



Resolution No. 03-2006-81

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

**(Approving W.E. O'Neil Construction Company as the contractor to construct the proposed casino expansion, agreeing to a limited waiver of sovereign immunity for enforcement of W.E. O'Neil Construction Company's Agreement with Hon-Dah Resort Casino and agreeing to waive the 5% TERO fee)**

**WHEREAS**, pursuant to the Constitution of the White Mountain Apache Tribe, the Tribal Council is empowered to act in all matters that concern the welfare of the Tribe and to negotiate, make and perform agreements of every description; and

**WHEREAS**, W.E. O'Neil Construction Company was selected by Hon-Dah Resort Casino to construct the proposed casino expansion; and

**WHEREAS**, the Owner/Contractor Agreement between W.E. O'Neil and Hon-Dah Resort Casino (the "Agreement") requires that the Tribe agree to a limited waiver of its sovereign immunity as expressly set forth in the Agreement solely for the purpose of effecting dispute resolution thereunder in the form of binding arbitration that can be enforced only in the White Mountain Apache Tribal Court; and

**WHEREAS**, the Tribe's TERO Office has agreed to waive the 5% TERO fee associated with the casino expansion, but all other TERO fees shall remain in full force and effect.


**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby:

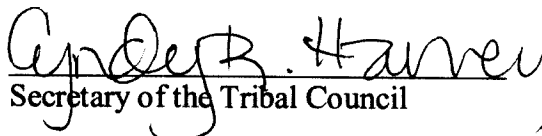
1. Approves W.E. O'Neil Construction Company as the contractor to construct the proposed casino expansion.
2. Agrees to a limited waiver of sovereign immunity as expressly set forth in the Agreement solely for the purpose of effecting dispute resolution thereunder in the form of binding arbitration that can be enforced only in the White Mountain Apache Tribal Court if, and only if, the following conditions exist:
  - a. The claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Agreement terms, payment of money, extension of time or other relief with respect to the terms of the Agreement and also includes other disputes and matters in question between W.E. O'Neil and the Hon-Dah Resort Casino arising out of or relating to the Agreement.
  - b. The scope of arbitration is solely limited to the claim brought pursuant to the Agreement.

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- c. 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 tortuous conduct, or for the imposition of incidental, consequential, exemplary or punitive damages.
3. Authorizes the waiver of the Tribe's 5% TERO fee associated with the casino expansion, leaving all other TERO fees in full force and effect.
4. Authorizes the Chairman or the General Manager of the Hon-Dah Resort Casino to sign any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on March 9, 2006, duly adopted by a vote of THREE for, ONE against and ONE abstention by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (b), (i), (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