



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Approving Contract of the WMAT RWS Engineer-of-Record Morrison-Maierle, Inc. for the 30% and Final Designs of the Pipeline of the Rural Water System Project)

- WHEREAS,** The Constitution of the White Mountain Apache Tribe (“Tribe”) of the Fort Apache Indian Reservation (“Constitution”) provides, in Article IV, Section 1(a) that the Tribal Council (“Council”) shall exercise the power “[t]o represent the Tribe and act in all matters that concern the welfare of the Tribe, and to make decisions not inconsistent with or contrary to this constitution”, in Section 1(b), the power “[t]o negotiate, make and perform contracts and agreements of every description, not inconsistent with federal law or this constitution, with any person, association, or corporation...”, and in Section 1(f), the power “[t]o protect and preserve the...water rights of the Tribe”; and
- WHEREAS,** In 2010, Congress passed the White Mountain Apache Tribe Water Rights Quantification Act (Pub. L. 111-291, Title III, 124 Stat. 3073) (“Act”), which settled the Tribe’s water right claims against the federal government and a number of Arizona state parties, and provided federal funding to construct the WMAT Rural Water System (“RWS”); and
- WHEREAS,** A condition of enforceability of the Act is the issuance of a Record of Decision (“ROD”) by the Secretary of the Interior, along with a statement of findings published in the Federal Register after the completion of 30% design of the RWS and an environmental impact statement in order for the funding in the Act for the construction of the RWS Project and funding for the design and other pre-construction work for the RWS Project to be released; and
- WHEREAS,** P.L. 117-342 (January 5, 2023) was enacted “[t]o amend the White Mountain Apache Tribe Water Rights Quantification Act of 2010 [Title III, P.L. 111-291] to modify the enforceability date for certain provisions, and for other purposes”, including an extension of the Enforceability Date to December 31, 2027, and an increase in the federal funding from \$11 million to \$541 million to complete all elements of the WMAT Rural Water System; and
- WHEREAS,** The Tribe’s Rural Water System Project includes the planning, design, and construction of (1) a Roller Compacted Concrete (“RCC”) dam at the Miner Flat Dam site, (2) pipelines, pumping stations, reservoirs, and related facilities between a new water treatment plant north of Whiteriver and the community of Cibecue, and (3) an enlarged and modified intake on the North Fork of the White River and an enlarged and modified water treatment plant at the site of the current plant as components; and
- WHEREAS,** Through a competitive, qualification-based procurement process in accordance with the WMAT Financial Policies and federal procurement requirements, the Tribe selected and entered into negotiated contracts with consultants to serve as the engineers-of-record for each component of the RWS project, including a contract with Morrison-Maierle, Inc.

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(“Consultant”) to serve as the Engineer-of-Record for the design of the RWS pipeline that was approved by the Tribal Council and entered into on May 15, 2012; and

WHEREAS, In March 2015, the Tribe completed the 30% WMAT RWS report entitled “*Feasibility Design Report for Miner Flat Municipal Water Pumping Plants, Pipeline and Storage Tanks (Distribution System)*” through the work product of Morrison-Maierle; and

WHEREAS, The Tribe now seeks to re-contract with Consultant Morrison-Maierle, Inc., the official Engineer of Record (“EOR”) for the WMAT RWS pipeline to continue professional technical consulting services contracted previously, including the update of construction costs in the 30% pipeline design to January 2024 dollars; and

WHEREAS, The proposed contract between the Tribe and the Consultant will extend to September 30, 2025, with an option to renew upon mutual agreement between the parties, and will be included in the P.L. 93-638 contract between WMAT and the Bureau of Reclamation; and

WHEREAS, The Council recognizes the urgent need to complete the WMAT Rural Water System in order to provide water to its members and residents of the Fort Apache Indian Reservation while also recognizing the necessity of completing the requirements for the Secretary of the Interior to issue a statement of findings prior to the enforceability date in order to obtain access to the congressionally authorized funding necessary to construct the WMAT RWS, and thus finds that the approval of the contract with the Tribe’s RWS Consultants to complete requirements for 30% and final pipeline designs of the WMAT Rural Water System is in the best interests of the Tribe and its members.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves entering into a contract with Morrison-Maierle, Inc. as a WMAT Rural Water System Consultant and Engineer-of-Record for the RWS Pipeline Design, in accordance with the contract attached and incorporated herein by reference.

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.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Vice-Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on MAY 07, 2024 duly adopted by a vote of TEN 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

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November 10, 2021, and federally recognized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).

Kasey Velasquez 5.7.2024
Kasey Velasquez, Chairman Date

Vanessa Johnson 05/13/2024
Vanessa Johnson, Tribal Secretary Date