

Attorney General

## **CHEROKEE NATION**

OFFICE OF THE ATTORNEY GENERAL P.O. Box 948 Tahlequah, OK 74465-0948 918-453-5000

## OPINION OF THE CHEROKEE NATION ATTORNEY GENERAL

Question Submitted by:

Bill John Baker, Cherokee Nation Principal Chief

**Opinion Number:** 

2013-CNAG-03

**Date Decided:** 

July 19, 2013

This office has received your request for an official Attorney General Opinion in which you ask, in effect, the following question:

Is a resolution from the Tribal Council necessary for entering into a lease with the City of Tahlequah for the purpose of constructing and operating a splash pad on Cherokee Nation fee simple property?

## ANSWER AND ANALYSIS

In response to your request concerning whether a resolution from the Tribal Council is necessary for entering into a lease with the City of Tahlequah for the purpose of constructing and operating a splash pad on Cherokee Nation fee simple property at the corner of Water and Downing Streets in Tahlequah, please be advised that you are authorized to sign the lease under Section 9 of Article VII of the voter approved 1999 Constitution of the Cherokee Nation. Said Section 9 states that "The Principal Chief shall cause the laws of the Cherokee Nation to be faithfully executed, and shall conduct in person and in such manner as shall be prescribed by law, all communications and business of the Cherokee Nation." The law prescribed for leases is under the Cherokee Nation Landlord and Tenant Act, Title 41, et seq.; therefore, no resolution is required by the Tribal Council as executing leases are a part of doing business.

If the property was held in trust by the United States of America for the Cherokee Nation, in that event, a resolution would have been necessary as part of the Bureau of Indian Affairs approval process. However, in this instance, the land is not held in trust and is owned in fee simple, non-trust ownership by the Cherokee Nation.

Linda Donelson

Sr. Assistant Attorney General

Cherokee Nation

Todd Hembree

Attorney General for the Cherokee Nation