

Downstream Development Authority of the Quapaw Tribe of Oklahoma  
Supplement to Minutes dated 1/4/18.  
Email Poll

Roll Call:	John Berrey, Chairman	present
	Larry Ramsey, Secretary	Present
	Ranny McWatters, Treasurer	present
	Marilyn Rogers, Member	Present
	Tamara Reeves, Member	Present

An email poll was conducted on Monday January 29, 2018.

All,

Attached is a resolution approving the transaction documents relating to the ongoing refinancing of the Downstream Casino Resort's private notes (bonds). Credit Suisse

Information from Steve Ward:

Background: The Authority is preparing for a refinancing of the Downstream Casino Resort through a combination of (i) the issuance and sale of Two Hundred Seventy Million Dollars (\$270,000,000.00) aggregate principal amount of 10.50% senior secured notes due 2023 (the "Senior Secured Notes") to Credit Suisse Securities (USA) LLC, as initial purchaser, and (ii) by entering into an amended and restated senior secured credit facility in the aggregate amount of up to Forty Million Dollars and No Cents (\$40,000,000.00) (the "Senior Credit Agreement"), to be entered into with International Bank of Commerce ("IBC").

The attached proposed resolution approves the transaction documents relating to the Senior Secured Notes.

Vote:

John Berrey	Yes	Ranny McWatters	Yes
Marilyn Rogers	Yes	Larry Ramsey	Yes
Tamara Reeves	Yes		

5 yes, 0 no, 0 abstaining, 0 absent  
Motion Carries.



## Resolution No. 01\_29\_18-A

### **A RESOLUTION AUTHORIZING CERTAIN TRANSACTIONS WITH CREDIT SUISSE SECURITIES (USA) LLC AND OTHER ENTITIES TO REFINANCE THE DOWNSTREAM CASINO RESORT**

**WHEREAS**, the Downstream Development Authority of the Quapaw Tribe of Oklahoma (O-Gah-Pah) (the "Authority"), is an unincorporated governmental subdivision wholly owned by the Quapaw Tribe of Oklahoma (O-Gah-Pah) (the "Tribe"), a federally recognized Indian nation; and

**WHEREAS**, the Authority was created under the laws of the Tribe and authorized to develop, operate, and manage the Downstream Casino Resort (the "Resort") and to engage in gaming pursuant to Tribal, federal, and state law on the Indian lands of the Tribe within the original Quapaw Reservation, as established as a homeland for the Quapaw Nation by the Treaty of May 13, 1833, Quapaw Code Title 17, § 101 et seq.; and

**WHEREAS**, the Authority is expressly authorized to exercise its powers in the best interests of the Tribe, and to enter into binding agreements relating to financing for the Resort; and

**WHEREAS**, the Authority, in consultation with its lenders as well as its financial and other advisors, several months ago began preparations and negotiations to refinance the existing debt of the Resort in advance of the maturity date of such indebtedness and on a favorable basis; and

**WHEREAS**, the Authority previously has approved negotiations and the preparation of proposed agreements to refinance the Authority's existing \$264,896,000.00 aggregate principal amount of outstanding 10.50% Senior Secured Notes due 2019 (the "Existing Notes"), as well as its existing credit facility, upon the terms and conditions to be set forth in final documents (the "Refinancing"); and

**WHEREAS**, in preparation for the Refinancing the Authority has, by and through Resolution No. 011818-A and otherwise, engaged Credit Suisse Securities (USA) LLC ("Credit Suisse") as the sole book-running underwriter, initial purchaser or placement agent, as applicable, for the proposed financing of new senior secured notes, and further has authorized and has commenced a tender offer relating to the Existing Notes; and

**WHEREAS**, the Authority has negotiated and prepared, with the assistance of its advisors and legal counsel, agreements providing for the Refinancing of the Resort through a combination of (i) the issuance and sale of Two Hundred Seventy Million Dollars (\$270,000,000.00) aggregate principal amount of 10.50% senior secured notes due 2023 (the "Senior Secured Notes") to Credit Suisse Securities (USA) LLC, as the initial purchaser (the "Initial Purchaser"), pursuant to a Purchase Agreement among the Authority, the Tribe, the Downstream Q Store, LLC (the "DQS"), and the Initial Purchaser (the "Purchase Agreement"), and (ii) by entering into an amended and restated senior secured credit facility in the aggregate



amount of up to Forty Million Dollars and No Cents (\$40,000,000.00) (the "Senior Credit Agreement"), to be entered into with International Bank of Commerce ("IBC"), as administrative agent and as collateral agent for the Senior Credit Agreement transaction (the "Collateral Agent"), and the lenders party thereto; and

**WHEREAS**, the Authority desires to approve and authorize and/or ratify and reauthorize the transaction documents for the Refinancing relating to the sale and issuance of the Senior Secured Notes, including: (1) the Purchase Agreement; (2) the Indenture among the Authority, the Tribe, the DQS, and BOKF, NA dba Bank of Oklahoma ("BOK"), as trustee (the "Trustee"); (3) the Senior Secured Notes; (4) the Security Agreement made by the Authority and the DQS in favor of the Collateral Agent and the Trustee; (5) the Intercreditor Agreement among the Trustee, Authority, the DQS, the Collateral Agent, and other secured party representatives from time to time as parties thereto; (6) the Control Agreement Regarding Deposit Accounts among the Authority, IBC and the Collateral Agent; (7) the Grant of Security Interest in United States Trademarks between the Authority and the Collateral Agent; (8) the Termination of Security Agreement among the Authority, the DQS, and BOK, as collateral agent for the Existing Notes; (9) the Termination of Intercreditor Agreement among BOK, as trustee, IBC, BOK, as collateral agent, the Authority, and the DQS; (10) the Termination of Control Agreement regarding Deposit Accounts among the Authority, BOK, as collateral agent, and IBC; (11) the First Supplemental Indenture relating to the Existing Notes among the Authority, the Tribe and BOK, as trustee; (12) the Preliminary Offering Memorandum, dated January 18, 2018, relating to the Senior Secured Notes; and (13) the various schedules and annexes attached to the foregoing transaction documents and such other agreements, documents, instruments, certificates, and financing statements as may be required under the foregoing agreements or as may be necessary in connection with the issuance and placement of the Senior Secured Notes and the grant of security interests to secure the Senior Secured Notes (collectively the "Senior Notes Transaction Documents" or the "Transaction Documents"); and

**WHEREAS**, the Authority has been presented with drafts in final form or in substantially final form of each of the Senior Notes Transaction Documents, and the Authority desires to approve or reapprove the form of each such Transaction Document and to direct the Chairman of the Authority (the "Chairman") to execute and deliver each of the Transaction Documents to which the Authority is a party, on behalf of the Authority, and to execute and deliver on behalf of the Authority such other agreements, documents, instruments or certificates as may be necessary or desirable for the Authority to execute in connection with the issuance and placement of the Senior Secured Notes and Refinancing.

**NOW, THEREFORE BE IT RESOLVED THAT** the Authority finds and determines as follows:

**1. Findings.** The Authority finds and determines that: (a) the recitals and representations in this Resolution are true and correct in all material respects; (b) the Authority has full power and authority to adopt this Resolution; and (c) the Authority's adoption of this Resolution and the approval of the Senior Notes Transaction Documents, each are in the best interest of the Tribe and the Authority, and further each are consistent with the laws of the Tribe.

**2. Approval of the Issuance of the Senior Secured Notes.** The Authority hereby (a) authorizes the creation of an issue of Senior Secured Notes in an aggregate principal amount



of Two Hundred Seventy Million Dollars (\$270,000,000.00) as described herein, to be issued under the Indenture, (b) approves and/or reapproves and/or ratifies the Purchase Agreement and the sale of the Senior Secured Notes pursuant to the Purchase Agreement, and (c) authorizes the grant of security interests pursuant to the Senior Notes Transaction Documents. Further, the Authority hereby approves the performance by the Authority of the Senior Notes Transaction Documents and transactions contemplated thereby, and upon execution and delivery of the Senior Notes Transaction Documents to which the Authority is a party, the Authority authorizes and directs the Authority's officers, employees and representatives to perform, and take or cause to be taken such actions as may be required by, or necessary or desirable for the performance of, the Senior Notes Transaction Documents.

**3. Approval of the Form of the Senior Notes Transaction Documents and Delegation to Chairman.** The Authority hereby (a) approves the form of the Senior Notes Transaction Documents and (b) delegates to the Chairman of the Authority the power and authority to approve on behalf of the Authority the final form of each of the Senior Notes Transaction Documents. Further, the Authority authorizes and directs the Chairman and/or any other officer of the Authority, as required, to execute and deliver each of the Transaction Documents to which the Authority is a party, in the name and on behalf of the Authority, and to approve or ratify and reapprove the final Pricing Supplement and final Offering Memorandum relating to the Senior Secured Notes; and further authorizes the Chairman and/or any other officer of the Authority to execute any certificates, instruments and other documents required under the Senior Notes Transaction Documents and to take any other actions necessary in connection with issuance and sale of the Senior Secured Notes.

**4. Authorization of Further Negotiations.** The Authority hereby authorizes and directs the Chairman of the Authority to lead, direct, conduct, and conclude further negotiations of the Senior Notes Transaction Documents, as necessary in order to complete the Refinancing in accordance with the Transaction Documents; provided, however, that the Chairman shall continue to confer with the officers and Members of the Authority and the Authority's counsel and such other advisors as the Chairman deems appropriate in exercising the authority and powers delegated hereunder.

**5. Actions with Respect to the Trustee and the Collateral Agent.** The Authority hereby appoints, and/or reappoints or ratifies its selection of, BOK as Trustee under the Indenture for the Senior Secured Notes, and further authorizes the Chairman to execute and deliver the Senior Secured Notes to the Trustee for authentication.

**6. Choice of Law.** The Authority hereby ratifies and/or approves the choice of the laws of the State of New York as the governing law for the Senior Notes Transaction Documents as set forth in such Transaction Documents (collectively, the "Choice of Law Provisions").

**7. Dispute Resolution.** The Authority hereby ratifies the means for the resolution of disputes arising under or related to the Senior Notes Transaction Documents as set forth in the Transaction Documents, including the forums set forth in the Transaction Documents for the resolution of disputes, waivers of rights to have disputes heard first before a Tribal court or other dispute resolution forums of the Tribe, and consents to have disputes resolved by the courts referenced or binding arbitration as provided in the Transaction Documents (collectively, the "Dispute Resolution Provisions").



**8. Approval of Limited Waiver of Sovereign Immunity.** The Senior Notes Transaction Documents authorized and approved herein include certain provisions relating to the Authority's waiver of sovereign immunity, including actions in the forums specified therein (collectively, the "Sovereign Immunity Waiver Provisions"), and such provisions are hereby finally, unconditionally, and irrevocably ratified and approved.

**9. Consent and Waiver Provisions.** Each of the Choice of Law Provisions, the Dispute Resolution Provisions and the Sovereign Immunity Waiver Provisions in the Senior Notes Transaction Documents (collectively, the "Consent and Waiver Provisions") shall be deemed incorporated by reference into this Resolution in its entirety as though set forth at length herein, and such provisions are hereby expressly, conclusively, and irrevocably made by the Authority in this Resolution for the benefit of the parties benefited thereby. The Consent and Waiver Provisions are hereby unconditionally and irrevocably approved so long as the applicable documents in which such provisions appear or are referenced shall be in effect, or any party shall have rights thereunder (or for so long as the parties initially intended such documents to be in effect, or for the parties to have rights thereunder in the event of any such documents' invalidity), subject to such modification from time to time as is permitted by the terms of the applicable documents.

**10. Approval of DQS Actions.** The Authority, as owner and sole Member of DQS, a subsidiary of the Authority, hereby authorizes and affirms the written consent of the managers of the DQS dated of even date herewith approving the Refinancing and all DQS Transaction Documents, as defined therein, to which the DQS is a party.

**11. Repealer.** Any resolutions or other actions of the Authority, or any of the officers, employees, or agents of the Authority, whether written, unwritten or established by tradition that are in effect and are in conflict with or inconsistent with the terms of this Resolution, or the transactions contemplated herein, are hereby to such extent repealed and annulled, and this Resolution shall supersede the same.

**12. Nonimpairment of Authority's Obligations.** Neither the Authority nor any of its officers, principals, agents and employees, shall take any actions, without the written consent of all parties, to modify, amend, or in any manner impair the obligations of contracts entered into by the Authority or other parties in furtherance of the refinancing and/or the Transaction Documents.

**13. Confidentiality.** The Authority hereby orders and directs that all of the agreements and instruments relating to the Refinancing, including the Senior Notes Transaction Documents, and including each and every one of such Transaction Documents and all drafts and all other specific information concerning such transaction, including but not limited to engagements and fee arrangements and all financial aspects of the Refinancing and transactions described thereunder, to the extent they are not otherwise made public or required to be made public, shall be deemed to be highly confidential and proprietary information of the Tribe and the Authority (the "Confidential Information"), and further that such Confidential Information shall not, except as expressly authorized by the Business Committee and the Authority, be released or disclosed, except to members of the Tribal Business Committee and the Authority, the Tribal Administrator, the Chief Financial Officer of the Tribe, the Chief Financial Officer of the Authority, and legal counsel, although such information may also be disclosed to members of the



Tribe's and the Authority's accounting staff, tax advisors, and other persons with a need know such information, provided that any and all such persons are advised of and agree to maintain the confidentiality of such Confidential Information, as required hereunder.

**14. Determinations Regarding Authority Actions.** The Authority hereby determines that no resolutions, directives, policies, or other actions of the Authority, either written or established by custom or tradition: (a) prohibit the Authority from approving the matters herein approved, the execution, delivery or performance of any of the transactions or agreements or instruments contemplated therein; or (b) create any obligation of the Authority to submit these matters for approval of or consent from any officer, body, agency or instrumentality of the Tribe, except for such approvals and consents that have already been obtained and are in full force and effect.

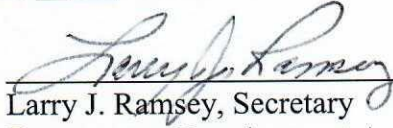
**15. Additional Determinations.** The Authority does not intend that any provisions of the Senior Notes Transaction Documents presented to it, whether taken singularly, in the aggregate, or in any combination, will constitute a "management contract" within the meaning of the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §§ 2701 et seq. (the "IGRA"), or deprive the Tribe of the "sole proprietary interest and responsibility" for the conduct of the gaming activity of the Authority's gaming operations within the meaning of IGRA.

**16. Miscellaneous.** If any provision of this Resolution or the application of any provision of this Resolution is held to be invalid, the remainder of the Resolution shall not be affected with respect to the same. This Resolution shall become effective as of the date and time of its passage and approval by the Authority.

[Certification Follows on the Next Page.]

## CERTIFICATION

The foregoing resolution of the Downstream Development Authority of the Quapaw Tribe of Oklahoma (O-Gah-Pah) was presented and duly adopted through an electronic/telephonic vote of the members of the Authority on January 29, 2018, with a vote reflecting 5 yes, 0 no, 0 abstaining, and 0 absent.

  
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John L. Berrey, Chairman  
Downstream Development Authority  
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Larry J. Ramsey, Secretary  
Downstream Development Authority