

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

WHEREAS, the White Mountain Apache Tribe has entered into a Memorandum of Agreement No. JPA 88-63 with the State of Arizona in respect to the SR 73 Whiteriver Streets Improvement Project; and

WHEREAS, said Intergovernmental Agreement relates to rights of way, drainage, signalization, parking and maintenance responsibilities relative to the construction of SR 73 from milepost 337.9 to milepost 340.0 on the Fort Apache Indian Reservation; and

WHEREAS, the record for proposed construction of the project shows the following:

ADOT FIVE YEAR PLAN	PROPOSED CONSTRUCTION OF WHITERIVER STREETS	BUDGET
1972-76	FY 73-74	\$550,000
1973-77	FY 75-76	\$600,000
1974-78	FY 76-77	\$920,000
1975-79	FY 76-77	1,500,000
1986-90	FY 90-91	3,570,000
1987-91	FY 90-91	3,570,000
1988-92	FY 90-91	3,570,000
1989-93	FY 90-91	3,170,000
1990-94	FY 90-91	3,170,000
1991-95	FY 90-91	3,200,000
1992-96	FY 93-94	2,900,000
Proposed 1993-97	FY 94-95	2,900,000

WHEREAS, the Tribal Council pursuant to Resolution No. 01-91-29 requested the State of Arizona Department of Transportation Board to utilize its good offices to expedite the design phase and construction of the Whiteriver Street Projects and therein advised the Transportation Board that the nearby non-Indian towns of Show Low, Pinetop-Lakeside, Holbrook, Taylor and Snowflake had already had their road widening projects completed, including sidewalks, curbs and other street improvements which enhanced their respective business opportunities, tourism, community growth, safety and the aesthetic appearances of said communities; and

- WHEREAS, the street traffic in Whiteriver equals or exceeds the foregoing non-Indian towns which have already received and have had completed street widening and improvements projects well ahead of and prior to the Whiteriver Street Project which has been inordinately delayed since 1972; and
- WHEREAS, Title VI of the Civil Rights Act of 1964 prohibits discrimination under any program which receives federal assistance based upon the grounds of race, color or national origin; and
- WHEREAS, said statute specifically applies to the Federal Highway Administration Federal Aid Highway Program pursuant to 23 C.F.R. 200; 49 C.F.R. 21 and said implementing regulations require that each participating state such as the State of Arizona give assurances of compliance with Title VI and establish effective procedures for its enforcement pursuant to 23 C.F.R. 200.9; and
- WHEREAS, Federal regulations further require that the State of Arizona Department of Transportation establish a civil rights unit with responsibility for monitoring Title VI compliance and said unit is required to develop procedures for prompt processing and disposition of Title VI complaints and further that the State must review the conduct of counties for compliance with Title VI 23 C.F.R. 200.9 (b); and
- WHEREAS, in addition to Title VI Non-Discrimination Requirements with respect to federal funds, the laws of the State of Arizona as well as the 14th Amendment to the Constitution prohibit discrimination with respect to state and local funds and that recent federal court cases have held that an action may be brought by an Indian Tribe or by the United States as trustee against a county or state to secure full participation in federal, state or local highway programs and support the principle that Indian people are entitled to insist on receiving their fair share of highway benefits as citizens of the United States and of the states in which they reside, and that Indians are entitled to participate in federal, state, and local roads programs to the same extent as other citizens with respect to state administration of programs funded by federal financial assistance;
- WHEREAS, Indian reservation roads monies spent by the Bureau of Indian Affairs supplement and do not supplant federal aids funds administered under state jurisdiction and accordingly if a Federal Aid Secondary Highway passes through the reservation, it must receive a fair and equitable share of state administered federal aid funds before the Bureau obligates Indian reservation monies to the highway and the State of Arizona cannot offset state funding to the extent of BIA road construction; and

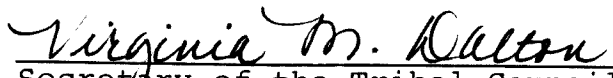
WHEREAS, the Federal Highway Administration has within it a civil rights compliance office which may provide assistance to Tribes to obtain accurate documentation concerning state and county road services or lack of services to the reservation in comparison with revenues and other objective measures and that the Tribal Council has reason to believe that state and county roads systems do not serve the Fort Apache Indian Reservation to the same extent as they serve other unincorporated portions of the county or cities of similar size in the State as described in this resolution; specifically, that towns of similar size with less street traffic have received highway funding have had completed street improvement projects while the White Mountain Apache Tribe has waited since 1973; and has recently received notice that the Whiteriver Street Project which was to commence FY 93-94 may be delayed an additional year as evidenced by the March 16, 1992 memorandum from Harry A. Reed, Director, Transportation and Planning Division to Tribal Engineer John S. Bereman attached and incorporated by reference hereto; and

WHEREAS, the Tribal Council concludes that a complaint should be filed with the Federal Highway Administration requesting that it conduct a civil rights compliance investigation of ADOT funding for the Whiteriver Street Project.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the Tribal Chairman to request the Federal Highway Administration Office of Civil Rights Compliance to conduct an investigation of the Whiteriver Route 73 street improvement project to a determine whether or not Title VI or other applicable civil rights provisions have been violated by the State of Arizona.

The foregoing resolution was on March 18, 1992, 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).

  
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Chairman of the Tribal Council

  
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Secretary of the Tribal Council

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MAR 27 1992

FORT APACHE INDIAN AGENCY  
WHITERIVER, ARIZONA