



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

**(Approving Limited Waiver of Sovereign Immunity for Purposes of Dispute Resolution  
for Investment Services Agreement with Merrill Lynch as Investment  
Advisor for Fort Apache Settlement Fund)**

**WHEREAS**, pursuant to Article IV, 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 07-2006-292, the Tribal Council did approve Merrill Lynch as the Investment Advisor to the Tribe for the Fort Apache Settlement Fund; and

**WHEREAS**, in the process of negotiating an Investment Services Agreement, Merrill Lynch has requested a limited waiver of the Tribe's sovereign immunity from suit for the purpose of effecting dispute resolution in the form of arbitration; and

**WHEREAS**, it is proposed and agreed by those negotiating the Agreement, that the terms of the Agreements now include arbitration as the form of dispute resolution, enforceable through a limited waiver of the Tribe's sovereign immunity from suit for said purpose if, and only if, the following conditions exist:

- (1) A dispute between the Merrill Lynch and the Tribe arises directly from the Agreement between them for the purposes expressed therein; and
- (2) The claim alleges a breach by the Tribe of one or more specific obligations or duties which the Tribe assumes under the terms of the Agreement; and
- (3) The claim seeks either (i) specific performance by the Tribe, or (ii) payment of all amounts due under the Agreement and reasonable costs the parties may incur in collection of such amounts; and
- (4) The scope of arbitration is solely limited to breach of contract actions brought pursuant to the Agreement referenced herein for the benefit of Merrill Lynch only, or an Assignee of a valid assignment of Merrill Lynch's interest in the Agreement, if any; and
- (5) 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; and

**WHEREAS**, the Tribal Council finds that it is in the best interests of the Tribe that a limited waiver of the Tribe's sovereign immunity from suit be provided for the purposes of effecting dispute resolution under the Tribe's Agreement with Merrill Lynch in the form of arbitration.

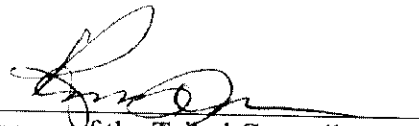
**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that:

1. Resolution No. 07-2006-292 is hereby amended to include authority for a limited waiver of the Tribe's sovereign immunity from suit for the purpose of effecting dispute resolution that may occur between the Tribe and Merrill Lynch.
2. A limited waiver of the Tribe's sovereign immunity from suit is hereby authorized for the purposes of enforcing arbitration as the form of dispute resolution if, and only if, the following conditions exist:
  1. A dispute between the Merrill Lynch and the Tribe arises directly from the Agreement between them for the purposes expressed therein; and
  2. The claim alleges a breach by the Tribe of one or more specific obligations or duties which the Tribe assumes under the terms of the Agreement; and
  3. The claim seeks either (i) specific performance by the Tribe, or (ii) payment of all amounts due under the Agreement and reasonable costs the parties may incur in collection of such amounts; and
  4. The scope of arbitration is solely limited to breach of contract actions brought pursuant to the Agreement referenced herein for the benefit of Merrill Lynch only, or an Assignee of a valid assignment of Merrill Lynch's interest in the Agreement, if any; and
  5. 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 or lost profits; and
3. An agreement between Merrill Lynch and the Tribe for the purposes described herein is approved, subject to review by the Tribe's Legal Department.
4. The Treasurer is hereby directed to inform the Office of the Special Trustee of the selection of Merrill Lynch as provided herein.
5. The Budget and Finance Committee is directed to work with the Investment Advisor to establish an overall Investment Policy for the Tribe, as asset allocation model, an investment education and training program, and a system for maintaining and reporting on the Tribe's investment portfolio.

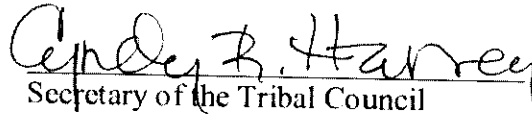
Resolution No. 09-2006-325

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence the Vice-Chairwoman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on September 20, 2006, duly adopted by a vote of NINE for and ZERO 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), (c), (h), (i), (j), (k), (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