



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

**(Authorizing the Posting of Proposed Ordinance No. 244, Amending
Section 1.6 of the White Mountain Apache Labor Code)**

- WHEREAS,** pursuant to Article IV, Section 1(a) of the Constitution of the White Mountain Apache Tribe, 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 Article IV, Section 1, of the Tribal Constitution, the Tribal Council, may enact ordinances to manage and regulate economic activity within Tribal lands; and
- WHEREAS,** Section 1.6 of the Labor Code, pertaining to the Tribal Employment Rights Fee, was enacted by Ordinance No. 154 on June 18, 1987; and
- WHEREAS,** on January 14, 2004, the Acting Tribal TERO Director made a recommendation to the Tribal Council to amend the Tribal Labor Code by combining the Business Activity Tax and related fees with the TERO fee in order to have a single percentage-based fee charged to all construction contractors, meaning it would apply to every employer with a construction contract under Section 1.6 A (1) of the Tribal Labor Code; and
- WHEREAS,** under the proposed 2004 amendment, inclusion of the Business Activity Tax and related fees into the Tribal Employment Rights Fee would increase the Tribal Employment Rights Fee under Section 1.6 A (1) of the Tribal Labor Code from one percent (1%) to five percent (5%), and that no other tribal taxes would be assessed against construction contractors; further, that Section 1.6 A. (3) would be amended to provide that the fees collected would provide funds to operate the Tribal Labor Relations Department and governmental operations of the White Mountain Apache Tribe; and
- WHEREAS,** the foregoing described amendment to the Tribal Labor Code was approved on January 14, 2004, by Tribal Council Resolution No. 01-2004-08; and
- WHEREAS,** the Legal Department advises the Tribal Council that it questions whether there are adequate records to show that the amendment to the Tribal Labor Code was ever posted in each District as required by Article XV, Section 2, of the Constitution of the White Mountain Apache Tribe; and
- WHEREAS,** the Legal Department recommends to the Tribal Council that in order to clarify and resolve any ambiguity as to whether or not the 2004 amendment to the Tribal Labor Code was properly posted and approved in accordance with the Tribal Constitution, that the Tribal Council direct that the amendment to Section 1.6 of the Tribal Labor Code attached hereto and incorporated by reference herein, be reposted in accordance with Article XV, Section 2, of the Tribal Constitution; and

**Resolution No. 08-2010-216
Ordinance No. 244**

WHEREAS, the Tribal Council concludes that it would be in the best interests of the White Mountain Apache Tribe to accept the recommendation of the Legal Department that the amendment to the Tribal Labor Code Ordinance be reposted.

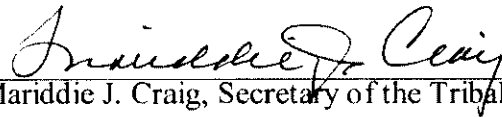
BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe, as follows:

1. The Tribal Council Secretary is hereby authorized and directed to post this resolution and the attached amendment to the Tribal Labor Code, in the form and content attached hereto, in each District for at least ten (10) days before final action on the amendment is taken by the Tribal Council.
2. That any and all comments concerning the amendment to the Tribal Labor Code Ordinance proposed herein may be sent to the attention of the Tribal Council Secretary, White Mountain Apache Tribe, P. O. Box 700, Whiteriver, AZ 85941.
3. That upon completion of the posting period, the Tribal Council Secretary is directed to (a) submit proof of posting of the amendment to the Tribal Council and to the Legal Department; (b) report any public comments to the Tribal Council, and (c) schedule a Tribal Council meeting through the Office of the Tribal Chairman for final action by the Tribal Council.

The foregoing resolution was on **AUGUST 5, 2010** duly adopted by a vote of **EIGHT** for and **ZERO** against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (i), (k), (q), (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).



Ronnie Lupe, Chairman of the Tribal Council



Mariddie J. Craig, Secretary of the Tribal Council

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

BE IT ENACTED BY THE COUNCIL OF THE WHITE MOUNTAIN APACHE TRIBE Ordinance No. 244, amending White Mountain Apache Labor Code, Section 1.6, *Employment Rights Fee*, as follows:

SECTION 1.6 EMPLOYMENT RIGHTS FEE

[Note: The following Section 1.6 is derived from Ordinance No. 154, enacted June 18, 1987, rescinding Section 6 of Ordinance No. 151.]

A. An employment rights fee, ~~to generate revenue for the operation of the Labor Relations Department~~ is imposed as follows:

(1) Every employer with a construction contract in the sum of Ten Thousand Dollars (\$10,000) or more, shall pay a one time fee of ~~one percent (1%)~~ five percent (5%) of the total amount of the contract. Such fee shall be paid by the employer prior to commencing work on the Fort Apache Indian Reservation. However, where good cause is shown, the Director may authorize a construction contractor to pay said fee in installments over the course of the contract. The fees imposed pursuant to this Section are in lieu of any other tax or permit fees imposed under this Code or the Tribal Tax Code, Chapter 11.

(2) Every employer, other than construction contractors, with five (5) or more employees working on the Fort Apache Indian Reservation, or with gross sales on the Fort Apache Indian Reservation of Fifteen Thousand Dollars (\$15,000.00) or more shall pay a quarterly fee of One Percent (1%) of his employees quarterly payroll, which shall be paid within thirty days after the end of each quarter. This fee shall not apply to education, health, governmental, or non-profit employers, nor to utilities franchises by the White Mountain Apache Tribe.

(3) The Labor Relations Officer shall be responsible for collecting said fees pursuant to any rules and regulations adopted by the Tribal Council of the White Mountain Apache Tribe. Said fees shall be paid to the White Mountain Apache Tribal Treasurer, and shall be credited to the Tribal Labor Relations Department Account of the White Mountain Apache Tribe. The fees collected shall provide funds to operate the Labor Relations Department and governmental operations of the white Mountain Apache Tribe.