



Resolution No. 04-2006-116

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

(Approving Garick Electrical and Mechanical, Inc. as the contractor to construct the proposed casino expansion, agreeing to a limited waiver of sovereign immunity for enforcement of Garick's Agreement with Hon-Dah Resort Casino and agreeing to waive the 5% TERO fee)

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, Garick Electrical and Mechanical, Inc. ("Garick") was selected to construct the proposed casino expansion, in the amount of \$980,000.00 with all costs associated with state and tribal licenses and permits, the performance bond, the HVAC units not included in the bid and any applicable bonuses (for completion by June 1, 2006 or earlier) to be paid by the White Mountain Apache Tribe d/b/a Hon-Dah Resort Casino; and

WHEREAS, the Owner/Contractor Agreement between Garick 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 purposes 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 White Mountain Apache Tribal Council that:


1. Approves Garick as the contractor to construct the proposed casino expansion in the amount of \$980,000.00 with all costs associated with state and tribal licenses and permits, the performance bond, the HVAC units not included in Garick's original bid and any applicable bonuses (for completion by June 1, 2006 or earlier) to be paid by the White Mountain Apache Tribe d/b/a Hon-Dah Resort Casino.
2. Agrees to a limited waiver of sovereign immunity as expressly set forth in the Agreement solely for the purposes 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:

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- 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 Garick 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.
 - 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 to negotiate and sign any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on April 19, 2006, duly adopted by a vote of FIVE for and THREE against 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).


ACTING Chairman of the Tribal Council


Secretary of the Tribal Council