

**Town of Duncan**  
**Notice of Action to be Ratified**

**NOTICE OF PUBLIC MEETING OF THE TOWN OF DUNCAN  
FOR THE PURPOSE OF RATIFYING PAST ACTION  
TAKEN IN VIOLATION OF OPEN MEETING LAW ON MAY 25, 2021**

Pursuant to A.R.S. § 38-431.05, notice is hereby given to the members of the Town of Duncan Common Council (“Council”) and to the general public that the Council will hold a meeting open to the public on November 10, 2021 at 5:00 p.m. at Town Hall, 506 SE Old West Highway, Duncan, Arizona 85534.

**The purpose of the meeting is to ratify actions of the Council that may have been taken in violation of the Open Meeting Law.**

On May 25, 2021, the Council held a special meeting and failed to properly post the notice and agenda on the Town website 24 hours prior to the meeting, which is required by A.R.S. § 38-431.02(A)(4), and (G). In response to an Open Meeting Law complaint filed against the Town and an admission by the Town that the notice and agenda were not posted online for this meeting as required by law, the Attorney General’s Office has recommended the following action items from the May 25, 2021 agenda be ratified under A.R.S. § 38-431.05 to preserve the original effective date of legal action taken by the Council.

**Actions Proposed to be Ratified**


At the November 10, 2021 regular meeting, the Council may ratify the following legal action items from the May 25, 2021 special meeting:

1. Approval of Resolution No. 21-05-25 to Authorize the Application for a Drinking Water State Revolving Fund Loan from Water Infrastructure Finance Authority of Arizona.
2. Approval of Resolution No. 21-05-26 to Authorize the Application for a Clean Water State Revolving Fund Loan from Water Infrastructure Finance Authority of Arizona.
3. Approval to pursue the United Way grant on the August grant cycle and go out for bids for the swimming pool upgrades.

The public may obtain a detailed written description of the actions to be ratified, and all deliberations, consultations, and decisions by members of the public body that preceded and relate to this action to be ratified at Town Hall, 506 SE Old West Highway, Duncan, Arizona 85534 and online on the Town website at: <https://duncanaz.us/> at least 72 hours in advance of the meeting.

Dated this day of November 5, 2021.

Town of Duncan

  
By Philip D. Cushman, Interim Town Manager/Clerk

Persons with a disability may request a reasonable accommodation by contacting the Town of Duncan ADA Compliance Coordinator at least 24 hours in advance at (928) 359-2791, Monday – Thursday, 8-5, to arrange the accommodation.

**Town of Duncan**  
**Detailed Description of Items Subject to Ratification**  
**A.R.S. § 38-431.05(B)(3)**

**The Duncan Town Council (“Council”) is meeting at 5:00 p.m. on November 10, 2021 at Town Hall, 506 SE Old West Highway, Duncan, Arizona 85534 to ratify actions of the Council that may have been taken in violation of the Open Meeting Law.**

What is Ratification?

Under the Open Meeting Law, ratification is an action by the governing body to retroactively validate a prior act in order to preserve the earlier effective date of the action. It allows the Council to meet and approve retroactively the action previously taken – to ratify its prior action. *Source: Arizona Agency Handbook Chapter 7 Open Meetings, Sec. 7.12. Ratification (Revised 2018).*

Reason for Ratification of Action Items on November 10, 2021

On May 25, 2021, the Council held a special meeting and failed to properly post the notice and agenda on the Town of Duncan (“Town”) website 24 hours prior to the meeting, which is required by A.R.S. § 38-431.02(A)(4), and (G). In response to an Open Meeting Law complaint filed against the Town and an admission by the Town that the notice and agenda were not posted online for this meeting as required by law, the Attorney General’s Office has recommended certain action items from the May 25, 2021 agenda be ratified under A.R.S. § 38-431.05 to preserve the original effective date of legal action taken by the Council.

Action Items Subject to Ratification

The Council seeks to ratify three action items from the May 25, 2021 agenda, described more fully as follows:

**Item 1: Ratification of Resolution No. 21-05-25**

*Description of Action to be Taken*

Ratification of the “Approval of Resolution No. 21-05-25 to Authorize the Application for a Drinking Water State Revolving Fund Loan from Water Infrastructure Finance Authority of Arizona.”

*Written Description*

Resolution No. 21-05-25 authorizes the Town’s application for a Drinking Water State Revolving Fund (“DWSRF”) loan from the Water Infrastructure Finance Authority of Arizona (“WIFA”). This program assists public and private water systems by providing a permanent, independent source of low-cost financing. The Town is eligible as a borrower and sought to apply

for financial assistance from WIFA of an amount not to exceed \$3.5 million for drinking water capital improvements pursuant to A.R.S. § 9-571.

The Resolution establishes the authorization by the Council to apply to the DWSRF loan; limit the financial assistance to an amount not to exceed \$3.5 million payable from revenues of the drinking water system; and authorize Town officers to take actions to apply for the DWSRF loan. The Resolution as adopted on May 25, 2021 is attached as **Exhibit A**.

*We are not aware of any prior deliberations, consultations, or decisions by Council regarding this Item.*

## **Item 2: Ratification of Resolution No. 21-05-26**

### *Description of Action to be Taken*

Ratification of the “Approval of Resolution No. 21-05-26 to Authorize the Application for a Clean Water State Revolving Fund Loan from Water Infrastructure Finance Authority of Arizona.”

### *Written Description*

Resolution No. 21-05-26 authorizes the Town’s application for a Clean Water State Revolving Fund (“CWSRF”) loan from WIFA. This program is a federal-state partnership with WIFA as the administrator for the State of Arizona. The program provides communities with a permanent, independent source of low-cost financing for water quality infrastructure projects. The Town is eligible as a borrower and sought to apply for financial assistance from WIFA of an amount not to exceed \$1.2 million for wastewater capital improvements pursuant to A.R.S. § 9-571.

The Resolution establishes the authorization by the Council to apply to the CWSRF loan; limit the financial assistance to an amount not to exceed \$1.2 million payable from revenues of the wastewater system; and authorize Town officers to take actions to apply for the CWSRF loan. The Resolution as adopted on May 25, 2021 is attached as **Exhibit B**.

*We are not aware of any prior deliberations, consultations, or decisions by Council regarding this Item.*

## **Item 3: Ratification of Approval to Apply for United Way Grant**

### *Description of Action to be Taken*

Ratification of the “Approval to pursue the United Way grant on the August grant cycle and go out for bids for the swimming pool upgrades.”

### *Written Description*

The United Way of Graham and Greenlee Counties provides grants to various organizations, including municipal corporations, to support education, improve health and increase financial stability. On May 25, 2021, the Council discussed a site visit with representatives from United Way, including an inspection of the swimming pool. The Council discussed the need for an overhaul of the park, including adding volleyball, locker rooms, playground equipment, and building an enclosed ramada. The Council further discussed renovation of the swimming pool and deck, making the pool open year-round, and a desire to have a heated pool.

Based on the discussion, Councilmember Deborah Mendelsohn motioned to pursue a grant through Untied Way on the August grant cycle and pursue bids at that time. Vice-Mayor Valerie Smith seconded the motion. The Council voted unanimously for the motion (all members of Council were present).

*We are not aware of any prior deliberations, consultations, or decisions by Council regarding this Item.*

**EXHIBIT A**  
**RESOLUTION NO. 21-05-25**  
**AS ADOPTED MAY 25, 2021**

RESOLUTION NO. 21-0525 OF THE Town OF Duncan OF Greenlee COUNTY, ARIZONA TO AUTHORIZE THE APPLICATION FOR A Drinking Water State Revolving Fund LOAN FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA.

WHEREAS, the Town of Duncan of Greenlee County has identified a need for a drinking water capital improvement project; and

WHEREAS, pursuant to Arizona Revised Statutes 9-571, the Town may obligate the revenues generated by its drinking water system to repay a loan from the Water Infrastructure Finance Authority of Arizona; and

WHEREAS, the Town of Duncan of Greenlee County certifies that the population of the community is under 150,000 in population as of the most recent U.S. Census data; and *(not applicable to Districts)*

WHEREAS, the Town population at the time of this request is 788, which meets the requirement under A.R.S. § 9-571; and *(not applicable to Districts)*

WHEREAS, It is in the Town's best interest to pursue and apply for financial assistance from the Water Infrastructure Finance Authority of Arizona of an amount not to exceed \$3.5 million for Duncan Drinking Water Improvements;

NOW, THEREFORE, BE IT RESOLVED BY Town of Duncan OF Greenlee COUNTY, ARIZONA AS FOLLOWS:

Section 1. The Duncan Town Council of the Town of Duncan is hereby authorized to apply for Drinking Water State Revolving Fund financial assistance from the Water Infrastructure Finance Authority of Arizona.

Section 2. The Duncan Town Council is authorized to take such actions as are necessary to apply for financial assistance in an amount not to exceed \$3.5 million payable from revenues of the drinking water system.

Section 3. All actions of the officers and agents of the Town of Duncan which conform to the purposes and intent of this resolution and which further the completion of the application as contemplated by this resolution, whether heretofore or hereafter taken, are hereby ratified, confirmed and approved. The proper officers and agents of the Town of Duncan are hereby authorized and directed to do all such acts and things and to execute and deliver all such application documents on behalf of the Town of Duncan as may be necessary to carry out the terms and intent of this resolution.

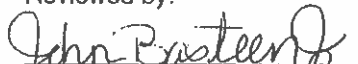
PASSED AND ADOPTED this 25 day of May 2021.

  
\_\_\_\_\_  
Mayor Anne Thurman

Attested to:

  
\_\_\_\_\_  
Cynthia Nichols, Town Clerk

Reviewed by:

  
\_\_\_\_\_  
John Basteen, Town Manager

Approved as to Form:

  
\_\_\_\_\_  
Christina Estes-Werther, Town Attorney

**EXHIBIT B**  
**RESOLUTION NO. 21-05-26**  
**AS ADOPTED MAY 25, 2021**

RESOLUTION No. 21-05-26 OF THE Town OF Duncan OF Greenlee COUNTY, ARIZONA TO AUTHORIZE THE APPLICATION FOR A Clean Water State Revolving Fund LOAN FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA..

WHEREAS, the Town of Duncan of Greenlee County has identified a need for a wastewater capital improvement project; and

WHEREAS, pursuant to Arizona Revised Statutes 9-571, the Town may obligate the revenues generated by its wastewater system to repay a loan from the Water Infrastructure Finance Authority of Arizona; and

WHEREAS, the Town of Duncan of Greenlee County certifies that the population of the community is under 150,000 in population as of the most recent U.S. Census data; and *(not applicable to Districts)*

WHEREAS, the Town population at the time of this request is 788, which meets the requirement under A.R.S. § 9-571; and *(not applicable to Districts)*

WHEREAS, it is in the Town's best interest to pursue and apply for financial assistance from the Water Infrastructure Finance Authority of Arizona of an amount not to exceed \$1.2 million for Duncan Wastewater Improvements;

NOW, THEREFORE, BE IT RESOLVED BY Town of Duncan OF Greenlee COUNTY, ARIZONA AS FOLLOWS:

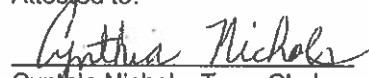
Section 1. The Duncan Town Council of the Town of Duncan is hereby authorized to apply for Clean Water Revolving Fund financial assistance from the Water Infrastructure Finance Authority of Arizona.

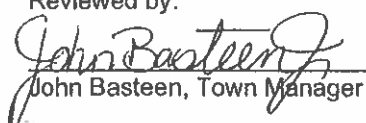
Section 2. The Duncan Town Council is authorized to take such actions as are necessary to apply for financial assistance in an amount not to exceed \$1.2 million payable from revenues of the wastewater system.

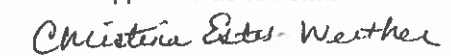
Section 3. All actions of the officers and agents of the Town of Duncan which conform to the purposes and intent of this resolution and which further the completion of the application as contemplated by this resolution, whether heretofore or hereafter taken, are hereby ratified, confirmed and approved. The proper officers and agents of the Town of Duncan are hereby authorized and directed to do all such acts and things and to execute and deliver all such application documents on behalf of the Town of Duncan as may be necessary to carry out the terms and intent of this resolution.

PASSED AND ADOPTED this 25 day of May 2021.

  
\_\_\_\_\_  
Mayor Anne Thurman

Attested to:  
  
\_\_\_\_\_  
Cynthia Nichols, Town Clerk

Reviewed by:  
  
\_\_\_\_\_  
John Basteen, Town Manager

Approved as to Form:  
  
\_\_\_\_\_  
Christina Estes-Werther, Town Attorney