



# WHITE MOUNTAIN APACHE TRIBE

## A Sovereign Tribal Nation

**(Approving Construction Agreement between Hon-Dah Resort Casino and DG Fenn Construction Inc., in the Amount of \$8,676,776.21, for Construction of a New Convenience Store/Gas Station, and Authorizing a Limited Waiver of the Tribe's Immunity)**

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- 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,** Hon-Dah Resort-Casino ("Hon-Dah") is a wholly-owned economic enterprise of the Tribe; and
- WHEREAS,** Hon-Dah previously presented to the Council, regarding plans to construct a new larger gas station/convenience store on the North side of Highway 260 ("Project"), and received the Council's approval of this plan; and
- WHEREAS,** From amongst bidders, Hon-Dah selected DG Fenn Construction Inc., of Phoenix, AZ, as the General Contractor and Robert Page as the Project architect; and
- WHEREAS,** Hon-Dah and DG Fenn Construction Inc. have negotiated an Agreement for Construction Services (attached and incorporated herein by reference) in the amount of \$8,676,776.21 for the Project; and
- WHEREAS,** The Agreement requires a limited waiver of the Tribe's sovereign immunity, as regards to Hon-Dah only, and conflicts over those rights and obligations provided for by the Agreement, and only to allow arbitration and a potential suit in Tribal Court to enforce an arbitrator's judgment; and
- WHEREAS,** Council has reviewed the draft Agreement and finds that approving it, with the limited waiver of immunity, will enable construction of this important project and is in the best interests of the Tribe and its members; and
- WHEREAS,** Given the urgency of the request described herein, the Tribal Council further finds that this needs to be considered and made outside of its regularly scheduled meeting; and
- WHEREAS,** The 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 should attempt to obtain signatures for members of the Tribal Council personally; (3) no signature means that the respective Tribal Council member is against this Resolution, and; (4) the Tribal Council Secretary 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.

**Resolution No. 09-2023-216**

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the attached Agreement for Construction services between the Tribe and D.G. Fenn Construction Incorporated for the construction of the new expanded gas station/convenience store is hereby approved.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the limited waiver of Hon-Dah's sovereign immunity for the purposes of arbitration and enforcement of a judgment thereof, and only into White Mountain Apache Tribal Court, is hereby authorized.

**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 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 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.

**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 SEPTEMBER 20, 2023 duly adopted by a vote of 8 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      9.20.2023  
Kasey Velasquez, Chairman      Date

Vaneysa Johnson      9/20/2023  
Vaneysa Johnson, Tribal Secretary      Date

**Resolution No. 08-2023-216**

Signatures of the members of the Tribal Council represent their approval of Tribal Council Resolution  
Initiated the 20TH day of SEPTEMBER, 2023. Presented Personally by Tribal  
Council

Secretary (TCS)-Indicated by Initials

Kasey Velasquez 9.20.2023 ij TCS Initials  
Kasey Velasquez  
Tribal Chairman  
Date Signed

Jerome Kasey, III 20SEP23 ij TCS Initials  
Jerome Kasey, III  
Vice Chairman  
Date Signed

\_\_\_\_\_  
Date Signed \_\_\_\_\_ TCS Initials  
Arnold Beach, Sr.  
District I Council Member

\_\_\_\_\_  
Date Signed \_\_\_\_\_ TCS Initials  
Travis J. Tessay, Sr.  
District I Council Member

Jerold Altaha 9-19-23 ij TCS Initials  
Jerold Altaha  
District II Council Member  
Date Signed

Renaldo Dazen 20 Sept 23 ij TCS Initials  
Renaldo Dazen  
District II Council Member  
Date Signed

Aubrey Aday, Sr. 9/20/23 ij TCS Initials  
Aubrey Aday, Sr.  
District III Council Member  
Date Signed

Annette Tenijieth 09-20-2023 ij TCS Initials  
Annette Tenijieth  
District III Council Member  
Date Signed

Gary Alchesay 09-20-2023 ij TCS Initials  
Gary Alchesay  
District IV Council Member  
Date Signed

Mariddie Craig 09.20.2023 ij TCS Initials  
Mariddie Craig  
District IV Council Member  
Date Signed

\_\_\_\_\_  
Date Signed \_\_\_\_\_ TCS Initials  
Verna Westover  
District IV Council Member

ATTEST:

Vaneyssa Johnson  
Vaneyssa Johnson Tribal Council Secretary

9/20/2023  
Date Signed