

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

- WHEREAS, the PL 93-638 contract proposal offered to the White Mountain Apache Tribe specifically addressed the renovation and repair of deficiencies of the existing girls' dormitory at Theodore Roosevelt School; and
- WHEREAS, the Tribal Council previously directed that funds earmarked for portable classrooms be reprogrammed and Congressional approval was obtained for reprogramming of approximately \$762,963.00; and
- WHEREAS, the total amount of funds promised to the Tribe to address the renovation and repair of deficiencies for the girls' dormitory, kitchen and dining facilities, and to address specific problems in the school classroom building itself totaled \$1,122,887.00; and
- WHEREAS, the Tribal Council, in reliance upon promises made by the Phoenix Area Office to appropriate said amount, the Tribal Council authorized a PL 93-638 contract; and
- WHEREAS, unbeknownst to the Tribe, the Bureau of Indian Affairs, Phoenix Area Office, has charged against the PL 93-638 contract \$170,802.00 for rental of trailers and safety deficiencies in the kitchen and diningroom and classroom building that the Tribe was informed was coming from other funding sources and in addition to the amount set aside for the girls' dormitory, kitchen, and dining facilities; and
- WHEREAS, they have also charged against the PL 93-638 contract \$46,280.00 of general MI&R funds allocated for the Fort Apache Agency for agency-wide programs and not those specific to the agreed upon uses of the money for Theodore Roosevelt School; and
- WHEREAS, the Tribal Council regards using general agency funds as an offset to monies promised to the Tribe under the PL 93-638 contract as a breach of the trust duties and promises made by the BIA to the Tribe; and
- WHEREAS, despite their agreement to offer the Tribe the full \$1,122,887, the BIA is now offering only \$766,934.00 to fund the proposed 93-638 contract with the Tribe, which is only sufficient to partially repair the girls' dorm and therefore, other needed repairs at the girls' dorm as well as existing safety deficiencies at the kitchen and diningroom and school classrooms themselves will be left unattended and the Tribe

will not be able to fulfill its obligations under the PL 93-638 contract; and

WHEREAS, the Bureau of Indian Affairs has informed the Tribe that, of the remaining funds available in the amount of \$256,684.00, they plan to utilize some of those monies for their functions such as design and inspection and that anything left over will be used for further abatement of deficiencies and improvement and repair of the facilities at Theodore Roosevelt School, a figure that is unknown at this time; and

WHEREAS, the Tribal Council concludes that the Phoenix Area Office, by unilaterally deciding to back charge the proposed PL 93-638 contract with the Tribe for ongoing obligations of the Bureau, including for trailer rental (which was the Bureau's obligations since they had failed to maintain the facilities for suitable habitation by students), and by charging against the 638 contract their duties for design and inspection and general agency funds for general facility management in the amount \$46,280.00, has caused a shortfall of at least \$356,000.00; and after considering design and inspection costs, which are proposed to be taken out of the \$256,684.00, the total amount actually used directly for repairs and renovations could be as much as \$500,000.00 short of the promised \$1,122,887.00 for the proposed PL 93-638 contract; and

WHEREAS, the Phoenix Area Office Facility Management is pressuring the Phoenix Area Office Contracts and Grants Division to finalize the PL 93-638 contract with the Tribe, and the Tribal Council regards the contract as being doomed to fail because of the breach of promise and because the Tribe will not receive \$1,122,887.00 but will only receive \$766,934.00; and

WHEREAS, the Tribal Council regards the unilateral reduction of the promised monies as a breach of the trust responsibilities of the Bureau and an anticipatory breach of the contract on the part of the Bureau and a violation of the spirit and intent of contract negotiations and of the PL 93-638 contract itself. Further, the Council regards such reduction as evidence of the ongoing negligence of the Bureau in respect to the Theodore Roosevelt School facilities over the past 45 years and is contrary to promises made by the offices of the Secretary to fulfill the Bureau's responsibilities to the Tribe as it relates to the Theodore Roosevelt School facility. These actions are viewed by the Tribal Council as an attempt to pass responsibility for failures of maintenance at Theodore Roosevelt School to the Tribe but with a totally inadequate budget so that the Tribe's efforts to fulfill the PL 93-638 contract will fail for lack of funding which the Tribal Council deems unacceptable.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby opposes the unilateral reduction of the PL 93-638 contract proposed for \$1.2 million in the amount that will make it impossible for the Tribe to succeed in fulfilling its

contract responsibilities.

BE IT FURTHER RESOLVED by the Tribal Council that this unilateral reduction of the monies promised to the Tribe for performance of the PL 93-638 contract is regarded by the Tribal Council as a breach of the trust responsibilities and is further evidence of the ongoing problems with Facility Management, generally, which has resulted in the serious deterioration of the facilities at Fort Apache including those at Theodore Roosevelt School.

BE IT FURTHER RESOLVED by the Tribal Council that it hereby directs that the PL 93-638 contract in the amount proposed by the Bureau of Indian Affairs of only \$766,934.00 be returned to the Phoenix Area Office with a copy of this resolution and a demand that all monies less than the amount promised of \$1,122,887 be fully accounted for and be restored.

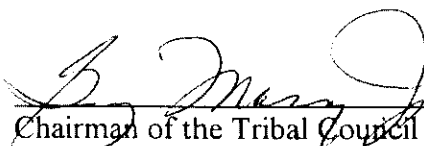
BE IT FURTHER RESOLVED by the Tribal Council that it respectfully requests that the Phoenix Area Director Ted Quasula be personally delivered a copy of this resolution with a request that he resolve the foregoing issues and use his good offices to not only account for the monies charged against the amount promised to the Tribe but to restore the contract to its fully funded promise so that the Tribe can complete work prior to the commencement of the school year and complete contract obligations.

BE IT FURTHER RESOLVED by the Tribal Council that if monies are not restored immediately as requested, that the Tribal Council directs that this matter be appealed immediately to the Office of the Secretary for restoration of said monies and for any relief the Tribe can obtain for breach of promise and unilateral breach of trust.

The foregoing resolution was on May 16, 1997, 1997 duly adopted by a vote of six for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (i), (c), (h), (i), (j), (k), (s), (t) and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

RECEIVED

WHITE MOUNTAIN APACHE INDIAN AGENCY  
WHITERIVER, ARIZONA

  
Chairman of the Tribal Council

  
Secretary of the Tribal Council