

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

WHEREAS, the White Mountain Apache Tribe has entered into contracts with McDonnell Douglas Helicopter Company for the manufacture of certain components for the United States Army's Apache Attack Helicopter; and

WHEREAS, in order to fulfill its obligations under this contract and under future defense related contracts which will be procured by the tribe, the Tribal Council has established the Apache Manufacturing Company, an economic enterprise of the White Mountain Apache Tribe; and

WHEREAS, the Tribal Council wishes to establish a plan of operations for the overall management of the Apache Manufacturing Company said plan of operations being patterned after the existing plans of operation for other tribal enterprises; and

WHEREAS, the Tribal Council has reviewed the proposed plan of operations and is of the opinion that the proposed plan will provide the necessary direction and guidance for the day-to-day management of this new tribal enterprise and the adoption of this plan of operations is therefore in the best interest of the White Mountain Apache Tribe.

THEREFORE BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby adopts as the plan of operations of the Apache Manufacturing Company the plan of operations which is attached hereto and incorporated herein by reference.

The foregoing resolution was on November 10, 1988, duly adopted by a vote of EIGHT 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).

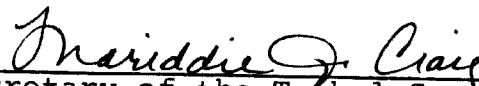
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NOV 29 1988

Fort Apache Indian Agency
Window, Arizona



Chairman of the Tribal Council



Secretary of the Tribal Council

LEGAL DEPARTMENT

WHITE MOUNTAIN APACHE TRIBE

Claudeen Bates Arthur
General Counsel

Scott Canty
Staff Attorney

MEMORANDUM

TO : Don Booker, Project Coordinator
McDonnell-Douglas Off-Load Program

FROM : Scott Canty, Assistant Tribal Attorney

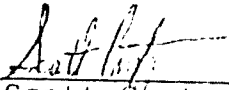
DATE : July 11, 1988

RE : Apache Manufacturing Plan of Operations

Pursuant to your recent request, this office has drafted a proposed Plan of Operations for the new tribal enterprise to be known as Apache Manufacturing Company. This Plan of Operations will govern the overall management and fiscal responsibility of the enterprise, and will provide for accountability to the Tribal Council as the Governing Body of the White Mountain Apache Tribe. Of course, this is only a draft and necessary revisions can be made before finalization and passage of the plan by the Tribal Council. I welcome any suggestions you might have for defining the parameters of this new enterprise.

Please feel free to review the document and make any comments that you might have concerning necessary changes. By this memorandum I am also requesting that those individuals receiving copies of the proposed plan also review it and make their comments and suggestions.

Should you have any questions, please feel free to call.



Scott Canty
Assistant Tribal Attorney

CR6:94

xc: Reno Johnson, Sr., Tribal Chairman
Claudeen Bates Arthur, General Counsel
Milfred Cosen, Director of Business Operations

PLAN OF OPERATIONS
OF THE
APACHE MANUFACTURING COMPANY
OF THE WHITE MOUNTAIN APACHE TRIBE
WHITERIVER, ARIZONA

SECTION A - IDENTITY

1. Name. The official name of this Enterprise shall be the "Apache Manufacturing Company", hereinafter referred to as the Company.
2. Place of Business. The principal place of business of the Company shall be at Whiteriver, Arizona, on the Fort Apache Indian Reservation.
3. Definitions. Wherever used herein the following terms shall have the meanings indicated:
 - a) "Secretary" means the Secretary of the Interior, or his authorized representative.
 - b) "Area Director" means the Area Director of the Phoenix Area Office, Bureau of Indian Affairs, or his authorized representative.
 - c) "Superintendent" means the Officer in Charge of the Fort Apache Indian Agency or his authorized representative.
 - d) "Tribal Council" means the White Mountain Apache Tribal Council (governing body) elected in accordance with the provisions of the Tribe's Constitution.
 - e) "Company" means the Apache Manufacturing Company, Whiteriver, Arizona; a Tribal Enterprise. The terms "Company" and "Enterprise" are sometimes used interchangeably.

- f) "Board" means the Board of Directors of the Company.
 - g) "Tribe" means the White Mountain Apache Tribe of the Fort Apache Indian Reservation, owner of the Company.
 - h) "Chairman" means the president of the Board of Directors of the Company.
 - i) "Manager" means the general manager of all operations of the Company.
 - j) "Sales Representative" means the entity authorized to conduct all sales of the Company's products.
 - k) "Tribal Chairman" means the Chairman of the Tribal Council acting as Chief Executive Officer of the White Mountain Apache Tribe.
 - l) "Director" means the director of Business Operations for the White Mountain Apache Tribe.
4. History of the Company. The Apache Manufacturing Company is being established by the Tribal Council of the White Mountain Apache Tribe as a new economic enterprise of the White Mountain Apache Tribe pursuant to authority contained in the Amended Constitution and Bylaws of the Tribe as evidenced in the attached Tribal Council Resolution marked "Exhibit A".

SECTION B - OBJECT AND NATURE OF BUSINESS

1. Purpose. The purpose of the Company shall be to promote the economic development of the White Mountain Apache Tribe and its members, through efficient utilization of tribal resources; to earn a net profit; to operate as a self-

sustaining business enterprise of the Tribe, to provide business training for members of the Tribe and the White Mountain Apache Tribal Council; to economically and efficiently manufacture certain products at a profit while providing employment opportunities for members of the Tribe; to provide revenue for on-going tribal governmental programs, and to finance general governmental administration, education, health, welfare, housing, law enforcement and for any other purpose which is an exercise of the governmental powers of the Tribe for the benefit of tribal members, and to develop any other type of business operation that the Tribal Council may decide is within the scope of the enterprise.

2. Nature of Business. The general nature of the business to be carried on by the Company shall be to conduct manufacturing operations, to buy, store, sell, manufacture, process and produce certain products for sale to members of the public and to the governmental and private business sector and to others. The business of the Company shall primarily be that of a wholesale manufacturing company. Retail sales of manufactured products may be made on a cash basis for the convenience of members of the Tribe and others within the immediate vicinity of the operation, all other sales shall be according to terms established by the Company. The Company shall also establish and operate other business ventures which compliment the Company's operations and which will provide income for the Tribe when

the Council deems such other businesses feasible and so authorizes.

SECTION C - MANAGEMENT

1. Board of Directors.

- a) Subject to applicable federal and Tribal laws and regulations, ordinances and this Plan; all general business management and operation policies and procedures of the Company will be determined by a Board of seven members, who shall be selected by the Tribal Council as follows: two members for initial terms of one year; two members for initial terms of two years; and one member each for initial terms of three, four, and five years respectively. Three of the members selected by the Council shall be Tribal Members, not employees of the Enterprise, and the remaining four shall be non-members of the Tribe who have a broad general knowledge of business, primarily in manufacturing and retail merchandising, sales, and services. All selections of Board Members, and any discharge of Board Members, shall be subject to the review and recommendation of the Secretary but shall not require Secretarial approval before such action is effective. Successor members shall be appointed in the same manner as their predecessors for a term of five years from the date the appointment is effective. Members, whose terms have expired, may continue to

serve until their successors are appointed. With the recommendation of the Board and the approval of the Tribal Council, the Board Membership may be increased or decreased.

- b) Record of Appointments. A record of all appointments to the Board will be furnished to the Tribal Council, and the Superintendent.
- c) Officers. At the first board meeting of each fiscal year, the members of the board shall select a Chairman from among themselves, and a secretary from within or from outside the Board membership. The Chairman will preside at meetings of the Board. The Chairman and secretary will perform duties customary to their offices. In the absence of the Chairman or secretary, the members present, if a quorum, will select a temporary Chairman from among themselves, or a temporary secretary from within or from outside the Board membership.
- d) Record of Meetings. The Secretary will keep, or cause to be kept, a full and complete record of all meetings (minute book), copies of which shall be furnished to the Tribal Chairman and the Superintendent.
- e) Quorum. Except as provided in Subsection (i) of this section, a majority of the Board membership must be present for an official meeting at which business may be conducted. A majority vote of the members present

at an official meeting are required for any action to be effective.

- f) Suspension and Removal. The Tribal Council may suspend a Board member for cause. A member will be automatically removed should he fail to attend three consecutive meetings, unless he has a valid reason which is acceptable to the Council. Written notice of such suspension, including a clear and concise statement of the charges resulting in the suspension, will be forwarded to the suspended member by registered mail. Such member will have thirty days from the date of the notice to request a hearing, in writing, before the Tribal Council. The hearing will be held at the next regular or special meeting of the Tribal Council, after receipt of the request for hearing. The Tribal Council may remove such member from the Board, by resolution of the Council, following such hearing.
- g) Vacancies. Vacancies in the membership of the Board caused by the death, resignation or removal of a board member will be filled in the same manner as in (a) above, for the unexpired term.
- h) Qualifications of Board Members. Qualification requirements for membership on the Board shall be established by the Tribal Council before any appointments are made.

- i) Meetings. Regular meetings of the Board shall be held during the second week of January, March, July and November. Special meetings may be called and held whenever business requires the Board's attention. Meetings may be called by the Chairman, or upon request in writing of the majority of the members of the Board, or upon written request of the Manager, the Tribal Council, or Chairman of the Tribal Council and the Superintendent. In the event the Chairman of the Board of Directors fails to call a meeting within ten (10) days after receipt of a written request, a majority of Board membership may call a meeting. At least ten (10) days written notice will be given of all board meetings, unless the majority of Board membership agrees to waive such notice. In situations requiring decisions by the Board to protect life and/or property, votes may be taken by telephone or telegraph, and if by telephone, confirmed in writing. All meetings will be in executive session and, with the exception of the Tribal Chairman or his representative, the Tribal Council members, authorized representatives of the Superintendent and the Area Director, and the secretary of the Board, attendance at the meetings will be by invitation only.
- j) Authority of the Board. Subject to applicable Federal and Tribal laws and regulations, and this Plan, the Board will have full authority to act for and on

behalf of the Tribe in all phases of the Company's operations, except for the authority specifically retained by the Tribal Council in this Plan; and provided that nothing herein shall be deemed a waiver of the sovereign immunity of the Tribe, nor authorization for granting such waiver, without the specific and prior written consent of the Tribal Council.

k) Compensation. Compensation of Board members shall be limited to a rate of per diem, mileage, and other necessary expenses to be paid to them as determined by the Tribal Council and paid from Company funds.

2. General Manager. A General Manager responsible for the overall day-to-day operation of the Company will be employed under the provisions of a written contract. The qualifications of the General Manager as recommended by the Board shall be approved by the Tribal Council. Selection of the General Manager and the General Manager's contract shall be subject to approval by the Tribal Council before becoming effective. If in the opinion of the Board, the General Manager is in violation of the employment contract due to misfeasance, malfeasance or nonfeasance, the Board may take immediate disciplinary action such as suspension or placing the Manager on leave-without-pay status, but may not terminate the contract without approval of the Tribal Council. Should the Management Contract be terminated for any reason, the Tribe will, within thirty (30) days from

responsibilities delegated to the General Manager by the Board, Tribal Council, and the Plan of Operation for all phases of the Enterprise. The Division Managers shall work under the direct supervision of the General Manager.

4. Sales Representative. The Board of Directors shall advise the Tribal Council with respect to the choice of a Sales and Marketing Representative and the Sales and Marketing Representative's contract. The qualifications and selection of the Sales and Marketing Representative shall be subject to the final approval of the Tribal Council. The terms and conditions of the Sales Representative's contract shall be in writing between the Tribe and such Sales and Marketing Representative.

5. Selection of Other Employees. The Manager of the Company shall be responsible for and have complete authority for employing, directing, training, and discharging of all employees of the Company. The Manager shall prepare job descriptions for each employee outlining the authorities, responsibilities and duties for the positions. The Manager shall periodically evaluate each division manager's performance in accordance with the job description and shall cause each Division Manager to perform evaluations of the performance of employees assigned to their divisions. He may require surety bonds to be executed by any of his subordinate employees; all employees who handle funds must be bonded. Premiums for such bonds shall be paid by the Company as an operating expense. In hiring, he shall give

preference to qualified members of the White Mountain Apache Tribe.

6. Employee Training Program. Under the direction of the Board of Directors, the manager shall establish an employee training program designed to provide tribal members with the skills necessary to accomplish all phases of the Company's operation, including all management level positions. The Training Program shall be a written policy with specific objectives and methodologies for achieving those objectives.
7. Other Departments. The Board of Directors may assign the Manager any responsibilities deemed necessary to accomplish the purposes and objectives of the Company.

SECTION D - CAPITAL

1. Source of Funds. Capital of the Company shall be composed of: (a) All funds and properties as may be advanced, borrowed, given or loaned to the Company by the Tribe, or from any other source, for construction, start-up and operation of the Company, provided that funds which are advanced from tribal trust funds shall be included in the tribal budget and shall require approval of the Secretary or his authorized representative; (b) Retained earnings and improvements in the Company; (c) Other funds as may be advanced by the Tribe by resolution in the future to fund Company maintenance and operation and for construction and capital improvements; and (d) Funds which may be acquired

by grant, loan or otherwise, from any Federal agency, private foundation, or lender, or any other source for construction, equipment and continuing operations.

2. Advances. Any future advances of credit funds to the Company from the Tribe shall be scheduled for repayment and shall carry interest at a rate to be fixed by the Tribe at the time the funds are advanced. Future advances of tribal funds to the Company may or may not be required to be repaid or bear interest. Any and all future advances shall be made in accordance with applicable law.

3. Distribution of Profits. The annual net loss or profit shall be distributed as follows:

a) Net profit and loss shall be transferred to the Company's Retained Earnings Account.

b) A cash reserve of _____ (\$ _____) dollars shall be immediately funded and maintained through future earnings. The reserve fund shall be available for appropriation by the Board with the approval of the Tribal Council should it become necessary to utilize it at any time to fulfill the purposes of the Company. This reserve will be specifically identified and funded on the books of the Company. Funds in this reserve must be retained in the United States Treasury, or with approval of the Tribal Council, invested in U.S. Treasury Bonds or Time Deposit Certificates, or other similarly secure investments subject to the approval of the Tribal

Council. An additional amount equal to the total non-trade obligations of the Company shall be added to the above requirements of _____ (\$ _____) dollars, to arrive at the total cash reserve to be maintained.

- c) Any cash surplus in excess of the above reserve requirements may, at the discretion of the Board of Directors and at the request of the Tribal Council, be budgeted and released to the Tribe to be utilized in accordance with its Constitution and other applicable regulations, ordinances or Plans of Operation. Any release of funds must be supported by a resolution of the Board of Directors of the Company authorizing the disbursement. However, no funds will be transferred from the Company to the Tribe until the Company's outstanding debts are liquidated, and upon the condition that such transfer will not injure the financial stability of the Company.

SECTION E - METHOD OF BUSINESS

1. Depository and Cash Control. All funds of the Company shall be deposited in an account of a commercial bank of the Tribe's choosing. Any bank or banks selected shall be a member of the F.D.I.C. The Manager shall be responsible for all income, the depositing of same and issuing of pre-numbered receipts to all payers of cash or checks. All disbursements, except as hereinafter provided, shall be

made by check on the official depository, and only upon written authorization of the Manager. The Tribal Treasurer is hereby authorized to disburse Company funds upon approval of the Manager. All check receipts shall be made payable to the Company without exception, and all income received by the Company shall be deposited intact, daily, as to amount. All checks or other disbursements from the official depository shall be supported by receipts, vouchers or statements signed by the payee, bearing the written authorization of the Manager, or his authorized representative, for payment. A daily statement of transactions shall be prepared which shall account for all cash transactions, shall also provide for a continuing balance of accounts receivable, and shall be supported by a copy of all pre-numbered receipts issued, and a copy of all pre-numbered sales tickets issued, whether cash or charge sales.

2. Petty Cash Fund. A petty cash fund is authorized for the Manager's use in an amount to be set in writing by the Board. This fund may be used to pay small obligations which are not feasibly payable by check and otherwise to facilitate the business of the Company. The fund may be reimbursed periodically from the official depository of the Company in the amount of vouchers and statements, signed by the payee, and with receives or other satisfactory proof of expenditure submitted to the Tribal Council. Petty cash reimbursable vouchers shall be certified by the Manager.

Independent Certified Public Accountants selected by the Council. Audits may be made at such other times as may be directed by the Board of Directors or the Tribal Council. It shall be the responsibility of the Manager to arrange for the audits prior to the close of the fiscal year of the Company. Audits of the Company operations, including a physical inventory, shall be made upon changing managers, and such audits shall be arranged for by the Board. Such audits shall be made by certified public accountants. The Tribal Council of the Board of Directors may request the auditors to include specific information in the audits. Copies of the audit reports and financial statements shall be furnished to the Board, the Manager, the Tribal Council, and the Superintendent.

6. Financial Statements. Monthly financial statements shall be furnished by the Manager to the Board, and the Tribal Chairman or his authorized representative, and to the Director of Business Operations.
7. Purchasing. The General Manager shall be responsible for all purchasing for the Enterprise and shall be responsible for all employees complying with established procedures of the Tribe regarding purchasing. Such purchases made by the General Manager shall be evidenced by a requisition issued by the General Manager for the purchases and the General Manager shall furnish the Tribal Central Accounting Office with the required copies of the requisitions issued along with a copy of the receiving report and invoice signed by

the General Manager authorizing payment. Obligations and expenditures by the General Manager for contractual services, purchases of equipment, improvements and construction shall be in compliance with the provisions and requirements of the Plan of Operation and any other applicable Tribal Policies. When feasible and when operating needs permit, invitations to bid will be issued or price quotations from two or more suppliers will be obtained to assure purchases at the lowest available cost consistent with the type and quality of materials and equipment required to meet the needs of the Enterprise. When feasible and to the greatest extent possible, the Company shall make every effort to purchase goods and services from other tribal enterprises. The Company shall have the authority to enter into agreements for the lease of equipment, however all such agreements shall be in writing and shall be subject to the approval of the Board and the Director of Business Operations.

8. Fiscal Year. The fiscal year shall be May 1 through April 30.

9. Budgets. The annual operating budget and financial program of the Company for the ensuing fiscal year operation, and five-year projections of cash needs, and a budget for capital improvements and additions shall be prepared by the Manager prior to the regular March Board meeting. The Manager shall discuss the budget and financial program with the Board of Directors at the March meeting. The Board

shall review and approve the financial program and budget presented by the Manager and make recommendations to the Tribal Council, whose approval shall be required before such budget shall become effective. Upon approval, the budget shall govern expenditures for operations and capital improvements for the applicable fiscal year. Neither the Manager nor the Board may authorize expenditures in excess of the percent limitation established in the approved budget for operations and the amount for capital expenditures. Copies of the approved budget shall be furnished to the Tribal Council and the Superintendent. The budget shall be prepared in the same format as provided in the approved accounting system. Budget amendments and modifications will require the same approval procedures as the original fiscal year budget.

10. Sales. Modern merchandising methods will be implemented by the General Manager and the Sales-Marketing Representative for use in all departments of the Company, enabling it to be competitive with other businesses of the same type in the general area. All sales shall be for cash or by Board approved Credit.
11. Mark-Up. In general, prices charged will be approximately the prevailing retail market prices and shall be expected to follow marketing trade practices that will result in maximum profits for the Company. The General Manager shall be responsible for establishing prices to be charged.

costing \$2,500.00 or more shall have the approval of the Board of Directors, in writing, in addition to being in an approved Enterprise budget. The Board, if circumstances warrant, may, in writing with the approval of the Council, increase or reduce the maximum amounts as shown above which the General Manager may spend for property or obligate for repairs, improvements, or construction without approval of the Board prior to expenditures or obligations, provided such action shall not be retroactive for purchases or obligations already incurred by the General Manager at the time of approval by the Superintendent. Plans and specifications for capital facility improvements and additions costing \$10,000.00 or more, including the design and lay-out, shall be reviewed and approved by the Tribal Engineering Department, to assure proper development. All contracts which may require other procedures, or obligations for purchase of major items of equipment and construction in excess of \$10,000.00 will be reviewed by the General Manager and a committee composed of members of the Board, an attorney from the Tribe's Legal Department, a representative appointed by the Council, and one by the Superintendent. The committee will make recommendations to the Board regarding acceptance or rejections of bids. Award of a contract to a successful bidder shall require Board approval and the Tribal Chairman as Tribal Contract Officer, shall sign all contracts.

14. Legal Representation. The Company as an economic enterprise of the White Mountain Apache Tribe shall be entitled to the legal representation of the Tribe's attorneys. Any actions filed against the Company or any threatened action shall be immediately referred to the Tribal Legal Department. Any proposed contracts to which the Company shall be a party shall be referred to the Tribe's Legal Department for review and approval.
15. Laws and Regulations. The Company shall comply with all Federal Laws as may be applicable to its and the provisions of the Tribe's Constitution and By-Laws, Ordinances, and Regulations.

SECTION F - APPROVAL

1. Approval. This Plan of Operation shall become effective upon the approval of the Tribal Council.