



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Authorizing Limited Waiver of Immunity for Enforcement of IGA with ADOT for Project No. H8926 01D/01C)

WHEREAS, the White Mountain Apache Tribe ("Tribe") intends to enter into an Intergovernmental Agreement ("IGA") with the State of Arizona Department of Transportation ("ADOT") for ADOT Project No. H8926 01D/01C; and

WHEREAS, ADOT will administer the design and construction of two pedestrian crossings in Whiteriver, Arizona at SR 73 MP 338.23 and MP 339.09 ("Project"). The Tribe will contribute a fixed amount of \$100,000.00 to the Project and be responsible for the electrical energy cost; and

WHEREAS, as a provision of the IGA, the Tribe must agree to a limited waiver of sovereign immunity, which is provided in the language of the IGA as follows:

For purposes of this Agreement, and subject to the terms of this section, the Tribe, consents and agrees to a limited waiver of its sovereign immunity from suit and consents to be sued on an arbitration award. The Tribe represents that this limited waiver of sovereign immunity has been duly approved by the Tribe's Tribal Council, as authorized by the Arbitration and Sovereign Immunity Acts of the Tribe. The Tribe is not waiving its right to assert the defense of sovereign immunity except as expressly set forth, referred to, and provided for, in this Agreement. This limited waiver is enforceable solely by the State as limited in this Agreement and does not create any additional third party beneficiary rights to suits or private causes of action in favor of third Parties. The Parties agree that this section provides a limited waiver of sovereign immunity solely for the purpose of enforcing the provisions of this Agreement and enforcing any arbitration award and for no other purpose; and

WHEREAS, as a provision of the IGA, the Tribe must agree that any claim or dispute submitted to binding arbitration shall be governed by the laws of the State of Arizona for purposes of enforcing the provisions as outlined in the IGA; and

WHEREAS, the Tribal Council finds it in the best interest of the Tribe to enter into the IGA with ADOT and shall authorize a limited waiver of sovereign immunity for enforcement of any claim or dispute arising under the binding arbitration provisions of the IGA. The terms of the agreement shall be governed by the laws of the State of Arizona for the duration of the Project, and in the event that arbitration is required after completion of the project.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes this IGA for ADOT Project No. H8926 01D/01C, which includes a limited waiver of

Resolution No. 10-2016-216

sovereign immunity and any claim or dispute that arises under the terms of the agreement shall be submitted to binding arbitration and shall be governed by law of the State of Arizona, as authorized by the Limited Waiver of Immunity included hereto.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the limited waiver language in the IGA as follows:

For purposes of this Agreement, and subject to the terms of this section, the Tribe, consents and agrees to a limited waiver of its sovereign immunity from suit and consents to be sued on an arbitration award. The Tribe represents that this limited waiver of sovereign immunity has been duly approved by the Tribe's Tribal Council, as authorized by the Arbitration and Sovereign Immunity Acts of the Tribe. The Tribe is not waiving its right to assert the defense of sovereign immunity except as expressly set forth, referred to, and provided for, in this Agreement. This limited waiver is enforceable solely by the State as limited in this Agreement and does not create any additional third party beneficiary rights to suits or private causes of action in favor of third Parties. The Parties agree that this section provides a limited waiver of sovereign immunity solely for the purpose of enforcing the provisions of this Agreement and enforcing any arbitration award and for no other purpose; and

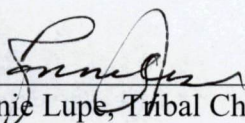
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the Tribal Chairman or his designee to undertake any other actions necessary to enter into the IGA and execute and complete the Project.

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 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.

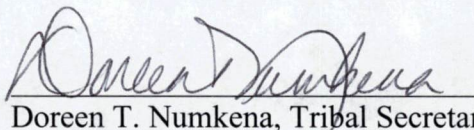
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

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 **OCTOBER 19, 2016** duly adopted by a vote of **TEN** for, **ZERO** against, and **ONE** 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).


Ronnie Lupe, Tribal Chairman

10-19-16
Date


Doreen T. Numkena, Tribal Secretary

10-19-2016
Date