

## WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Redelegation of Authorization for PL 93-638 Contracting to White Mountain Apache Behavioral Health Services, for Behavioral and Mental Health Annual State and Federal Funding Agreements)

WHEREAS,

pursuant to Article IV, Section 1(a), and 1(s) of the Constitution of the White Mountain Apache Tribe ("WMAT"), *inter-alia*, the Tribal Council ("Council"), is authorized to represent the general welfare and interests of the White Mountain Apache people, in all matters that concern the welfare of the White Mountain Apache Tribal Nation; and

WHEREAS,

per *Resolution No. 05-2007-175*, "Approving Charter, Articles of Incorporation, and Bylaws, of the Apache Behavioral Health Service, Inc.," the Council did authorize and charter the establishment of an independent Tribal Organization, or Apache Behavioral Health Services ("ABHS"). Creating an independent agency was necessary for consideration and State recognition as a T/RBHA, also known as Tribal Regional Behavioral Health Authority (Arizona). T/RBHA is the highest designation of such agencies in the region; and

WHEREAS,

ABHS is a Tribal organization, as defined under Public Law 93-638 contracting requirements, and therefore, legally established and controlled by a Federally recognized Indian Tribe. Pursuant to agency by-laws, the Board of Directors was established by Council with the intention that it would serve as an advisory and oversight Board for ABHS management, and to create distance between the Tribal government and the independent entity it created therein; and

WHEREAS,

for seven years, ABHS has worked closely with the Federal government, the Indian Health Services ("IHS"), and other regulatory bodies to annually contract for funding that the WMAT would otherwise be eligible for, were it directly managing mental and behavioral health services today. Among other areas, prior authorizations were granted for "Mental Health, and Adolescent and Family Services Programs." And, members of the governing body see no reason to discontinue support, or modify any other expectations and responsibilities as defined within the ABHS by-laws.

WHEREAS.

as the ABHS by-laws already grant ABHS the authority to enter into 3rd party contracts for the benefit of Tribal members, to meet the agency's objectives, and to further WMAT interests, and further, the by-laws grant an implied and explicit limited waiver of immunity for purposes of enforcing Tribal agreements entered into within the scope of the agency's authority, this resolution is intended to reiterate the delegation previously granted, and to make such delegation indefinite – as intended by the Tribal Council – until such time that the Council modifies or revokes such contracting authority by resolution or ordinance; and

WHEREAS, the White Mountain Apache Tribal Council, Vice-Chairman, and Chairman, have deliberated on this matter, and find it in the White Mountain Apache Tribe's best interest to continue to support ABHS' efforts as set forth under their agency's governing by-laws, and under the oversight of the ABHS Board of Directors, the CEO, and Clinical Director.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the White Mountain Apache Behavioral Health Services to continue to contract with the Federal Government, Indian Health Services, and the State of Arizona, to secure federal funds and other financial awards the agency is eligible for on behalf of the Tribe, and in order to carry out agency objectives and provide services that are contingent upon the signing of Inter-Governmental Agreements.

**BE IT FURTHER RESOLVED** by the Tribal Council, that it reserves the right to modify that relationship, if vacancies exist at the Board or management levels, or where the agency might deviate from its governing by-laws, or act contrary to the interests of the greater White Mountain Apache Tribe. Quarterly Reports, and other documentation as required, shall continue to be expected by members of the governing body, and where issues of serious consequence are not timely resolved at the management, or Board level, the Tribal Council, or Attorney General at the direction of Council, shall reserve the right to intervene or facilitate conflict resolution.

**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. Nothing in this resolution shall be deemed a waiver of the WMAT's sovereign immunity from suit, except as to limited authority to pursue lawful resolution through binding arbitration, Tribal, or Federal courts, or such limited immunity as may be granted pursuant to the WMABHS by-laws.

**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 Federal Laws, or any material facts concerning the issues presented are later found to be fraudulent or false, this Resolution may in whole or part 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 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 CEO, with appropriate notice and consent of the Board of Directors, shall be authorized to sign the IGAs described herein, provided that a licensed attorney, whether through the Attorney General's Office, in-house, or outside counsel, shall be expected to review and approve as to form and to verify Tribal authority is appropriately exercised.

The foregoing resolution was on March 15, 2017 duly adopted by a vote of TEN for and ZERO against with ZERO abstaining 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

Doreen Numkena, Tribal Secretary

Date