS ORGANIZATIONS

WHEREAS, Section 1, Subsection (j) of Article VIII of the Revised Constitution and Bylaws of the Mississippi Band of Choctaw Indians (“MBCI” or the “Tribe”) empowers the Tribal Council to create, or to provide by ordinance for the creation of organizations, including public and private corporations, for any lawful purpose, which may be non-profit or profit-making, and to regulate the activities of such organizations by ordinance; and

WHEREAS, the Tribe has the inherent authority as sovereign, federally-recognized Indian tribe to create, authorize, and regulate business entities operating within the jurisdiction of the Tribe; and

WHEREAS, the Tribe has a primary interest in exercising its inherent sovereign authority to provide a statutory framework which will make it possible for the Tribe to establish limited liability companies under tribal law; and

WHEREAS, the Economic Development Committee has reviewed this Ordinance and is recommended to be forwarded to the Tribal Council for approval; now therefore be it

ENACTED, that the Tribal Council does hereby create Title XXXV of the Choctaw Tribal Code to address the formation, administration, and dissolution of business organizations; and be it further

ENACTED, that the Tribal Council does hereby adopt the Limited Liability Company Code attached hereto as “Exhibit A”; and be it further

ENACTED, that the Limited Liability Company Code attached hereto as “Exhibit A” shall take effect immediately upon passage by the Tribal Council; and be it further

ENACTED, that the Tribe’s Office of the Attorney General shall ensure that the tribal website has been updated to reflect these statutory changes.

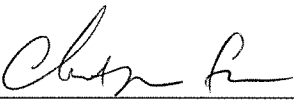
CERTIFICATION

I, the undersigned, as Secretary-Treasurer of the Mississippi Band of Choctaw Indians, certify that the Tribal Council of said Band is composed of 17 members, 14 of whom, constituting a quorum were present at a Special Call meeting duly called, noticed, convened and held this the 1<sup>st</sup> day of September, 2020; and that the foregoing Ordinance was duly Enacted by a vote of 13 members in favor, 1 opposed and 0 abstaining.

Dated this 1<sup>st</sup> day of September, 2020.

ATTEST:

  
\_\_\_\_\_  
Cyrus Ben, Tribal Chief

  
\_\_\_\_\_  
Christopher Eaves, Secretary-Treasurer

MISSISSIPPI BAND OF CHOCTAW INDIANS

RESOLUTION CHO 20-105

A RESOLUTION TO APPROVE FISCAL YEAR 2021 OPERATING AND CAPITAL BUDGETS FOR THE CHOCTAW ORDINANCE 56 TRIBAL ENTERPRISES

WHEREAS, Tribal Ordinance 56 provides for the continuation of ongoing tribal enterprises under the Business Enterprise Division of the Tribal Government Executive Branch; and

WHEREAS, Section 14(a) of Ordinance 56 requires that the tribal enterprises submit for approval annual operating budgets to the Tribal Chief and the Tribal Council; and

WHEREAS, Section 14(b) of Ordinance 56 requires that the tribal enterprises submit for approval capital budgets to the Tribal Chief and the Tribal Council; and

WHEREAS, the enterprise executives of the Choctaw Resort Development Enterprise, Chahta Enterprise and Choctaw Shopping Center Enterprise have prepared and submitted budgets for Fiscal Year 2021; and

WHEREAS, the Enterprise Boards of Directors have approved Fiscal Year 2021 Operating and Capital budgets and submitted them to the Tribal Council for approval; now therefore be it

RESOLVED, that the Tribal Council does hereby approve the Fiscal Year 2021 Operating and Capital Budgets as set forth in Exhibit "A" hereto for the Ordinance 56 Enterprises as set forth below:

<u>Enterprise</u>	<u>Operating</u>	<u>Capital</u>
Choctaw Resort Development Enterprise	\$ 185,738,476	\$ 22,200,000
Chahta Enterprise	\$ 1,986,237	\$ 35,000
Choctaw Shopping Center Enterprise	\$ 1,217,075	\$ 369,889

and be it further

RESOLVED, that any changes to the Enterprise's Fiscal Year 2021 Operating and Capital Budgets as set forth in Exhibit "A" hereto must be approved by the Boards of Directors of the Enterprises; and be it further

RESOLVED, that the Tribal Council does hereby authorize the Enterprise Board of Directors to move expenditures among approved line items in the Fiscal Year 2021 Operating and Capital Budgets when necessary; however, any increase to any line item in the Fiscal Year 2021 Capital Budget or fixed cost amounts included in the Fiscal Year 2021 Operating Budget must receive the prior approval of the Tribal Council; and be it further

RESOLVED, that the Tribal Council does hereby authorize the capital expenditures may be made in the form of leases when approved by the Board of Directors of the Enterprise.


CERTIFICATION

I, the undersigned, as Secretary-Treasurer of the Mississippi Band of Choctaw Indians, certify that the Tribal Council of said Band is composed of 17 members, 14 of whom, constituting a quorum were present at a Special Call meeting duly called, noticed, convened and held this the 1<sup>st</sup> day of September, 2020; and that the foregoing Resolution was duly Adopted by a vote of 13 members in favor, 1 opposed and 0 abstaining.

Dated this 1<sup>st</sup> day of September, 2020.

ATTEST:

  
\_\_\_\_\_  
Cyrus Ben, Tribal Chief

  
\_\_\_\_\_  
Christopher Eaves, Secretary-Treasurer

MISSISSIPPI BAND OF CHOCTAW INDIANS

RESOLUTION CHO 20-106(B)

A RESOLUTION TO APPROVE A SERVICE LINE AGREEMENT IN FAVOR OF C SPIRE  
IN THE BOGUE HOMA COMMUNITY

WHEREAS, Section 1, Subsection (b) of Article VIII of the Revised Constitution and Bylaws of the Mississippi Band of Choctaw Indians (“MBCI” or the “Tribe”) empowers the Tribal Council to approve or disapprove any sale, disposition, lease or encumbrance of tribal lands, interests in land, tribal funds, or other tribal assets; and

WHEREAS, Telepak Networks, Inc. d/b/a C Spire Fiber (“C Spire”) has proposed to provide telecommunications service to Bok Homa Casino (the “intended purpose”), which is located on land owned by the United States of America in trust for the benefit of the Tribe; and

WHEREAS, there will be no payment to the Tribe because the service is being installed at the request and for the benefit of the Tribe; and

WHEREAS, the attached Service Line Agreement will be for a perpetual term so long as the service line is used for the intended purpose; and

WHEREAS, the Tribal Council has determined it is in the best interest of the Tribe to approve the attached Service Line Agreement in favor of C Spire; and

WHEREAS, the Natural Resources Committee has reviewed this Resolution and is recommended to be forwarded to the Tribal Council for approval; now therefore be it

RESOLVED, that the Tribal Council hereby approves the attached Service Line Agreement in favor of C Spire for a perpetual term so long as the service line is used for the intended purpose; and be it further

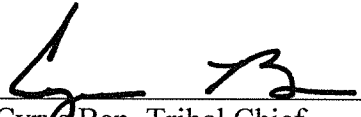
RESOLVED, that the Tribal Council authorizes the Tribal Chief to sign any additional documents, forms, or contracts directly related to the continuance, amendment, or extension of the attached Service Line Agreement without further Council action.

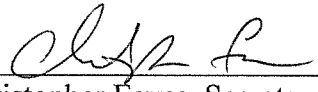
CERTIFICATION

I, the undersigned, as Secretary-Treasurer of the Mississippi Band of Choctaw Indians, certify that the Tribal Council of said Band is composed of 17 members, 14 of whom, constituting a quorum were present at a Special Call meeting duly called, noticed, convened and held this the 1<sup>st</sup> day of September, 2020; and that the foregoing Resolution was duly Adopted by a vote of 14 members in favor, 0 opposed and 0 abstaining.

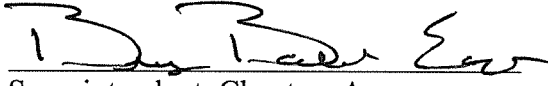
Dated this 1<sup>st</sup> day of September, 2020.

ATTEST:

  
\_\_\_\_\_  
Cyrus Ben, Tribal Chief

  
\_\_\_\_\_  
Christopher Eaves, Secretary-Treasurer

RECOMMENDED:

  
\_\_\_\_\_  
Superintendent, Choctaw Agency

9-3-2020  
\_\_\_\_\_  
Date

MISSISSIPPI BAND OF CHOCTAW INDIANS

RESOLUTION CHO 20-107(B)

A RESOLUTION TO APPROVE A RIGHT-OF-WAY IN FAVOR OF CENTRAL ELECTRIC POWER ASSOCIATION IN THE PEARL RIVER COMMUNITY

WHEREAS, Section 1, Subsection (b) of Article VIII of the Revised Constitution and Bylaws of the Mississippi Band of Choctaw Indians (“MBCI” or the “Tribe”) empowers the Tribal Council to approve or disapprove any sale, disposition, lease or encumbrance of tribal lands, interests in land, tribal funds, or other tribal assets; and

WHEREAS, Central Electric Power Association has submitted the attached Right-of-Way Application for a power line servicing the house site of Terrence Kinsolving and Tonya Kinsolving on County Road 604 (the “intended purpose”) in the Pearl River Community, over and across land which is owned by United States of America in trust for the benefit of the Tribe and is more particularly described as follows:

A strip of land, for a power line, approximately 180 feet in length and 40 feet in width existing 20 feet either side of the centerline of the power line and with said power line existing in the Southeast ¼ of Section 20, Township 11 North, Range 10 East, Neshoba County, Mississippi;

And

WHEREAS, the above-described right-of-way is limited to the area shown and delineated on the plat/diagram marked “Exhibit A” of the attached Right-of-Way Application; and

WHEREAS, the Tribal Council has determined it is in the best interest of the Tribe for the Choctaw Agency Superintendent to grant the above-described right-of-way for a perpetual term so long as the above-described right-of-way is used for the intended purpose; and

WHEREAS, there will be no payment to the Tribe because the service is being installed at the request and for the benefit of an MBCI tribal member; and

WHEREAS, the Tribal Council has determined that the negotiated compensation of \$0.00 is satisfactory to the Tribe and it is therefore in the best interest of the Tribe to waive valuation pursuant to 25 C.F.R. §169.110; and

WHEREAS, the Tribal Council has determined that it is in the best interest of the Tribe to waive the requirement for bond pursuant to 25 C.F.R. §169.103 since the service is being installed at the request and for the benefit of an MBCI tribal member; and

WHEREAS, the Natural Resources Committee has reviewed this Resolution and is recommended to be forwarded to the Tribal Council for approval; now therefore be it

RESOLVED, that the Tribal Council hereby consents to grant the above-described right-of-way by the Bureau of Indian Affairs to Central Electric Power Association for a power line servicing

the house site of Terrence Kinsolving and Tonya Kinsolving on County Road 604 in the Pearl River Community; and be it further

RESOLVED, that the Tribal Council hereby requests that the Choctaw Agency Superintendent grant the above-described right-of-way for a perpetual term so long as the above-described right-of-way is used for the intended purpose; and be it further

RESOLVED, that the Tribal Council hereby waives valuation and the requirement for bond regarding the above-described right-of-way; and be it further

RESOLVED, that the Tribal Council authorizes the Tribal Chief to sign any additional documents, forms, or contracts directly related to the continuance, amendment, or extension of the above-described right-of-way without further Council action.

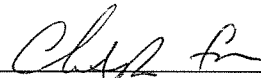
CERTIFICATION

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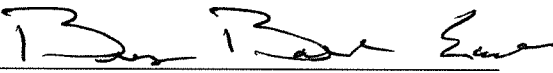
Dated this 1<sup>st</sup> day of September, 2020.

ATTEST:

  
\_\_\_\_\_  
Cyril Ben, Tribal Chief

  
\_\_\_\_\_  
Christopher Eaves, Secretary-Treasurer

RECOMMENDED:

  
\_\_\_\_\_  
Superintendent, Choctaw Agency

9-3-2020  
\_\_\_\_\_  
Date



MISSISSIPPI BAND OF CHOCTAW INDIANS

RESOLUTION CHO 20-108(B)

A RESOLUTION CONFIRMING EXPIRATION OF RESIDENTIAL LEASES AND TO APPROVE LEASES OF FORMER RESIDENTIAL LEASE SITES TO CHOCTAW HOUSING AUTHORITY

WHEREAS, Section 1, Subsection (b) of Article VIII of the Revised Constitution and Bylaws of the Mississippi Band of Choctaw Indians (“MBCI” or the “Tribe”) empowers the Tribal Council to approve or disapprove any sale, disposition, lease or encumbrance of tribal lands, interests in land, tribal funds, or other tribal assets; and

WHEREAS, Section 1, Subsection (p) of Article VIII of the Revised Constitution and Bylaws of the Tribe empowers the Tribal Council to pass any ordinances and resolutions necessary or incidental to the exercise of any of the foregoing powers and duties; and

WHEREAS, the Tribal Council has the sole authority to approve leases of tribal lands for residential purposes pursuant to the Helping Expedite and Advance Responsible Tribal Home Ownership Act (“HEARTH Act”) of July 30, 2012, Pub. L. 112-151, 126 Stat. 1150, 25 U.S.C. § 415, as implemented by the Mississippi Band of Choctaw Indians HEARTH Act Leasing Regulations, approved by the Department of the Interior on March 5, 2019 with notice published in the Federal Register on April 10, 2019, Vol. 84, No. 69, pages 14390-14391; and

WHEREAS, Choctaw Housing Authority has received funding to construct additional housing in the Pearl River Community; and

WHEREAS, MBCI’s Real Estate Program has identified the following nine (9) vacant sites in the Pearl River Community which were formerly subject to residential leases, all of which are now expired:

ADDRESS	EXPIRATION DATE	LESSEE
342 Lagoon Road Philadelphia, MS 39350	December 31, 2012	Oree Billy Bell
105 Choctaw Street Philadelphia, MS 39350	December 31, 2016	Clifton/Mattie McMillan
104 Indian Hills Circle Philadelphia, MS 39350	March 27, 2013	Lee/Kimberly McMillan
601 North Oswald Road Philadelphia, MS 39350	December 31, 2017	Carl Phillips
573 North Oswald Road	November 25, 2012	Darryl Stephens

Philadelphia, MS 39350

112 Indian Hills Circle Philadelphia, MS 39350	December 31, 2014	Mavis/Terry K. Steve
577 North Oswald Road Philadelphia, MS 39350	December 31, 2001	Darrell Tubby
599 North Oswald Road Philadelphia, MS 39350	December 31, 2001	Morris Willis
103 Choctaw Street Philadelphia, MS 39350	December 31, 2019	Clarissa Ballew

And,

WHEREAS, the Tribal Council has determined it is in the best interest of the Tribe to lease the sites identified in the above list to Choctaw Housing Authority; and

WHEREAS, the Tribal Council has determined that it is in the best interest of the Tribe to waive the requirement for bond pursuant Section 12(b) of the Tribe's HEARTH Act Leasing Regulations; and

WHEREAS, the Natural Resources Committee has reviewed this Resolution and is recommended to be forwarded to the Tribal Council for approval; now therefore be it

RESOLVED, that the Tribal Council does hereby authorize the Tribal Chief and the Secretary-Treasurer to negotiate and sign mutually agreeable leases with Choctaw Housing Authority for the sites identified in the above list for a term of twenty-five (25) years subject to the Tribe's HEARTH Act Leasing Regulations; and be it further

RESOLVED, that the Tribal Council hereby waives the requirement for bond pursuant to Section 12(b) of the Tribe's HEARTH Act Leasing Regulations; and be it further

RESOLVED, that the Tribal Council does hereby authorize the Tribal Chief and the Secretary-Treasurer to sign up to two (2) lease extensions for each of the sites identified in the above list without further Council action.

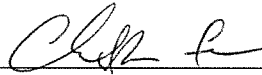
#### CERTIFICATION

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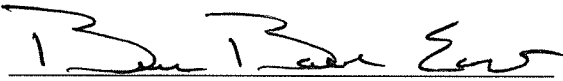
Dated this 1<sup>st</sup> day of September, 2020.

ATTEST:

  
\_\_\_\_\_  
Cyrus Ben, Tribal Chief

  
\_\_\_\_\_  
Christopher Eaves, Secretary-Treasurer

RECOMMENDED:

  
\_\_\_\_\_  
Superintendent, Choctaw Agency

9-3-2020  
\_\_\_\_\_  
Date

MISSISSIPPI BAND OF CHOCTAW INDIANS

RESOLUTION CHO 20-109

A RESOLUTION TO AUTHORIZE A LIMITED WAIVER OF SOVEREIGN IMMUNITY AS  
TO A GRANT AGREEMENT BETWEEN THE MISSISSIPPI BAND OF CHOCTAW  
INDIANS AND W.K. KELLOGG FOUNDATION

WHEREAS, Section 1, Subsection (a) of Article VIII of the Revised Constitution and Bylaws of the Mississippi Band of Choctaw Indians (“MBCI” or the “Tribe”) empowers the Tribal Council to negotiate with and to approve or disapprove contracts or agreements with Federal, State or local governments, with private persons or with corporate bodies; and

WHEREAS, Section 1, Subsection (q) of Article VIII of the Revised Constitution and Bylaws of the Mississippi Band of Choctaw Indians empowers the Tribal Council to do such acts of a governmental and public nature as are not prohibited by applicable laws or by this Constitution and Bylaws; and

WHEREAS, the Mississippi Band of Choctaw Indians is a federally recognized Indian Tribe and has sovereign immunity from suit unless the Tribe expressly and unequivocally waives its sovereign immunity; and

WHEREAS, the W.K. Kellogg Foundation (“WKKF”) has offered grant funding in an amount up to \$450,000 to support the activities of Choctaw Fresh Produce (“CFP”) related to continuing to build a community that is food-secure with equitable access to fresh and healthy foods while building a pipeline of future food-systems workers in response to, and after COVID-19, as described in the Grant Agreement attached hereto as Exhibit “A” (“Agreement”); and

WHEREAS, a limited waiver of the Tribe’s sovereign immunity is requested by WKKF and is viewed by WKKF as necessary to allow WKKF to enforce the performance of the Agreement; and

WHEREAS, CFP intends to use these grant funds to help offset a portion of the expenses associated with 6 full-time and 4 seasonal employees; and

WHEREAS, the Economic Development Committee has reviewed this Resolution and is recommended to be forwarded to the Tribal Council for approval; now therefore be it

RESOLVED, that the Tribal Council finds that it is in the best interest of the Tribe to allow the limited waiver of sovereign immunity as specifically outlined below with regard to the enforcement of claims regarding the Agreement; and be it further

RESOLVED, that the Tribal Council of the Mississippi Band of Choctaw Indians hereby waives sovereign immunity of the Tribe only to the extent of consenting to litigation as expressly allowed by the Agreement as may be brought against the Tribe in the state or federal courts of Mississippi, subject to the following limitations which shall prevail over any conflicting language in the Agreement:

- (a) The limited waiver shall be applicable only to Grantee's contractual obligations under the Agreement and any claims shall be satisfied solely from the personal property of Grantee;
- (b) The limited waiver shall become effective on the date of full execution of the Agreement and shall terminate when Grantee's obligations under the Agreement have been satisfied, unless the Agreement is renewed or amended in agreement by both parties, in writing;
- (c) Nothing in the limited waiver shall waive the immunity of any tribal official, employee or representative, nor subject the Grantee (Tribe) to any claim for indirect, incidental, consequential, punitive or special damages; and
- (d) Nothing in this limited waiver shall be construed or deemed to provide recourse to any gaming assets currently owned or hereafter acquired, including without limitation those of the Choctaw Resort Development Enterprise.

And be it further

RESOLVED, that nothing contained in this Resolution or contained in the Agreement shall constitute a waiver or consent by the Mississippi Band of Choctaw Indians to the alienation or encumbrance of or to the execution or satisfaction of any judgment, lien, attachment or garnishment upon or against any real property owned by the Mississippi Band of Choctaw Indians or in which the Mississippi Band of Choctaw Indians has any right, title or beneficial interest; and be it further

RESOLVED, that nothing contained in this Resolution or the Agreement shall be construed to provide any recourse to Tribal Government Services Division Assets, either currently owned or subsequently acquired by the Tribe or any other Tribal enterprise, and such recourse is hereby prohibited; and be it further

RESOLVED, that no officer, employee, member, attorney employed by the Tribe, agent, or other representative of the Mississippi Band of Choctaw Indians or any of its political subdivisions or boards or enterprises shall have any personal liability to WKKF or its affiliated companies as a result of any breach, default or claim arising under or out of the Agreement; and be it further

RESOLVED, that except to the extent such immunities are not expressly waived by the terms of this Resolution, the Mississippi Band of Choctaw Indians retain all immunities as have heretofore existed, and this waiver shall be strictly so construed; and be it further

RESOLVED, that the Tribal Council of the Mississippi Band of Choctaw Indians does hereby authorize the WKKF Agreement and authorizes the Tribal Chief to execute the Agreement and future WKKF Addenda in substantially the same form as previously presented to Tribal Council as the Agreement, and further authorizes said officials to perform such further acts and deeds as are necessary to finalize the execution of the Agreement.

#### CERTIFICATION

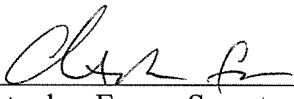
I, the undersigned, as Secretary-Treasurer of the Mississippi Band of Choctaw Indians, certify that the Tribal Council of said Band is composed of 17 members, 14 of whom, constituting a quorum

were present at a Special Call meeting duly called, noticed, convened and held this the 1<sup>st</sup> day of September, 2020; and that the foregoing Resolution was duly Adopted by a vote of 10 members in favor, 4 opposed and 0 abstaining.

Dated this 1<sup>st</sup> day of September, 2020.

ATTEST:

  
\_\_\_\_\_  
Cyrus Ben, Tribal Chief

  
\_\_\_\_\_  
Christopher Eaves, Secretary-Treasurer