



WHITE MOUNTAIN APACHE TRIBE

*A Sovereign Nation Exercising Self-Governance
Over the Fort Apache Indian Reservation*

Resolution No. 04-2013-94

(Approving Special Counsel Contract between the White Mountain Apache Tribe and Amy Mignella for Legal Representation in Energy and Other Related Matters)

- WHEREAS,** the Tribal Council of the White Mountain Apache Tribe (Tribe) is entrusted by the Tribe's Constitution to act in all matters that concern the welfare of the Tribe, to manage all economic affairs and enterprises of the Tribe, and to regulate subordinate organizations for economic and other purposes; and
- WHEREAS,** in the spring of 2000 the Tribe applied for an allocation of hydroelectric power from the Western Area Power Administration's (WAPA) Colorado River Storage Project (CRSP); in July 2002 WAPA announced the Tribe's specific allocation of hydroelectric power from that project; and on October 1, 2004 WAPA began delivering the Tribe's CRSP power allocation; and
- WHEREAS,** once again it is time to apply for and negotiate a new allocation of hydroelectric power from WAPA and CRSP for the Tribe; and
- WHEREAS,** the Tribal Attorney has this day presented a Special Counsel Contract between the Tribe and Amy Mignella, as attached hereto and incorporated by this reference, so that she can once again assist the Tribe in obtaining a hydroelectric allocation ; and
- WHEREAS,** Ms. Mignella's fees have previously been paid out of the Colorado River Storage Project arrangement (the Ak-Chin Energy Benefit Account) which are funds received by the Tribe as a result of Ms. Mignella's services pursuant to Resolution No. 04-2005-83, as attached and incorporated by this reference; and
- WHEREAS,** the Tribal Attorney recommends that the Tribe retain Ms. Mignella to represent the Tribe in energy and other related matters and that her fees and expenses continue to be paid out of the Energy Benefit Account; and
- WHEREAS,** upon review and after consideration of the terms and conditions expressed in the proposed Contract, the Tribal Council finds that the Contract is in the best interests of the Tribe.

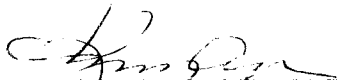
BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Special Counsel Contract between the Tribe and Amy Mignella, as attached and incorporated by this reference, is hereby approved.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances or Federal Laws, this Resolution shall be declared null and void and have no legal effect.


BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Acting Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution. In the event that the Chairman fails to delegate signatory authority to an Acting Chairman, the Vice-Chairman may sign.

The foregoing resolution was on APRIL 24, 2013 duly adopted by a vote of SEVEN for and ZERO against by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (b), (d), (i), (s), (t) and (u) of the Tribal Constitution, 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).



Ronnie Lupo, Chairman

5-2-13
Date



Mariddie J. Craig, Secretary

04/30/2013
Date

SPECIAL COUNSEL CONTRACT

THIS SPECIAL COUNSEL CONTRACT, made and entered into as of the _____ of April 2013 at Whiteriver, Arizona, by and between the White Mountain Apache Tribe (“TRIBE”) of the Fort Apache Indian Reservation, Whiteriver, Arizona and Amy T. Mignella (“SPECIAL COUNSEL”) of P.O. Box 44985, Phoenix, Arizona 85064.

WITNESSETH:

WHEREAS, THE WHITE MOUNTAIN APACHE TRIBE, under the authority vested therein and acting through its Tribal Council, adopted Resolution No. _____ on the ___ day of April, 2013, which Resolution is attached hereto and made a part hereof, thereby authorizing the TRIBE to contract with AMY T. MIGNELLA as SPECIAL COUNSEL; and

WHEREAS , AMY T. MIGNELLA wishes to serve as SPECIAL COUNSEL for the TRIBE.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, it is agreed as follows:

1. **Scope of Work.** It shall be the duty of SPECIAL COUNSEL to act and serve as the attorney for and on behalf of the TRIBE to obtain a contract for an allocation of Hoover hydroelectric power through the U.S. Department of Energy 2013-2014 remarketing of that resource and, in that regard, before any courts or tribunals, and national, state or local officials, departments, agencies, committees and legislative bodies. SPECIAL COUNSEL shall regularly consult with and advise the Tribal Attorney or his designee concerning the interests of the TRIBE in this respect.
2. **Compensation.** For and in consideration of all services rendered under this Agreement, TRIBE shall compensate SPECIAL COUNSEL as follows:

- a. Fees. In consideration of the services to be rendered, SPECIAL COUNSEL shall receive as compensation fees in the amount of \$175.00 per hour for work performed including associated travel time. No other payment of compensation or fees shall be made by the TRIBE to SPECIAL COUNSEL under this Agreement for legal services performed on behalf of the TRIBE except as may be expressly authorized by the Tribal Council.
 - b. Expenses. TRIBE shall reimburse SPECIAL COUNSEL for all reasonable and necessary expenses that she incurs in carrying out her duties under this Agreement, including but not limited to travel costs, long distance phone charges, event registration fees and the like, provided that SPECIAL COUNSEL presents to TRIBE an itemized account of such expenses in such form as TRIBE may require. Further, retention of SPECIAL COUNSEL under this Agreement shall entitle her to reimbursement of actual mileage expenses at the then current rate set by the Internal Revenue Service, including mileage for transit between Phoenix and Whiteriver or any other such office as the TRIBE may so direct.
 - c. Independent Contractor. SPECIAL COUNSEL shall at all times during the term of this Agreement be an independent contractor and accordingly not eligible for employment benefits, including but not limited to accrued leave, medical and pension benefits.
3. Assignment. No assignment of the obligation of this Agreement, in whole or in part, shall be made without the prior written approval of the Tribal Council by and through the Tribal Chairman nor shall any assignment or encumbrance of any interest in the compensation to be paid under this Agreement be made, without such consent; provided that if such assignment or encumbrance of any interest in the compensation to be paid is made in violation of the provisions of this paragraph, the Agreement may be terminated at the option of the TRIBE, and no attorney having any interest in the Agreement or other fee provide herein shall be

entitled to any compensation whatsoever for any services rendered or expenses incurred subsequent to the date of such termination.

4. Contract Duration and Termination.
 - a. This Agreement shall be in effect for a period of one (1) year commencing April xx, 2013 and shall continue until April xx, 2014, and may be renewed by the parties for an additional period as mutually agreed in writing.
 - b. Either party may terminate SPECIAL COUNSEL's retention under this Agreement for any or no reason on the submission of fifteen (15) days advance written notice to the other party.
 - c. SPECIAL COUNSEL shall receive payment of any unpaid fees and unreimbursed expenses accrued to and including the date of termination.
5. Dispute Resolution. The parties agree to submit all disputes, claims, or controversies that exist or that may arise between them in relation to this Agreement, and including without limitation all claims that the TRIBE or any of its agents engaged in conduct prohibited on any basis under any federal state, or local statute, ordinance, regulation, rule of decision, or principle of common law, to arbitration by a single arbitrator in the City of Phoenix, Arizona, through the American Arbitration Association procedures in effect at the time any party demands arbitration, or such other procedures as the parties may agree on. Judgment on the arbitration award will be final, binding, and conclusive on the parties and may be entered in any court having jurisdiction. By this Agreement, the parties do not intend to waive any of the substantive remedies to which they may be entitled under applicable law, but only to specify certain procedures for the prompt resolution of all disputes, claims, or controversies.
6. Entire Agreement. This Agreement contains all of the terms between the parties relating to the matters set forth. The parties have no other agreements relating to those matters, written or oral.

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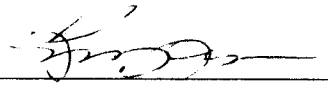
7. No Rule of Strict Construction. The language of this Agreement has been approved by both parties, and no rule of strict construction will be applied against either party.

DATED THIS _____ day of April _____, 2013.

SPECIAL COUNSEL

WHITE MOUNTAIN APACHE TRIBE
Whiteriver, Arizona

By: _____
Amy T. Mignella

By:  _____ 5-3-13
Ronnie Lupe, Chairman

Attest: _____

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

**(Approving the Use of the Energy Benefit Account Funds to Pay
the Expenses of Amy Mignella as Special Counsel)**

WHEREAS, on October 1, 2004, the Western Area Power Administration (Western) began delivering the Tribe's Colorado River Storage Project power allocation; and

WHEREAS, that power is currently being delivered to the Ak-Chin Indian Community (Community) as directed by an agreement between the Tribe, the Community and Western; and

WHEREAS, in exchange for these power deliveries, the Tribe gets a monthly credit from the Ak-Chin Electric Utility Authority; and

WHEREAS, that credit payment is currently deposited into the Tribe's Energy Benefit Account; and

WHEREAS, funds in that account may be expended on any Tribal purpose including but not limited to operating expenses; and

WHEREAS, personnel charges are a Tribal operating expense; and

WHEREAS, Amy Mignella has represented the Tribe on energy and other issues since 1998; and

WHEREAS, her time and expenses since then have been paid for largely through federal grants, the last one of which recently expired; and

WHEREAS, the Tribe continues to need representation on energy and related issues; and

WHEREAS, the Energy Benefit Account should be the first source of funds utilized to cover these expenses, including those for Ms. Mignella in her role as Special Counsel to the Tribe; and


WHEREAS, other funds should be utilized to cover these charges only as needed and as directed by Tribal staff with appropriate authority.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves the use of the Energy Benefit Account funds to pay the expenses of Amy Mignella as Special Counsel to the Tribe unless other funding is needed and payments from other Tribal accounts are directed by appropriately authorized Tribal staff.

The foregoing resolution was on APRIL 6, 2005 duly adopted by a vote of SEVEN for, ZERO against, and ONE abstention by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (d), (h), (i), (k), (s), (t) and (u) of the

Resolution No. 04-2005-83

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).



Chairman of the Tribal Council



Secretary of the Tribal Council