

MISSISSIPPI BAND OF CHOCTAW INDIANS

RESOLUTION CHO 20-110

A RESOLUTION TO AUTHORIZE A DISTRIBUTION OF TRIBAL FUNDS

WHEREAS, the Mississippi Band of Choctaw Indians has pioneered in the development of revenue-producing industrial and commercial enterprises, which produce revenues for the Tribal government; and

WHEREAS, the members of the Mississippi Band of Choctaw Indians should derive some benefit from the general production of revenues insofar as it is feasible; and

WHEREAS, the amended Tribal-State Compact of IGRA Class III gaming between the Mississippi Band of Choctaw Indians and the State of Mississippi Section 7.6(2) states: "Per capita payments may be made to individual tribal members in an amount not to exceed one thousand and no/100 (\$1000.00) per year by the authority of, and in accordance with, an ordinance and regulations duly adopted by the Tribal Council and with a Revenue Allocation Plan approved by the Bureau of Indian Affairs, U.S. Department of Interior, if required or equivalent thereof."; and

WHEREAS, on July 15, 1996, the Bureau of Indian Affairs approved the Tribal-State Compact amendment regarding distribution and the Tribal Council in Ordinance 77 approved provisions regarding the per capita payments from gaming proceeds; now therefore be it

RESOLVED, that the Tribal Council does hereby authorize the Tribal Chief to promulgate procedures and to conduct the distribution of **\$600.00** per Tribal member on December 2, 2020, in accord with the attached Notice of Funds Distribution; and be it further

RESOLVED, that the Tribal Council does hereby authorize an amount not to exceed \$1,125,000.00 (\$100 per member) be funded from the Mississippi Band of Choctaw Indians' non-gaming general fund revenue; and be it further

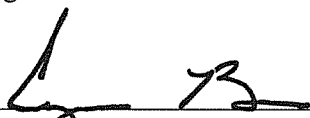
RESOLVED, that the Tribal Council does hereby appropriate an amount not to exceed \$5,922,194.00 (\$500 per member) from Tribal gaming distributions to the Tribe to carry out this distribution and authorize the Tribal Chief and Secretary-Treasurer to take all necessary action to effectuate said distribution.

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 23<sup>rd</sup> day of September, 2020; and that the foregoing Resolution was duly Adopted by a vote of 11 members in favor, 3 opposed and 0 abstaining.

Dated this 23<sup>rd</sup> day of September, 2020.

ATTEST:

A handwritten signature in black ink, appearing to be 'Cyrus Ben', written above a horizontal line.

Cyrus Ben, Tribal Chief

A handwritten signature in black ink, appearing to be 'Christopher Eaves', written above a horizontal line.

Christopher Eaves, Secretary-Treasurer

MISSISSIPPI BAND OF CHOCTAW INDIANS

RESOLUTION CHO 20-111

A RESOLUTION TO APPROVE FISCAL YEAR 2021 BUDGETS FOR TRIBAL  
ADMINISTRATION, PROGRAMS, AGENCIES AND OPERATIONS

WHEREAS, revenues are accruing to the tribal government from tribal government and economic activities; and

WHEREAS, the prudent management of tribal programs, activities, and resources requires that significant federal and tribal resources be budgeted for the adequate support of tribal administrative offices, departments and programs and independent agencies; and

WHEREAS, the general revenue and health department budgets have been prepared by the Tribal Chief and reviewed in a series of meetings involving the Tribal Council, the tribal administration, divisions, departments and programs; now therefore be it

RESOLVED, that the Tribal Council does hereby approve the following budgets for fiscal year 2021:

General Revenue Operating Budget	\$ 93,103,035
Tribal Projects, Equipment and Facilities	\$ 3,190,325
Choctaw Health Department Budget	\$ 82,766,492

And be it further

RESOLVED, that the Tribal Council does hereby authorize use of funds from the following sources:

Indirect Cost Collections	\$ 20,946,113
Gaming Revenue	\$ 56,250,000
General Fund Non-Gaming Revenue	\$ 3,880,671
New Market Credit Tax Net Benefit	\$ 1,200,000
Trust Fund	\$ 2,500,000
Rainy Day Fund	\$ 1,218,104
Choctaw Gaming Commission Fees & Charges	\$ 4,210,269
Other Program Income	\$ 6,088,203
Indian Health Service	\$ 50,514,379
Medicaid & Medicare Collections	\$ 9,000,000
General Health Fund	\$ 5,000,000
USET	\$ 1,256,112
WIC	\$ 1,053,065
Other Grants & Contracts	\$ 7,779,028
IHS Covid-19 Funding	\$ 8,163,908

And be it further

RESOLVED, that revenues collected in accordance with the Choctaw Tax Code and Gaming Ordinances that are in excess of those needed to fund FY 2021 expenditures for the Choctaw Tax Commission and the Choctaw Gaming Commission will be transferred to the Tribal General Fund; and be it further

RESOLVED, that the Tribal Chief is hereby authorized to move expenditures among approved activities; however, any increase in the overall budget amount for the General Revenue Budget must receive the prior approval of the Tribal Council.

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 23<sup>rd</sup> day of September, 2020; and that the foregoing Resolution was duly Tabled by a vote of 8 members in favor, 6 opposed and 0 abstaining.

Dated this 23<sup>rd</sup> day of September, 2020.

ATTEST:

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

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

MISSISSIPPI BAND OF CHOCTAW INDIANS

RESOLUTION CHO 20-112

A RESOLUTION TO APPROVE MODE OF DELIVERY AGREEMENT WITH THE  
UNITED STATES POSTAL SERVICE

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, the Tribe is the beneficial owner of land held in trust by the United States of America on which residential subdivisions are developed and on which land leases are granted to individual tribal members or entities for the construction of residences or businesses; and

WHEREAS, in 2012 the United States Postal Service (“USPS”) published new Mode of Delivery rules in the Post Office Manual, including rules regarding the use of USPS Approved Mailbox Equipment including the use of Cluster Boxes; and

WHEREAS, the Tribe has met with the Growth Manager for the central Mississippi area and reviewed the USPS National Delivery Planning Standards for Builders and Developers, a copy of which is attached hereto as Exhibit “A,” and understands that any future development on Tribal lands must comply with the standards contained therein; and

WHEREAS, in an effort to formalize the agreement between the parties to comply with the National Delivery Planning Standards for Builders and Developers as well as resolve outstanding issues related to the mode of delivery in the Tucker community, the parties have reached an agreement outlined in the Mode of Delivery Agreement, a copy of which is attached hereto as Exhibit “B”; and

WHEREAS, the Congressional and Governmental Affairs Committee has reviewed the attached Mode of Delivery Agreement and it is recommended to be forwarded to the Tribal Council for approval; now therefore be it

RESOLVED, that the Tribal Council does hereby approve the Mode of Delivery Agreement in substantially the same form as attached between the Mississippi Band of Choctaw Indians and the United States Postal Service; and be it further

RESOLVED, that the Tribal Council does hereby authorize the Tribal Chief or his designee, to execute the Mode of Delivery Agreement and any additional documents, forms or contracts directly related to the implementation or continuation of said Agreement without further Tribal 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 23<sup>rd</sup> day of September, 2020; and that the foregoing Resolution was duly Adopted by a vote of 11 members in favor, 3 opposed and 0 abstaining.

Dated this 23<sup>rd</sup> day of September, 2020.

ATTEST:

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

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

MISSISSIPPI BAND OF CHOCTAW INDIANS

RESOLUTION CHO 20-113(B)

A RESOLUTION TO PURCHASE A HOME IN THE CRYSTAL RIDGE COMMUNITY

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 (b) of Article VIII of the Revised Constitution and Bylaws of 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, on July 14, 2020, the Tribal Council adopted Resolution CHO 20-093, which approved a "Coronavirus Relief Fund Budget" and authorized expenditures for the construction of a "Coronavirus Emergency Response Facility" for each MBCI tribal community; and

WHEREAS, the Tribe's Office of Construction Management has identified 669 Joe Wray Road in the Crystal Ridge Community as the most economically feasible location to build a Coronavirus Emergency Response Facility for that community; and

WHEREAS, MBCI tribal member Ann Wesley owns House No. 375 at 669 Joe Wray Road in the Crystal Ridge Community on lands to which she has an unexpired Residential Lease; and

WHEREAS, Mrs. Wesley has offered to sell the above-referenced house to the Tribe for \$27,000.00; and

WHEREAS, acquisition of the above-referenced house by the Tribe would require termination of Land Lease No. 150-18, a copy of which is attached hereto as Exhibit "A"; and

WHEREAS, the Congressional & Governmental Affairs 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 authorizes the Tribal Chief to purchase House No. 375 at 669 Joe Wray Road in the Crystal Ridge Community from MBCI tribal member Ann Wesley for a price not to exceed \$27,000.00; and be it further

RESOLVED, that the Tribal Council hereby authorizes the Tribal Chief and Secretary-Treasurer to terminate Land Lease No. 150-18 upon acquisition of the above-referenced house by the Tribe and reimburse Ms. Wesley on a pro-rata basis for the pre-paid lease fees for the remainder of the lease period; and be it further

RESOLVED, that all funds associated with the acquisition of the property are to be paid from the Coronavirus Relief Fund; and be it further

RESOLVED, that the Tribal Council authorizes the Tribal Chief to sign any additional documents, forms, or contracts directly related to effectuate the purchase of the above-referenced home and termination of the above-referenced lease.

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 23<sup>rd</sup> day of September, 2020; and that the foregoing Resolution was duly Adopted by a vote of 11 members in favor, 3 opposed and 0 abstaining.


Dated this 23<sup>rd</sup> day of September, 2020.

ATTEST:

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

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

RECOMMENDED:

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

9-23-2020  
\_\_\_\_\_  
Date



MISSISSIPPI BAND OF CHOCTAW INDIANS

RESOLUTION CHO 20-114

AN AMENDED 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, Article VIII, section 1 (q) 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 MBCI is a federally-recognized Indian tribe and has sovereign immunity from suit unless the Tribe expressly and unequivocally waives its sovereign immunity; and

WHEREAS, this Resolution amends CHO 20-109 which was passed on September 1, 2020; 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 six (6) full-time and four (4) seasonal employees; and

WHEREAS, the Chairman of the Economic Development 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 specifically outlined below as to enforcement of 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 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 Agreements; and be it further

RESOLVED, that except to the extent such immunities are not expressly waived by the terms of this Resolution, MBCI shall 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 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 official to perform such further acts and deeds as are necessary to finalize the execution of the Agreement; and be it further

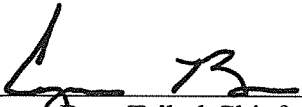
RESOLVED, that the Tribal Council does hereby authorize the Tribal Chief or his designee, to sign additional documents, forms, or contracts directly related to the implementation, continuance, amendment, extension, or termination of the Agreement without further Council action.

#### 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 23<sup>rd</sup> day of September, 2020; and that the foregoing Resolution was duly Adopted by a vote of 11 members in favor, 3 opposed and 0 abstaining.

Dated this 23<sup>rd</sup> day of September, 2020.

ATTEST:

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

  
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Christopher Eaves, Secretary-Treasurer

MISSISSIPPI BAND OF CHOCTAW INDIANS

RESOLUTION CHO 20-115

A RESOLUTION TO APPROVE PRINCIPAL FINANCIAL SERVICES AS  
RECORDKEEPER, ADMINISTRATIVE SERVICES PROVIDER AND TRUSTEE FOR  
PROGRAMS OF THE MISSISSIPPI BAND OF CHOCTAW INDIANS

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, the Tribal Council approved Resolution CHO 05-020 to establish a non-qualified deferred compensation program for Tribal Officials that complied with the American Job Creation Act of 2004 and Resolution CHO 05-021 that established a non-qualified deferred compensation (salary deferral) program for Tribal Officials and tribal employees that complied with the American Jobs Creation Act of 2004; and

WHEREAS, the Tribal Council approved Resolution CHO 05-022 to approve Trustmark National Bank as an additional custodian and agent for deferral elections and to re-designate Morgan Keegan as a Custodian and Agent for deferral elections made by Tribal Officials and tribal employees into the Deferred Compensation programs; and

WHEREAS, the Tribal Council approved Resolution CHO 06-117 to authorize the transfer of the deferred compensation accounts at Morgan Keegan to Regions Morgan Keegan Trust; and

WHEREAS, the Tribal Council approved Resolution CHO 14-068 to approve MullinTBG as recordkeeper and administrative services provider for the MBCI Deferred Compensation programs; and

WHEREAS, MullinTBG has notified the Tribe that a significant increase in the fees charged for the recordkeeping and administration of the MBCI Deferred Compensation programs will be instituted; and

WHEREAS, it is not in the best interest of the Mississippi Band of Choctaw Indians or the Deferred Compensation program participants to pay the increased fees; and

WHEREAS, Principal Financial Service, including its Trust Company (“Principal”), is the leading deferred compensation provider in the nation and offers a robust selection of investments and plan design options; and

WHEREAS, Principal has submitted a quote to provide recordkeeping, administrative, and trustee services for the Deferred Compensation programs at a significantly lower rate than the increased fees that will be charged by MullinTBG; and

WHEREAS, the Retirement Plan Investment Committee has reviewed the proposal and the documents from Principal, including but not limited to the Non-Qualified Service Agreement and the Rabbi Directed Trust Agreement, copies of which are attached hereto as Cumulative Exhibit

“A,” and finds that a change to Principal is in the best interest of participants in the MBCI Non-Qualified Deferred Compensation Programs; and

WHEREAS, Tribal Elected Officials are not participating in the Deferred Compensation program at this time and there have been no government funded deposits into the Deferred Compensation program since 2009 and the FY21 Tribal Government Budget has no provision for the Deferred Compensation program for Tribal Elected officials; and

WHEREAS, the only Deferred Compensation program currently active is for non-elected Tribal employees who voluntarily contribute their own salary funds to the Deferred Compensation program without employer contributions; and

WHEREAS, the Budget & Finance Committee has reviewed the proposal and the documents from Principal, including but not limited to the Non-Qualified Service Agreement and the Rabbi Directed Trust Agreement, and it is recommended to be forwarded to the Tribal Council for approval; now therefore be it

RESOLVED, that the Tribe hereby designates Principal as recordkeeper, administrative services provider, and trustee for the MBCI Non-Qualified Deferred Compensation Programs; and be it further

RESOLVED, that the Office of Budget and Finance and the Office of the Attorney General are requested to seek an opinion regarding the rules for maintaining the Deferred Compensation programs; and be it further

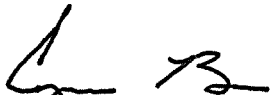
RESOLVED, that the Tribal Chief and Secretary-Treasurer are hereby authorized and directed to execute any necessary documents, including but not limited to the Non-Qualified Service Agreement and the Rabbi Directed Trust Agreement, in order to utilize Principal as recordkeeper, administrative services provider, and trustee for the MBCI Non-Qualified Deferred Compensation Programs and to sign any additional documents, forms or contracts directly related to the implementation or continuation of the MBCI Non-Qualified Deferred Compensation Programs without further Tribal 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 23<sup>rd</sup> day of September, 2020; and that the foregoing Resolution was duly Adopted by a vote of 11 members in favor, 3 opposed and 0 abstaining.

Dated this 23<sup>rd</sup> day of September, 2020.

ATTEST:

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

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