

*bu*  
11/13/83

Resolution No. 11-93-287

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

- WHEREAS,** the Secretary of Veterans Affairs is authorized under the provisions of the Native American Veteran Housing Loan Pilot Program, 38 U.S.C. Section 3761, et seq., to establish a program of direct loans for Native American Veterans living on trust lands; and
- WHEREAS,** the law requires, as a condition of making these loans available, that the tribal organization which has jurisdiction over the veteran enter into a Memorandum of Understanding with the Department of Veterans Affairs (VA) with respect to such loans; and
- WHEREAS,** by previous resolution, the Legal Department was directed to draft a memorandum of Understanding between the White Mountain Apache Tribe and the Department of Veterans Affairs; and
- WHEREAS,** pursuant to Ordinance No. 75, the Tribe has approved a Residential Lease Form which is acceptable to the Department of Veterans Affairs; and
- WHEREAS,** the Legal Department has negotiated with the Department of Veterans Affairs and prepared a Memorandum of Understanding required by the Act; and
- WHEREAS,** the Tribal Council has reviewed the Memorandum of Understanding and has approved the terms of the agreement.
- BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby approves the Memorandum of Understanding between the Department of Veterans Affairs and the White Mountain Apache Tribe attached hereto.
- BE IT FURTHER RESOLVED** by the Tribal Council that the Tribal Chairman is hereby authorized to execute the Memorandum of Understanding on behalf of the White Mountain Apache Tribe.

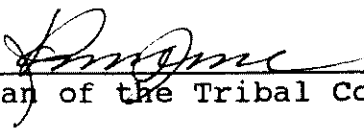
**Resolution No. 11-93-287**

The foregoing resolution was on November 03, 1993, duly adopted by a vote of ten 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

NOV 15 1993

WHITE MOUNTAIN APACHE TRIBE  
NORTHERN ARIZONA

  
Chairman of the Tribal Council

  
Secretary of the Tribal Council

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE U.S. DEPARTMENT OF VETERANS AFFAIRS**

**AND**

**THE WHITE MOUNTAIN APACHE TRIBE**

WHEREAS, the Secretary of Veterans Affairs is authorized under the provision of Title 38 U.S. Code §§ 371 et. seq. to establish a program of direct loans for Native American veterans living on trust lands; and

WHEREAS, the law requires, as a condition of making these loans available, that the tribal organization which has jurisdiction over the veteran enter into a Memorandum of Understanding with the Department of Veterans Affairs (VA) with respect to such loans; and

WHEREAS, the Department of the Interior, Bureau of Indian Affairs (BIA), must approve this agreement as it pertains to Native American trust lands;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the parties hereto do agree and establish as follows:

1. That the Department of Veterans Affairs will make direct loans available to qualified Native American veterans for the purchase of homes on trust lands to the extent funds are available and subject to such terms and conditions as may be established by VA.

2. Pursuant to Ordinance No. 75 of the White Mountain Apache Tribe the Tribe has established standards and procedures that apply to the conveyance of a leasehold interest in real property by a Tribal Member veteran borrower to VA as security for the loan, including procedures for resale of the lot or the dwelling (or both) purchased, constructed, or improved using the proceeds of the loan. The approved ordinance which approves the residential lease form is attached as Exhibit 1.

3. That each Tribal Member who is under the jurisdiction of the White Mountain Apache Tribe and to whom VA makes a direct loan holds, possesses or will obtain a leasehold or other acceptable interest in a lot that is located on trust land and will purchase, construct, or improve a dwelling on that lot with the proceeds of the VA direct loan. The approved residential lease acceptable to the White Mountain Apache Tribe, VA and the Bureau of Indian Affairs is attached as Exhibit 2.

4. That each Tribal Member will convey the above described interest to the Secretary of Veterans Affairs, by an appropriate instrument, as security for the direct housing loan made pursuant to Title 38 U.S. Code § 3761.

5. That the White Mountain Apache Tribal Council and each tribal member who obtains a loan from VA under this agreement will permit VA, its agents and employees to enter upon the trust land of the Tribe and the veteran for the purpose of carrying out such actions as the Secretary determines are necessary to evaluate the advisability of the loan and to any purchase, construction, or improvements carried out using the proceeds of the loan.

6. That the White Mountain Apache Tribe will, to the maximum extent possible, assist VA in its efforts to manage this program in a prudent and cost-effective manner. This will include assisting VA in finding qualified substitute tribal member purchasers if the initial borrower is unable to fulfill his or her obligations under the law, carrying out evictions, assuring that mortgages and other legal instruments can be properly recorded and otherwise assuring that the program is operated in a responsible and prudent manner.

7. That, in the event of foreclosure, VA agrees that any substitute purchaser must be a member of the White Mountain Apache Tribe and the Tribe agrees to assist VA in finding a substitute tribal member purchaser.

IN WITNESS WHEREOF, the parties hereto have signed this agreement as follows:

\_\_\_\_\_  
SECRETARY OF VETERANS AFFAIRS

DATE: \_\_\_\_\_

\_\_\_\_\_  
SECRETARY OF INDIAN AFFAIRS  
By Superintendent Fort Apache Agency

DATE: \_\_\_\_\_

  
\_\_\_\_\_  
CHAIRMAN OF THE TRIBAL COUNCIL  
WHITE MOUNTAIN APACHE TRIBE

DATE: \_\_\_\_\_

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

WHEREAS, on the 7th day of July, 1965, the Tribal Council passed ordinance No. 66 which in its effect approved a residential lease form covering individual tribal member leases with FHA, VA and FNMA, and

WHEREAS, the Bureau of Indian Affairs recommended certain amendments to said lease forms, and

WHEREAS, the Council approved the recommended changes, and

WHEREAS, said ordinance has been posted for more than ten days as required by Tribal Law.

BE IT ENACTED that the attached Residential Lease Form marked "Exhibit A" and by reference made a part of the ordinance is hereby approved by the White Mountain Apache Tribe.

BE IT FURTHER ENACTED that the form be used only when the individual Apache has applied for FHA, VA or FNMA loan.

The Foregoing ordinance No. 75 was on April 14, 1966 duly enacted by a vote of 9 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested it by Article V, Section 1 (n) of the Amended Constitution and By-Laws of the Tribe, ratified by the Tribe on 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).

/s/ LESTER OLIVER  
Chairman of the Tribal Council

/s/ MARY C. ENDFIELD  
Secretary of the Tribal Council

Acceptable to:  
FHA  
VA  
FNMA  
Department of Interior

**RESIDENTIAL LEASE FORM**

This Lease made and entered into between \_\_\_\_\_  
\_\_\_\_\_, hereinafter designated as "Lessor" and \_\_\_\_\_  
\_\_\_\_\_, Member (s) of the White Mountain Apache Tribe; residing upon the  
Fort Apache Indian Reservation, Arizona, hereinafter designated as Lessee(s).

**WITNESSETH**

1. Secretarial Approval. As used in this Lease, the term "Secretary" means the Secretary of the Interior or his duly authorized representative. This Lease is subject to the approval of the Secretary pursuant to the Act of August 9, 1955, 69 Stat. 539, as amended; 25 U.S.C. 415.

2. Premises. Lessor, as authorized by law and in accordance with a resolution adopted by the Tribal Council of the White Mountain Apache Tribe on \_\_\_\_\_ hereby leases to the Lessee(s) all that tract or parcel of land situated on the Fort Apache Indian Reservation, County of \_\_\_\_\_, State of Arizona, and described as follows:

3. Use of Premises. The object of this Lease is to enable the Lessee(s) to construct, improve and/or maintain a dwelling and related structures on the premises, and otherwise to use or occupy said premises for residential purposes.

4. Term. Lessee(s) shall have and hold the premises for a term of twenty-five (25) years beginning on the effective date of this Lease. This Lease shall automatically and without notice renew for an additional term of twenty-five (25) years on the same terms and conditions contained herein. This lease may not be terminated by either or both parties during its initial or renewal term if, and as long as, the Lease and/or any improvements on the premises, or any interest therein, are mortgaged or otherwise pledged as security for any loan in accordance with the provisions hereof, unless consent in writing to such termination is given by the lender and, when FHA insurance or VA guaranty or insurance is in force, by the Federal Housing Administration or the Veterans Administration, as the case may be. This Lease shall not be subject to any forfeiture or reversion and shall not be otherwise terminable, if such event would adversely affect any interest in the premises, including improvements thereon, acquired in accordance with the provisions hereof by the holder of any mortgage or other lien, or of any purchaser at a foreclosure sale under such mortgage (or lien) or under any conveyance given in lieu of foreclosure, or of any holder subsequent to such purchase.

5. Rent. The improvement of housing for the White Mountain Apache families is a public purpose of the Lessor. The consideration for this lease is (1) the said purpose, (2) the promise, hereby given, of Lessee(s) to pay the Lessor rent at the rate of One Dollar (\$1.00) for each twenty-five (25) year term, payment to be made each term in advance, (3) the extinguishment, hereby agreed to by Lessee(s) in the premises, so that Lessee(s) shall hereafter hold rights only by virtue of this lease, and (4) other good and valuable considerations, the receipt of which is hereby acknowledged by Lessor. It is agreed that there shall be no adjustment of the rent if the Lease is

terminated before its term otherwise would expire or in the event that any part of the premises is taken by condemnation for highway or other public purposes.

6. Improvements. All buildings or other improvements now existing or hereafter constructed on the premises shall be the leasehold property of the Lessee(s) during the term of this Lease, including any extension or renewal thereof.

7. Use Rights. Upon expiration of this Lease, or upon its termination in accordance with the terms hereof, unless such termination is due to default upon the part of Lessee(s), Lessee(s) or any successors in interest shall be entitled to use rights in the premises if qualified under the laws and customs of the White Mountain Apache Tribe. If not so eligible, lessee(s) and any successors in interest shall, upon demand, surrender to lessor upon expiration or other termination of this Lease complete and peaceable possession of the premises and all improvements thereon, which shall be the property of the White Mountain Apache Tribe.

8. Federal Supervision.

(a) Nothing contained in this Lease shall operate to delay or prevent a termination of Federal responsibilities with respect to the premises by the issuance of a fee patent, the lifting of restriction on alienation, or otherwise during the term of the Lease; such termination, however, shall not serve to abrogate the Lease.

(b) No member of Congress or any delegate thereto or any Resident Commissioner shall be admitted to any share or part of this Lease or to any benefit that may arise herefrom.

(c) The Lessee(s) agree(s) not to use or cause to be used any part of said premises for any unlawful conduct or purpose.



9. Quiet Enjoyment. Lessor agrees to defend the title to the premises and also agrees that Lessee(s) and any successors in interest shall peaceably and quietly hold, enjoy and occupy the premises for the duration of this Lease without any hindrance, interruption, ejection or molestation by Lessor or by any other person or persons whomsoever.

10. Inheritance. This Lease may be transferred by will or by intestate inheritance in accordance with the laws and customs of the White Mountain Apache Tribe.

11. Assignment. Except as otherwise provided herein, Lessee(s) shall not assign this Lease without prior written consent of the Lessor and, if this Lease and/or any improvements on the premises are mortgaged or pledged as security for a loan, without the written approval of the lender and, when FHA insurance or VA guarantee or insurance is in force, of the Federal Housing Administration or Veterans Administration, as the case may be. Lessee(s) may assign this Lease or deliver possession of the premises, including any improvements thereon, to the lender, its successors in interest, or the FHA or VA, as the case may be, if Lessee(s) default(s) in any mortgage or other loan agreement for which the Lease and/or improvements on the premises are pledged as security, and, in such event, the lender, its successors in interest, or the FHA or VA, in turn may transfer this Lease or possession of the premises to a successor lessee. Nothing in this Lease shall prevent the Lessee(s) from executing and recording a mortgage, declaration of trust and/or other security instrument as may be necessary to obtain financing for the construction and/or improvement of a dwelling and related structures, or shall prevent the mortgagee or other lender from foreclosing or instituting other appropriate proceedings under law in the event of default of any mortgage or other loan agreement by the Lessee(s). Except in cases involving loans for home construction or home improvement by a bank or other recognized lending

institution or the VA, where no such consent or approval of Lessor shall be required, lessee(s) may not execute a mortgage, declaration of trust or other security instrument pledging their interest in this Lease or any improvements on the premises without prior consent of Lessor and the approval of the Secretary.

12. Option. In the event of default by the Lessee(s) on any mortgage or other loan agreement for which this Lease or any improvements on the premises are pledged as security, Lessor shall have the right of first refusal to acquire the Lessee's interest in the premises (subject to all valid liens and encumbrances) upon (a) payment of all sums then in arrears, and (b) either payment of the balance of the loan or assumption of the mortgage. Said right of first refusal may be exercised at any time within thirty (30) days after notice in writing from the lender of the Lessee's default, which notice shall be given before the lender invokes any other remedies provided under the mortgage or by law, and shall be exercised by notice in writing from the Lessor to the Lessee(s) and the lender; provided, however, that the Lessee(s) shall have fifteen (15) days from the date of the latter notice to cure the default. The estate acquired by the Lessor through exercise of said right of first refusal shall not merge with any other estate or title held by the White Mountain Apache Tribe as long as this Lease and/or any improvements on the premises, or any interest therein, are mortgaged or otherwise pledged as security for any loan, and said estate shall remain subordinate to any valid and subsisting mortgage or other security instrument.

13. Effective Date. This Lease and all its terms and provisions shall be binding upon the heirs, successors, executors, administrators and assigns of the Lessee(s) and any successor in

interest to the Lessor, and shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_.

14. Obligations to the United States. It is understood and agreed that while the leased premises are in trust or restricted status, all of the Lessee's obligations under this lease, and the obligation of his sureties, are to the United States as well as to the owner of the land.

\_\_\_\_\_  
LESSOR

By \_\_\_\_\_  
(Authorized Official)

ATTEST:

\_\_\_\_\_

\_\_\_\_\_  
Lessee

WITNESS:

\_\_\_\_\_

\_\_\_\_\_  
Lessee

WITNESS:

\_\_\_\_\_

APPROVED:

\_\_\_\_\_ Date: \_\_\_\_\_