



WHITE MOUNTAIN APACHE TRIBE

*A Sovereign Nation Exercising Self-Governance
Over the Fort Apache Indian Reservation*

Resolution No. 12-2013-233

(Approving and Authorizing the First Modification to Amended and Restated Non Revolving Line of Credit Note (“Modification Agreement”) relating to the extension of the Second Amended and Restated Credit Agreement and other related transactional documents with Wells Fargo Bank, N.A.)

- WHEREAS,** the Tribal Council of the White Mountain Apache Tribe (the “Tribe”) is entrusted by the Tribe’s Constitution to act in all matters that concern the welfare of the Tribe, to manage all economic affairs and enterprises of the Tribe, and to regulate subordinate organizations for economic and other purposes; and
- WHEREAS,** pursuant to Resolution No. 08-2006-263, the Tribe entered into and executed a Credit Agreement with Well Fargo Bank, National Association (the “Bank”), along with ancillary documents, instruments, agreements, and contracts, including a Revolving Line of Credit Note, together which initially provided the Tribe with a line of credit of up to \$4.5 million; and
- WHEREAS,** pursuant to Resolution No. 05-2013-111, the Tribe entered into a Second Amended and Restated Non Revolving Line of Credit Note in the maximum principal amount of \$10,700,000.00, dated as of May 20, 2013 (the "Note"), which Note is subject to the terms and conditions of that certain Second Amended and Restated Credit Agreement between Borrower and Bank dated as of May 20, 2013, as amended from time to time (the "Credit Agreement"); and
- WHEREAS,** the Note (as amended) is due and payable to the Bank on December 31, 2013; and
- WHEREAS,** the Bank and the Tribe have agreed to extend the maturity date of the Note to June 30, 2014 through entry into the Modification Agreement attached at Exhibit A; and
- WHEREAS,** as a sovereign government, the Tribe is absolutely immune from suit except as expressly provided for by act of Congress or by the express consent of the Tribal Council; and
- WHEREAS,** the Credit Agreement, Note and certain ancillary security documents entered into pursuant to the authorization in Resolution No. 05-2013-111(collectively “Credit Documents”) contain provisions whereby the Tribe expressly grants a limited waiver of sovereign immunity, and it is the intent of the parties that such terms shall extend to the Modification Agreement; and

WHEREAS, the Tribal Council has reviewed the Modification Agreement, and approved of said document as to form; and

WHEREAS, the Tribe's Treasurer has reviewed the Modification Agreement and all other applicable documents related to the foregoing, and recommends the transactions contemplated therein and approval thereof; and

WHEREAS, the Tribal Council has determined that the extension of maturity date of the Note and entry into the Modification Agreement are each in the best interests of the Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the form, terms and provisions of the Modification Agreement and transactions contemplated therein, including the limited waivers of sovereign immunity, consents to jurisdiction and arbitration provisions contained within the Credit Documents are re-affirmed, authorized and approved in all respects, furthermore, the Tribe waives any other defenses that might be available to the Tribe as to the enforceability of the Credit Documents, including the Modification Agreement which shall be incorporated into the Credit Documents and subject to the terms thereof.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Tribe does hereby approve and authorize the execution, issuance, delivery and performance of the Modification Agreement as well as issuance, delivery and performance of any documents as are necessary to implement the same.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that, upon the execution and delivery of the Modification Agreement, such agreement is, under the laws of the Tribe, the legal, valid and binding obligation of the Tribe, enforceable against the Tribe in accordance with its terms including the following as set forth in the Credit Documents: the limited waivers of sovereign immunity, consents to jurisdiction and agreements to arbitrate as set forth in therein, notwithstanding any contrary provisions of Tribal law.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman of the Tribal Council, on behalf of the Tribe, is hereby authorized to execute, deliver and cause the performance of the Modification Agreement, and is delegated the authority to make such changes and amendments to the Modification Agreement, including extensions of maturity thereof, as the Chairman deems necessary, and the Chairman is further delegated the authority to take any all additional actions necessary to implement this Resolution, the Credit Documents and Modification Agreement, and provided further that all such actions shall be on behalf of and binding upon the Tribe.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that, as of the date of this Resolution, the Tribe warrants that no permits, licenses or other governmental approvals, or renewals thereof, are required to be issued by the Tribe or any agency of the Tribe for or in connection with the foregoing transactions and documents except for permits, licenses and governmental approvals, and renewals thereof, which have already been issued.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the provisions of this Resolution shall govern, control and take precedence over any contrary provisions of

any ordinance, resolution, or other law of the Tribe or adopted on behalf of the Tribe, or by any agent, corporation or instrumentality of the Tribe.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Tribal Council has determined that this Resolution shall not be subject to judicial interpretation, and that only the Tribal Attorney, with the assistance of the Tribal Council Secretary, may opine on Tribal Council intent and meaning of the language as used herein.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that all acts and things heretofore done and performed (or cause to be done and performed), by any member of the Tribal Council or the Treasurer, in the name and on behalf of the Tribe, in connection with the foregoing resolutions, are hereby ratified and approved.

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 it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances or Federal Laws, this Resolution shall be declared null and void and have no legal effect.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Acting Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution. In the event that the Chairman fails to delegate signatory authority to an Acting Chairman, the Vice-Chairman may sign.


The foregoing resolution was on **DECEMBER 4, 2013** duly adopted by a vote of **SIX** for, **ZERO** against, and **ONE** by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (b), (i), (k), (s), (t) and (u) of the Tribal Constitution, 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

12/8/13

Date



Mariddie J. Craig, Secretary

12/09/2013

Date