



Resolution No. 01-2025-12

WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Approving Construction Agreement between Hon-Dah Resort Casino and D.G. Fenn Construction, Inc., in the Amount of \$568,682.71, for the Demolition of the Old Convenience Store/Gas Station, and Authorizing a Limited Waiver of the Casino's Immunity for Dispute Resolution Purposes)

- WHEREAS,** The Constitution of the White Mountain Apache Tribe ("Tribe") of the Fort Apache Indian Reservation provides, at Article IV, Section 1(s) that the Tribal Council ("Council") shall exercise the power, "To...regulate subordinate organizations for economic and other purposes"; and
- WHEREAS,** The Hon-Dah Resort Casino ("Casino") has completed the construction of the new convenience store and gas station for the Casino; and
- WHEREAS,** With the completion of the new convenience store and gas station, the next stage of the project is the demolition of the Casino's old convenience store and gas station; and
- WHEREAS,** The Casino this day requests approval by the Council of an AIA A104 Construction Agreement, as attached and incorporated by this reference, with D.G. Fenn Construction, Inc., to perform the demolition of the Casino's old convenience store and gas station for a total contract price of \$568,682.71; and
- WHEREAS,** The Construction Agreement requires arbitration by the Casino for disputes arising under the Agreement, which in turn requires a limited waiver of the sovereign immunity of the Hon-Dah Resort Casino for such purposes; and
- WHEREAS,** The Agreement requires approval by January 31, 2025 to hold the contract price; and
- WHEREAS,** The Council finds that approving the Casino's request, as described above, would allow the Casino to complete the demolition of the old convenience store and gas station, and in turn allow for development of the former site which is in best interests of the Tribe and its members; and
- WHEREAS,** Given the urgency of the request described herein, the Council further finds that the AIA A104 Construction Agreement needs to be considered and made outside of its regularly scheduled meeting; and
- WHEREAS,** The Tribal Council further finds that: (1) this Resolution may be voted upon by signature of a member of the Tribal Council where a signature indicates a vote for this Resolution, (2) the Tribal Council Secretary or her designee should attempt to obtain signatures for

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members of the Tribal Council personally, (3) no signature would mean that the respective Tribal Council member is against this Resolution, (4) the Tribal Council Secretary or her designee should wait no longer than a reasonable period of time to obtain a vote by signature or by no signature and so indicate that this Resolution was presented to the respective member of the Tribal Council for a vote.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves the AIA A104 Construction Agreement, as attached and incorporated by this reference, between D.G. Fenn Construction, Inc., and Hon-Dah Resort Casino to perform the demolition of the Casino's old convenience store and gas station for a total contract price of \$568,682.71.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that a limited waiver of the sovereign immunity for the Hon-Dah Resort Casino pursuant to the AIA A104 Construction Agreement is hereby approved solely for arbitration dispute resolution purposes.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that nothing in the AIA A104 Construction Agreement, as attached and incorporated by this reference, or related documents between the Hon-Dah Resort Casino and D.G. Fenn Construction, Inc., shall constitute an expressed or implied waiver of the White Mountain Apache Tribe's sovereign immunity.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Tribal Council authorizes the Tribe's Attorney General or the Hon-Dah Resort Casino's Legal Counsel, with the authorization from the Tribe's Attorney General, to make minor corrective and clarifying changes to the AIA A104 Construction Agreement, as attached and incorporated by this reference.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that given the urgency of the request described herein, this Resolution may be voted upon as follows: (a) by signature of a member of the Tribal Council, including the Chairman of the Tribal Council and the Vice-Chairman of the Tribal Council, where a signature indicates a vote for this Resolution, (b) the Tribal Council Secretary or her designee shall attempt to obtain signatures for members of the Tribal Council personally, (c) no signature shall mean that the respective Tribal Council member is against this Resolution, (d) the Tribal Council Secretary or her designee should wait no longer than a reasonable period of time to obtain a vote by signature or by no signature, and so indicate that this Resolution was presented to the respective member of the Tribal Council for a vote.

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 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 JANUARY 30, 2025 duly adopted by a vote of 7 for, 0 against, and 0 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 November 10, 2021, and federally recognized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).

Kasey Velasquez 1.30.25
Kasey Velasquez, Chairman Date

Vaneysa Johnson 01/30/2025
Vaneysa Johnson, Tribal Secretary Date

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Signatures of the members of the Tribal Council represent their approval of Tribal Council Resolution initiated the 30th day of January, 2025.

**Presented Personally by Tribal Council
Secretary (TCS)-Indicated by Initials**

Kasey Velasquez 1-30-25 ij TCS Initials
Kasey Velasquez
Tribal Chairman

Jerome Kasey, III
Vice Chairman

Date Signed

TCS Initials

Tony Alsenay 1-30-2025 ij TCS Initials
Tony Alsenay
District I Council Member

Travis J. Tessay, Sr. 1-30-2025 ij TCS Initials
Travis J. Tessay, Sr.
District I Council Member

Elva Lomayaktewa 1-30-2025 ij TCS Initials
Elva Lomayaktewa
District II Council Member

Renaldo Dazen
District II Council Member

Date Signed

TCS Initials

Ivan Walker, Jr.
District III Council Member

Date Signed

TCS Initials

Annette Tenijieth 1-30-2025 ij TCS Initials
Annette Tenijieth
District III Council Member

Gary Alchesay
District IV Council Member

Date Signed

TCS Initials

Mariddie Craig 01-30-2025 ij TCS Initials
Mariddie Craig
District IV Council Member

Cairo Clay 1-30-2025 ij TCS Initials
Cairo Clay
District IV Council Member

ATTEST:

Vaneysa Johnson
Vaneysa Johnson, Tribal Council Secretary

01/30/2025
Date Signed