



Resolution No. 03-2006-79

**RESOLUTION OF THE  
WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION**

**(Approving an amendment to the Tribe's 401(k) plan that allows for a loan feature and requires tribal employees to pay for any and all costs associated with their loan and post-tax withdrawal)**

**WHEREAS**, pursuant to Section 1(a) of the Constitution of the White Mountain Apache Tribe, *inter alia*, the Tribal Council has the authority to represent the Tribe and act in all matters that concern the welfare of the Tribe; and

**WHEREAS**, the Tribal Council of the White Mountain Apache Tribe originally adopted the White Mountain Apache Tribe Retirement Savings Plan, effective May 1, 1991, and restated several times for changes in the law and design (the "Plan"). The Plan was most recently approved as a qualified governmental plan under Section 401(a) of the Internal Revenue Code of 1986 (the "Code") by an IRS determination letter dated February 14, 2003; and

**WHEREAS**, the Tribal Council asked the Tribe's 401(k) Committee to review the Plan and make its recommendations as to whether a loan feature should be added to the Plan; and

**WHEREAS**, the 401(k) Committee represented the following three options to the Tribe: (1) expand the current rules allowing for hardship withdrawals; (2) adopt a loan feature that would allow eligible tribal employees to borrow up to 50% of their total 401(k) accounts; and (3) maintain the Plan currently in place; and

**WHEREAS**, a majority of the 401(k) Committee recommended that a loan feature be added to the Plan that allows eligible tribal employees to borrow up to 50% of their total 401(k) account including all pre-tax contributions, interest, the employer match, but not post-tax contributions, with each individual tribal employee to pay for any and all costs associated with their loan (i.e. loan processing fee); and

**WHEREAS**, the 401(k) Committee recommends that the current rules for allowing hardship withdrawals be expanded; and

**WHEREAS**, the 401(k) Committee also recommended that eligible tribal employees pay any and all costs associated with their individual post-tax withdrawals and hardship withdrawals; and

**WHEREAS**, the Tribe's 401(k) Committee shall develop and adopt a Participant Loan Policy Statement, compliant with applicable IRS requirements, that shall set forth the

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guidelines and requirements regarding the availability and administration of participant loans under the Plan; and

**WHEREAS**, the Tribe's 401(k) Committee shall also develop criteria that will broaden the eligibility for hardship withdrawals; and

**WHEREAS**, in order the a tribal employee to be eligible for a 401(k) loan they must have sufficient payroll income to allow for the anticipated payroll deduction for the loan requested and they must follow guidelines set forth in the Tribe's Participant Loan Policy Statement; and

**WHEREAS**, the Tribal Council finds that it is in the best interests of the Tribe's employees to amend the Tribe's current Plan to allow for the loan feature described above.

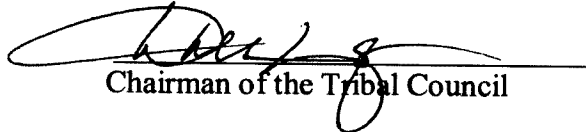
**BE IT RESOLVED** by the White Mountain Apache Tribal Council that it hereby:

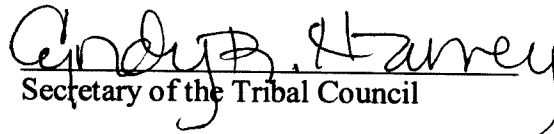
1. Approves an amendment to the Plan that allows for a loan feature that would permit eligible tribal employees to borrow up to 50% of their total 401(k) account, including all pre-tax contributions, interest and the employer match, but not the post-tax contributions, and requires tribal employees to pay for any and all costs associated with their loan (i.e. loan processing fee).
2. Requires eligible tribal employees pay for any and all costs associated with their individual post-tax withdrawals and hardship withdrawals.
3. Directs the 401(k) Committee to develop and implement a Participant Loan Policy Statement, compliant with applicable IRS requirements, that shall set forth the guidelines and requirements regarding the availability and administration of participant loans under the Plan.
4. Directs the 401(k) Committee to develop and implement criteria/rules, compliant with applicable IRS requirements that will broaden the eligibility for hardship withdrawals.
5. Authorizes only those tribal employees that are eligible pursuant to the Participant Loan Policy Statement to request and receive a loan from their 401(k) account.
6. Authorizes the Tribal Chairman to execute any and all documents, including but not limited to, a conforming Plan to implement the intent of this Resolution, and to make such changes therein as may be suggested by the Tribe's attorneys to comply with federal tax laws as long as said changes are merely administrative in nature and do not increase the cost of the Plan or seriously detract from the benefits provided to employees.

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7. Authorizes the Tribal Chairman and any authorized representative appointed by the Chairman to file an application, together with any supporting documents, with the United States Treasury Department, with a request for a determination that said Plan and its related Trust Agreement, as amended, continue to meet the requirements of Section 401(a) of the Internal Revenue Code, and to execute such powers of attorney, schedules and other documents as may be necessary or required in connection therewith.
8. Authorizes the Tribal Chairman, in his discretion, to execute such further amendments to the Plan and its related Trust Agreement, and other documents as may be required in order to obtain the approval of the United States Treasury Department, if and in his judgment, such amendments are in the best interests of the Tribe.
9. Authorizes the Tribal Chairman to execute any documents necessary in order to amend the Wells Fargo Service Agreement to provide Plan loan services and to effectuate the intent of this Resolution.

The foregoing resolution was on March 9, 2006, duly adopted by a vote of FOUR for, ONE against and ONE abstention by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (b), (s), (t) and (u) of the Constitution of the Tribe, 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).

  
Chairman of the Tribal Council

  
Secretary of the Tribal Council