

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

- WHEREAS**, the Tribal Council has previously approved a capital expenditure plan for the Fort Apache Timber Company for limited use of Tribal forest management deduction funds; and
- WHEREAS**, the overall plan for improving key components of the FATCO sawmill in Whiteriver called for the use of forest management deduction funds and other funding needed to finance the necessary capital improvements; and
- WHEREAS**, the FATCO Board of Directors on Tuesday February 1, 2000, approved the development of a financing proposal from Northern Bear Funding, Inc. to provide up to two million dollars at a rate of not more than 7.5% interest inclusive of all costs, to be repaid over ten years, with payment to be made, preferably, on a quarterly or semi-annual basis, to finance needed improvements at the FATCO sawmill; and
- WHEREAS**, the proposal will be structured as a lease finance agreement, with the capital improvements providing the collateral and security for the lease finance arrangement; and
- WHEREAS**, the arrangement would be on a tax exempt basis as an industrial revenue bond, as allowed under the Internal Revenue Code; and
- WHEREAS**, the Board of Directors of FATCO anticipate that by their regular Board meeting in February, to be held later this month, they will make final decisions on capital improvement proposals currently under study; and
- WHEREAS**, the Board has been advised that the favorable 7.5% tax exempt rate may not be available later this month, due to projected increases in prevailing interest rates; and
- WHEREAS**, the Board wishes to secure the rate provided under this proposal for the capital improvements decisions to be made later this month; and
- WHEREAS**, the final arrangements for the lease finance document, to be structured as an industrial revenue bond financing, and the specific items financed and pledged as collateral for this transaction will be completed through the work of the FATCO Board, FATCO Management, with assistance from the Tribal Business Office and Legal Department; and

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**WHEREAS**, this transaction would also require a limited waiver of the Tribe's sovereign immunity consistent with waiver provided to Northern Bear, Inc. for the Seven Mile Convenience Store and Canyon Day Convenience Store transactions; and

**WHEREAS**, under the FATCO Plan of Operation this type of transaction needs approval from both the FATCO Board of Directors and the Tribal Council; and

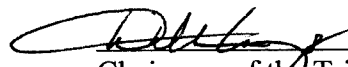
**WHEREAS**, the FATCO Board recommends and requests of the Council that it provide approval for this transaction to fund necessary capital improvements at the Fort Apache Timber Company.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby approves and authorizes the transaction recommended and approved by the FATCO Board of Directors for a lease finance agreement with Northern Bear, Inc. to finance capital improvements at the Fort Apache Timber Company in an amount not to exceed two million dollars.

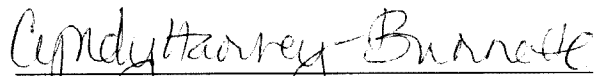
**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes a limited waiver of the Tribes sovereign immunity in a substantially similar content and form to the waiver attached herein, to provide for the enforcement of the terms of the agreement.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it authorizes the FATCO Board of Directors, FATCO Management, and appropriate Tribal staff, including the Legal Department and Business Office, to negotiate the final terms of the transaction consistent with the parameters set forth above and as necessary to qualify as an industrial revenue bond transaction under the Internal Revenue Code.

The foregoing resolution was on February 3, 2000 duly adopted by a vote of six for and two against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (b), (e), (h), (i), (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

## WAIVER OF SOVEREIGN IMMUNITY

The Tribe expressly waives any and all defenses based upon tribal sovereign immunity from suit with respect to any breach of contract action for damages or action in mandamus to compel the Tribe to perform the obligations, covenants and agreements undertaken in this Agreement or to enforce the pledge, security interest, lien or assignment created by the Tribe in the Lease Agreement as limited pursuant to the provisions hereinafter set forth (severally, an "Action"). All actions shall be initiated in the Tribe's Tribal Court and shall be conducted subject to Tribal Law, including any federal and/or state law adopted by the Tribe, and the Rules of Evidence and other rules and procedures thereof including the White Mountain Apache Tribe Rules of Civil Procedure; provided, however, that the Tribe and the Lessor, or its assigns, shall designate a sitting or retired Judge of the Superior Court of Pima County or Maricopa County, Arizona, as mutually agreed upon, as Judge pro tem of the Tribal Court to try the Action as to all matters of fact and law; and provided further, however, that in any Action that the rights and obligations of the parties thereto shall be defined and governed by the contract laws of the State of Arizona. The parties hereto waive any and all rights to trial by jury in any Action arising out of the Lease Agreement.


All final judgments, rulings and orders of the aforesaid trial court shall be subject to appeal pursuant to the rules and procedures of the Tribal appellate process; provided, however, that all appellate decisions shall be rendered by appellate panel and the Tribe shall designate sitting or retired members of the appellate courts of the State of Arizona sufficient to constitute not less than thirty percent (30%) of the votes of each such appellate panel. Each party shall bear its costs incurred in connection with or arising out of the appeal of any Action. All compensation of the designees to any appellate panel and its related court costs shall be borne equally by the parties to such appeal.

Notwithstanding the foregoing, the Tribe irrevocably consents to the jurisdiction and exclusive venue of the United States District Court for the District of Arizona, sitting in Phoenix, Arizona, for the trial of any Action to determine whether, under the standards for review in federal court of trials and appeals conducted in state court of the United States, any party to an Action has been denied procedural or substantive due process or the equal protection of applicable laws in the trial and/or appeal of any Action brought in the Tribe's Tribal Court system. The parties to an action agree that they shall accept and be bound by any judgment or order of such court which is final.

The waiver of sovereign immunity from suit is limited to breach of contract or mandamus actions brought pursuant to the Lease Agreement. The Tribe expressly has not waived any defense of sovereign immunity against, and has not consented to be sued for, any action by persons or parties or their assignees which are not a party to the Lease Agreement. The Tribe has not waived any defense of sovereign immunity against any action based on tortious conduct and its waiver may not be deemed to authorize the recovery from the Tribe of incidental, consequential, exemplary or punitive damages, or lost profits.

The Tribe has agreed that the waiver contained in this Lease Agreement shall not be repealed, rescinded or modified until the obligations, covenants and agreements contained therein are fully satisfied.

LESSEE: THE WHITE MOUNTAIN APACHE TRIBE OF THE FORT APACHE INDIAN RESERVATION

By: 

TITLE: Tribal Chairman

DATE: 01-06-00