



# WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

## **(Forbearance of WMAT Business Code, Section 6.6 and Authorization for Tribal Court Jurisdiction for WMATCO Lease of Propane Boiler Tank)**

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- WHEREAS,** the Tribe established WMATCO, L.L.C., a Tribal owned company, to obtain financing and assume the renovation and operation of the Tribe's sawmill business; and
- WHEREAS,** in furtherance of that mission, WMATCO has negotiated terms for the installation of a propane fueled boiler system to power certain sawmill systems; and
- WHEREAS,** the system includes a thirty thousand gallon propane tank; and
- WHEREAS,** in order to conserve cash flow, WMATCO will acquire the propane tank under a lease agreement from the vendor, Sierra Propane, rather than outright purchase; and
- WHEREAS,** the vendor requests the authority to repossess the tank from the WMATCO premises in the event of a breach of the lease agreement by WMATCO in order to maintain its rights to the propane tank, as required under the lease agreement,; and
- WHEREAS,** the Tribe's Business Code, Section 6.6 requires that a court proceeding occur prior to the authorization for a vendor or lessor to exercise rights to recover property; and
- WHEREAS,** the opportunity for court review can be a helpful requirement for individual consumer transactions, it presents a barrier to WMATCO's ability to participate in commercial financing opportunities; and
- WHEREAS,** WMATCO confirms it has evaluated the transaction terms and that they serve the company's best interests, and the WMATCO Board agrees to the vendor's right of repossession of its property in the event of a breach, subject to the terms of the lease agreement, and for that reason, the WMATCO Board requests that the Tribal Council confirm that a court proceeding would not be required prior to the recovery of the vendor's property.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby gives its consent so that the vendor/lessor, Sierra Propane, may recover its property, consisting of the thirty thousand gallon propane tank, in the event of a breach by WMATCO, subject to the terms of the lease agreement and on behalf WMATCO waives the defense to the repossession of the equipment on the basis of the Tribe's Business Code, Section 6.6, concerning the requirement for written consent or court order at the time of repossession.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it gives its consent to the appointment of a visiting judge in the Tribal Court, as specified in the lease agreement, to preside over any dispute that may arise between the parties under the propane lease tank agreement.

**Resolution No. 02-2018-57**

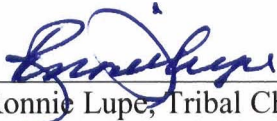
**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that nothing herein shall be deemed to waive the sovereign immunity of the White Mountain Apache Tribe for any purpose.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances, or any material facts concerning the issues presented are later found to be false, this Resolution shall be deemed null and void and have no legal effect.


**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Vice-Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on **FEBRUARY 22, 2018** duly adopted by a vote of **ELEVEN** for, **ZERO** against, and **ZERO** abstentions by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it under the enumerated powers listed in Article IV, Section 1 of the WMAT Constitution, so ratified on September 30, 1993, and federally recognized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).

  
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Ronnie Lupe, Tribal Chairman

3/6/18  
Date

  
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Doreen T. Numkena, Tribal Secretary

3/6/2018  
Date