



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Approving Modification of Consultant Contract with HDR Engineering)

WHEREAS, the Tribal Council previously approved a Professional Services Contract (Contract) with HDR Engineering (HDR) on December 4, 2015, with an expiration date of June 1, 2016, and extended said Contract to June 30, 2018, pursuant to Resolution 05-2017-124, in order to perform the consulting duties described in said resolution; and

WHEREAS, Special Counsel Robert C. Brauchli, water rights attorney for the White Mountain Apache Tribe (Special Counsel), has requested that the HDR consulting contract be extended from June 30, 2018 through September 30, 2019, and that sufficient funding be set aside for HDR to complete the seepage modeling and Technical Memorandum required by the Bureau of Reclamation so that the design of the Dam and reservoir authorized in the White Mountain Apache Water Rights Quantification Act of 2010 (WMAT Water Rights Act) can be approved by the Secretary of the Interior; and

WHEREAS, Special Counsel advises the Tribal Council that HDR has provided valuable and essential expert advice to the Tribe in regards to geological and geotechnical subjects relating to the Miner Flat Dam component of the WMAT Rural Water System under BOR Cooperative Agreement No. R.11AV32054, including, but not limited to, facilitating communication between the Bureau of Reclamation and Gannett Fleming, the design firm for Miner Flat Dam, attending in person and by teleconference, necessary meetings between the WMAT, BOR, Gannett Fleming, the Consultant Review Board, the Tribal Council and other agencies, by reviewing the geologic and geotechnical conditions at the site for the Miner Flat Dam, and by preparing a complex three-dimensional seepage model of the proposed dam and reservoir as required by the Bureau of Reclamation, all of which has been necessary to complete the 30% design and obtain Secretarial approval for construction of the WMAT Rural Water System as authorized and funded in the White Mountain Apache Water Rights Quantification Act 2010; and

WHEREAS, the Tribal Council is advised that the completion of the ongoing technical assistance services set forth in the attached Summary of Work Authorizations (Summary), attached hereto and incorporated by reference herein, is necessary for completion of the seepage model and a Technical Memorandum to be delivered to the Bureau of Reclamation; and

WHEREAS, the Work Authorizations are now being performed by HDR and must be completed and approved by the Bureau of Reclamation before completion of the 30% design for the proposed dam and reservoir by Gannett Fleming can proceed, that upon completion of the 30% design, it will be submitted to the Secretary of the Interior for approval, and upon approval by the Secretary of the 30% design and the Environmental Impact Statement (EIS), the WMAT Water Rights Act will become enforceable and congressional funding mandated in the WMAT Water Rights Act may be released for the construction of the Rural Water System; and

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WHEREAS, the Tribal Council is further advised that the source of funding to pay HDR for the work to be performed during an extension of the Contract cannot, at this critical time, be from the current 638 Cooperative Agreement between the BOR and the WMAT for the Engineering, Planning and Design of the Miner Flat Dam Drinking Water System as those funds have been exhausted, and therefore, tribal funds in the estimated amount of \$335,450 must be set aside to pay HDR for the consulting work described in the attached Work Authorizations; and

WHEREAS, the Tribal Council is further advised that the WMAT Water Rights Team is negotiating with the Bureau of Reclamation the terms of a new Indian Self-Determination Act 638 contract to commence September 30, 2018, because the current 638 contract will expire as a matter of law on September 30, 2018, and that Reclamation will be assisting the WMAT financially pursuant to the new 638 contract, and from the Native American Water Rights Fund, to complete the 30% design of the proposed dam and reservoir and the required Environmental Impact Statement, and to help pay for any additional consulting services by HDR to respond to comments made by Reclamation to the Technical Memorandum delivered to Reclamation following that Agency's review; and

WHEREAS, the Tribal Council concludes that approval of a Contract Modification to extend the Professional Services Contract between the Tribe and HDR and to perform the attached Work Authorizations is in the immediate and best interests of the White Mountain Apache Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves an extension and modification of the Professional Services Contract between the Tribe and HDR Engineering from June 1, 2018 through September 30, 2019, for HDR to perform the Work Authorizations summarized in the attachment to this resolution and incorporated by reference herein.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes and directs the WMAT Attorney General, Special Counsel for Water Rights, and the Director of the Water Resources Department, to finalize the contract extension and modification with HDR Engineering in substantially the same form attached to this Resolution for the purpose of carrying out the directive in this Resolution for the performance of the Summary of Work Authorizations.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes and directs that the sum of \$335,450 in tribal funds be set aside for the purpose of paying HDR Engineering for the work authorized herein for the completion of the Three-Dimensional Modeling, Technical Memorandum, and such other tasks described in the attached Summary of Work Authorizations, said payments to HDR Engineering to be administered and accounted for by the Director of the WMAT Water Resources Department.

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 any material facts concerning the issues presented are later found to be false, this Resolution shall be deemed null and void and have no legal effect.

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.

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BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the Tribal Chairwoman, and, in her absence, the Vice Chairman, to execute a contract extension and modification with HDR Engineering substantially in the form attached hereto, and to execute any future contract extensions and budget modifications with HDR Engineering for the purposes set forth in this resolution and the attached Summary of Work Authorizations.

The foregoing resolution was on **JULY 18, 2018** duly adopted by a vote of **EIGHT** for, **ZERO** against, and **ZERO** abstentions by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it under the enumerated powers listed in Article IV, Section 1 of the WMAT Constitution, so ratified on September 30, 1993, and federally recognized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).

 7/31/18  7-31-18
Gwendena Lee-Gatewood, Chairwoman Date Doreen T. Numkena, Tribal Secretary Date