



Resolution No. 08-2005-231

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

(Approving a Municipal Lease and Option Agreement with Lehigh Capital Access, Inc. and Authorizing a Limited Waiver of Sovereign Immunity)

WHEREAS, the White Mountain Apache Tribe ("Tribe") desires to purchase two (2) new Chevrolet trucks each equipped with a 3000 WG propane tank and related equipment (the "Trucks") for the Tribe's essential use in performing utility services; and

WHEREAS, the Tribal Council finds that the Trucks should be acquired by the Tribe; and

WHEREAS, the Tribal Council has located financing sufficient to assist the Tribe with acquiring the Trucks through Lehigh Capital Access, Inc. (the "Lessor"), which has provided a Municipal Lease and Option Agreement Number 101-072705-001-1 (the "Agreement"), as attached and incorporated by this reference in which the Tribe as lessee may lease and/or exercise an option to purchase the Trucks; and

WHEREAS, the Trucks are described as:

- (1) New 2005 Chevrolet, VIN# 1GBM8C1C85F526843, equipped with a 3000 WG propane tank and related equipment, National tank # B-10310; and
- (2) New 2005 Chevrolet, VIN# 1GBM8C1C95F518427, equipped with a 3000 WG propane tank and related equipment, National tank # B-10312; and

WHEREAS, the agreement requires that the Tribe agree to a limited waiver of defense of sovereign immunity for binding arbitration if and only if the following conditions exist:

- A dispute between Lehigh Capital Access, Inc. and the White Mountain Apache Tribe arises directly from the Agreement between them for the acquired Trucks described herein.
- The claim alleges a breach by the Tribe of one or more specific obligations of duties with the Tribe expressly assumes under the terms of the Agreement.
- The claim seeks either (1) specific action or discontinuance of some action by the Tribe into full compliance with the duties and obligations expressly assume by it in the Agreement; (2) payment of all amounts due under the Agreement and reasonable costs incurred by Lessor in the collection of such amounts; or (3) the foreclosure of collateral secured under the Agreement.

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- The scope of arbitration is limited to breach of contract or actions brought pursuant to the Agreement for the benefit of Lessor only, or an Assignee of a valid assignment of Lessor's interest in the Agreement.
- The Tribe does not agree to any arbitration by persons or parties or their assignees which are not a party to the 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 or lost profits.
- Any claim against which arbitration may be demanded must be made in writing to the Tribe by the Lessor and the Tribe shall have thirty (39) days to act on such claim before arbitration proceedings may be instituted; and

WHEREAS, the Tribal Council finds that after review of the 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 acquisition of the Trucks described above.

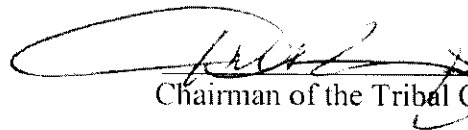
BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe, that:

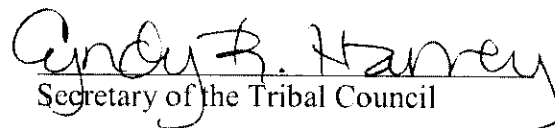
1. The Council hereby approves the Tribe's entry into, and agreement with, the Agreement as attached and incorporated by this reference for the lease and/or purchase of Trucks for use by the Tribe in the performance of its essential duties in performing utility services, as described as:
 - (1) New 2005 Chevrolet, VIN# 1GBM8C1C85F526843, equipped with a 3000 WG propane tank and related equipment, National tank # B-10310; and
 - (2) New 2005 Chevrolet, VIN# 1GBM8C1C95F518427, equipped with a 3000 WG propane tank and related equipment, National tank# B-10312.
2. As part of the approval of the Agreement, the Tribal Council hereby grants a limited waiver of sovereign immunity for the purpose of effecting dispute resolution thereunder in the form of binding arbitration if, and only if, the following conditions exist within the Agreement:
 - A. A dispute between Lehigh Capital Access, Inc. and the White Mountain Apache Tribe arises directly from the Agreement between them for the Trucks described herein.
 - B. The claim alleges a breach by the Tribe of one or more specific obligations of duties with the Tribe expressly assumed under the terms of the Agreement.
 - C. The claim seeks either (1) specific action or discontinuance of some action by the Tribe into full compliance with the duties and obligations expressly assumed by it in the Agreement; (2) payment of all amounts due under the Agreement and reasonable costs incurred by Lessor in the collection of such amounts; or (3) the foreclosure of collateral secured under the Agreement.

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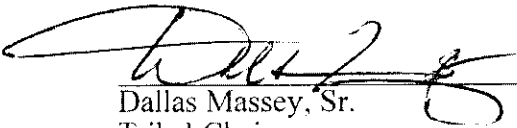
- D. The scope of arbitration is limited to breach of contract or actions brought pursuant to the Agreement for the benefit of Lessor only, or an Assignee of a valid assignment of Lessor's interest in the Agreement.
 - E. The Tribe does not agree to any arbitration by persons or parties or their assignees which are not a party to the 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 or lost profits.
 - F. Any claim against which arbitration may be demanded must be made in writing to the Tribe by the Lessor and the Tribe shall have thirty (30) days to act on such claim before arbitration proceedings may be instituted.
- 3. The Chairman, or in his absence the Vice Chairman, are hereby authorized by the Council to execute the Agreement and any related documents for the lease and/or purchase of the trucks.
 - 4. The White Mountain Apache Tribe is hereby authorized to use the Trucks described herein for use in the course of performing its essential duties in providing utility services.

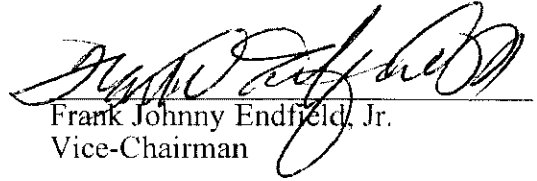
The foregoing resolution was on August 11, 2005, duly adopted by a vote of SIX for and ZERO against by the council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (b), (h), (s), (t) and (u) of the Constitution of the Tribe, ratified by the Tribe 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

Signatures of the members of the Tribal Council represent their approval of Tribal Resolution No. 08-2005-231. Dated this 11th day of August, 2005.


Dallas Massey, Sr.
Tribal Chairman


Frank Johnny Endfield, Jr.
Vice-Chairman


Jacob Henry
District I Council Member

Ronnie Lupe
District I Council Member


Phoebe L. Nez
District II Council Member

Lafe Altaha
District II Council Member


Alvin DeClay
District III Council Member

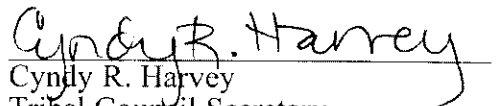

Margaret Baha-Walker
District III Council Member

Mariddie J. Craig
District IV Council Member


Reno Johnson, Sr.
District IV Council member


Noland Clay
District IV Council Member

ATTEST:


Cindy R. Harvey
Tribal Council Secretary