

**RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

**(Approving an Amendment to the Lease Agreement between the Tribe and
MCL Whiteriver Restaurant, LLC, for the Purposes of Providing a
Limited Waiver of Sovereign Immunity)**

WHEREAS, pursuant to Section 1(a) of the Constitution of the White Mountain Apache Tribe, inter alia, the Tribal Council has the authority to represent the Tribe and act in all matters that concern the welfare of the Tribe; and

WHEREAS, pursuant to Resolution No. 08-2005-212, the Tribal Council did authorize a Lease Agreement between the Tribe and the MCL Whiteriver Restaurant, LLC (the "Lessee") to operate a Burger King in Whiteriver; and

WHEREAS, the Lease has been executed by the Tribe, the Lessee and the agent of the Secretary of the U.S. Department of Interior for the United States; and

WHEREAS, the Lessee will be investing over \$1 million in the construction of a restaurant building; and

WHEREAS, subsequent to the execution of the Lease Agreement, the Lessee's bank, for the purposes of ensuring a stream of income necessary for repayment of financing provided to Lessee, requested that the Tribe provide a limited waiver of the Tribe's defense of sovereign immunity in order for Lessee to enforce the terms of the Lease Agreement; and

WHEREAS, the Legal Department recommends that a limited waiver of the defense of sovereign immunity may be accomplished by an amendment to the Lease Agreement; and

WHEREAS, the parties agree that a limited waiver of the defense of sovereign immunity will be provided if and only if the following conditions exist:

- A dispute between Lessee and the Tribe arises directly from the Lease Agreement between them described herein.
- The claim alleges a breach by the Tribe of one or more specific obligations or duties which the Tribe expressly assumes under the terms of the Lease Agreement.
- The claim seeks breach of contract actions brought pursuant to the Lease Agreement or specific performance by the Tribe.
- The scope of any litigation is solely limited to breach of contract actions brought pursuant to the Lease Agreement referenced herein for the benefit of the Lessee only, or an Assignee of a valid assignment of Lessor's interest in the Agreement/

- The Tribe does not agree to any legal proceeding by persons or parties or their assignees which are not a party to the Lease Agreement nor to any arbitration proceeding or other proceeding based on alleged tortious conduct, or for the imposition of incidental, consequential, exemplary or punitive damages.
- The parties agree that any action brought by either party arising from the Lease Agreement shall be commenced in a court of competent jurisdiction located within the State of Arizona. The parties further agree that the White Mountain Apache Tribal Laws shall be applicable to the transaction of the parties and that the parties are bound by the provisions thereof. The parties further agree that the law to be applied to any dispute arising out of this Agreement shall be the statutory and common law of the State of Arizona, including the Uniform Commercial Codes in effect in the State, to the extent that such law is consistent with applicable Tribal Law of the White Mountain Apache Tribe. In the event of any inconsistency between Arizona State law and Tribal law, Tribal law shall prevail and the inconsistent provisions of state law shall be of no force and effect.
- Any claim against must be made in writing to the Tribe by the Lessee and the Tribe shall have thirty (30) days to act on such claim before any proceedings may be instituted.

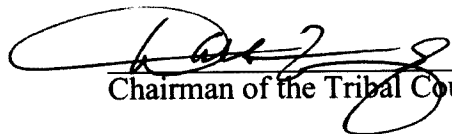
WHEREAS, the Tribal Council finds that the Lease Agreement terms and the required limited waiver of defense of sovereign immunity, the Agreement remains in the best interests of the White Mountain Apache Tribe for the construction and operation of a Burger King restaurant, and for a lease of the property.

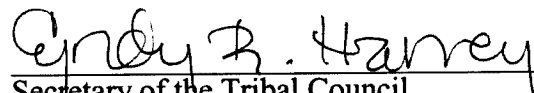
BE IT RESOLVED by the White Mountain Apache Tribal Council that:

1. The Council hereby approves an amendment to the Lease Agreement between the Tribe and MCL Whiteriver Restaurant, LLC, for the purposes of providing a limited waiver of the Tribe's defense of sovereign immunity from suit for the purposes of effecting dispute resolution thereunder if, and only if, the following conditions exist:
 - A dispute between Lessee and the Tribe arises directly from the Lease Agreement between them described herein.
 - The claim alleges a breach by the Tribe of one or more specific obligations or duties which the Tribe expressly assumes under the terms of the Lease Agreement.
 - The claim seeks breach of contract actions brought pursuant to the Lease Agreement or specific performance by the Tribe.
 - The scope of any litigation is solely limited to breach of contract actions brought pursuant to the Lease Agreement referenced herein for the benefit of the Lessee only, or an Assignee of a valid assignment of Lessor's interest in the Agreement.

- The Tribe does not agree to any legal proceeding by persons or parties or their assignees which are not a party to the Lease Agreement nor to any arbitration proceeding or other proceeding based on alleged tortious conduct, or for the imposition of incidental, consequential, exemplary or punitive damages.
 - The parties agree that any action brought by either party arising from the Lease Agreement shall be commenced in a court of competent jurisdiction located within the State of Arizona. The parties further agree that the White Mountain Apache Tribal Laws shall be applicable to the transaction of the parties and that the parties are bound by the provisions thereof. The parties further agree that the law to be applied to any dispute arising out of this Agreement shall be the statutory and common law of the State of Arizona, including the Uniform Commercial Codes in effect in the State, to the extent that such law is consistent with applicable Tribal Law of the White Mountain Apache Tribe. In the event of any inconsistency between Arizona State law and Tribal law, Tribal law shall prevail and the inconsistent provisions of state law shall be of no force and effect.
 - Any claim against must be made in writing to the Tribe by the Lessee and the Tribe shall have thirty (30) days to act on such claim before any proceedings may be instituted.
2. The Chairman, or in his absence the Vice-Chairman, is hereby authorized to execute an amendment to the Lease Agreement to effectuate the intent of this Resolution.

The foregoing resolution was on FEBRUARY 8, 2006 duly adopted by a vote of THREE for and TWO against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (b), (h), (s), (t), and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).


Chairman of the Tribal Council


Secretary of the Tribal Council