



# WHITE MOUNTAIN APACHE TRIBE

## A Sovereign Tribal Nation

### **(Approving 20 Year Up-Front Incentive Renewable Energy Credit Purchase Agreement and System Facilities Upgrade Agreement between Ndee Bikiyaa and Navopache Electric Cooperative Inc.)**

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**WHEREAS,** The Constitution of the White Mountain Apache Tribe (“Tribe”) of the Fort Apache Indian Reservation provides, at Article IV, Section 1(s) that the Tribal Council (“Council”) shall exercise the power, “To... regulate subordinate organizations for economic and other purposes; and

**WHEREAS,** The Constitution of the White Mountain Apache Tribe (“Tribe”) of the Fort Apache Indian Reservation provides, at Article IV, Section 1(b) that the Tribal Council (“Council”) shall exercise the power, “To negotiate, make and perform contracts and agreements of every description...; and

**WHEREAS,** Ndee Bikiyaa’ (The People’s Farm) is a subordinate agency of the Tribe’s, and has worked with Prometheus Solar to construct a solar power installation on their premises; and

**WHEREAS,** Ndee Bikiyaa’ proposes, at this time, to enter into agreements (“Agreements”)(attached and incorporated herein) with Navopache Electric Cooperative Inc. (“Navopache”) that would enroll Ndee Bikiyaa’ into the Arizona Renewable Energy Incentive Rebate Program, enabling it to receive rebate payments depending upon the monthly DC output of the system; and

**WHEREAS,** The Agreements provide that in exchange for receiving ongoing rebate payments from NEC, Ndee Bikiyaa’ will assign all of its rights to federal and state renewable energy credits that are now, or may become available, for a term of 20 years; and

**WHEREAS,** The Agreements require a waiver of the Farm’s sovereign immunity from suit into the courts of Navajo County; and

**WHEREAS,** The Council has reviewed the proposed agreements and finds that their approval will help the Ndee Bikiyaa’ recoup its investments in solar energy, 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 the attached Up-Front Incentive Renewable Energy Credit Purchase Agreement, with waiver of immunity limited to Ndee Bikiyaa’ only, and System Facilities System Facilities Upgrade Agreement between Ndee Bikiyaa’ and Navopache Electric Cooperative Inc. are hereby approved.

**Resolution No. 02-2022-16**


**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 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 **FEBRUARY 7, 2022** duly adopted by a vote of **EIGHT** for, **ONE** against, and **TWO** 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).

 2/10/22  
Gwendena Lee-Gatewood, Chairwoman                      Date

 2/10/2022  
Doreen T. Numkena, Tribal Secretary                      Date