

TO APPROVE THE LIMITED WAIVER OF SOVEREIGN IMMUNITY FOR THE FY23 NATIVE AMERICAN AGRICULTURE FUND (NAAF) FISCAL YEAR 2023 GRANT AGREEMENT

IN THE TRIBAL COUNCIL OF THE CHOCTAW NATION

RONALD PERRY INTRODUCED THE FOLLOWING COUNCIL RESOLUTION

A COUNCIL RESOLUTION

TO APPROVE a limited waiver of sovereign immunity between the Choctaw Nation of Oklahoma and the Native American Agriculture Fund (NAAF), provided for the sole purpose of complying with NAAF's requirements for a limited waiver of sovereign immunity in order to support execution of a grant agreement between NAAF and Choctaw Nation of Oklahoma.

WHEREAS, the Choctaw Nation of Oklahoma (the "Nation") is a federally recognized Tribe of American Indians with a Tribal Constitution;

WHEREAS, the Nation has sovereign powers that are inherent in Tribal tradition, derived from a history of organized self-governance and recognized by treaties with the United States and recognized in the Constitution of the United States;

WHEREAS, the Nation has a Tribal Constitution ratified by both qualified voters of the tribe as well as the Bureau of Indian Affairs dated July 25, 1983;

WHEREAS, in accordance with Article IX, Section 6 of the Constitution of the Choctaw Nation of Oklahoma, "The Tribal Council shall make decisions pertaining to the acquisition, leasing, disposition, and management of tribal property";

WHEREAS, the Native American Agriculture Fund (NAAF) is a private charitable trust created by the 2010 settlement of the *Keepseagle v. Vilsack* class-action lawsuit, which alleged that the United States Department of Agriculture (USDA) discriminated against Native American Farmers and ranchers in loan programs and loan servicing since 1981. The final settlement agreement called for NAAF's creation to manage and distribute grants to four eligible entities, including federally recognized Tribal governments and their instrumentalities;

WHEREAS, the Tribal Council of the Choctaw Nation of Oklahoma has authorized the Executive Branch of the Nation to enter into a legally binding agreement, and to sign all documents on behalf of the Nation, including the Grant Agreement between the Native American Agriculture Fund (NAAF) and the Nation in the amount of \$320,000.00 (Three Hundred Twenty Thousand Dollars and 00/100 cents), including but not limited to the Limited Waiver of Sovereign Immunity contained therein; and

WHEREAS, this resolution furthers the Nation's strategic goal of strengthening financial growth and economic stability of tribal members and local economies.

THEREFORE BE IT RESOLVED by the Tribal Council of the Choctaw Nation of Oklahoma that this Resolution be cited as approval to issue a limited waiver of sovereign immunity between the Choctaw Nation of Oklahoma and the Native American Agriculture Fund in order to support execution of the Fiscal Year 2023 grant agreement.

BE IT FURTHER RESOLVED by the Tribal Council of the Choctaw Nation of Oklahoma that this Resolution be cited as approval to enter into an irrevocable Limited Waiver of Sovereign Immunity as specified below in the amount of \$320,000.00 (Three Hundred Twenty Thousand and 00/100 Dollars) for the duration of the grant relationship.

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AMERICAN AGRICULTURE FUND (NAAF) FISCAL YEAR 2023 GRANT AGREEMENT**

BE IT FURTHER RESOLVED by the Council that this Resolution be cited as an acknowledgement that the Chief of the Nation, or his designee, is authorized to prepare, execute, deliver and file any and all agreements, certificates, instruments and documents, in such form and with such terms and provisions as the Chief of the Nation, or his designee, may approve, and to take such other action as he, she or they may deem proper or appropriate, to carry out the intent and purposes of the foregoing enactments.

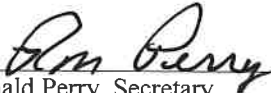
Limited Waiver of Sovereign Immunity

Limited Waiver of Sovereign Immunity. Nothing herein shall be deemed to be a general waiver of the Choctaw Nation of Oklahoma immunity from suit, except that the Choctaw Nation of Oklahoma hereby provides an irrevocable limited waiver of sovereign immunity in the amount of \$320,000.00 (three hundred twenty thousand dollars and 00/100), and consents to suit, enforcement, and collection of judgement and award, injunction, specific performance or declaratory relief, as to any right, obligation or duty arising out of or under the Grant Agreement. The purpose of this explicit waiver of tribal sovereign immunity is to allow NAAF to enter into the Grant Agreement whereby NAAF will transfer grant funds in the amount of \$320,000.00 (three hundred twenty thousand dollars and no/100) to the Choctaw Nation of Oklahoma. The Choctaw Nation of Oklahoma understands that NAAF is not allowed to enter into any Grant Agreement with the Choctaw Nation of Oklahoma without the limited waiver of sovereign immunity described herein, as per the terms of the Trust Agreement under which NAAF is created and is authorized to conduct all business related to its purpose and mission. The Choctaw Nation of Oklahoma understands that NAAF would not enter into this Grant Agreement without this limited waiver of sovereign immunity. NAAF is governed under its Trust Agreement which explicitly requires that all tribes and tribal instrumentalities are required to grant a limited waiver of sovereign immunity to NAAF in order to enter into the Grant Agreement that governs transfer of grant funds to the Choctaw Nation of Oklahoma in furtherance of NAAF's charitable and educational mission. It is expressly understood and agreed that regardless of any court that may hear any dispute or suit arising out of any or relating to the Grant Agreement shall be governed by and construed in accordance with the laws of applicable courts. The waiver that is described in this document shall inure to the benefit of NAAF and each other entity entitled to the benefits of this Grant Agreement. NAAF shall have and be entitled to all available legal and equitable remedies.

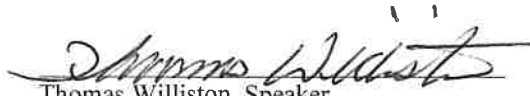
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CERTIFICATION

I, the undersigned, as speaker of the Tribal Council of the Choctaw Nation of Oklahoma, do hereby certify that the Tribal Council is composed of twelve (12) seats. Eight (8) members must be present to constitute a quorum. I further certify that twelve (12) members answered roll call and that a quorum was present at the Regular Session of the Tribal Council at Tuskahoma, Oklahoma on January 13, 2024. I further certify that the foregoing Council Resolution CR- 12 -24 was adopted at such meeting by the affirmative vote of twelve (12) members, zero (0) negative votes, and zero (0) abstaining.



Ronald Perry, Secretary
Choctaw Nation Tribal Council



Thomas Williston, Speaker
Choctaw Nation Tribal Council



Gary Batton, Chief
Choctaw Nation of Oklahoma

Date 1-18-24

TO APPROVE THE LIMITED WAIVER OF SOVEREIGN IMMUNITY FOR THE FY23 NATIVE AMERICAN AGRICULTURE FUND (NAAF) FISCAL YEAR 2023 GRANT AGREEMENT

IN THE TRIBAL COUNCIL OF THE CHOCTAW NATION

RONALD PERRY INTRODUCED THE FOLLOWING COUNCIL RESOLUTION

A COUNCIL RESOLUTION

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WHEREAS, the Choctaw Nation of Oklahoma (the "Nation") is a federally recognized Tribe of American Indians with a Tribal Constitution;

WHEREAS, the Nation has sovereign powers that are inherent in Tribal tradition, derived from a history of organized self-governance and recognized by treaties with the United States and recognized in the Constitution of the United States;

WHEREAS, the Nation has a Tribal Constitution ratified by both qualified voters of the tribe as well as the Bureau of Indian Affairs dated July 25, 1983;

WHEREAS, in accordance with Article IX, Section 6 of the Constitution of the Choctaw Nation of Oklahoma, "The Tribal Council shall make decisions pertaining to the acquisition, leasing, disposition, and management of tribal property";

WHEREAS, the Native American Agriculture Fund (NAAF) is a private charitable trust created by the 2010 settlement of the *Keepseagle v. Vilsack* class-action lawsuit, which alleged that the United States Department of Agriculture (USDA) discriminated against Native American Farmers and ranchers in loan programs and loan servicing since 1981. The final settlement agreement called for NAAF's creation to manage and distribute grants to four eligible entities, including federally recognized Tribal governments and their instrumentalities;

WHEREAS, the Tribal Council of the Choctaw Nation of Oklahoma has authorized the Executive Branch of the Nation to enter into a legally binding agreement, and to sign all documents on behalf of the Nation, including the Grant Agreement between the Native American Agriculture Fund (NAAF) and the Nation in the amount of \$320,000.00 (Three Hundred Twenty Thousand Dollars and 00/100 cents), including but not limited to the Limited Waiver of Sovereign Immunity contained therein; and

WHEREAS, this resolution furthers the Nation's strategic goal of strengthening financial growth and economic stability of tribal members and local economies.

THEREFORE BE IT RESOLVED by the Tribal Council of the Choctaw Nation of Oklahoma that this Resolution be cited as approval to issue a limited waiver of sovereign immunity between the Choctaw Nation of Oklahoma and the Native American Agriculture Fund in order to support execution of the Fiscal Year 2023 grant agreement.

BE IT FURTHER RESOLVED by the Tribal Council of the Choctaw Nation of Oklahoma that this Resolution be cited as approval to enter into an irrevocable Limited Waiver of Sovereign Immunity as specified below in the amount of \$320,000.00 (Three Hundred Twenty Thousand and 00/100 Dollars) for the duration of the grant relationship.

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Purpose/Need of Council Resolution: To approve the Limited Waiver of Sovereign Immunity for the Fiscal Year 2023 Grant Funding. This waiver is required to enter into an agreement and receive funding from the Native American Agriculture Fund. The Native American Agriculture Fund (NAAF) is a private charitable trust created by the 2010 settlement of the *Keepseagle v. Vilsack* class-action lawsuit, which alleged that the United States Department of Agriculture (USDA) discriminated against Native American Farmers and ranchers in loan programs and loan servicing since 1981. The final settlement agreement called for NAAF's creation to manage and distribute grants to four eligible entities. One of those entity types is state and federally recognized Tribal governments and their instrumentalities. The Nation is seeking funding in the amount of \$320,000.00 from the NAAF. Funding will be used to provide re-grants and forgivable loans to agricultural producers to assist in inflation reduction. This resolution will further the Nation's strategic goal of strengthening financial growth and economic stability of tribal members and local economies.

Title of Council Resolution: TO APPROVE THE LIMITED WAIVER OF SOVEREIGN IMMUNITY FOR THE FY23 NATIVE AMERICAN AGRICULTURE FUND (NAAF) FISCAL YEAR 2023 GRANT FUNDING

Agency: Native American Agriculture Fund (NAAF)

CNO Department: Strategic Development

Federal Award: \$320,000 upon award

CNO Match: N/A

Total Budget: \$320,000

Request by Project Director/SEO: Billy Hamilton, Project Director; Shannon Compton, Executive Officer of Strategy and Development; Tammye Gwinn, SEO Strategic Development