

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

WHEREAS, David M. Osterfeld, attorney-at-law, has approached the Tribal Council this day with a proposal to perform legal services for the Tribe in the interim period between the departure of former Acting Tribal Attorney Richard Engler, and the employment of a full-time in-house Tribal Attorney; and

WHEREAS, the Tribal Council acknowledges that David M. Osterfeld has previously served the Tribe in the role of Assistant Tribal Attorney and in such role was familiar with the Tribe's laws and Constitution and its departments and enterprises and most members of the Tribal Council as composed this day; and

WHEREAS, David Osterfeld has advised the Tribal Council that he will be available to work on site at the Legal Department on a biweekly rotation, meaning that he will be present "on-sight" in the Legal Department every other week, with the remainder of the time spent working in the greater Phoenix area, due to personal obligations to which Mr. Osterfeld must attend; and

WHEREAS, the Tribal Council acknowledges that while in Phoenix, Mr. Osterfeld shall perform services for the Tribe for a reduced hourly rate and shall be accessible via his home telephone, a Tribal cell phone and his personal internet home connection; and

WHEREAS, the Tribal Council has advised David Osterfeld that, in addition to his duties to oversee the Legal Department and act as a legal advisor to the Tribe and its departments and enterprises, the Tribal Council as a whole and the Tribal Chairman on a daily basis, he shall make every effort to recruit a qualified attorney to serve as the Tribe's in-house Tribal Attorney; and

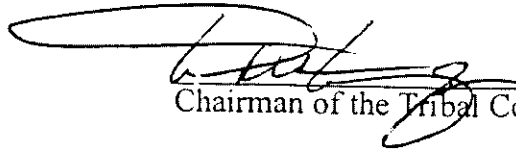
WHEREAS, the Tribal Council finds that the services of a lawyer are needed for the period of time during which it will locate and employ a Tribal Attorney to replace Richard Engler.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes a Special Counsel Contract between David M. Osterfeld and the White Mountain Apache Tribe, and hereby delegates authority to the Tribal Chairman, or in his absence, the Vice-Chairman, to negotiate the final terms of the Special Counsel Contract between the Tribe and David M. Osterfeld as Special Counsel to the Tribe.

The foregoing resolution was on MAY 20, 2004 duly adopted by a vote of SIX for and FOUR against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in by Article IV, Section 1 (a), (i), (s), (t), and (u) of the Constitution of the Tribe, ratified by the

Resolution No. 05-2004-89

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

SPECIAL COUNSEL
EMPLOYMENT CONTRACT

Symbol No. _____

Contract No. _____

THIS SPECIAL COUNSEL ATTORNEY CONTRACT, made and entered into as of the 18th day of May, 2004, at Whiteriver, Arizona, by and between DALLAS MASSEY, SR., Chairman, acting for and on behalf of the White Mountain Apache Tribe of the Fort Apache Indian Reservation, Whiteriver, Arizona and DAVID M. OSTERFELD.

WITNESSETH:

WHEREAS, THE WHITE MOUNTAIN APACHE TRIBE, hereinafter referred to as the TRIBE, under the authority vested therein, and acting through the Tribal Council of the White Mountain Apache Tribe, adopted Resolution No. 05-2004-89 on the 20th day of May, 2004, which Resolution is attached hereto and made a part hereof, thereby authorizing the TRIBE to contract with and employ DAVID M. OSTERFELD as Special Legal Counsel, hereinafter referred to as Special Counsel, in the matters hereinafter described; and

WHEREAS, DAVID M. OSTERFELD 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. It shall be the duty of DAVID M. OSTERFELD, hereinafter referred to as SPECIAL COUNSEL, to provide general supervision of the Legal Department of the White Mountain Apache Tribe, to act and serve as SPECIAL COUNSEL for and on behalf of the TRIBE in legal matters affecting or involving the TRIBE and before any courts or tribunals, national, state

or local departments, agencies, committees and legislative bodies. SPECIAL COUNSEL shall have the sole discretion to refuse to provide legal advice and services in connection with any assignment or direction for work which SPECIAL COUNSEL believes will disadvantage the interests of the TRIBE and its various officials, departments, enterprises, agents and assigns.

2. SPECIAL COUNSEL, in the performance of the duties required under this contract, shall be subject to the supervision and direction of the Tribal Council of the TRIBE through its Chairman.

3. In consideration of the services to be rendered, SPECIAL COUNSEL shall receive as legal fees, compensation in the amount of \$110.00 per hour of services conducted while present within the exterior boundaries of the Fort Apache Indian Reservation or while on official travel for the TRIBE and outside of the exterior boundaries of the Fort Apache Indian Reservation, and \$80.00 per hour of work conducted off site from the Fort Apache Indian Reservation in Buckeye, Arizona, such fees to be billable on a weekly basis, and specifically including time spent for legal research, factual investigations, trial preparation and negotiations, appearances before judicial or other tribunals, the Tribal Council or tribal committees and commissions and others as necessary for the performance of SPECIAL COUNSEL's duties under this Contract; PROVIDED that Special Counsel shall receive legal fees, compensation for actual travel time required under this Contract, in the amount of \$50.00 per hour, not to exceed \$400.00 in any one day; PROVIDED FURTHER THAT all sums billable hereunder for legal fees shall not exceed in payment, the amount of \$15,000.00 in any one calendar month, without the prior written approval of the Tribal Council, by and through the Tribal Chairman. The TRIBE shall be entitled to reduce the hourly rates identified above by \$10.00 per hour PROVIDED THAT THE TRIBE remits payment to Special

Counsel on or before the due date identified in each billing statement and invoice which Special Council submits to the TRIBE.

SPECIAL COUNSEL shall additionally be paid for all necessary and reasonable expenses, including travel expenses, long distance telephone calls and telegrams, photostats, court costs, depositions, exhibits, blueprinting, and any reproduction, title searches and like expenses; but not including expenses such as rent, light, heat and stenographical or clerical services. It is mutually agreed that in the event the SPECIAL COUNSEL should use his privately owned vehicle in the performance of his duties under this Agreement, he shall be compensated for the use of said vehicle at such rate as is established by the Tribal Council for the TRIBE. Any expenses incurred by the SPECIAL COUNSEL shall not be payable hereunder by the TRIBE in excess of Ten Thousand Dollars (\$10,000.00) per annum, unless additional amounts are authorized by the Tribal Council and approved by the Secretary of the Interior or his authorized representative. Except in emergency situations, advance approval shall be obtained for such additional amounts. Payment of compensation and reimbursement of expenses incurred pursuant to this contract shall be made only upon submission of proper vouchers to the TRIBE, provided that necessary and reasonable filing fees, bond, or related costs payable to a court or other tribunal in advance of initiating or defending the position of the TRIBE before such entity, may be paid through SPECIAL COUNSEL'S account, in trust, without such prior approval.

It is further understood and agreed that the SPECIAL COUNSEL shall be reimbursed at the rate of One Hundred Fifty Dollars (\$150.00) per day that SPECIAL COUNSEL is away overnight from Buckeye, Arizona and outside of the Fort Apache Indian Reservation; said sums to be paid from the expenses allowance herein provided. Further, SPECIAL COUNSEL shall be

reimbursed at the rate of One Hundred Dollars (\$100) per day that SPECIAL COUNSEL is away overnight from Buckeye, Arizona and present within the Fort Apache Indian Reservation. The Tribe agrees that should it provide housing suitable to SPECIAL COUNSEL for times when SPECIAL COUNSEL is away from Buckeye, Arizona and present within the Fort Apache Indian Reservation, SPECIAL COUNSEL shall only be reimbursed at the rate of \$40.00 per day for per diem. For any travel, as set forth in Payment of compensation and reimbursement of expenses incurred pursuant to this Contract shall be made only upon submission of proper itemized vouchers to the TRIBE; provided that necessary and reasonable filing fees, bond, or related costs payable to a court or other tribunal in advance of initiating or defending the position of the TRIBE before such entity, may be paid through SPECIAL COUNSEL'S account, in trust, without such prior approval.

4. It is further understood and agreed that the compensation for services specified in Paragraph (3) constitutes compensation for services involved in prosecution, litigation, negotiation, research and representation of the Tribe of appearance in congressional or Tribal or State hearings, tribunals and courts, and travel within or without Arizona, or places outside Tucson, Arizona, on behalf of the Tribe unless otherwise directed by the Tribe.

■ It is understood and agreed that SPECIAL COUNSEL shall not be required to dedicate full time service to the TRIBE, except as this contract authorizes and as the parties hereto agree.

5. No assignment of the obligation of this Contract, in whole or in part, shall be made without the prior written approval of the Tribal Council by and through the Tribal Chairman or his duly authorized representative; nor shall any assignment or encumbrance of any interest in the compensation to be paid under this contract 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 contract may be terminated at the option of the TRIBE, and no attorney having any interest in the contract or other fee provided herein shall be entitled to any compensation whatsoever for any services rendered or expenses incurred subsequent to the date of such termination.

6. This contract may be terminated by either party by giving thirty (30) days written notice to the other party, and if the contract shall be so terminated, the SPECIAL COUNSEL shall receive such compensation as the TRIBAL CHAIRMAN, or his designate, may determine equitably to be due to and including the date of termination.

7. The SPECIAL COUNSEL shall provide the TRIBE, through the TRIBAL CHAIRMAN, a written report of the services rendered to the TRIBE not less frequently than annually and at such times as may be requested by the TRIBE.

8. This contract shall be in effect for a period of two (2) years commencing May 18, 2004 and shall continue until May 19, 2006.

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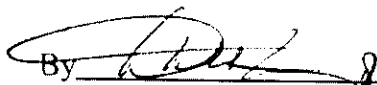
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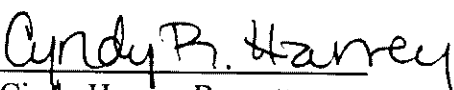
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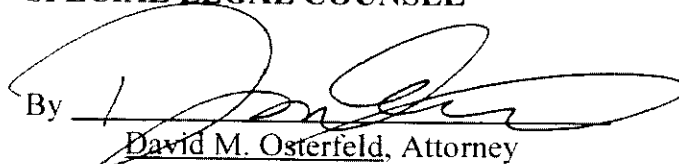
DATED THIS 20th day of May, 2004.

WHITE MOUNTAIN APACHE TRIBE
Whiteriver, Arizona

By 
Dallas Massey, Sr., Chairman of
the Tribal Council
P.O. Box 700
Whiteriver, AZ 89541
(520) 338-1560

Attest: 
Cindy Harvey Burnette,
Secretary of the Tribal Council

SPECIAL LEGAL COUNSEL

By 
David M. Osterfeld, Attorney
19319 W. Taylor
Buckeye, Arizona 85326
(623) 327-1799
E-mail: osterfeld.law@earthlink.net

CERTIFICATION

Attorney stipulates that he is a fully licensed member in good standing of the bar of the State of Arizona, and to the best of his knowledge no disciplinary proceedings have been instituted against him by any bar association of any jurisdiction of the United States or its territories which are pending and/or unresolved and he has not been disbarred or suspended from the practice of law in any jurisdiction in the United States or its territories.

SPECIAL COUNSEL

By 

DAVID M. OSTERFELD