



**A RESOLUTION OF THE TRIBAL COUNCIL OF
THE DELAWARE TRIBE OF INDIANS APPROVING
AN AMENDED OPERATING AGREEMENT FOR
DELAWARE FACILITIES MANAGEMENT
SOLUTIONS**

RESOLUTION 2014-24

WHEREAS, the Constitution of the Delaware Tribe adopted in November 2008 vested in the Tribal Council the general governmental authority of the affairs of the Delaware Tribe, including the authority to establish, manage, and control business entities for the benefit of the Delaware Tribe of Indians and its members, and

WHEREAS, it is the policy of the Delaware Tribe to engage in economic development to raise revenue to provide for the health, safety, education, and welfare of its citizens while protecting the assets and property of the Tribe, and

WHEREAS, On March 19, 2007, the Delaware Tribal Council approved Resolution No. 2007-02 authorizing the creation of a Tribally Chartered Holding Company, "Delaware Enterprise Authority", to establish and oversee the management and operation of all Tribal business and industrial development projects and said Council adopted and approved the Delaware Enterprise Authority (Tribal Holding Company), Charter, and the Delaware Tribe of Indians Enterprise Act of 2007; and

WHEREAS, the Tribal Council approved the establishment and development of the start-up business Delaware Facilities Management Solutions, LLC to pursue government contracts, commercial, and residential clients in the area of facility management in 2012; and

WHEREAS, the Tribal Council as Member of the LLC on behalf of the Delaware Tribe of Indians does amend the Operating Agreement with Delaware Facilities Management Solutions as outlined in the attached document entitled "DELAWARE FACILITIES MANAGEMENT SOLUTIONS, LLC FIRST AMENDMENT TO OPERATING AGREEMENT".

NOW THEREFORE BE IT RESOLVED the Tribal Council does hereby approve to adopt this Amended Operating Agreement for Delaware Facilities Management Solutions, LLC.

CERTIFICATION

I do hereby certify that the foregoing Resolution was duly considered and approved during a meeting of the Tribal Council with a quorum present on May 13, 2014 by a majority vote yes 4, no 0, and 0 abstaining.


Paula Pechonick, Chief


Verna Crawford, Secretary

**DELAWARE FACILITIES MANAGEMENT SOLUTIONS, LLC
FIRST AMENDMENT TO OPERATING AGREEMENT**

This First Amendment to Operating Agreement (the "First Amendment"), is entered into as of the 13th day of May, 2014, by the Delaware Tribe of Indians, the sole Member of Delaware Facilities Management Solutions, LLC, a Delaware Tribe of Indians limited liability company (the "Company"). In consideration of the mutual covenants hereinafter set forth, the Member agrees that the terms of the Company's Operating Agreement dated October 1, 2012 (the "Existing Operating Agreement") shall be amended as follows:

1. **Amendment.** Section 4.1 of the Existing Operating Agreement shall be amended to read in its entirety as follows:

4.1 **PROFITS/LOSSES.** For financial accounting purposes, the Company's net profits or net losses shall be determined on an annual basis.

2. **Amendment.** Section 4.2 of the Existing Operating Agreement shall be amended to read in its entirety as follows:

4.2. **DISTRIBUTIONS.** The Member shall receive a percentage of available net profits annually. Available net profits, as referred to herein, shall mean the net cash of the Company available after appropriate provision for expenses, liabilities and growth.

3. **Amendment.** Section 5.1 of the Existing Operating Agreement shall be amended to read in its entirety as follows:

5.1 **MANAGER.** The business and affairs of the Company shall be managed under the direction of one or more Managers, who shall be named by the Member and collectively referred to as the "Manager." Subject to the limitations contained in this Agreement, the Manager shall have complete and exclusive discretion in the management and control of the daily operations and ordinary business of the Company, and shall possess all powers necessary, convenient, or appropriate to carry out the ordinary purposes and business of the Company. Initially, there shall be one manager of the Company, Jim Creed, who shall be referred to as the Manager. The Manager shall serve until this successor is named by the Member. The Manager shall be compensated in an amount to be set by the Member.

4. **Amendment.** ARTICLE VI of the Existing Operating Agreement shall be amended to read in its entirety as follows:

ARTICLE VI

Waiver of Sovereign Immunity

6.1 The Company agrees to sue and be sued in any of the United States Federal courts, which are hereby designated to be among the courts of competent jurisdiction, for all matters relating to SBA's programs including, but not limited to, 8(a) program participation, loans and contract performance. The authority provided herein is not intended to, nor shall it be construed to, waive the immunity of the Company, its Member, the Delaware Tribe of Indians, or any agency thereof, for any other purposes not specifically mentioned herein. This waiver is granted solely for the purposes required by 13 CFR 124.109, and it shall not be interpreted to grant any rights to parties other than those intended by this regulation. Further, any recovery under this waiver of sovereign immunity shall be limited to the assets of the Company.

5. **Amendment.** Section 9.1 of the Existing Operating Agreement shall be amended to read in its entirety as follows:

9.1 This Agreement may be amended at any time by the Member.

6. **No Further Amendment.** Except as specifically provided in this First Amendment, the Existing Operating Agreement shall continue in full force and effect without amendment thereto.

CERTIFICATION OF MEMBER

The undersigned hereby agree, acknowledge and certify this First Amendment to the Existing Operating Agreement. Delaware Tribe Council Resolution No. 2014- 24 is attached as support of this First Amendment.

Signed this 13th day of May, 2014.

Member: Delaware Tribe of Indians
170 NE Barbara
Bartlesville, OK 74006

Paula Pechonick
Paula Pechonick, Chief
Delaware Tribe of Indians

Verna Crawford
Verna Crawford, Secretary
Delaware Tribe of Indians