

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

- WHEREAS, the Tribal Council of the White Mountain Apache Tribe concludes that the goals and purposes of the Indian Self-Determination Act and Indian economic development and self-sufficiency can be encouraged and enhanced by a program that provides for opportunities for local resident Indian contractors and laborers; and
- WHEREAS, the United States Department of Housing and Urban Development has provided in recent regulations promulgated March 15, 1987, that tribal authorities, such as the Tribal Council, may enact alternate Indian preference regulations for approval by the Secretary of HUD, which would give preference on HUD-funded projects to local resident Indian contractors and laborers; and
- WHEREAS, the Tribal Council is further advised that any alternate Indian Preference Regulations promulgated by the Tribe cannot exclude non-resident Indian contractors and labor, and cannot specify tribal preference; and
- WHEREAS, in recognition of these restrictions, nevertheless, the Tribal Council concludes that it would be in the best interest of local resident Indian contractors and labor to enact alternate regulations for submission to the Secretary of HUD for his approval; and
- WHEREAS, the Tribal Council further concludes that the Tribal Attorney should be directed to draft alternate regulations which would set forth an alternate Indian preference regulation for review and approval by the Secretary of HUD, and which regulation would include as a minimum:
- 1) that local resident Indian contractor and laborer be defined as "an Indian person residing within the exterior boundaries of the Fort Apache Indian Reservation"; and
 - 2) in the event there is restricted bidding on a HUD project (Indian contractors only), that local resident Indian contractors and laborers be given the preference through the implementation of the "x" factor as set forth in the HUD regulations, which are applicable in open bidding between Indian and non-Indian contractors, and that this

same "x" factor be applied in situations where there is restricted bidding only open to local resident Indian contractors and non-resident Indian contractors; and

WHEREAS, the Tribal Council further concludes that the Tribal Attorney should draft local resident Indian preference regulations pertaining to Indian employees which are in conformity with the recent HUD regulations; and

WHEREAS, the Tribal Council is further advised that recent amendments to the TERO Ordinance which specify tribal preference cannot be included in the bid documents for HUD Projects 16-40 and 16-41 as those amendments specify tribal preference rather than local resident Indian preference, and that said tribal preferences should be waived so that the TERO Ordinance which expresses Indian preference may be included in the bid documents.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs the Tribal Attorney to immediately draft an alternate local resident Indian preference regulation as outlined in this resolution for submission to the Secretary of HUD for his review and approval.

BE IT FURTHER RESOLVED by the Tribal Council that it further directs the Tribal Attorney to draft employee preference regulations in conformity with recent HUD requirements enacted March 15, 1987.

BE IT FURTHER RESOLVED by the Tribal Council that it hereby authorizes the Tribal Chairman to waive the applicability of recent TERO Ordinance amendments specifying tribal preference so that the pre-amendment Ordinance may be included in the bid documents for HUD projects 16-40 and 16-41.

BE IT FURTHER RESOLVED by the Tribal Council that said alternate Indian preference regulation drafted by the Tribal Attorney should include a provision that if review and approval of the Secretary of HUD cannot be obtained within thirty (30) days or by July 16, 1987, that HUD Projects 16-40 and 16-41 may proceed in accordance with the Indian preference regulations set forth in HUD Regulations promulgated March 15, 1987, with the understanding that in the event that the Secretary of HUD approves alternate local resident Indian preference regulations promulgated by the Tribe and applicable within the boundaries of the reservation, that

said projects shall be subject to those regulations in respect to preference given to local resident Indian subcontractors, suppliers and laborers, but only from the date of the Secretary's approval, all existing employees, contractors, subcontractors and suppliers to that date to remain in full force and effect, notwithstanding any provisions in the alternate local resident Indian preference regulations to the contrary.

The foregoing resolution was on June 18, 1987, duly adopted by a vote of EIGHT 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).


Chairman of the Tribal Council

Secretary of the Tribal Council

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**Fort Apache Indian Agency
White River, Arizona**