



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

(Approving Participation in a Federal New Markets Tax Credits Financing Transaction and Approving and Authorizing Execution of All Required Financing Documents for the Reopening of the Tribal Sawmill)

WHEREAS, the White Mountain Apache Tribe of the Fort Apache Indian Reservation is a federally recognized Indian Tribe organized pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984), (25 U.S.C. § 476, et seq.), as amended (the “Tribe”); and

WHEREAS, the Tribal Council is the duly recognized governing body of the Tribe established under the Constitution of the White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona (“Tribal Constitution”), which was duly adopted and ratified by members of the Tribe on September 30, 1993; and

WHEREAS, pursuant to Article IV Section 1(a) of the Tribal Constitution, and its inherent powers of self-government, the Tribal Council is vested with the power, *inter alia*, “To represent the Tribe and act in all matters that concern the welfare of the Tribe”; and

WHEREAS, pursuant to Article VI Section 1(i) of the Tribal Constitution, and its inherent powers of self-government, the Tribal Council is vested with the power, *inter alia*, “To manage all economic affairs and enterprises of the Tribe”; and

WHEREAS, the Tribe is the beneficial owner of the Fort Apache Indian Reservation (the “Reservation”), which includes 1,370,309 acres of forests and timberland; and

WHEREAS, beginning in 1964, the Tribe operated a sawmill (the “Sawmill”) located on a tract of land comprised of 247.93 acres in Whiteriver, Arizona, within the Reservation (the “Sawmill Site”) that was run by an instrumentality of the Tribe known as the Fort Apache Timber Company (“FATCO”); and

WHEREAS, the recent economic recession significantly reduced the national demand for forest products generally and those produced by FATCO in particular; and

WHEREAS, lacking the financial resources needed to make the sawmill competitive and its operations more efficient, the Tribe was forced to reduce FATCO’s operations in 2010, leading to the loss of hundreds of reservation jobs and millions of dollars to the tribal and local economies and increasing the risk of environmental harm and fire risk because of unharvested trees; and

WHEREAS, the Tribe desires to reopen and resume operations at the Tribe's Sawmill to create approximately 144 direct jobs, stimulate the local economy, and generate revenues that will benefit the Tribe and its members (referred to herein as the "Sawmill Project"); and

WHEREAS, in order to provide financing for the Sawmill Project, the Tribe desires to enter into a financing structure (the "NMTC Transaction") providing for the use of federal tax credits created under the New Markets Tax Credit program governed by Section 45D of the federal Internal Revenue Code (the "Tax Code") and the Treasury Regulations promulgated thereunder (the "NMTC Program" and, as to the credits, the "NMTCs"); and

WHEREAS, the NMTC Transaction will provide a subsidy in the approximate amount of ELEVEN MILLION DOLLARS (\$11,000,000) to finance the capital improvement costs and initial operational expenses of reopening and resuming operations at the Tribe's Sawmill; and

WHEREAS, the Tribe established WMATCO, LLC, a wholly tribally owned Arizona limited liability company ("WMATCO"), in 2013, to oversee and operate the Sawmill Project and to be a tribal forest enterprise as defined in the federal regulations for tribal timber at 25 C.F.R. Section 163.1; and

WHEREAS, WMATCO is intended to qualify for financing as a "qualified active low-income community business" under the NMTC Program and has elected or will elect to be taxable as a corporation under U.S. federal income tax laws; and

WHEREAS, the private investor in the NMTC Transaction, U.S. Bancorp Community Development Corporation ("Investor" or "US Bank"), has made or intends to make an equity investment in the approximate amount of THIRTEEN MILLION FOUR HUNDRED TWENTY FIVE THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$13,425,750.00) (the "Equity Investment") in FATCO Investment Fund, LLC, a Missouri limited liability company (the "Investment Fund"), with respect to which Investor may claim NMTCs; and

WHEREAS, Investor owns 100% of the total outstanding ownership interests in the Investment Fund; and

WHEREAS, it is anticipated that no later than September 30, 2013, the Investment Fund will invest and become a 99.99% member in each of the following: RDP 18 LLC, an Iowa limited liability company, RDP 19 LLC, an Iowa limited liability company (collectively, the "RDP CDEs"), and CCM Community Development V, LLC, a Delaware limited liability company ("CCM CDE," and together with RDP CDEs, the "CDEs"), which investments are intended to be a "qualified equity investment" in the CDEs under Section 45D of the Tax Code (the "QEIs"); and

WHEREAS, the CDEs will loan substantially all of the investment proceeds received to WMATCO, whereby the CDEs will be making "Qualified Low-Income Community Investments" in WMATCO; and

WHEREAS, the Tribe will make a loan to the Investment Fund in the approximate principal amount of TWENTY NINE MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$29,800,000) (the "Leverage Loan"), which Leverage Loan will have a term of approximately thirty-five (35) years and will bear interest at approximately 1% per annum. Payments will be interest only for the first seven (7) years of the term and the Leverage Loan will be secured by a pledge of the Investment Fund's equity interests in the CDEs; and

WHEREAS, the Investment Fund will use the proceeds of the Leverage Loan, together with the proceeds of the Equity Investment, to make or finance equity investments in the approximate aggregate amount of \$42,500,000 in the CDEs that are intended to constitute QEIs under the NMTC Program, and the CDEs will use substantially all of the QEI to make loans in the approximate amount of FORTY ONE MILLION SIX HUNDRED THOUSAND DOLLARS (\$41,600,000) to WMATCO to fund the Sawmill Project (the "QLICI Loans"), which QLICI Loans will have a term of approximately thirty-five (35) years and will bear interest at approximately 1.3% per annum. Payments will be interest only for the first seven (7) years of the term and the QLICI Loans will be secured by, among other things, a leasehold mortgage on the Sawmill Site between WMATCO and the CDEs and certain revenues and property of WMATCO; and

WHEREAS, the Tribe has agreed to lease the Sawmill Site to WMATCO, which includes certain improvements and personal property necessary to operate the Sawmill, pursuant to a long-term lease of the Sawmill Site as set forth in the Sawmill Business Site Land Lease approved by Tribal Council Resolution No. 08-2013-183; and

WHEREAS, the Tribe authorized, via the terms of the Lease, WMATCO to pledge the leasehold interest created thereby, through a Deed of Trust or similar security instrument that reflects the terms negotiated by WMATCO and the CDEs; and

WHEREAS, the Tribe intends that the Lease and any Deed of Trust set forth the terms applicable to any assignment or transfer of the Lease to a non-tribally owned entity; and

WHEREAS, WMATCO's pledge of the leasehold interest in the Tribe's Sawmill is a condition of the NMTC Transaction, which pledge is set forth in the Deed of Trust, Assignment of Rents and Leases, and Security Agreement, approved by Tribal Council Resolution No. 08-2013-183, a copy of which is attached hereto as Exhibit A; and

WHEREAS, the Tribe has agreed to assign certain commercial timber cutting rights held by the Tribe to WMATCO, as set forth in the Assignment of Commercial Timber Rights Agreement, approved by Tribal Council Resolution No. 08-2013-183; and

WHEREAS, the Tribe authorized WMATCO to pledge the proceeds of the Commercial Timber Rights and certain property rights of WMATCO as collateral for the QLICI loans made to WMATCO through the NMTC Transaction; and

WHEREAS, WMATCO's pledge of the proceeds of the Commercial Timber Rights and certain property rights of WMATCO is a condition of the NMTC Transaction, which pledge is set forth in the Security Agreement, which was approved by Tribal Council Resolution No. 08-2013-183; and

WHEREAS, the Tribe's Environmental Protection Office has reviewed the proposed plans for resumption of the sawmill operations pursuant to the Tribal Plan and Project Review ("TPPR") process and has approved the Sawmill Project subject to ongoing reporting and compliance obligations; and

WHEREAS, the Investor is not willing to invest in the Project through the NMTC Transaction without an indemnification agreement to cover its losses in the event that the U.S. Treasury recaptures or disallows the NMTCs to Investor based upon specific events attributable to the Tribe or the QALICB involved with the Project and include recapture events resulting from failure to qualify under the NMTC statutory requirements due to violation of terms of the loan documents or any fraud, willful misconduct, material violation of law or similar actions by the entities involved with the Project, provided the indemnification obligations of the Tribe shall not be secured by any specific assets of the Tribe, and that this is consistent with NMTC transactions generally; and

WHEREAS, the Tribe, the Investor, and the QALICB have negotiated an indemnification agreement, a copy of which is attached hereto as Exhibit B (the "Indemnification Agreement"); and

WHEREAS, under the terms of a Put and Call Option Agreement, Investor desires the option to sell to the Tribe, and the Tribe desires the option to purchase from Investor, the Investor's interest in the Investment Fund, a copy of which is attached hereto as Exhibit C (the "Option Agreement"); and

WHEREAS, in connection with the NMTC Transaction and to effectuate the foregoing paragraphs, the Tribe will enter into (i) the Indemnification Agreement, (ii) the Option Agreement, (iii) a Fund Loan Agreement, a Promissory Note, and a Pledge and Security Agreement to govern, evidence, and secure the Leverage Loan, (iv) a Completion and Repayment Guaranty, pursuant to which the Tribe guaranties full performance and payment of the obligations of WMATCO under the QLICI Loans and further agrees to deposit THREE MILLION DOLLARS (\$3,000,000) into a reserve fund and to maintain such reserve at specified levels, to assure the availability of sufficient capital to WMATCO and to secure its obligations under such guaranty, substantially in the form attached hereto as Exhibit D (the "Guaranty"), (v) an Environmental Indemnity Agreement, substantially in the form attached hereto as Exhibit E, (vi) a Blocked Account Control Agreement and a Bank Account Pledge Agreement with respect to the account in which the deposit will be made and maintained pursuant to the Guaranty, (vii) a Sawmill Business Site Land Lease, (viii) an Assignment of Commercial Timber Rights Agreement, and (ix) such other security agreements, assignments, consents, certificates, indemnities, and other documents, instruments and agreements as may be required by the CDEs or the Investor (collectively, the "Transaction Documents"), substantially complete drafts of which have been presented to the Tribal Council; and

WHEREAS, in connection with the NMTC Transaction and as the sole member of WMATCO, the Tribe has reviewed and approved of the documents identified as Transaction Documents of WMATCO in the WMATCO Board of Directors Resolution of even date herewith, substantially complete drafts of which also have been presented to the Tribal Council, a copy of which resolutions are attached hereto as Exhibit E; and

WHEREAS, in order to induce the Investor, the Investment Fund, and the CDEs to provide the tax credit equity financing and enter into the NMTC Transaction, the Tribe waives its sovereign immunity and consents to be sued in the courts of the Tribe, the courts of the State of Arizona, the U.S. District Court for the District of Arizona, and all courts to which appeal may be taken from such state and federal courts, should an action be commenced to determine and enforce the obligations of the parties (including any permitted successors of the parties) under the Transaction Documents, including the award of monetary damages, provided that the waiver constitutes a limited waiver of sovereign immunity solely for the purposes of the Transaction Documents and is not a general or complete waiver of sovereign immunity, and that such limited waiver and the Tribe's consent to suit is only as set forth in the Transaction Documents and this Resolution; and

WHEREAS, the Tribe's legal counsel assessed the terms of the NMTC Transaction and reviewed for the Tribal Council the scope of the terms proposed to be contained in the Transaction Documents; and

WHEREAS, the Tribal Council has discussed a variety of factors regarding these documents and the NMTC Transaction, including without limitation (i) the Tribe's obligations as set forth in these documents; (ii) the Tribe's limited waiver of sovereign immunity with respect to the NMTC Transaction and as set forth in certain of the documents, and (iii) the agreement of the Tribe to submit to the jurisdictions and follow the dispute resolution provisions as described in the Transaction Documents, and in the further provisions of this Resolution (and as more fully set forth in, among other things, the copies of the Indemnification Agreement and Guaranty attached hereto); and

WHEREAS, after considered review and discussion, the Tribal Council finds that the terms and conditions of the Transaction Documents are in the Tribe's best interest and required for the NMTC Transaction and that said NMTC Transaction will provide an effective means to resume operations at the Tribe's Sawmill, thereby recommencing the commercial lumber business for which the Tribe is known, thereby also providing good jobs to Tribal members, many of whom are skilled in sawmill and lumber operations; and

WHEREAS, the Tribal Council finds the NMTC Transaction will provide tangible and intangible benefits to the Tribe, its members, and the community; and

WHEREAS, the Tribal Council further finds that the NMTC Transaction is a viable and lawful option for assisting with the costs of the Sawmill Project.

NOW, THEREFORE, BE IT RESOLVED, The Tribal Council adopts and approves the New Markets Tax Credit Transaction to finance the costs of the Project and grants the express authority to consummate all of the transactions contemplated by the Transaction Documents. The form, terms and provisions of the Transaction Documents are in all respects hereby ratified, approved and confirmed.

BE IT FURTHER RESOLVED, The Tribal Council hereby grants authority to Ronnie Lupe, the Chairman of the Tribal Council, or, at the Chairman's discretion, Timothy Hinton, Sr., the Vice Chairman, to negotiate, execute and deliver the Transaction Documents and all other agreements, instruments and other documents necessary or appropriate to evidence the agreements made in the Transaction Documents and to effectuate or carry out those agreements and the purposes and intent of the foregoing resolutions and perform the obligations of the Tribe under all instruments and agreements executed in conformity therewith, and to take such actions as may be necessary to ensure that the obligations of the Tribe under the same have been and will continue to be satisfied.

BE IT FURTHER RESOLVED, The Tribal Council hereby acknowledges and agrees that the rights, remedies, duties, and obligations afforded or imposed by the Transaction Documents shall be binding upon the Tribe until the Tribe has satisfied all of its obligations under the Transaction Documents, and that the Transaction Documents shall be valid and binding obligations of the Tribe, enforceable in accordance with their respective terms.

BE IT FURTHER RESOLVED, The Tribal Council approves and authorizes (i) the release of tribal funds in an amount up to \$30,000,000 to make the Leverage Loan required by the Transaction Documents and (ii) the deposit of \$3,000,000 into the pledged account required under the Guaranty and such further deposits into such account as may be required from time to time to maintain the balance in such account at the required levels, and grants authority to Ronnie Lupe, the Chairman of the Tribal Council, or, at the Chairman's discretion, Timothy Hinton, Sr., the Vice Chairman, to negotiate, execute and deliver documents necessary to effectuate the Tribe's financial commitment, and to take such actions as may be necessary to ensure that the obligations of the Tribe under the same have been and will continue to be satisfied.

BE IT FURTHER RESOLVED, The Tribal Council hereby adopts and approves the Indemnification Agreement between the Tribe, the QALICB, and the Investor, substantially in the form set forth in the Exhibit B hereto, and authorizes Ronnie Lupe, the Chairman of the Tribal Council, or, at the Chairman's discretion, Timothy Hinton, Sr., the Vice Chairman, to negotiate, execute and deliver the Indemnification Agreement and all other documents necessary to effectuate the Indemnification Agreement, and to take such actions as may be necessary to ensure that the obligations of the Tribe under the same have been and will continue to be satisfied.

BE IT FURTHER RESOLVED, The proposed Indemnification Agreement is limited to the Investor's receipt of New Market Tax Credits from RDP 18 LLC, RDP 19 LLC, and CCM Community Development V, LLC, and not from the receipt of New Market Tax Credits from other community development entities.

BE IT FURTHER RESOLVED, Various Transaction Documents, substantially complete drafts of which have been presented to the Tribal Council, include certain provisions (collectively, the “Dispute Resolution Provisions”) relating to the Tribe’s (i) limited waiver of sovereign immunity from unconsented suit or other legal proceedings, including actions in the courts of the Tribe, courts of the State of Arizona, the U.S. District Court for the District of Arizona, all courts to which appeal may be taken from such state and federal courts, and matters required to be submitted to arbitration under the terms of the Transaction Documents, (ii) waiver of any requirement that disputes be heard in a court or other dispute resolution forum of the Tribe, whether under the doctrines of exhaustion of tribal remedies, comity, or otherwise, and (iii) consent to the application of the laws of the State of Arizona, which provisions are hereby expressly, unconditionally and irrevocably approved by and on behalf of the Tribe.

BE IT FURTHER RESOLVED, Each of the Dispute Resolution Provisions is deemed incorporated by reference into this Resolution as though set forth at length herein, and is hereby expressly, unconditionally and irrevocably made directly in this Resolution by the Tribe in favor of each of the parties expressly stated to be benefited thereby, and the Tribal Council hereby specifically undertakes on behalf of the Tribe that the Tribe will not assert that the Tribe has the authority to amend, repeal, modify, or otherwise impair the Dispute Resolution Provisions, whether made in the Transaction Documents or hereby, without the written consent of the persons benefited thereby.

BE IT FURTHER RESOLVED, The Tribal Council hereby waives, on a limited basis, its immunity and consents to be sued for the purpose of actions commenced to determine and enforce the obligations of the parties (including any permitted successors of the parties) under the Transaction Documents, as set forth herein, such limited waiver being limited to the assets, revenues and income of the Tribe.

BE IT FURTHER RESOLVED, The Tribal Council expressly consents to the jurisdiction of the courts of the State of Arizona, the U.S. District Court for the District of Arizona, all courts to which appeals may be taken from such state and federal courts, the courts of the White Mountain Apache Tribe, and to arbitration conducted in accordance with the United States Arbitration Act, pursuant to the provisions set forth in the Transaction Documents.

BE IT FURTHER RESOLVED, The Transaction Documents, except as such documents contain a contrary express choice of law provision, shall be construed in accordance with the laws of the State of Arizona (excluding its conflict of law provisions) and applicable federal law.

BE IT FURTHER RESOLVED, In connection with the NMTC Transaction and as the sole member of WMATCO, the Tribal Council approves the NMTC Transaction documents to which WMATCO is a party, which are identified in a resolution of the Board of Directors of WMATCO of even date herewith, and it grants the express authority to WMATCO to consummate all of the transactions contemplated by documents identified such WMATCO resolution, whose form, terms and provisions are in all respects hereby ratified, approved and confirmed.

BE IT FURTHER RESOLVED, As the sole member of WMATCO, the Tribal Council hereby grants authority to Larry Vicario, the Chairman of the Board of WMATCO, to negotiate, execute and deliver the NMTC Transaction documents to which WMATCO is a party, which are identified in a resolution of the Board of Directors of WMATCO of even date herewith, and all other agreements, instruments and other documents necessary or appropriate to evidence the agreements made in such documents, and to effectuate or carry out those agreements and the purposes and intent of the foregoing resolutions and perform the obligations of WMATCO under all instruments and agreements executed in conformity therewith, and to take such actions as may be necessary to ensure that the obligations of WMATCO under the same have been and will continue to be satisfied.

BE IT FURTHER RESOLVED, As the sole member of WMATCO, the Tribal Council hereby waives, on a limited basis, WMATCO's immunity for the purpose of actions commenced to determine and enforce the obligations of the parties (including any permitted successors of the parties) under the NMTC Transaction documents to which WMATCO is a party, which are identified in a resolution of the Board of Directors of WMATCO of even date herewith, as such limited waiver is set forth therein, such limited waiver being limited to the assets, revenues and income of WMATCO.

BE IT FURTHER RESOLVED, To the extent this Resolution conflicts with a prior Resolution or policy of the Tribe, this Resolution shall supersede and govern.

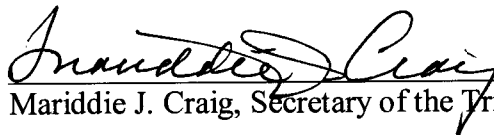
BE IT FURTHER RESOLVED, All actions heretofore taken by officers of the Tribe with respect to the Transaction Documents, and foregoing matters related to the New Markets Tax Credit Transaction for the Sawmill Project are hereby approved and ratified.

[Signature Page Follows]

The foregoing resolution was on **SEPTEMBER 4, 2013** duly adopted by a vote of **SIX** for, **ZERO** against, and **ONE** abstention by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (b), (e), (f), (h), (i), (k), (l), (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