

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

- WHEREAS,** the White Mountain Apache Tribe is engaged in constructing and operating a remanufacturing plant, including edge glue and finger-joint operations; and
- WHEREAS,** this economic development project is critical to the future growth of the Tribe, tribal employment and the highest and best use of the Tribe's timber resources; and
- WHEREAS,** an EDA grant has been secured in the amount of \$2 million dollars, known as EDA Project No. 07-D1-03361, and the balance of the project costs is to be born by the Fort Apache Timber Company (FATCO) in the amount of approximately \$1,850,000; and
- WHEREAS,** the Tribal Council has adopted Resolution Nos. 11-92-321 and 11-92-331, authorizing the FATCO Board of Directors to expend up to \$1,850,000 to complete this project; and
- WHEREAS,** a construction agreement has been entered into between Sunwestern Contractors for Industry, Inc. (Sunwestern), and the White Mountain Apache Tribe dba FATCO, dated January 20, 1994, for construction of the remanufacturing plant (the "Construction Agreement"); and
- WHEREAS,** it is a requirement of the Construction Agreement that the Tribe provide a standby letter of credit for the benefit of Sunwestern permitting draws up to \$530,000 in the aggregate in the event progress payments are not timely paid to Sunwestern as required under the Construction Agreement; and
- WHEREAS,** the Tribe has applied to First Interstate Bank of Arizona, N.A. (the "Bank") for issuance of a standby letter of credit in conformity with the requirements of the Construction Agreement (the "Letter of Credit"); and
- WHEREAS,** a certificate of deposit in the amount of \$530,000 is required by the Bank to secure the Tribe's reimbursement obligation (the "Reimbursement Obligation") with respect to the Letter of Credit; and
- WHEREAS,** the Tribal Council has the inherent sovereign authority and authority pursuant to the Constitution of the White Mountain Apache Tribe to authorize obtaining the Letter of Credit and incurrence of the Reimbursement Obligation, and to delegate authority to the Tribal Council Chairman, or in his absence the Vice-Chairman,

and to the Tribal Treasurer to execute and sign any necessary and appropriate documents therefor and to pledge collateral or security therefor, and to grant a limited waiver of the Tribe's sovereign immunity, in the event of a dispute that may arise out of or in connection therewith; and

**WHEREAS,** the Tribal Council has concluded it to be in the best interest of the White Mountain Apache Tribe to apply to the Bank for the issuance of a standby letter of credit in the principal amount not to exceed \$530,000 for the purpose of assuring payment of progress payments to Sunwestern pursuant to requirements of the Construction Agreement; and

**WHEREAS,** funding for the progress payments is already provided through the EDA grant and monies previously allocated by the Tribe, but the Letter of Credit will operate as assurance that progress payments will be made in a timely fashion to Sunwestern in the event there is any delay in receiving a draw down from EDA; and

**WHEREAS,** it is anticipated that upon completion of all work to be performed under the Construction Agreement, if all amounts owed to the contractor have been duly paid, the Letter of Credit will be released and the certificate of deposit will be returned for the use of FATCO; and

**WHEREAS,** the Tribal Council concludes that the Tribe should secure its Reimbursement Obligation, which is considered an extension of credit by the Bank, in accordance with the conditions set forth in the "Application for Standby Letter of Credit," "Letter of Credit Agreement" and "Rider A to Letter of Credit Agreement," each attached hereto and incorporated by reference herein; and

**WHEREAS,** the Tribal Council is advised that the FATCO Board of Directors has approved a resolution authorizing the transfer of FATCO funds in the amount of \$530,000 from FATCO's account to a certificate of deposit at the Bank to secure the Tribe's Reimbursement Obligation, and that said certificate of deposit shall be maintained in the name of FATCO at the Bank so long as the Letter of Credit is outstanding and until the Tribe's Reimbursement Obligation has been fully and finally satisfied; and

**WHEREAS,** said resolution by the FATCO Board of Directors was adopted March 7, 1994; and

**WHEREAS,** the Tribal Council is authorized to permit FATCO, an economic subsidiary of the White Mountain Apache Tribe, to pledge as security for the Reimbursement Obligation, a \$530,000 time certificate of deposit, issued or to be issued by the Bank, and to permit Hugh Lee, the Acting General Manager for FATCO, to sign such pledge or security agreements and all other documentation reasonably required by the Bank in connection with the Letter of Credit; and

**WHEREAS,** the Tribal Council concludes it to be in the best interest of the White Mountain Apache Tribe to apply to the Bank for the issuance of the Letter of Credit in the

amount of \$530,000 and on and subject to the terms and conditions set forth in that certain "Application for Standby Letter of Credit" attached hereto and by this reference made a part hereof, for the purpose of assuring payment to the contractor of timely progress payments under the requirements of the Construction Agreement, and in connection therewith to undertake the Reimbursement Obligation on and subject to the terms, provisions and conditions of that certain "Letter of Credit Agreement" and "Rider A to Letter of Credit Agreement" each attached hereto and by this reference made a part hereof.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes FATCO to assign as security for the Tribe's Reimbursement Obligation with respect to the Letter of Credit a \$530,000 time certificate of deposit issued or to be issued by the Bank and that Hugh Lee, the Acting General Manager of FATCO, is hereby authorized to sign all security documents and all other documentation reasonably required by First Interstate Bank of Arizona in connection with such assignment.


**BE IT FURTHER RESOLVED** by the Tribal Council that it hereby designates Tribal Chairman Ronnie Lupe, and in his absence, Lafe Altaha, the Vice-Chairman, and Tribal Treasurer, Edwin Kane, to sign on behalf of the White Mountain Apache Tribe, the Standby Letter of Credit Application, the Letter of Credit Agreement, Rider A to the Letter of Credit Agreement, and any other documents reasonably required by First Interstate Bank of Arizona in connection with the Letter of Credit and the Tribe's Reimbursement Obligation, and to take on behalf of the Tribe any action required of the Tribe under the provisions of the Letter of Credit Agreement and Rider A thereto. (However, this Resolution shall not be interpreted to require any signature on behalf of the Tribe in connection with the security assignment by FATCO of the aforesaid \$530,000 time certificate of deposit.)


**BE IT FURTHER RESOLVED** by the Tribal Council that it hereby waives the sovereign immunity of the White Mountain Apache Tribe and FATCO as to any legal action or proceeding initiated pursuant to the procedures outlined in Rider A to the Letter of Credit Agreement, attached hereto (an "Action"), brought against the White Mountain Apache Tribe and/or FATCO by the Bank and/or its successors or assigns, and arising from or in connection with the transactions contemplated by the Letter of Credit Agreement and related documents.

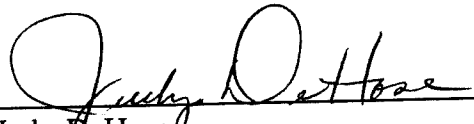
**BE IT FURTHER RESOLVED** by the Tribal Council that in the event of a trial of any action, the White Mountain Apache Tribe and FATCO hereby consent and submit to the non-exclusive personal jurisdiction and venue of the Tribal Court of the White Mountain Apache Tribe and with the respect to the due process review contemplated in Rider A to the Letter of Credit Agreement, jurisdiction of the Federal District court sitting in Phoenix, Arizona and the respective appellate courts thereof.

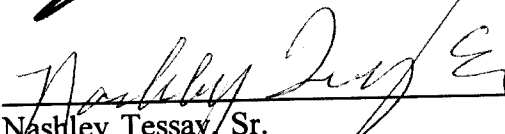
The foregoing resolution was on April 08, 1994 duly adopted by a vote of 11 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by the White Mountain Apache Tribe Constitution, including Article IV, Section 1 (a), (h), (i), (j), (k), (l), (t), and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

Signatures of the members of the Tribal Council represent their approval of Tribal Resolution No. 04-94-085.

  
Ronnie Lupe, Tribal Chairman

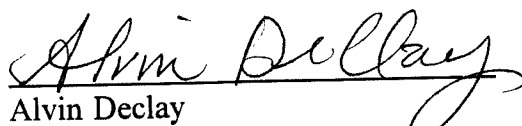
  
Lafe Ataha, Vice Chairman


  
Judy DeHose  
District I Council Member

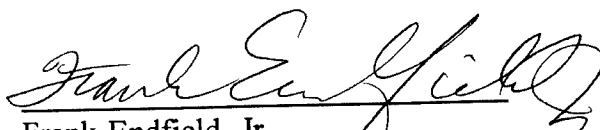
  
Nashley Tessay, Sr.  
District I Council Member

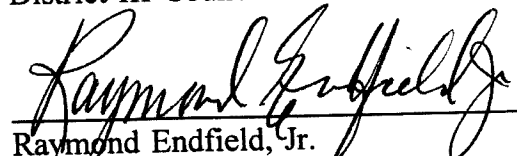
  
Kino Kane  
District II Council Member

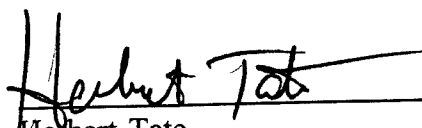
  
Slim Quay  
District II Council Member

  
Alvin DeClay  
District III Council Member

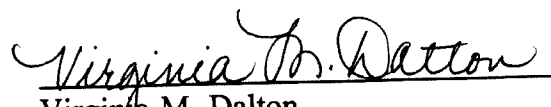
  
Randall Massey, Jr.  
District III Council Member

  
Frank Endfield, Jr.  
District IV Council Member

  
Raymond Endfield, Jr.  
District IV Council Member

  
Herbert Tate  
District IV Council Member

ATTEST:

  
Virginia M. Dalton  
Tribal Council Secretary  
WHITE MOUNTAIN APACHE TRIBE