

RESOLUTION NO. 158 -21
OF THE GOVERNING BODY OF THE
YAVAPAI-APACHE NATION

**A Resolution Establishing the Yavapai-Apache Nation Economic Development
Fund and Providing for its Initial and Ongoing Funding**

WHEREAS: The Yavapai-Apache Tribal Council (“Council”) is authorized to represent the Yavapai-Apache Nation (“Nation”) and act on all matters that concern the health and welfare of the Nation, and to make decisions not inconsistent with or contrary to the Constitution of the Yavapai-Apache Nation (Constitution”) as provided by Article V(a) of the Constitution; and

WHEREAS: The Council, as the legislative body of the Nation, is authorized to take any and all actions necessary and proper for the exercise of its Constitutional powers and duties, including those powers and duties not enumerated, and all other powers and duties now or hereafter delegated to the Tribal Council, or vested in the Tribal Council through its inherent sovereignty, as provided by Article V (w) of the Constitution; and

WHEREAS: The Council is authorized to enact laws, ordinances and resolutions incidental to the exercise of its legislative powers as provided by Article V (v) of the Constitution; and

WHEREAS: The Council is authorized to manage all tribal economic affairs and enterprises of the Nation and to appropriate and regulate the use of tribal funds, as provided by Article V (i) and (k), respectively, of the Constitution;

WHEREAS: The Tribal Council finds as follows concerning the Nation’s need to engage in a concerted policy of economic development:

- (a) The Nation must grow and diversify its economy to provide a broader and more sustainable revenue stream in support of the Nation’s financial goals and in the delivery of essential governmental services to the Nation’s members.
- (b) The Nation should, as a matter of policy, promote the economic and social development of the Nation and its members.
- (c) The Nation’s adoption and implementation of a policy of economic development will greatly contribute to the economic and social well-being of the Nation’s members by increasing educational achievement, raising individual and family incomes, improving the general health of individuals and families, and in general will result in improved standards of living for the Nation and its members.

- (d) Establishment of an economic development fund is needed to provide a source of revenues for financing the planning and implementation of future economic development projects for the benefit of the Nation and its members.

WHEREAS: The Council has previously adopted the following Resolutions under which funds set aside for economic development were appropriated:

- (a) Resolution No. 155-18, established the Santa Ysabel RSTF Account and provided that funds paid to the Nation from the Santa Ysabel RSTF funds should be deposited into said account and used for the purposes stated in the resolution, including, but not limited to, “supplemental funding for the Nation’s economic development;”
- (b) Resolution No. 158-2018, established a restricted bank account to be known as the “Master Planning Fund Account” into which was deposited the sum of \$1.7 million from the “Master Planning Fund,” said funds to be appropriated by the Council and used exclusively “in support of economic development for the Yavapai-Apache Nation;”
- (c) Resolution No. 64-19, provided that all funds recovered from the Hotel Project Arbitration should be used to reimburse the Ramah Settlement Fund Account, also known as the “Masterplan Bank Account;”
- (d) Resolution No. 22-2020, authorizing the withdrawal of \$5.5 million from the Nation’s Permanent Fund and directing that said funds be deposited into the Nation’s “Economic Development Fund for use in economic development projects as authorized...” by Council under the Resolution; and

WHEREAS: It is the Council’s intention that adoption of this Resolution acts to establish a single “Economic Development Fund” for the Nation and that the above-cited Tribal Council Resolution’s Nos. 155-18, 158-2018, 64-19, and 22-2020, are superseded and are no longer of any force or effect; and

WHEREAS: The Council has determined that it is in the Nation’s best interest to establish an “Economic Development Fund” and to provide for its initial and ongoing funding, and to specify the purposes for which the fund may be used by the Council.

NOW THEREFORE BE IT RESOLVED that the Yavapai-Apache Tribal Council, in Council assembled, at which a quorum is present, hereby establishes within the Nation’s General Fund, the Yavapai-Apache Nation Economic Development Fund.

BE IT FURTHER RESOLVED that the initial allocation of funding for the Economic Development Fund shall be taken from the following sources:

- (a) The balance of funds remaining in the Santa Ysabel RSTF Account established under Tribal Council Resolution No. 155-18;
- (b) The balance of funds remaining in the “Master Planning Fund Account” established under Tribal Council Resolution No. 158-2018;
- (c) All funds paid to the Nation as a result of the Hotel Project Arbitration;
- (d) The balance of funds remaining from the appropriation made by the Council from the Permanent Fund under Tribal Council Resolution No. 22-2020.

BE IT FURTHER RESOLVED that beginning with FY2021, the Economic Development Fund shall receive an annual contribution of funding, approved by the Council as part of the Nation’s annual budget, as follows:

- (a) Except for the Cliff Castle Casino, each of the Nation’s Subordinate Economic Organizations, including The Marketplace, Yavapai-Apache Whitehills, Distant Drums RV Resort, and Yavapai-Apache Sand and Rock shall annually contribute to the Economic Development Fund a sum equal to each SEO’s earnings, minus such amount to be retained by the SEO as determined by the Council bi-annually;
- (b) All payments to the Nation made by Lessees utilizing the Nation’s lands under lease agreements;
- (c) All payments to the Nation made by Permittees utilizing the Nation’s lands under use permits, including all vendor permit fees collected by the Nation;
- (d) All payments to the Nation arising under utility agreements under which the Nation provides utility services to the payee, including, but not limited to, the Nation’s Intergovernmental Agreement with Yavapai County for Wastewater Treatment Services;
- (e) All payments made to the Nation under the Native American Power Pooling and Scheduling Agreement between the Nation and the Navajo Tribal Utility Authority;
- (f) Any future payments, collections, or distributions arising out of the Nation’s claims, lawsuits and other actions against the Iipay Nation of Santa Ysabel (“Santa Ysabel”) for debt owed to the Nation by Santa Ysabel;
- (g) Any future payments, collections, or distributions arising out of the Nation’s claims, lawsuits and other actions against the La Posta Band of Diegueno Mission Indians (“La Posta”) for debt owed to the Nation by La Posta;
- (h) All payments to the Nation made by Yavapai-Apache Sand and Rock (“YASR”) in satisfaction of the loan agreement with the Nation for financing of the YASR asphalt plant; and

(i) Such other sum as the Council determines appropriate as part of the Nation's annual budgeting process.

BE IT FURTHER RESOLVED that the Nation's Treasurer shall manage the Economic Development Fund as follows:

(a) In a manner intended to generate interest earnings on that portion of the Fund on deposit and not needed for economic development purposes; and

(b) In accordance with such investment and management policies as may be promulgated by the Treasurer and approved by the Council.

BE IT FURTHER RESOLVED that the Council shall appropriate funds from the Economic Development Fund by Council Resolution only, and said appropriations shall be limited exclusively to the following purposes:

(a) Acquisition of real property, including all rights associated with real property such as rights-of way, easements, water rights, buildings and real property improvements, and all other interests in real property;

(b) Acquisition, construction, reconstruction, rehabilitation, or installation of public improvements or facilities, including the planning and design of all such improvements or facilities, (e.g., governmental and neighborhood buildings, public safety facilities, schools, streets, sidewalks, parks, playgrounds, water and sewer facilities, utility services, and any other improvements and facilities that are either publicly owned by the Nation or that are of the type of facility or improvement traditionally provided by the Nation or other local governments);

(c) Planning, design, construction, and operation of new business ventures intended for ownership by the Nation as a new Subordinate Economic Organization;

(d) Participation as an investor in the planning, design, construction, and operation of new business ventures in which the Nation will benefit economically;

(e) Such other economic development purposes as may be determined by the Tribal Council.

BE IT FURTHER RESOLVED that in conjunction with any appropriation of funds from the Economic Development Fund, the Council shall assess whether the appropriation can be supplemented by grant or other funds from any source, and said appropriation shall be reduced by the sum of any grant or other funds determined to be available for the project for which the appropriation is made.

BE IT FURTHER RESOLVED that the Nation's Treasurer, working in conjunction with the Nation's Finance Director, is directed to establish in the financial accounts of the Nation "The Yavapai-Apache Nation Economic Development Fund" and to fund and maintain said account in accordance with the requirements of this Resolution.

BE IT FURTHER RESOLVED that the Nation's Finance Director is authorized and directed to set up a separate restricted bank account for deposit of all funds contributed to the Economic Development Fund as authorized under this Resolution.

BE IT FURTHER RESOLVED that the above-cited Tribal Council Resolutions Nos. 155-18, 158-2018, 64-19, and 22-2020, are hereby superseded and are no longer of any force or effect and any financial accounts of the Nation established under authority of said Resolutions shall be closed and the funds therein transferred to the Yavapai-Apache Nation Economic Development Fund.


BE IT FINALLY RESOLVED that the Chairman, and Vice-Chairwoman, or either of them, are hereby authorized to take such further action as deemed necessary to carry out the intent and purposes of this Resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was adopted by an affirmative vote of the Tribal Council, with a quorum in attendance, presented for approval on August 19 2021, by a vote of 8 8 in favor, 0 opposed and 0 abstaining, pursuant to the authority contained under the Constitution of the Yavapai-Apache Nation as cited above.


Jon Huey, Chairman

ATTEST:


Karla Reimer, Council Secretary

Approved as to Form:


Office of the Attorney General