



**WHITE MOUNTAIN APACHE TRIBE**  
A Sovereign Tribal Nation

**(Authorizing Settlement with the United States Department of Labor)**

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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(b) that the Tribal Council (“Council”) shall exercise the power, “To negotiate, make and perform contracts and agreements of every description, not inconsistent with federal law or [the] constitution, with any person, association, or corporation, with any municipality or any county, or with the State of Arizona or the United States”; and
- WHEREAS,** the Tribe, as a federally recognized Indian tribal government, with inherent rights of self governance, and pursuant to its Tribal Constitution, exercises rights of self-determination through its elected Council, and enjoys a government-to-government relationship with the federal government of the United States; and
- WHEREAS,** the Tribal Council of the White Mountain Apache Tribe has retained the authority, powers, and duties to establish and maintain programs to promote the health, welfare, and retirement security of its members and employees; and
- WHEREAS,** the United States Department of Labor (the “DOL”) has assessed penalties against the Tribe under the Employee Retirement Income Security Act of 1974 (“ERISA”) for failure to file annual Forms 5500 with audited financial statements for the White Mountain Apache Tribe 401(k) plan(s); and
- WHEREAS,** on June, 10, 2019, via Resolution No. 06-2019-108, the Council authorized the Tribe to challenge the DOL penalty assessments through a federal court action titled as *White Mountain Apache Tribe v. Su*, 20-CV-1409, currently pending in the United States District Court for the District of Columbia (the “Action”); and
- WHEREAS,** the Tribal Council now desires to authorize the Chairman to enter into a Settlement Agreement on behalf of and as an official act of the Tribe, consistent with the settlement terms attached hereto as EXHIBIT A.

**NOW THEREFORE, BE IT RESOLVED,** by the Tribal Council of the White Mountain Apache Tribe, that the Chairman of the Tribe is hereby authorized and directed, as an official act and deed of the Tribe, to execute a Settlement Agreement, amended CPA / audit engagement letters, and such other documents as may be necessary to settle and dismiss the Action under the key settlement terms set forth in EXHIBIT A (“Confidential Settlement Terms”), subject to such additional changes, terms and

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conditions as may be required to secure DOL and/or Court agreement *provided that* such changes do not materially detract from the terms set forth in EXHIBIT A, as reviewed and confirmed by the Tribe's attorney general; and

**BE IT FURTHER RESOLVED**, by the Tribal Council of the White Mountain Apache Tribe that Yoder & Langford, P.C. is directed to file such documents with the Court as necessary to accomplish a dismissal of the Action following execution of a settlement agreement by the Chairman of the Tribe as called for above; and

**BE IT FURTHER RESOLVED**, by the Tribal Council of the White Mountain Apache Tribe that the Treasurer and finance staff are hereby directed to process such payments as necessary to pay consultants fees (CPA) and legal fees (Yoder & Langford, P.C.) for work performed to date and as necessary to perform remaining services to comply with the terms of the DOL settlement; and

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache tribe that the terms of the settlement set forth in EXHIBIT A shall be protected as confidential settlement discussions under Rule 408, Federal Rules of Evidence; and

**BE IT FINALLY RESOLVED**, that (1) the actions herein are taken by the Tribal Council as a government body, not individually, and (2) all actions taken in furtherance of these resolutions are taken by Tribal Council members in their official capacities as such.

**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, on SEPTEMBER 18, 2023 was duly adopted by a vote of SEVEN for, ZERO against, and ZERO 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

9.19.2023

Kasey Velasquez, Chairman

Date

Vaneysa Johnson

Vaneysa Johnson, Tribal Secretary

Date