



# WHITE MOUNTAIN APACHE TRIBE

*A Sovereign Nation Exercising Self-Governance  
Over the Fort Apache Indian Reservation*

## **Resolution No. 05-2012-48**

### **(Authorizing Governmental Lease-Purchase Agreement with Caterpillar Financial)**

- WHEREAS,** the White Mountain Apache Tribe ("Tribe"), as a federally recognized Indian tribal government, with inherent rights of self-governance, and pursuant to its Tribal Constitution, exercises rights of self-determination and self-governance through its duly elected Tribal Council ("Council"); and
- WHEREAS,** Al Brooks, the White Mountain Apache Tribe Public Works Department Director, presented to Council a proposal to purchase a 2007 Caterpillar Wheel Loader and a 2009 Caterpillar Excavator financed through a Governmental Equipment Lease -Purchase Agreement ("Agreement") with Caterpillar Financial Services Corporation ("Caterpillar Financial"); and
- WHEREAS,** the purchase price for the equipment would be reduced by the amount of rental payments that have been made since the Tribe has been in possession of the equipment; the purchase price for the Wheel Loader being \$83,769.71 and \$47,977.63 for the Excavator for a total beginning balance of \$131,747.34.
- WHEREAS,** the Agreement would provide funding to purchase the equipment over a (48) month period at an annual interest rate of 3.2%, with monthly payments of \$2,927.76 for a total of \$140,532.48 including principal and interest; and
- WHEREAS,** the agreement presented to Council includes a limited waiver of sovereign immunity that will allow Caterpillar Financial to enforce the remedies set forth in the lease purchase agreement against the Tribe; and
- WHEREAS,** the Council finds that it is in the best interest of the White Mountain Apache Tribe to approve the Agreement as presented to Council.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby approves the terms and provisions of the Agreement with Caterpillar Financial.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe hereby expressly waives its sovereign immunity from suit arising from the terms of the Agreement, and consents to personal jurisdiction in the White Mountain Apache Tribal Court or any federal court located in Arizona for purposes of enforcing the obligations of the Agreement.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances or Federal Laws, this Resolution shall be declared null and void and of have no legal effect. This Resolution shall not be subject to Judicial Interpretation, only the Tribal Attorney, with the assistance of the Tribal Council Secretary, may opine on Tribal Council intent and the meaning of the language as used herein.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Acting Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution. In the event that the Chairman fails to delegate signatory authority to an Acting Chairman, the Vice-Chairman may sign provided that the Tribal Secretary and a Tribal Attorney attest to the veracity of the subject matter of this Resolution.


The foregoing resolution was on May 16, 2012 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),(f), (i), (k), (s), (t) and (u) of the Tribal Constitution, 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).

  
\_\_\_\_\_  
Ronnie Lupe, Chairman

5-18-12  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Mariddie J. Craig, Secretary

05-12-2012  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Richard J. Palmer, Jr., Attorney

05/18/2012  
\_\_\_\_\_  
Date