

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

WHEREAS, it is the intention of this resolution of the Tribal Council of the White Mountain Apache Tribe to authorize and provide for the incurrence of indebtedness for the purpose of providing a portion of the cost of acquiring, constructing, enlarging, improving, and/or extending its water delivery system in the town of McNary in order to better serve this area which is lawfully within the jurisdictional boundaries of the White Mountain Apache Tribe.

WHEREAS, the White Mountain Apache Tribal Council has been advised that the United States Farmers Home Administration, (FmHA) has funding available in the amount of \$775,000.00 which the White Mountain Apache Tribe wishes to obtain and utilize for the construction of a new water system to serve the town of McNary;

WHEREAS, the Tribal Council has been informed that the funds are available on a grant/loan basis with \$552,100 of the funding being available through a grant and \$222,900.00 of the funding being available pursuant to a 40-year loan at a 5% interest rate and it is necessary for the White Mountain Apache Tribe to raise a portion of the cost of such undertaking by the issuance of its obligation in the principle amount of \$222,900.00 pursuant to the provisions of the loan agreement to be entered into with the Farmers Home Administration; and

WHEREAS, the Tribe wishes to obtain the funds and to comply with all of the necessary funding requirements, one of which is to pledge certain security for the repayment of the loan portion, and another of which is to provide a statement from the tribal governing body evidencing the tribe's intention to fully repay the loan and to guarantee its repayment with the full faith and credit of the White Mountain Apache Tribe; and the tribe intends to comply with any other applicable legally mandated requirements of the United States Department of Agriculture, hereinafter called "The Government", acting pursuant to the provisions of the Consolidated Farm and Rural Development Act, (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking; and

WHEREAS, it has been determined by the Tribal Council to pledge as partial security for the loan the revenues generated by the McNary Water System and to provide the requested governing body statement; and

WHEREAS, it has been determined by the Tribal Council that as further security for the loan, the tribe will execute the promissory note which is attached hereto as "Exhibit A", and which note provides for repayment of the loan portion of \$222,900.00 at 5% interest in monthly installments extending over a 40 year term; and

WHEREAS, the incurrence of the indebtedness evidenced by this resolution and "Exhibit A" is in the best interest of the White Mountain Apache Tribe;

THEREFORE BE IT RESOLVED that the White Mountain Apache Tribal Council does hereby guarantee repayment of the FmHA loan in the amount of \$222,900.00, with the full faith and credit of the White Mountain Apache Tribe and does hereby pledge the revenues generated by the McNary Water System along with other sufficient Tribal Income to guarantee repayment of the FmHA loan, and as further security for the payment of the loan does approve execution of the promissory note attached hereto as "Exhibit A".

BE IT FURTHER RESOLVED that the White Mountain Apache Tribe in consideration of the premises hereby resolves:

1. To refinance the unpaid balance, in whole or in part, of its obligation upon the request of the government if at any time it shall appear to the government that the tribe is able to refinance its obligation by obtaining a loan for such purposes from responsible, cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by §333 (c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983 (c)).
2. To provide for, execute, and insofar as required by law, comply with form FmHA 400-4, "Assurance Agreement"; and Form FmHA 400-1, "Equal Opportunity Agreement", attached hereto as Exhibits B and C, including an "Equal Opportunity Clause", which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.

3. To indemnify the government for any reasonable payments made or losses suffered by the government on behalf of the White Mountain Apache Tribe in relation to all valid obligations of the tribe arising out of the purposes for which this loan is being made. Such indemnification shall be payable from the same source of funds pledged to pay this obligation or any other legally permissible source, but in no event shall the Tribe be required to indemnify the government for any claims, payments or losses which in the aggregate exceed the principal amount of the loan.
4. That upon default in the payments of any principal and accrued interest on the obligation or in the performance of any covenant or agreement contained herein or in the instrument incident to making or insuring the loan, the government at its option may (a) declare the entire principal amount then outstanding and accrued interest of the tribe (payable from the source of funds pledged to pay this obligation or any legally permissible source) incur and pay reasonable expense for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default. Default under the provisions of this resolution or any incident to the making or insuring of the loan may be construed by the government to constitute default under any other instrument held by the government (The United States Department of Agriculture) and executed or assumed by the tribe, and default under any such instrument may be construed by the government to constitute default hereunder.
5. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, nor permit others to do so, without the prior written consent of the government.
6. Not to borrow any money from any source, enter into any contract or agreement, or incur any other liabilities in connection with making enlargements, improvements, or extensions to, or for any other purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the government if such undertaking would involve the source of funds pledged to pay the obligation.

7. To place the proceeds generated by the facility on deposit in an account and in a manner approved by the government. Funds may be deposited in institutions insured by the state or the federal government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
8. To comply with all applicable federal and tribal laws and regulations and to continually operate and maintain the facility in good condition.
9. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred by the facility financed by FmHA. No free service or use of the facility will be permitted.
10. To acquire and maintain such insurance coverage as may be required by the government.
11. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof in such a manner as may be required by the government, to provide the government a copy of each such audit, and to make and forward to the government such additional information and reports as it may from time to time require.
12. To provide the government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the government may ascertain that the Tribe is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
13. In cases where the government requires that a reserve account be established and maintained, when necessary, disbursements from the reserve account may be used for payments due on the

obligation if sufficient funds are not available in the general or debt service account. With the prior written approval of the government, funds may be withdrawn for: (a) paying the cost of repairing or replacing any damage to the facility which may have been caused by catastrophe; (b) repairing or replacing short lived assets; (c) making extensions or improvements to the facility. Any time funds or disbursed from the reserve account, additional deposits will be required until the reserve account has reached the required funded level.

14. To provide adequate service to all persons lawfully residing within the service area who can feasibly and legally be served and to obtain FmHA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of appeal.

15. The tribe hereby accepts the grant portion of the funding under the terms as offered by the government, and the Tribal Chairman of the Tribal Council is hereby authorized and empowered to take all actions necessary or appropriate to carry out the purposes for which the funding is sought including but not limited to the execution of all written instruments as may be required in regard to or as evidence of such grant, including the grant agreement as modified and attached hereto as "Exhibit D", and the Tribe hereby resolves to operate the facility under the terms as offered in said grant agreement.

The foregoing resolution was on September 15, 1988, duly adopted by a vote of SEVEN for and ZERO against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it, by Article V, Section 1(i) of the Amended Constitution and Bylaws of the Tribe, ratified by the Tribe June 27, 1958, and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

RECEIVED
SEP 20 1988

[Signature]
Chairman of the Tribal Council

[Signature]
Secretary of the Tribal Council