

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

WHEREAS, the Tribal Council is advised that Mr. Ron Malfara, General Manager of the Sunrise Resort Complex, has advised Chairman Johnson that he wishes to receive a flat salary of \$100,000.00 per year for fiscal year FY 86/87 before he will continue his services as General Manager of the Ski Area; and

WHEREAS, the Tribal Council is further advised that the existing General Manager Contract between the Tribe and Mr. Malfara does not provide for such a salary, but is based upon a 5% commission after net profit; and

WHEREAS, the Tribal Council is advised that Mr. Malfara does not wish to continue pursuant to the same contractual provisions, and is unwilling to perform his duties unless he is paid a flat salary without commission at the rate of \$100,000.00 per year; and

WHEREAS, the contract between the Tribe and Mr. Malfara provides amongst other provisions that:

1. He is to establish an accounting system for both the motel and ski lodge operations which would provide adequate accounting records for the cash coming from rentals at the lodge, restaurant sales, bar sales, ski lodge and ski rental operations for each day, depositing them in an approved depository each day or as receipts warrant in keeping all such records intact;
2. He is responsible for and will operate all of the facilities located at the motel and ski area in an economic and efficient manner within limitations of approved current budgets, and in accordance with applicable laws and the provisions of the approved Plan of Operations of the Enterprise; and

RESOLUTION  
OF  
THE WHITE MOUNTAIN APACHE TRIBAL COUNCIL  
AUTHORIZING THE ISSUANCE OF A  
\$7,746,250  
GENERAL OBLIGATION BOND, SERIES 1986

ADOPTED MAY 7, 1986

RECEIVED

MAY 13 1986

RECEIVED BY THE INDIAN  
AGENCY  
WINDRIVER, ARIZ

RESOLUTION OF THE WHITE MOUNTAIN APACHE TRIBAL COUNCIL AUTHORIZING THE ISSUANCE OF THE TRIBE'S \$7,746,250 PRINCIPAL AMOUNT GENERAL OBLIGATION BOND, SERIES 1986; APPROVING THE FORM OF A BOND PURCHASE CONTRACT AND AUTHORIZING THE EXECUTION THEREOF; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTION CONTEMPLATED BY THIS RESOLUTION.

WHEREAS, the White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona (the "Tribe") is an Indian tribe created pursuant to the provisions of Section 16 of the Indian Reorganization Act of 1934, as amended (the "Act"); and

WHEREAS, pursuant to the Amended Constitution and Bylaws of the Tribe (the "Constitution") the governing body of the Tribe is the White Mountain Apache Tribal Council (the "Council"); and

WHEREAS, the Council, pursuant to the Constitution, is authorized, for and on behalf of the Tribe, to negotiate, make and perform contracts and agreements of every description, to manage all economic affairs and enterprises of the Tribe and to borrow money from any source; and

WHEREAS, the Council, for and on behalf of the Tribe, has heretofore borrowed \$7,746,250 from First Interstate Bank of Arizona, N.A. (the "Outstanding Obligation"); and

WHEREAS, the proceeds of the Outstanding Obligation were used by the Tribe to finance the acquisition, construction and equipping of certain facilities located at the Tribe's Governmental Enterprise known as the Sunrise Recreation Complex Enterprise; and

WHEREAS, the Council, for and on behalf of the Tribe, hereby determines that it will be in the best interest of the Tribe and its members to refinance the Outstanding Obligation; and

WHEREAS, the Council hereby determines that the public interest and necessity of the Tribe require that the Tribe issue its \$7,746,250 General Obligation Bond, Series 1986 (the "Bond") at this time and that the proceeds of the Bond be used to refinance the Outstanding Obligation;

BE IT RESOLVED BY THE COUNCIL OF THE WHITE MOUNTAIN APACHE TRIBE, AS FOLLOWS:

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part of this resolution and is  
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## ARTICLE I

### Definitions

Section 1.01 Definitions. The following terms, except where the context indicates otherwise, shall have the respective meanings set forth below.

"Act" means the Indian Reorganization Act of 1934, as amended.

"Additions to Tax" means any penalties, fines, additions to tax, interest and additional amounts described in the Code or under the laws of any state or local government, paid or incurred by any registered owner of the Bond in the event of a Determination of Taxability.

"Adjusted Rate Factor" means the fraction (expressed as a decimal), the numerator of which is the number one (1) minus the Corporate Tax Rate in effect following the change in such rate and the denominator of which is the number one (1) minus the Corporate Tax Rate in effect on the date of original issuance of the Bond.

"Adjusted Tax Exempt Rate" means the rate of interest to be borne by the Bond (other than any interest rate in effect following a Determination of Taxability) as a result of any increase or decrease in the Corporate Tax Rate enacted or effective after the date of the original issuance of the Bond, determined in accordance with the provisions of Section 2.04 of this Resolution.

"Bond" means "White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona General Obligation Bond, Series 1986" to be issued pursuant to Article II of the Resolution.

"Bondholder" or "holder" or "owner" of the Bond means the registered owner of the Bond.

"Bond Counsel" means an attorney, acceptable to the Tribe and the Bondholder, experienced in matters relating to the tax exemption of municipal securities.

"Bond Purchase Contract" means the Bond Purchase Contract by and between the Tribe and the Purchaser providing for the purchase of the Bond.

"Certified Resolution" means a resolution duly adopted by the Council, certified by the Secretary of the Council.

"Code" means the Internal Revenue Code of 1954, as amended, and all regulations thereunder as they may exist from time to time. A reference to any specific section of the Code shall be deemed also to be a reference to the comparable provisions of any enactment which supersedes or replaces the Code.

"Constitution" means the Amended Constitution and Bylaws of the White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona, as amended, adopted by the members of the Tribe and approved by the Secretary of the Interior, or his designee.

"Corporate Tax Rate" means the highest marginal statutory rate of federal income tax imposed on corporations.

"Council" means the White Mountain Apache Tribal Council, the governing body of the Tribe.

"Default Rate" means a rate of interest, three (3) percent above the rate of interest on the Bond, as the same may change from time to time.

"Determination of Taxability" means a determination by the Internal Revenue Service or an opinion of Bond Counsel selected by the Bondholder and approved by the Council to the effect that interest on the Bond is includable for federal income tax purposes in the gross income of the Bondholder or a statement of the Bond Counsel that it is unable to give an opinion that the interest payable on the Bond continues to be excludable from federal income tax purposes from the gross income of the Bondholder.

"Events of Default" means those defaults specified in Section 5.01 of this Resolution.

"Hereof", "herein", "hereunder", and all other words of similar import, refer to this Resolution as a whole.

"Opinion of Counsel" means an opinion in writing of counsel, who may be counsel to the Tribe or to the Bondholder, as the context may require.

"Outstanding Obligation" means the indebtedness of the Tribe to First Interstate Bank of Arizona, N.A. in the outstanding principal amount of \$7,746,250, evidenced by an installment note of the Tribe, to be refinanced with the proceeds of the Bond.

"Prime Rate" means the interest rate per annum designated by First Interstate Bank of Arizona, N.A. as its "Prime

Rate" as that rate is publicly announced by First Interstate Bank of Arizona, N.A. from time to time. The interest payable on the Bond shall change from time to time on the effective date of, and in conformance with, changes in the Prime Rate.

"Purchaser" means First Interstate Bank of Arizona, N.A., the original purchaser of the Bond, and its successors and assigns.

"Resolution" means this Resolution of the Council adopted on May 7, 1986, authorizing the issuance of the Bond and making provision for the execution and delivery of all other documents necessary to the consummation of the transaction contemplated by the issuance of the Bond.

"State" means the State of Arizona.

"Taxable Rate" means a rate of interest equal to the Prime Rate plus one (1) percent per annum, as the same may change from time to time.

"Tribe" means the White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona, created pursuant to the provisions of Section 16 of the Act.



## ARTICLE II

### The Bond

Section 2.01. Authorization. For the purpose of providing funds to refinance the Outstanding Obligation, the Council hereby authorizes the issuance of a bond in the principal amount of \$7,746,250 to be designated "White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona General Obligation Bond, Series 1986" (the "Bond"). No bonds may be issued under the provisions of this Resolution except in accordance with this Article. The total principal amount of the Bond to be issued hereunder is expressly limited to \$7,746,250.

Section 2.02. General Obligation and Pledge. The Bond, together with the interest thereon, shall be a general obligation of the Tribe payable from the general fund of the Tribe. For the punctual payment of the Bond and the interest thereon, the full faith and credit of the Tribe is hereby irrevocably pledged.

Section 2.03. Execution. The Bond shall be executed on behalf of the Tribe by the Chairman of the Council by his manual or facsimile signature and attested to by the manual or facsimile signature of the Acting Secretary of the Council, provided that one such signature shall be manually affixed. In case any officer whose signature or facsimile of whose signature shall appear on the Bond shall cease to be such officer before the delivery of the Bond, such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

Section 2.04. The Bond. The Bond shall be issued as a single, typewritten Bond, in fully registered form, shall be numbered from R-1 upward, shall be in the denomination of \$7,746,250, and shall be dated as of the date of its execution and delivery.

The Bond shall bear interest on the principal balance of the Bond from time to time outstanding from the date of its execution and delivery at a rate per annum equal to sixty-eight percent (68%) of the Prime Rate, as the same may be changed from time to time (calculated on a 365-day year, actual days of the month basis and subject to adjustment as provided herein), and shall be payable in lawful money of the United States of America. The interest payable on the Bond shall change from time to time on the effective date of, and in conformance with, changes in the Prime Rate. Interest on the Bond shall be pay-

able on the last day of each month, commencing May 31, 1986, until the Bond shall have been paid in full.

Principal of the Bond shall be payable in twenty (20) semiannual installments, commencing December 31, 1986, as follows:

<u>Principal Payment Dates</u>	<u>Principal Payment Amounts</u>
December 31, 1986	\$500,000.00
January 31, 1987	381,381.58
July 31, 1987	381,381.58
January 31, 1988	381,381.58
July 31, 1988	381,381.58
January 31, 1989	381,381.58
July 31, 1989	381,381.58
January 31, 1990	381,381.58
July 31, 1990	381,381.58
January 31, 1991	381,381.58
July 31, 1991	381,381.58
January 31, 1992	381,381.58
July 31, 1992	381,381.58
January 31, 1993	381,381.58
July 31, 1993	381,381.58
January 31, 1994	381,381.58
July 31, 1994	381,381.58
January 31, 1995	381,381.58
July 31, 1995	381,381.58
January 31, 1996	381,381.58

In the event of an increase or decrease in the Corporation Tax Rate enacted or effective after the date of original issuance of the Bond, the interest rate of the Bond (other than any interest rate in effect following a Determination of Taxability) shall be adjusted as follows:

(a) If the Corporate Tax Rate is decreased, the percentage of the Prime Rate shall be increased by multiplying such percentage by the Adjusted Rate Factor.

(b) If the Corporate Tax Rate is increased, the percentage of the Prime Rate shall be decreased by multiplying such percentage by the Adjusted Rate Factor.

In the event of a Determination of Taxability, the Tribe shall cause to be paid to the registered owner of the Bond any Additions to Tax upon demand.

In the event of a Determination of Taxability, the Bond shall bear interest, retroactively from the date that in-

terest on the Bond became subject to federal income taxation, at a rate equal to the Taxable Rate. On the last day of the first month following a Determination of Taxability, a payment shall be made equal to the interest on the Bond at the Taxable Rate from the date that interest on the Bond became subject to federal income taxation to the date of such payment, less a credit for interest actually paid for the same period. On the last day of the second month following a Determination of Taxability, and on the last day of each month thereafter, until the Bond is paid in full, the Tribe shall pay interest on the outstanding principal balance of the Bond at the Taxable Rate.

In the event of any default in the payment of any installment of principal or interest due under the Bond or from and after the date that the entire principal balance of the Bond becomes immediately due and payable, the Bond and the accrued interest thereon shall bear interest on any overdue installment of principal and, to the extent permitted by law, interest, at the Default Rate, as the same may change from time to time.

Section 2.05. Form of Bond. The Bond shall be in substantially the following form:

(FORM OF BOND)

WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION, ARIZONA  
GENERAL OBLIGATION BOND, SERIES 1986

No. R-1

\$7,746,250

WHITE MOUNTAIN APACHE TRIBE OF THE FORT APACHE INDIAN RESERVATION, ARIZONA, an Indian tribe created pursuant to the provisions of Section 16 of the Indian Reorganization Act of 1934, as amended (the "Tribe"), for value received, promises to pay to First Interstate Bank of Arizona, N.A., or registered assigns, the principal sum of Seven Million Seven Hundred Forty-Six Thousand Two Hundred Fifty Dollars (\$7,746,250) in lawful money of the United States of America, with interest on the unpaid balance of said principal sum from the date hereof at a rate per annum equal to sixty-eight percent (68%) of the interest rate per annum designated by First Interstate Bank of Arizona, N.A., Phoenix, Arizona, as its "Prime Rate" (as such term is hereafter defined). For the purposes hereof, the "Prime Rate" shall mean that rate of interest per annum designated by First Interstate Bank of Arizona, N.A., as its "Prime Rate" as that rate is publicly announced by First Interstate Bank of Arizona, N.A. from time to time (calculated on a 365-day year, actual days of the month basis). In the event of an increase or decrease in the Corporate Tax Rate (as defined in the Bond Resolution referred to below), this Bond shall bear interest at the Adjusted Tax Exempt Rate (as defined in the Bond Resolution). In the event of a Determination of Taxability (as defined in the Bond Resolution), this Bond shall bear interest at a rate equal to the Taxable Rate (as defined in the Bond Resolution), retroactive to the date that interest on this Bond became subject to federal income taxation. The Tribe also promises to pay on demand any Additions to Tax (as defined in this Bond Resolution) paid or incurred by the registered owner of this Bond in the event of a Determination of Taxability in respect of this Bond. For the punctual payment of this Bond and the interest thereon, the full faith and credit of the Tribe is hereby irrevocably pledged.

The interest payable on this Bond shall change from time to time on the effective date of, and in conformance with, changes in the Prime Rate.

Interest on this Bond shall be payable on the last day of each month, commencing May 31, 1986, until this Bond shall have been paid in full. Principal of this Bond shall be payable in twenty (20) semiannual installments, commencing December 31, 1986, as follows:

<u>Principal Payment Dates</u>	<u>Principal Payment Amounts</u>
December 31, 1986	\$500,000.00
January 31, 1987	381,381.58
July 31, 1987	381,381.58
January 31, 1988	381,381.58
July 31, 1988	381,381.58
January 31, 1989	381,381.58
July 31, 1989	381,381.58
January 31, 1990	381,381.58
July 31, 1990	381,381.58
January 31, 1991	381,381.58
July 31, 1991	381,381.58
January 31, 1992	381,381.58
July 31, 1992	381,381.58
January 31, 1993	381,381.58
July 31, 1993	381,381.58
January 31, 1994	381,381.58
July 31, 1994	381,381.58
January 31, 1995	381,381.58
July 31, 1995	381,381.58
January 31, 1996	381,381.56

On the last day of the first month following a Determination of Taxability, a payment shall be made equal to the interest on this Bond at the Taxable Rate from the date that interest on this Bond became subject to federal income taxation to the date of such payment, less a credit for interest actually paid for the same period. On the last day of the second month following a Determination of Taxability, and on the last day of each month thereafter, until this Bond is paid in full, the Tribe shall pay interest on the outstanding principal balance of this Bond at the Taxable Rate.

In the event of any default in the payment of any installment of principal or interest due hereunder, or from and after the date that the entire unpaid principal balance of this Bond becomes due and payable, this Bond and the accrued interest thereon shall bear interest on any overdue installment of principal and, to the extent permitted by law, interest, at a rate three percent (3%) per annum above the rate of interest on this Bond, as the same may change from time to time.

This Bond is issued pursuant to a Resolution duly adopted by the White Mountain Apache Tribal Council on May 7, 1986 (the "Bond Resolution") for the purpose of providing funds to refinance certain outstanding obligations of the Tribe.

This Bond is subject to prepayment, at the option of the Tribe, in whole at any time, or in part, in the minimum amount of \$5,000, on any interest payment date, without premium, but plus accrued interest, if any, to the prepayment date.

Notice of prepayment of this Bond shall be given to the Bondholder in writing not less than three (3) business days prior to the date set for prepayment.

To the extent permitted by, and as provided in, the Bond Resolution, modifications or amendments of the Bond Resolution, and of the rights and obligations of the Tribe and of the holder of the Bond, may be made with the written consent of the Tribe and the holder of this Bond. Any such consent by the holder of this Bond shall be conclusive and binding upon such holder and upon all future holders of this Bond and of any bond issued upon the transfer or exchange of this Bond, whether or not notation of such consent is made upon this Bond.

The rights and remedies of the Bondholder, as provided in this Bond and the Bond Resolution, shall be cumulative and concurrent and may be pursued singly, successively, or together against the Tribe for the payment hereof or otherwise at the sole discretion of the Bondholder.

Any forbearance of the Bondholder in exercising any right or remedy hereunder or under the Bond Resolution, or otherwise afforded by applicable law, shall not be a waiver of, or preclude the exercise of, any other right or remedy. The acceptance by the Bondholder of payment of any sum payable hereunder after the due date of such payment shall not be a waiver of the Bondholder's right either to require prompt payment when due of all other sums payable hereunder or to declare a default for failure to make prompt payment.

This Bond shall be construed according to the laws of the State of Arizona.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law.

IN WITNESS WHEREOF, White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona has caused this Bond to be executed by the Chairman and attested by the Secretary of the White Mountain Apache Tribal Council and this Bond to be dated May \_\_\_\_\_, 1986.

WHITE MOUNTAIN APACHE TRIBE  
OF THE FORT APACHE INDIAN  
RESERVATION, ARIZONA

By \_\_\_\_\_  
Chairman of the Tribal  
Council

ATTEST:

\_\_\_\_\_  
Acting Secretary of the Tribal  
Council

Section 2.06. Registration and Exchange of Bond; Persons Treated as Owners.

(a) The Tribe hereby appoints First Interstate Bank of Arizona, N.A., as transfer agent for the Bond. First Interstate Bank of Arizona, N.A., shall maintain books for the registration and for the transfer of the Bond, as provided in this Resolution to be kept by it. Upon surrender for transfer of any Bond at the principal office of the transfer agent, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing and upon satisfaction of the requirements of paragraph (b) hereof, the Tribe shall execute and deliver in the name of the transferee or transferees a new fully registered Bond.

The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of either principal or interest on any Bond shall be made only to or upon the written order of the registered owner thereof or his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon the bond to the extent of the sum or sums paid.

The Tribe shall require the payment by the Bondholder requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing any such new bond forms as may be required.

(b) The Bond may be transferred only in whole and only with the consent of the Council to such transfer, provided that such consent shall not be required for any transfer to any subsidiary of the Bondholder, any transfer arising out of any merger or consolidation of the Bondholder or by operation of law, any transfer to an affiliate of a Bondholder, any transfer of a participation interest to an institutional investor where the Bondholder continues to hold legal title to the Bond and security therefor or any transfer to a trustee in bankruptcy of a Bondholder.

Section 2.07. Lost, Stolen, Destroyed, or Mutilated Bond. Subject in all respects to the provisions of Section 44-3040, Arizona Revised Statutes, upon receipt by the Tribe of evidence satisfactory to it of the ownership of and the loss, theft, destruction, or mutilation of any Bond and, in the case of a lost, stolen, or destroyed Bond, of indemnity satisfactory to it, and upon surrender and cancellation of the Bond, if



mutilated, (i) the Tribe shall execute and deliver a new Bond in lieu of such lost, stolen, destroyed, or mutilated Bond or (ii) if such lost, stolen, destroyed, or mutilated Bond shall have matured or have been called for redemption, in lieu of executing and delivering a new Bond as aforesaid, the Tribe may pay the Bond. The applicant for a new Bond may be required to pay all expenses and charges of the Tribe in connection with the issuance of any such new Bond.

Section 2.08. Delivery of the Bond. The Tribe shall execute and deliver the Bond to the Purchaser upon payment therefor and shall give the proceeds of sale thereof to First Interstate Bank of Arizona, N.A. in exchange for the installment note evidencing the Outstanding Obligation with a notation thereon marked "Paid in Full."

Section 2.09. Other Parity Obligations. The Tribe shall not be prohibited by this Resolution from issuing other obligations payable from the general fund of the Tribe.

### ARTICLE III

#### Covenants, Representations and Warranties of the Tribe

Section 3.01. Performance of Covenants. The Tribe covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Resolution, in the Bond and in all proceedings of the Tribe pertaining thereto. The Tribe covenants that it is duly authorized under the Constitution, the laws of the Tribe and other applicable laws, to issue the Bond and to adopt this Resolution, that all action on its part for the issuance of the Bond has been duly and effectively taken and will be duly taken as provided herein, and that the Bond in the hands of the holder thereof is and will be the valid and enforceable obligation of the Tribe according to the import thereof.

Section 3.02. Payment of Principal and Interest. The Tribe will promptly pay the principal of and interest on the Bond according to the terms hereof and thereof. The principal and interest payments are payable from the general fund of the Tribe and the full faith and credit of the Tribe is hereby irrevocably pledged for the payment of such principal and interest. Nothing in the Bond or in this Resolution shall be considered or construed as pledging any other funds or assets of the Tribe.

Section 3.03. Essential Governmental Function. The Tribe represents and warrants that substantially all of the proceeds of the Outstanding Obligation were used to acquire, construct, improve or equip facilities located at the Tribe's Governmental Enterprise known as the Sunrise Recreational Complex Enterprise and that substantially all of such proceeds were used in the exercise of an essential governmental function, as that term is defined in section 7871(c) of the Code.

## ARTICLE IV

### Prepayment of the Bond

Section 4.01. Optional Prepayment of Bond. The Bond shall be subject to prepayment, at the option of the Tribe, in whole at any time, or in part, in the minimum amount of \$5,000, on any interest payment date, without premium, but plus accrued interest, if any, to the prepayment date.

Section 4.02. Notice of Prepayment. Principal of the Bond may be prepaid upon written notice from the Tribe to the Bondholder at least three (3) business days prior to the date set for prepayment.

Each notice of prepayment shall specify the date fixed for prepayment, the principal amount of the the Bond to be prepaid, that interest accrued to the date fixed for redemption will be paid as specified in said notice, and that on and after said date, interest on the principal to be prepaid will cease to accrue, provided that moneys sufficient to prepay such principal amount, together with accrued interest, if any, shall have been tendered to the Bondholder.

Upon notice of prepayment to the Bondholder, the principal amount of the Bond to be prepaid shall become due and payable on the date specified in said notice for prepayment.

## ARTICLE V

### Defaults and Remedies

Section 5.01. Events of Default. If any of the following events occur, it is hereby defined as and shall be deemed an "Event of Default":

(a) Failure to pay any installment of the principal of the Bond within five (5) days after the date when the same shall become due and payable, whether at the stated maturity thereof, acceleration or upon proceedings for prepayment; or

(b) Failure to pay any installment of the interest on the Bond within five (5) days after the date when the same shall become due and payable.

Section 5.02. Remedies on Events of Default. Upon the occurrence of an Event of Default hereunder, the registered owner of the Bond may, by notice in writing given to the Tribe, declare the principal amount of the Bond and the interest accrued thereon to be immediately due and payable and said principal and accrued interest shall thereupon become immediately due and payable and the Bond and the accrued interest thereon shall bear interest and, to the extent permitted by law, interest, at the Default Rate, as the same may change from time to time, commencing as of the earlier of the due date of any payments of principal or interest not paid when due or the date of such declaration of acceleration and shall continue until such payments are received by the registered owner of the Bond.

Upon the occurrence of an Event of Default, the Bondholder may pursue any available remedy by suit at law or in equity to enforce the payment of the principal of and interest on the Bond or to enforce any obligations of the Tribe hereunder.

Section 5.03. Application of Moneys. All moneys received by the Bondholder pursuant to any right given or action taken under the provisions of this Article V shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and the expenses, liabilities, and advances incurred or made by the Bondholder be applied as follows:

(a) Unless the principal of the Bond shall have become or shall have been declared due and payable, all such moneys shall be applied:

First--To the payment of all installments of interest then due on the Bond, in the order of the maturity of the installments of such interest (together with interest on such overdue installments of interest, to the extent permitted by law); and

Second--To the payment of the unpaid principal of the Bond which shall have become due under the provisions of this Resolution, in the order of their due dates (together with interest on such overdue installments of principal).

(b) If the entire unpaid principal of the Bond shall have become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the Bond (together with interest on overdue installments of principal and, to the extent permitted by law, interest) without preference or priority of principal over interest or interest over principal or of any installment of interest over any other installment of interest.

(c) If the entire unpaid principal of the Bond shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article V, then the moneys, to the extent they have been paid by the Tribe, shall be applied in accordance with the provisions of paragraph (a) of this Section. In the event the principal of the Bond shall later become due or be declared due and payable, then the provisions of paragraph (b) of this Section shall apply.

Whenever the Bond and interest thereon have been paid under the provisions of this Section 5.03 and all expenses and fees of the Bondholder incurred in connection with enforcement of its rights hereunder (including reasonable attorneys' fees and costs), and all other amounts required to be paid hereunder have been paid, any balance remaining shall be paid to the Tribe.

Section 5.04. Annulment of Acceleration Declaration. If, after the Bond shall have been declared to be due and payable in accordance with Section 5.02 hereof, all payments required to be made in respect of interest and principal on the Bond prior to such declaration of acceleration, and all other

sums payable hereunder shall have been paid by the Tribe, and all other Events of Default shall have been cured, corrected or performed, and the reasonable expenses of the Bondholder, including reasonable attorneys' fees and costs paid or incurred shall have been paid, then and in every such case, such default may be waived and such declaration and its consequences rescinded and annulled by the written consent of the Bondholder; but no such waiver, rescission and annulment shall extend to or affect any subsequent default or impair any right or remedy consequent thereon.

Section 5.05. Cumulative Nature of Remedies; Waiver.  
No remedy herein conferred upon or reserved to the holder of the Bond is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission of the holder of the Bond to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein and every power and remedy given by this Article V to the holder of the Bond may, subject to the provisions contained in Section 5.02 hereof, be exercised from time to time and as often as may be deemed expedient

ARTICLE VI

Resolution to Constitute Contract

Section 6.01. Resolution to Constitute Contract.  
This Resolution shall constitute a contract between the Tribe and the holder of the Bond and, following delivery of the Bond, shall not be amended, modified, rescinded or supplemented without the written consent of the holder of the Bond.

## ARTICLE VII

### Approval and Execution of Bond Purchase Contract; Effectiveness of Resolution

Section 7.01. Approval. The Bond Purchase Contract is hereby in all respects authorized, approved and confirmed. The Bond Purchase Contract shall be in substantially the form as presented to this meeting, with such necessary and appropriate variations, omissions and insertions as approved, permitted or required by the officers of the Tribe executing said Bond Purchase Contract. Such execution shall be conclusive evidence of the approval of any such changes and on behalf of the Tribe of such Bond Purchase Contract, which shall thereupon become binding upon the Tribe in accordance with its terms.

Section 7.02. Execution. The Chairman, or, in his absence, the Vice Chairman, and the Secretary of the Council are hereby authorized and directed to execute and deliver, for and on behalf of the Tribe, the Bond Purchase Contract in the fashion and within the scope set forth in the preceding Section 7.01, as well as any additional certificates, documents or other papers and to perform all other acts as they deem necessary or appropriate to implement and carry out the matters herein authorized.

Section 7.03. Effectiveness of Resolution. The immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety and an emergency is hereby declared to exist, and this Resolution shall be in full force and effect from and after its passage and approval by the Council as required by law and it is hereby exempt from the referendum provisions of the Constitution.



## ARTICLE VIII

### Miscellaneous

Section 8.01. Consents and Other Instruments of Bondholders. Any consent, request, direction, approval, waiver, objection, appointment or other instrument required by this Resolution to be signed and executed by the Bondholder may be signed and executed in any number of concurrent writings of similar tenor and may be signed or executed by such Bondholder in person or by agent appointed in writing. Proof of the execution of any such instrument, if made in the following manner, shall be sufficient for any of the purposes of this Resolution, and shall be conclusive in favor of the Tribe with regard to any action taken under such instrument, namely:

(a) The fact and date of the execution by any person of any such instrument may be proved by the affidavit of a witness to such execution or by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such instrument acknowledged to him the execution thereof. Where such execution is by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such affidavit or certificate shall also constitute sufficient proof of his authority.

(b) Any request, consent or vote of the holder of any Bond shall bind every future holder of the same Bond and the holder of every Bond issued in exchange therefor or in lieu thereof, in respect of anything done or permitted to be done by the Tribe in pursuance of such request, consent or vote.

Section 8.02. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or to be implied from this Resolution or the Bond is intended or shall be construed to give to any person other than the Tribe and the holder of the Bond any legal or equitable right, remedy or claim under or in respect to this Resolution or any covenants, conditions and provisions hereof.

Section 8.03. Severability. If any provision of this Resolution shall be held or deemed to be, or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution, statute, rule of law or public policy, or for any other reason, such circum-

stances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or sections in this Resolution contained shall not affect the remaining portions of this Resolution, or any part thereof.

Section 8.04. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified or registered mail, return receipt requested, postage prepaid, and addressed as follows:

To the Tribe: White Mountain Apache Tribe  
P. O. Box 700  
Whiteriver, Arizona 85941  
Attention: Chairman

(with copy to:)

Tribal Attorney  
White Mountain Apache Tribe  
P. O. Box 700  
Whiteriver, Arizona 85941

To the Purchaser: First Interstate Bank of  
Arizona, N.A.  
P. O. Box 3456  
Phoenix, Arizona 85072-3456  
Attention: Branch Loan  
Administration,  
Department 816

Section 8.05. Payments Due on Saturdays, Sundays and Holidays. In any case where the date of payment of interest on or principal of the Bond, or the date fixed for prepayment of the Bond, shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in Navajo County, Arizona are authorized by law to close, then payment of interest or principal need not be made on such date but may be made on the next succeeding business day with the same force and effect as if made on the date of payment or the date fixed for redemption.

PASSED AND APPROVED this 7th day of May, 1986.

WHITE MOUNTAIN APACHE TRIBAL  
COUNCIL.


By   
Chairman of the Tribal Council

Attest:

  
Secretary of the Tribal Council

The foregoing resolution was, on May 7, 1986, duly adopted by a vote of 7 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Sections 1(b), 1(i), 1(l) and 1(u) 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).

Approved:

  
Russell A. Bradley, Superintendent  
Fort Apache Indian Agency

RESOLUTION NO. 86-109

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