

## RESOLUTION NO. 2024-34

### A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL AUTHORIZING APPROVAL OF THE NORTHEASTERN ARIZONA INDIAN WATER RIGHTS SETTLEMENT AGREEMENT

#### RECITALS:

WHEREAS, the City of Flagstaff (City) and multiple other parties are actively engaged in the case known as, In Re: The General Adjudication of All Rights to Use Water in the Little Colorado River General Adjudication, CV 6417 (“Adjudication”); and In re: Hopi Reservation HSR, Contested Case No. CV 6417-203; and In re: Navajo Nation, Contested Case No. CV 6417-300;

WHEREAS, the Northeastern Arizona Indian Water Rights Settlement Agreement (“Agreement”) dated as of May 9, 2024, resolves certain water rights disputes in the Adjudication, and specifically the Navajo Nation, the Hopi Tribe, the San Juan Southern Paiute Tribe, and the United States acting as trustee for each Tribe;

WHEREAS, the Hopi Tribe approved the Agreement on May 20, 2024, the Navajo Nation approved the Agreement on May 23, 2024, and the San Juan Southern Paiute approved the Agreement on May 23, 2024;

WHEREAS, the City has determined it is in the best interests of the City to enter into the Agreement and end protracted and costly litigation related to the water rights claims of the Navajo Nation, the Hopi Tribe, the San Juan Southern Paiute Tribe, and the United States acting as trustee for each Tribe;

WHEREAS, the Agreement anticipates federal funding for needed water supply infrastructure projects benefiting the Navajo Nation, the Hopi Tribe, and the San Juan Southern Paiute Tribe;

WHEREAS, the Agreement will confirm, among the Parties to the Agreement, certain surface water rights and groundwater rights for the City;

WHEREAS, certain exhibits to the Agreement must be completed or updated before execution of the Agreement by the Parties, including the City’s Exhibits set forth in Attachment A;

WHEREAS, in 2005 and with 71% voter approval, the City acquired Red Gap Ranch, located approximately 35 miles east of Flagstaff, for the purpose of developing its future municipal water supply and to provide water resiliency and water security for its residents;

WHEREAS, the City has invested millions of dollars in acquiring Red Gap Ranch for a municipal water supply project and continues to invest in the development of a Regional Water Supply Project by conducting engineering feasibility studies, design plans, hydrology studies and by having drilled no less than ten (10) additional Wells at Red Gap Ranch for municipal use;

WHEREAS, in 2011, and in anticipation of a comprehensive water rights settlement that did not materialize at that time, the City entered into a stipulation with the Navajo Nation regarding Red Gap Ranch; however, that 2011 stipulation was never submitted to the Adjudication court for binding effect and enforcement as between the parties to the 2011 stipulation and by its own terms remains null and void;

WHEREAS, there is no new stipulation or other agreement between the City and the Navajo Nation regarding Red Gap Ranch included as an exhibit to the Agreement;

WHEREAS, Paragraph 9.0 of the Agreement establishes two groundwater “Buffer Zones”;

WHEREAS, the vast majority of Red Gap Ranch is located in these two Buffer Zones, and only one parcel of Red Gap Ranch fee land is located outside of these Buffer Zones;

WHEREAS, Paragraph 9.0 of the Agreement provides for the right to use groundwater from Existing Wells in the two Buffer Zones;

WHEREAS, in Paragraph 9.0 of the Agreement, Existing Wells located in Buffer Zone 1 and Buffer Zone 2 as of the Effective Date will be catalogued by the Arizona Department of Water Resources based on the capacity of the Well or Well casing sizes provided in Table 1 of subparagraph 9.4.1;

WHEREAS, in Buffer Zone 1 on Red Gap Ranch, the City owns eleven (11) Existing Wells with a total pumping capacity of 2,912 acre-feet per year, as further described on Attachment B;

WHEREAS, in Buffer Zone 2 on Red Gap Ranch, the City owns sixteen (16) Existing Wells with a total pumping capacity of up to 19,003 acre-feet per year, as further described on Attachment B;

WHEREAS, Paragraph 9.0 of the Agreement allows for the replacement of Existing Wells;

WHEREAS, Paragraph 9.0 of the Agreement allows for the drilling of New Wells, subject to certain requirements;

WHEREAS, there are no restrictions on withdrawals of groundwater from Wells located outside the Buffer Zones;

WHEREAS, the Regional Water Supply Project is a critical component of the City’s future water supply and necessary for the City’s water resiliency and water security needs;

WHEREAS, the Regional Water Supply Project is also an important component of the Agreement because Paragraph 12.0 allows the Navajo Nation to have access to the Regional Water Supply Project by entering into Water Supply Contracts with the City as described the Agreement;

WHEREAS, in Paragraph 9.0 of the Agreement, the Arizona State Land Department agrees to coordinate with the City regarding the drilling of New Wells on Arizona State Land Department parcels in and around Red Gap Ranch for the benefit of the Regional Water Supply Project;

WHEREAS, the City continues to identify, in coordination with the Arizona Department of Transportation, and with further anticipated input from regional participants including the Navajo Nation, the Hopi Tribe and the Arizona State Land Department, various Points of Access to the Regional Water Supply Project at ADOT intersections along the Interstate 40 corridor, or at other mutually beneficial locations;

WHEREAS, to further the development of the Regional Water Supply Project, the City is seeking federal funding on a cost-share basis.

**ENACTMENTS:**

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

SECTION 1. General.

The City Council hereby approves the Northeastern Arizona Indian Water Rights Settlement Agreement in substantial form, subject to the express inclusion of the correct City Exhibits attached to this Resolution.

SECTION 2. Delegation of Authority.

FURTHER authorizing and directing the City Attorney to make such conforming or other changes as might be required and consistent with the Agreement before formal execution of the Agreement by the City.

FURTHER authorizing and directing the City Manager and City Attorney to take such other actions as are necessary to carry out the purpose of this Resolution.

FURTHER authorizing and directing the City Manager and City Attorney to seek federal funding on a cost-share basis for the further development of the Regional Water Supply Project described in the Agreement, and by other legislation, grants or viable funding sources.

SECTION 3. Effective Date.

This Resolution shall be immediately effective.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 2nd day of July, 2024.

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MAYOR

ATTEST:

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CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

Exhibits:  
Attachment A  
Attachment B