

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

WHEREAS, the Chairman of the White Mountain Apache Tribe has requested assistance from the Indian Health Service for the installation of sanitation facilities for fifty (50) units of Housing in a project proposal dated July 16, 1984, known as Project No. PH 85-610, and

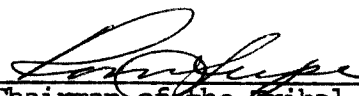
WHEREAS, the White Mountain Apache Utility Authority has adopted a resolution approving the attached Memorandum of Agreement, and


WHEREAS, the Indian Health Service has requested an agreement by and between the Indian Health Service and White Mountain Apache Tribe and White Mountain Apache Utility Authority, such agreement having been proposed to the Tribal Council, and

WHEREAS, the Tribal Council having reviewed and considered the provisions of said agreement, including the Project Summary incorporated therein.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Tribal Chairman is hereby authorized to execute this agreement and any subsequent amendments and agreements necessary for the construction of domestic water supply and sewage disposal facilities for Indian Homes in the communities throughout the Fort Apache Indian Reservation for Project PH 85-610.

The foregoing resolution was on February 6, 1986 duly adopted by a vote of 8 for and 1 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 By-Laws 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).


Chairman of the Tribal Council


Secretary of the Tribal Council



MEMORANDUM OF AGREEMENT
AMONG
THE UNITED STATES OF AMERICA
AND
THE WHITE MOUNTAIN APACHE TRIBE
AND
THE WHITE MOUNTAIN APACHE UTILITY AUTHORITY
FOR
DOMESTIC WATER SUPPLY AND SEWAGE DISPOSAL FACILITIES
FOR
20 UNITS BIA HIP HOUSING
20 UNITS TRIBAL HOUSING
10 UNITS BIA REVOLVING CREDIT HOUSING
FORT APACHE INDIAN RESERVATION
APACHE, NAVAJO AND GILA COUNTIES, ARIZONA

PUBLIC LAW 86-121

PROJECT NUMBER PH 85-610

U. S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
PUBLIC HEALTH SERVICE
HEALTH RESOURCES AND SERVICES ADMINISTRATION
INDIAN HEALTH SERVICE
PHOENIX AREA OFFICE

JULY 1985

MEMORANDUM OF AGREEMENT
AMONG
THE UNITED STATES OF AMERICA
AND
THE WHITE MOUNTAIN APACHE TRIBE
AND
THE WHITE MOUNTAIN APACHE UTILITY AUTHORITY
FOR
DOMESTIC WATER SUPPLY AND SEWAGE DISPOSAL FACILITIES
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THIS AGREEMENT, made among the United States of America, acting through the Indian Health Service, Department of Health and Human Services, under and pursuant to Section 7(a)(3) of Public Law 86-121, (42 USC 2004(a) 73 Stat. 267); the White Mountain Apache Tribe, hereinafter called the Tribe, acting through the Tribal Chairman; and White Mountain Apache Tribal Utility Authority, hereinafter called the Utility Authority, acting through the Chairman of its Board of Directors.

WHEREAS, the Tribe and the Utility Authority desire to obtain satisfactory water supply and sewage disposal facilities for residents of new Indian homes on the Fort Apache Indian Reservation, and

WHEREAS, the Tribe, acting through the Chairman of the White Mountain Apache Tribal Council, by a project proposal submitted to the Indian Health Service on July 16, 1985, requested assistance under Public Law 86-121 in the construction of water supply and sewage disposal facilities for Indian homes in communities throughout the Fort Apache Indian Reservation, and

WHEREAS, the Indian Health Service desires to help provide satisfactory domestic water supply and sewage disposal facilities for residents of the Fort Apache Indian Reservation, and

WHEREAS, the contribution by the IHS is conditioned on and limited by the availability of funds for the purposes of this Agreement. In the event that actual construction of this project cannot be initiated, for any reason by July 1986, the IHS reserves the right to cancel the project and use the funds earmarked therefore for other projects which lack impediments to prompt construction. If the condition which impeded construction is resolved following such cancellation, the IHS Phoenix Area will give high priority to funding the project from appropriated sanitation facilities funds available at that time or from future appropriations for sanitation facilities.

NOW THEREFORE, to carry out the project as set forth in the attached Project Summary entitled "Domestic Water Supply and Sewage Disposal Facilities, 20 Units BIA HIP Housing, 20 Units Tribal Housing, 10 Units BIA Revolving Credit Housing, Fort Apache Indian Reservation, Apache, Navajo and Gila Counties, Arizona", the parties mutually agree:

TRIBAL AND UTILITY AUTHORITY RESPONSIBILITIES

1. That the Tribe consents to grant the Indian Health Service all right-of-way on or over Tribal lands as the Indian Health Service judges necessary to design and install all proposed facilities and waives any claims for compensation and damage for these rights-of-way except those which may be recognized under the Federal Tort Claims Act.
2. That the Tribe grants permission for the Indian Health Service and its representatives to enter upon or across Tribal lands to carry out the

project, as proposed in the attached Project Summary and provided for in this Agreement, and further agrees to waive all claims for damages that may arise because of such entry upon Tribal lands, except those which may be recognized under the Federal Tort Claims Act.

3. That the Tribe, acting through the Utility Authority, will levy and collect service charges from users sufficient to keep all facilities in proper operating condition and will enforce ordinances governing the proper use of these facilities, and maintain and accept the transfer of all off lot water and sewer service lines, mains and appurtenances.
4. That the Tribe through its various programs will provide all plant, labor, tools, equipment, materials, and supplies necessary to construct portions of the project which are mutually agreed upon by the Tribal program and the Indian Health Service at the unit cost mutually agreed upon in advance and in writing by the District Engineer and the appropriate Tribal Program Director, according to the plans and specifications supplied by the Indian Health Service Engineer.
5. That, when requested by the Indian Health Service Engineer, the Tribe will procure materials, equipment and services as required to complete various portions of the project and will provide procurement and delivery services at cost plus a reasonable administration fee not to exceed 5.0 percent for these services.
6. That the Tribe agrees to notify the Indian Health Service of the location of each proposed homesite prior to construction to enable the Indian Health Service to inspect and approve each homesite for the feasibility of installation of sanitation facilities. The Tribe also agrees to accept transfer of all individual facilities on behalf of the homeowner.

7. That the Tribe agrees that the Tribal employees engaged in temporary or seasonal construction projects authorized and funded under Public Law 86-121 will be paid at the prevailing Tribal wage rates. Payments for salaries of personnel shall be debited from a separate tribal account specifically designated for this purpose.
8. In addition, to provide for the completion of the proposed sanitation facilities, the Tribe agrees:
 - A. That all Tribal employees working on this construction shall be covered by workmen's compensation insurance as required by applicable State and Federal laws.
 - B. To require any contractor working on this construction to procure and maintain for his employees workmen's compensation insurance as required by applicable State and Federal laws.
 - C. To insure all construction by its employees or contractors is done using construction practices that do not violate applicable State and Federal health and safety requirements. Construction safety is the sole responsibility of the Tribe and its contractors.
 - D. To be responsible for public liability, property damage and vehicle liability insurance during construction of the project.
 - E. To abide by the recommendations of the IHS regarding testing, construction, inspection and final review of the facilities provided under this Agreement, in order to assure that the facilities will function properly and meet public health standards.
9. That the Tribe agrees to provide personnel as long as the need exists as determined by the Indian Health Service.

10. The Tribe agrees that all funds contributed from the IHS will be placed in a special account specifically designated to receive and disburse funds related to this project. No part of the funds in the account shall be commingled with other Tribal funds prior to withdrawal thereof from the special account. Funds in the account may be withdrawn solely for the purpose of making payments or Tribal reimbursements for authorized project related costs. Any interpretation required as to the proper use of funds shall be made in writing by the IHS Project Engineer. The Tribes also agree to provide IHS with a monthly report, on forms provided by IHS, showing the receipts and disbursements of this account.

INDIAN HEALTH SERVICE RESPONSIBILITIES

1. That the Indian Health Service will provide without charge to the Tribe, Utility Authority or individual homeowner, all materials, supplies, equipment, labor, and technical services necessary to construct all water supply and sewage disposal facilities for each new and existing house, as described in the above mentioned Project Summary, unless said facilities are installed by one of the various Tribal programs.
2. That the Indian Health Service will provide, without charge to the Tribe, all necessary plans, specifications and technical services required for all on-site water supply and waste disposal facilities.
3. That the Indian Health Service will provide, without charge, instructions on the proper use, operation, maintenance, and protection of the sanitation facilities to all homeowners who receive facilities described in the above mentioned Project Summary, and to the Tribal Utility Authority.

4. That it is the responsibility of the Indian Health Service to inspect and approve all facilities.
5. The IHS will make contributions to the Tribe on a monthly basis in amount approved by the IHS Project Engineer based on cost estimates for construction projected during the upcoming month. Supplemental requests for contributions may be made should costs exceed the monthly estimate and any funds contributed not expended within a given month shall be applied toward the next monthly estimate and the contribution adjusted accordingly.
6. The funding provided to the Tribe by the IHS for labor, materials, procurement, and construction costs shall not exceed \$250,000.
7. That it is understood that if the Indian Health Service determines that the work is not progressing at a satisfactory pace, utilizing the Tribal employees, the Indian Health Service will discuss the matter with the Tribe. If progress remains unsatisfactory for two months after written notice to the Tribe, the Indian Health Service will cease utilization of Tribal employees and will accomplish the work by other means.
8. That in view of contributions made and responsibilities undertaken by the individual Tribal members, upon completion of the project, the Indian Health Service will transfer to the head of each household, without charge, all individual facilities, including water and sewer service lines and septic systems. All community facilities will be transferred to the Utility Authority. The Indian Health Service agrees to this transfer with the understanding that the head of each household will then be responsible to operate, maintain and repair his individual facilities.

9. That the Indian Health Service will complete the project as soon as practical within the limit of the Project Engineer's schedule and to the extent of the availability of funding.

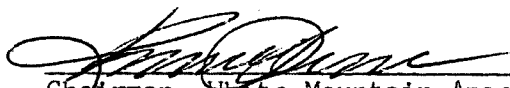
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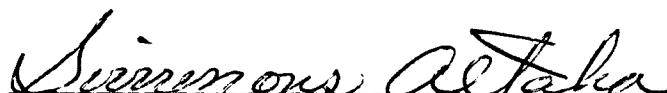
FOR THE WHITE MOUNTAIN APACHE TRIBE:

2-10-86
Date


Chairman, White Mountain Apache Tribal
Council, having been duly authorized to
enter into this Agreement on behalf of the
White Mountain Apache Tribe, as evidenced by
the attached copy of a resolution passed by
the Tribal Council

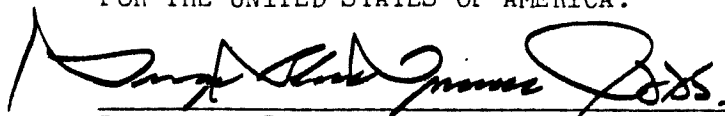
FOR THE WHITE MOUNTAIN APACHE UTILITY
AUTHORITY:

10-16-85
Date


Chairman, Board of Directors, White Mountain
Apache Tribal Utility Authority, having been
duly authorized to enter into this Agreement
on behalf of the White Mountain Apache
Tribal Utility Authority, as evidenced by
the attached copy of a resolution passed by
the Utility Authority

FOR THE UNITED STATES OF AMERICA:

9-30-85
Date


Director, Phoenix Area Indian Health
Service, Department of Health and Human
Services

Resolution No. _____

RESOLUTION
OF THE
WHITE MOUNTAIN APACHE UTILITY AUTHORITY
FORT APACHE INDIAN RESERVATION

PH 85-610

WHEREAS, for the White Mountain Apache Utility Authority to obtain domestic water and sewage disposal facilities for 50 units of housing in communities of the Fort Apache Indian Reservation, Arizona, it is necessary for the Utility Authority to enter into a Memorandum of Agreement with the United States Public Health Service, and

WHEREAS, this Memorandum of Agreement has been considered by the Utility Authority and approved in terms and conditions, now therefore,

BE IT RESOLVED, that the Chairman is authorized to enter into this Agreement on behalf of the White Mountain Apache Utility Authority.

I, undersigned, as Chairman of the White Mountain Apache Utility Authority, hereby certify that the Commissioners of the Authority are composed of 5, of whom 3, constituting a quorum, were present and the meeting held on OCT 8, 1985 and that the foregoing resolution was adopted by a vote of 3 for and 0 against.

Oct 8 - 1985 Swaiman C. Otaho
Date White Mountain Apache Utility Authority