



# WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

## (Approving White Mountain Apache Housing Authority to Enter Into Two Loans from WIFA's Clean Water and Drinking Water Revolving Fund in the Total Amount of \$230,000.00)

---

- WHEREAS,** Article IV, Section 1(s) of the Constitution of the White Mountain Apache Tribe if the Fort Apache Reservation ("Constitution) provides that the White Mountain Apache Tribal Council ("Council") shall exercise the power "...to regulate subordinate organizations for economic and other purposes"; and
- WHEREAS,** the White Mountain Apache Housing Authority ("Housing Authority"), is designated by the Tribe as the Tribe's Tribally Designated Housing Entity in accordance with the Native American Housing Assistance and Self-Determination Act of 1996, § 2 U.S.C. § 4101, et seq., P.L.104-330, 110 Stat. 4106 ("NAHASDA") and is authorized to receive and administer the Tribe's Indian Housing Block Grants, operate and develop low income housing for the White Mountain Apache Tribe, and to provide safe, decent, and affordable housing on the Fort Apache Reservation ("Reservation"); and
- WHEREAS,** the Housing Authority has proposed construction of 8 three-bedroom homes to provide temporary emergency housing for displaced Tribal members, with three units being located in Cibecue and three units located in Hondah (the "Projects"); and
- WHEREAS,** the State of Arizona provides below market interest loans for water infrastructure development projects through its Water Infrastructure Finance Authority ("WIFA"); and
- WHEREAS,** the Tribe's water infrastructure will have to be extended to connect the Projects to water and sewer lines; and
- WHEREAS,** for this purpose, on December 21, 2017, the Council enacted Resolution Nos. 12-2017-283 and 12-2017-284, authorizing the Housing Authority to apply for two twenty (20) year loans from WIFA in the amount of \$125,000.00 from WIFA's Clean Water Revolving Fund and \$105,000.00 from WIFA's Drinking Water Revolving Fund, respectively, comprising \$230,000 in loans; and
- WHEREAS,** of the total amount, \$207,000.00 is comprised of forgivable principal; and
- WHEREAS,** the loans are to be payable from and secured by a pledge and assignment of, lien on, and security interest in, the administrative fees and rental payments due to the Housing Authority from all of its mutual help and rental housing units, but will not be guaranteed against default by the United States Department of Housing and Urban Development, Office of Native American Programs ("HUD/ONAP") under Title VI of NAHASDA, as provided for by Resolution Nos. 12-2017-283 and No. 12-2017-284, but instead will be guaranteed by a third party deposit agreement with BOK Financial; and

***Resolution No. 03-2019-51***

**WHEREAS,** the Housing Authority Board of Commissioners approved of these loans and the above-mentioned terms by Board Resolutions dated December 15, 2017 and February 13, 2019, including a limited waiver of sovereign immunity contained therein; and

**WHEREAS,** the limited waiver of immunity waives only the Housing Authority's immunity from suit into Tribal Court for substantive matters; and

**WHEREAS,** the Board Resolutions authorized, among other things, the incurrence of the obligations represented by the loans and the execution and delivery by the Housing Authority of a Loan Agreement, a Promissory Note, a Cash Collateral Agreement, and a Pledge, Assignment, and Security Agreement for each of the loans, and such other documents as required by WIFA in connection with the loans (the "Loan Documents" attached and incorporated herein by reference); and

**WHEREAS,** the Loan Documents also require that the Tribe's Utility Authority will operate and maintain the improvements as part of its utility infrastructure system in compliance with applicable laws and standards, and to make available records of the improvements funded through this transaction for inspection by WIFA representatives; and

**WHEREAS,** the Tribal Council has reviewed the terms of the loan and finds that approving them now will help the Tribe provide basic housing and infrastructure service to the residents of the Reservation and is in the best interests of the Tribe and its members.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby approves of the loan documents, including the limited waiver of the Tribe's sovereign immunity contained therein, and authorizes the Housing Authority to borrow \$125,000 from WIFA's Clean Water Revolving Fund and up to \$105,000 from WIFA's Drinking Water Revolving Fund in the manner set forth herein.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the terms and conditions of Resolution No. 12-2017-283 and No. 12-2017-284 are hereby confirmed and ratified, with the exception of the reference to a Title VI loan guaranty, which reference is hereby superseded by this Resolution, as the loans will not be guaranteed against default by the United States Department of Housing and Urban Development, Office of Native American Programs ("HUD/ONAP") under Title VI of NAHASDA, as previously recited in Resolution No. 12-2017-283 and No. 12-2017-284, but instead will be guaranteed by a third party deposit agreement mutually agreeable to WIFA and the Housing Authority.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby approves and authorizes the Tribe's Utility Authority to operate and maintain the improvements mentioned herein as part of its utility infrastructure system in compliance with applicable laws and standards, and to make available records of the improvements funded for inspection by WIFA representatives.

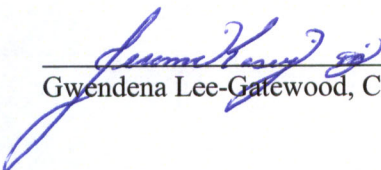
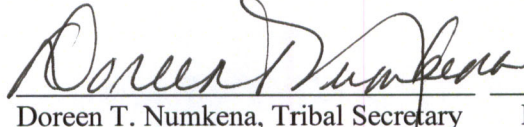
**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances, or any material facts concerning the issues presented are later found to be false, this Resolution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

**Resolution No. 03-2019-51**

**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 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 **March 6, 2019** duly adopted by a vote of **TEN** for, **ZERO** 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).

	<u>2019</u>		<u>4-2-2019</u>
Gwendena Lee-Gatewood, Chairwoman	Date	Doreen T. Numkena, Tribal Secretary	Date