



# WHITE MOUNTAIN APACHE TRIBE

## A Sovereign Tribal Nation

### (Approval and Execution of Leases, Subleases, Agreements, Recordation's and Leasehold Mortgages for White Mountain Apache Housing Authority)

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**WHEREAS,** the White Mountain Apache Housing Authority ("Housing Authority"), as the tribally designated housing entity of the Tribe is responsible for carrying out the Tribe's housing plan and the development and operation of housing pursuant to the Native American Housing Assistance and Self-Determination Act of 1996 ("NAHASDA"); and

**WHEREAS,** in furtherance of its mission, the Housing Authority has received an allocation of tax credits from the Arizona Department of Housing, which will enable the Housing Authority to rehabilitate 22 housing units, and to construct 22 new housing units within the Cibecue community; and

**WHEREAS,** the Housing Authority acquired leasehold rights to Site 1 of the Project area from the Tribe under Lease No. HFA-10-638, Leasehold rights to Site 2 of the Project area under Project 16-48 entered into on September 28, 1992, and recorded as Document No. 607-037-93, and Tribal Land Assignment of Site 3 within the Project pursuant to Tribal Resolution No. 12-2016-251; and

**WHEREAS,** the Housing Authority is requesting approval of two lease amendments, to remove the lots included within WMAHA #7 from the original Leases approved by the Tribe and recorded with the Bureau of Indian Affairs so that they may be included in new Leases between the Tribe and the Housing Authority, both of which are attached hereto as Exhibits A and B; and

**WHEREAS,** the Housing Authority is requesting approval of three new leases between the Tribe and the Housing Authority to Lease all three sites for the Project, a model of which is attached hereto as Exhibit C; and

**WHEREAS,** the Housing Authority is requesting approval of three subleases between the Housing Authority and WMAHA #7 Limited Partnership for all three sites within the Project, a model of which is attached hereto as Exhibit D; and

**WHEREAS,** the Project also requires the approval and execution of the following documents among and between the Housing Authority, the Partnership and the new limited partner, all of which are still in the process of finalization:

- The First and Second Notes and Loan Agreement;
- The First and Second Leasehold Mortgages;
- Two LURAs required by the Arizona Department of Housing
- NAHASDA Regulatory Agreement

; and

**WHEREAS,** the Tribal Council finds that the two (2) lease amendments, the three Leases, and the three Subleases, and the related documents set forth herein are in the best interests of the Tribe.

***Resolution No. 12-2017-273***

**BE IT RESOLVED IT 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 regulations, 25 CFR Part 162 for the three leases:

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 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 has determined that it is in the Tribe's best interest to not have compensation reviews and/or adjustments, as would otherwise be required under 25 CFR 162.428(a);
4. 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 Tribally Designated Housing Entity of the Tribe, established by Tribal Ordinance;
5. Pursuant to 25 CFR 162.438(f), the Tribe confirms that the proposed use of the facility is in conformity with applicable Tribal law; the Tribal Council finds that the two (2) lease amendments, the three Leases and the three Subleases, and the related documents set forth herein are in the best interests of the Tribe.

**BE IT FURTHER RESOLVED**, by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes both lease amendments to modify Lease No. HFA-10-01638 and Lease Document No. 607-037-93 so that Sites 1 and 2 within the Project can be included in new Leases between the Tribe and the Housing Authority.

**BE IT FURTHER RESOLVED**, by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes three new leases to the White Mountain Apache Housing Authority for a term of 25 years with an automatic renewal of 25 years, for the three sites containing the 44 housing units and a community center, as shown in the Legal Descriptions, Exhibit A to the Leases.

**BE IT FURTHER RESOLVED**, by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the Housing Authority to sublease the leasehold property to the partnership, and approves the attached subleases, a model of which is set forth as Exhibit D.

**BE IT FURTHER RESOLVED**, by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the leased property to be encumbered by leasehold mortgages for the benefit of the Housing Authority in a total amount not to exceed the amount necessary to cover the difference between the total development cost and the investor's equity, consistent with the terms of the lease and sublease documents and mortgage documents reviewed this date.

**BE IT FURTHER RESOLVED**, by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the leasehold property to be encumbered by two LURAs and the NAHASDA Regulatory Agreement, consistent with the terms of the lease and sublease documents and other related documents reviewed this date.

**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. 12-2017-273**

**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 Chairman, or in his 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 **DECEMBER 13, 2017** duly adopted by a vote of **EIGHT** for, **ZERO** against, and **THREE** 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>12/20/17</u>		<u>12/21/2017</u>
Ronnie Lupe, Tribal Chairman	Date	Doreen T. Numkena, Tribal Secretary	Date