



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Authorizing Tribal Member Commercial Lease for H-Market)

- WHEREAS,** Tribal member Mike Cooley has come before the Tribal Council to request authorization to enter into a new commercial lease with the Tribe for the H-Market business premises in Whiteriver; and
- WHEREAS,** Mr. Cooley owns and operates the H-Market and all improvements, through his C-corporation, Whiteriver Enterprises, Inc.; and
- WHEREAS,** the business does not have a current lease in effect for the location; and
- WHEREAS,** Mr. Cooley has requested a twenty-five year lease term with one renewal, for which he would pay \$2,400 per year in base rent subject to periodic review, collect and pay the 3% tribal business activity tax on all sales at the location except for gasoline, and be authorized to sublease a portion of the premises for a compatible commercial venture; and
- WHEREAS,** Mr. Cooley advises that if given Council authorization, he plans to allow a small Sears outlet to use the northern wing of the building to sell appliances and related products to the community; and
- WHEREAS,** the H-Market employs and provide services to numerous members of the Tribe and has become a leading tribal member owned private enterprise; and
- WHEREAS,** the final lease term components would be completed in negotiations between Mr. Cooley and the Tribe, subject to the terms and conditions set forth herein.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves and authorizes a commercial lease agreement between tribal member Corydon Michael Cooley and Patricia Cooley, husband and wife, d.b.a. Whiteriver Enterprises, Inc., and the Tribe for the H-Market business premises, subject to the following conditions:

1. The rental amount shall be \$2,400 per year (\$200/month), subject to review and adjustments as established in 25 CFR §162.428(a).
2. The lessee shall collect and remit the Tribal Business Activity Tax, at the current rate of 3%, or as adjusted by the Tribe in the future, on all retail sales at the location, except motor vehicle fuel sales.
3. The lessee shall be authorized to sublet a portion of the premises without further lessor approval to a compatible commercial venture that provides retail sales or services and complies with the business activity tax obligations and applicable tribal law and general lease conditions.
4. The lease term shall be for twenty-five years, with one renewal.

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BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the lessee in the lease agreement may designated as Corydon Michael Cooley Patricia Cooley, husband and wife, or Whiteriver Enterprises, Inc., or such similar ownership structure, provided that the ultimate possession and ownership structure is 100% tribal member ownership by Mike and Patricia Cooley.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby makes the following declarations about certain conditions which would otherwise be required by federal regulation, 25 C.F.R. Part 162:

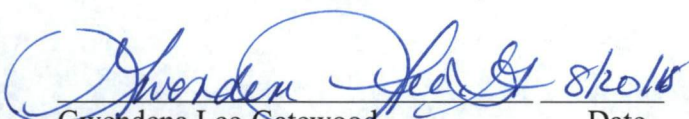
1. The Tribe waives the due diligence and enforcement requirements under 25 CFR §162.417 concerning permanent improvements which may be made within the lease site;
2. The Tribe has negotiated satisfactory compensation under the lease terms and considered comparable valuations, and for that purpose waives valuation under 25 CFR §162.420, and the Tribe further states that accepting the negotiated compensation and waiving the valuation is in the Tribe's best interest;
3. The Tribe requests that the Bureau of Indian Affairs waive the requirements under 25 CFR §162.434 for a performance bond or other security, in recognition of the Lessee's status as a Tribal member who has been successfully operating at the location; and
4. Pursuant to 25 CFR §162.438(f), the Tribe confirms that the proposed use of the facility is in conformity with applicable Tribal law.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Tribal Attorney General and Realty Officer are authorized and directed to negotiate final lease terms in compliance with the terms and conditions set forth herein, for execution by the Tribal Chairwoman, subject to her review and direction, and then for submission to the BIA for approval and recordation.

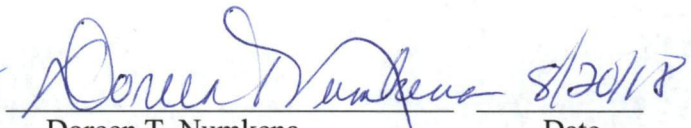
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances, or any material facts concerning the issues presented are later found to be false, this Resolution 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 the Chairwoman, or in her 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 **DATE JULY 11, 2018** duly adopted by a vote of **EIGHT** for, **ONE** against, and **ONE** 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).


Gwendena Lee-Gatewood
Tribal Chairwoman

Date


Doreen T. Numkena
Tribal Secretary

Date