



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

**(Amending Resolution No. 04-2006-96 to Clarify and Further Review the Tribe's Personnel Policies and Procedures and Establish the Position of Tribal General Manager)**

**WHEREAS**, pursuant to Article IV, Section 1(a) of the Constitution of the White Mountain Apache Tribe, *inter alia*, the Tribal Council has the authority to represent the Tribe and act in all matters that concern the welfare of the Tribe; and

**WHEREAS**, pursuant to Article IV, Sections 1 (b), (j), (k) and (s), *inter alia*, the Tribal Council has express executive authority as regards to contracts, grants, budgets and personnel appointments, with all the implied powers thereto; and

**WHEREAS**, specifically, pursuant to Article IV, Sections 1 (s) of the Constitution, the authority provided to the Tribal Council to establish an administrative position, division or department within the governmental organization of the Tribe is a power that may be implied from the express power to "appoint...tribal officials and employees not otherwise provided for in [the Tribe's] Constitution"; and

**WHEREAS**, pursuant to Article IV, Section 1 (s) of the Constitution, the Tribal Council has the further power to regulate its own procedures, which includes the power to amend or clarify prior resolutions, including Resolution No. 04-2006-96; and

**WHEREAS**, pursuant to Resolution No. 04-2006-96, the Tribal Council did revise the Tribe's Personnel Policies and Procedures as adopted by Resolution No. 11-2005-344;

**WHEREAS**, upon review of the implementation of Resolution No. 04-2006-96, the Tribal Council finds that the executive authority to provide day-to-day management of the Central Tribe's operations and personnel needs to be further delegated to a central position, that of Tribal General Manager for the purposes identified herein; and

**WHEREAS**, the Tribal Council further finds that the Tribal General Manager should have the following duties: (1) day-to-day supervisory authority over key employees, Department Heads, Division Directors and General Services, according to the organizational chart, as attached and incorporated by this reference, (2) authority to discipline Department Heads and Division Directors, pursuant to the appointment thereof; (3) with regard to Step 4 of the Grievance Procedures, within twenty (20) calendar days of receipt of the Grievance Committee recommendation, render a binding, final written decision, with the option of conducting a hearing or interview of the parties prior to rendering a decision, (4) authority to ensure proper financial, personnel and administrative records management, access, dissemination and distribution, according to written policies and procedures; and

**WHEREAS**, for the purposes of this Resolution, General Services shall mean those departments or program services that provide indirect cost support to the Tribe's Departments and Divisions and shall include, but not be limited to, Accounting, Grants and Contracts,

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Management Information Systems, Facilities Management, Purchasing, Fleet Services and Personnel; and

**WHEREAS**, the Tribal Council finds that the Tribe's Enterprise Director should continued to have supervisory authority over the Tribe's enterprises, while the Tribal Council should continue to have appointment authority over the general managers of the enterprises; and

**WHEREAS**, the Tribal Council further finds that the Personnel Policies should be revised as follows:

1. Section I(A)(1), "Authority and Administration. Authority to manage the government of the White Mountain Apache Tribe was expressly provided in Article IV, Sections 1(b), (i) and (s) of the *Constitution of the White Mountain Apache Tribe*, as ratified by the Tribe on 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). The Personnel Director shall have overall responsibility for implementing personnel policies and procedures, subject to approval by the Tribal Council. The Tribal General Manager, through the Attorney General, and Human Resources Office, may adopt non-substantive changes, exemptions or waivers of the Personnel Policy Manual. Any substantive changes, exemptions or waivers of the Personnel Policy Manual may only be made by the Tribal Council by Resolution."

2. Confirmable appointment under the Personnel Policies shall be re-defined as follows:

"Confirmable Appointment. The Tribal Council has the sole executive authority to appoint Department Heads, Directors and key employees of the Tribe's Departments and Divisions, pursuant to the Tribe's Constitution, statute or ordinance. The Tribal General Manager has the authority to discipline Department Heads, Directors and key employees, pursuant to the bases for discipline set forth in the Personnel Policies, and may recommend individuals suitable for appointment and for termination. Appointed individuals shall serve for the time period prescribed and/or at the pleasure of the Tribal Council. All Directors of the Tribe's Departments and Divisions are at-will employees, who may be terminated at any time, with or without cause."

3. Emergency Appointment under the Policies shall be re-defined as follows:

"Emergency Appointment. An appointment made by the Tribal Council, the Tribal General Manager, a Department or Division Head or Director, for a period not to exceed ninety (90) days."

4. The Tribal Council has the sole executive authority to appoint, hire and terminate any Director or key employee of the Tribe's Departments and Divisions.

5. Section II(B)(1). "**Changes, exemptions and waivers.** Additions, deletions, exemptions and waivers to these Personnel Policies may be requested by an employee or member of the White Mountain Apache Tribe, and/or

other person(s) having a legitimate interest. Such request must be made in writing to the Tribal General Manager, Attorney General and the applicable Department Head, and must include the recommended change, with rationale for the change, in order to be considered. If the change has merit, the Tribal General Manager, through the Attorney General and Human Resources Office, may adopt non-substantive changes, exemptions or waivers of the Personnel Policy Manual. Any substantive changes shall require adoption by Resolution of the Tribal Council.”

6. Section II(B)(2)(a). “(NOTE: Changes in these Personnel Policies shall require approval of the Attorney General, Controller, Tribal Treasurer and the Tribal General Manager).”

7. Section II(B)(2)(f). “Give reports and recommendations to the Tribal General Manager, Tribal Treasurer, Attorney General and/or Tribal Council as appropriate;”

8. Section X(A)(7). “All employees must serve on a grievance committee when noticed by the Human Resources Office, unless excused by the Tribal General Manager.”

9. Section X(B)(1)(d). “Step 4. Tribal General Manager Review of Grievance Committee Decision. The Tribal General Manager shall, within twenty (20) calendar days of receipt of the recommendation, render a binding, written decision. The Tribal General Manager may conduct a hearing or interview the parties prior to rendering a decision. The decision of the Tribal General Manager is final.”

**WHEREAS**, given recent unauthorized expenditures of back pay and inappropriate release of financial records, consideration of this matter is required by the Tribal Council outside of its regularly scheduled meeting on an urgent basis; and

**WHEREAS**, the Tribal Council further finds that as the governing body the actions contemplated herein are critical and necessary to facilitate administrative decisions on issues as they arise in a timely manner, while instituting a system of checks and balances over department and division heads, and key employees; and

**WHEREAS**, the Constitution of the Tribe does provide certain powers to the Chairman of the Tribal Council, under Art. XI, Secs. 1 and 4(d), Art. XIII, Secs. 2-5, Art. XV, Sec. 1, or Art. XV, Sec. 5 and the Tribal Council finds that none of those powers is hereby taken away, limited or otherwise affected; and

**WHEREAS**, the Tribal Council finds that: (1) the intent of Resolution No. 04-2006-96 remains, (2) that the executive appointment authority delegated to the Chairman of the Tribal Council under the Personnel Policies and Procedures as established pursuant to Resolution No. 11-2005-344, should be returned to and remain with the Tribal Council pursuant to the Constitutional power created under Article IV,

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Section 1(s), and (3) that the establishment of the Tribal General Manager is consistent with Resolution No. 04-2006-96 and the power of appointment provided to the Tribal Council under Article IV, Section 1(s); and

**WHEREAS**, the Tribal Council finds that the actions taken herein do not rescind Resolution No. 04-2006-96, but provide an amendment and clarification within the meaning of the Tribal Council's constitutional ability to regulate its procedures, to wit that this resolution may become effective upon a simple majority of those members of the Tribal Council voting upon it, but that any effort to rescind this Resolution or Resolution No. 04-2006-96 would require a two-thirds majority of the Tribal Council; and

**WHEREAS**, given the urgency of the need to establish the position of Tribal General Manager, the Tribal Council 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 would mean that the respective Tribal Council member is against this Resolution, (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 members of the Tribal Council for a vote; and

**WHEREAS**, the Tribal Council further finds that the revisions to the Tribe's Personnel Policies and Procedures and the establishment of the Tribal General Manager to be in the best interests of the overall administration of the Tribe's governmental structure, divisions, departments, and programs, and that in so doing the Tribal Council seeks to promote overall cost savings and efficiencies, while reducing, if not eliminating, fraud, financial mismanagement, and waste of the Tribe's resources.

**NOW BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that Resolution No. 04-2006-96 is hereby clarified and amended with the provisions herein, and that the Personnel Policies should be revised accordingly as follows:

1. Section 1(A)(1), "Authority and Administration. Authority to manage the government of the White Mountain Apache Tribe was expressly provided in Article IV, Sections 1(b), (i) and (s) of the *Constitution of the White Mountain Apache Tribe*, as ratified by the Tribe on 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). The Personnel Director shall have overall responsibility for implementing personnel policies and procedures, subject to approval by the Tribal Council. The Tribal General Manager, through the Attorney General, and Human Resources Office may adopt non-substantive changes, exemptions or waivers of the Personnel Policy Manual. Any substantive changes, exemptions or waivers of the Personnel Policy Manual may only be made by the Tribal Council by Resolution."

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2. Confirmable appointment under the Personnel Policies shall be re-defined as follows:  

“Confirmable Appointment. The Tribal Council has the sole executive authority to appoint Department Heads, Directors and key employees of the Tribe’s Departments and Divisions, pursuant to the Tribe’s Constitution, statute or ordinance. The Tribal General Manager has the authority to discipline Department Heads, Directors and key employees, pursuant to the bases for discipline set forth in the Personnel Policies, and may recommend individuals suitable for appointment and for termination. Appointed individuals shall serve for the time period prescribed and/or at the pleasure of the Tribal Council. All Directors of the Tribe’s Departments and Divisions are at-will employees, who may be terminated at any time, with or without cause.”
3. Emergency Appointment under the Policies shall be re-defined as follows:  
“Emergency Appointment. An appointment made by the Tribal Council, the Tribal General Manager, a Department or Division Head or Director, for a period not to exceed ninety (90) days.”
4. The Tribal Council has the sole executive authority to appoint, hire and terminate any Director of key employee of the Tribe’s Departments and Divisions.
5. Section II(B)(1). “**Changes, exemptions and waivers.** Additions, deletions, exemptions and waivers to these Personnel Policies may be requested by an employee or member of the White Mountain Apache Tribe, and/or other person(s) having a legitimate interest. Such request must be made in writing to the Tribal General Manager, Attorney General and the applicable Department Head, and must include the recommended change, with rationale for the change, in order to be considered. If the change has merit, the Tribal General Manager, through the Attorney General and Human Resources Office, may adopt non-substantive changes, exemptions or waivers of the Personnel Policy Manual. Any substantive changes shall require adoption by Resolution of the Tribal Council.”
6. Section II(B)(2)(a). “(NOTE: Changes in these Personnel Policies shall require approval of the Attorney General, Controller, Tribal Treasurer and the Tribal General Manager).”
7. Section II(B)(2)(f). “Give reports and recommendations to the Tribal General Manager, Tribal Treasurer, Attorney General and/or Tribal Council as appropriate;”
8. Section X(A)(7). “All employees must serve on a grievance committee when noticed by the Human Resources Office, unless excused by the Tribal General Manager.”
9. Section X(B)(1)(d). “Step 4. Tribal General Manager Review of Grievance Committee Decision. The Tribal General Manager shall, within twenty (20) calendar days of receipt of the recommendation, render a binding, written

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decision. The Tribal General Manager may conduct a hearing or interview the parties prior to rendering a decision. The decision of the Tribal General Manager is final.”

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that:

1. the position and authority of the Tribal General Manger is hereby established, according to the organization chart as attached and incorporated by this reference, which includes supervisory authority over division heads, department directors and key employees; and
2. the Tribal General Manager shall have the following duties: (a) day-to-day supervisory authority over key employees, Department Heads, Division Directors and General Services, according to the organizational chart, (b) authority to discipline Department Heads and Division Directors, pursuant to the bases for discipline set forth in the Personnel Policies, while recommending termination and appointment thereof to the Tribal Council; (c) with regard to Step 4 of the Grievance Procedure, within twenty (20) calendar days of receipt of the Grievance Committee recommendation, render a binding, final, written decision, with the option of conducting a hearing or interview of the parties prior to rendering a decision, (d) authority to ensure expenditures according to a consolidated budget, (e) authority to ensure proper financial, personnel and administrative records management, access, dissemination and distribution, according to written policies and procedures.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that this Resolution is intended to be consistent with the Constitution of the White Mountain Apache Tribe and if for any reason any provision of this Resolution shall be determined by a court of competent jurisdiction to be invalid, unenforceable, illegal, or inoperable, its invalidity shall not affect the validity and effect of the other provisions herein.


**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that:

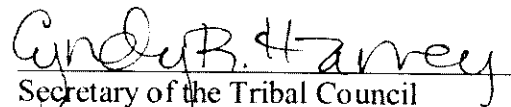
1. Given the urgency of the need to establish the position of Tribal General Manager, the Tribal Council, this Resolution may be voted upon as follows: (a) by signature of a member of the Tribal Council, including the Chairman of the Tribal Council and the Vice-Chairwoman of the Tribal Council, where 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; and
2. This Resolution shall become effective upon a simple majority of the Tribal Council, but cannot be rescinded except by two-thirds majority vote of the Tribal Council at a duly convened, regular meeting; and
3. The Legal Department is hereby authorized to edit the Personnel Policies and Procedures Manual to incorporate the changes directed by this Resolution herein.

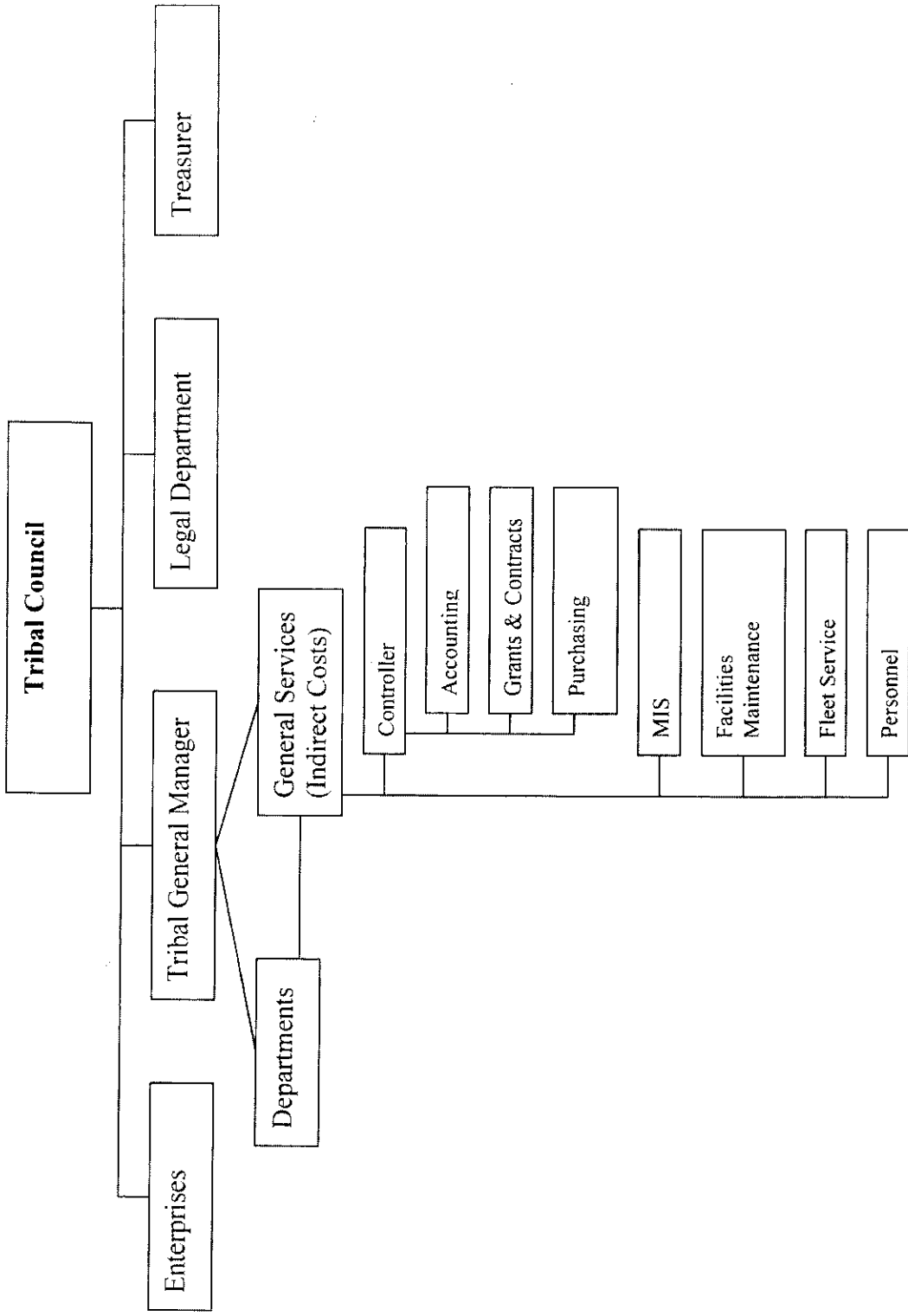
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**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence the Vice-Chairwoman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on August 16, 2006, duly adopted by a vote of SIX for and ZERO against by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (b), (i), (j), (k), (s), (t) and (u) of the Constitution of the Tribe, ratified by the 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





Resolution No. 08-2006-287

Signatures of the members of the Tribal Council represent their approval of Tribal Council Resolution No. 08-2006-287 dated the 28th day of August 2006.

\_\_\_\_\_  
Ronnie Lupe  
Tribal Chairman  
WHITE MOUNTAIN APACHE TRIBE

Margaret Baha Walker 8/28/06  
Margaret Baha-Walker  
Vice Chairwoman  
WHITE MOUNTAIN APACHE TRIBE

8/28/06 Arnold Beach Sr.  
Arnold Beach, Sr.  
District I Council Member  
WHITE MOUNTAIN APACHE TRIBE

\_\_\_\_\_  
Evangeline Gatewood  
District I Council Member  
WHITE MOUNTAIN APACHE TRIBE  
8/29/06 C. Harney  
Vangie didn't want to sign.

\_\_\_\_\_  
Lafe Altaha 8/29/06  
District II Council Member  
WHITE MOUNTAIN APACHE TRIBE  
Lafe viewed but didn't sign. C. Harney

\_\_\_\_\_  
Victoria Brewer  
District II Council Memb  
WHITE MOUNTAIN AI  
8/28/06  
Ms. Brewer viewed but didn't sign. C. Harney

08/28/06 Alvin DeClay Sr.  
Alvin DeClay, Sr.  
District III Council Member  
WHITE MOUNTAIN APACHE TRIBE

\_\_\_\_\_  
Kirk Massey, Sr.  
District III Council Member  
WHITE MOUNTAIN APACHE TRIBE

8/27/06 Noland Clay  
Noland Clay  
District IV Council Member  
WHITE MOUNTAIN APACHE TRIBE

Wayne Colelay Jr. 8-28-06  
Wayne Colelay, Jr.  
District IV Council Member  
WHITE MOUNTAIN APACHE TRIBE

8-28-06 Reno Johnson, Sr.  
Reno Johnson, Sr.  
District IV Council Member  
WHITE MOUNTAIN APACHE TRIBE

8/28/06

ATTEST:

LET'S ALL SID  
DOWN AND DISCUSS

Cyndy R. H  
9.8.06  
WHITE MC

THIS ISSUE FOR  
CLARIFICATION.

8/28/06  
Noland  
Clay  
8/28/06  
Kirk  
Massey  
THX  
Kirk