

ROSEBUD SIOUX TRIBE
Resolution No. 2020-77

WHEREAS, The Rosebud Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act of 1934 and all pertinent amendments thereof: and

WHEREAS, The Rosebud Sioux Tribe is governed by a Tribal Council made up of elected representatives who act in accordance with the powers granted to it by its Constitution and By-laws; and

WHEREAS, The Rosebud Sioux Tribal Council is authorized to promulgate and enforce ordinances for the maintenance of law and order, and to safeguard the peace and morals, and general welfare of the Tribe, pursuant to the Rosebud Sioux Tribe Constitution and By-Laws Article IV Sections 1 (k), and (m), and

WHEREAS, The Rosebud Sioux Tribe requires the day-to-day management of the White River Health Care Facility, to bring the facility into compliance with applicable federal, state and tribal law, and to provide for short and long term management goals for the Tribally owned Nursing Home operation and maintenance; and

WHEREAS, RST Ordinance No. 94-125 established a Procurement Policy and Procedure for use by the departments and entities of the Rosebud Sioux Tribe; and

WHEREAS, RST Ordinance No. 94-125 provides that purchases of \$10,000.00 and over requires the approval of the Rosebud Sioux Tribal Council; and

WHEREAS, the proposed Facility Management Agreement (“the Agreement”) with Native American Health Management, LLC, Lincoln, Nebraska, (the “Manager”) retains the Manager as agent of the Rosebud Sioux Tribe for managing and operating the White River Health Care Facility in the amount of \$31,200.00 per month with an increase of four percent (4%) each year on the first day of the anniversary month, on a sole source basis, for the reason that the nature of the services to be provided and the expertise required to deliver services justify award of the contract on a noncompetitive basis; and

WHEREAS, Nothing in the Agreement shall be deemed a waiver of the Rosebud Sioux Tribe’s sovereign immunity from suit; and

WHEREAS, Parties agree that the Agreement shall be interpreted under the laws of Rosebud Sioux Tribe and Manager agrees to comply with all applicable laws of the Rosebud Sioux Tribe; and

WHEREAS, The term of the Agreement shall be for a period of two (2) years, with an option of two one year extensions, subject to review and approval by the Rosebud Sioux Tribe; and

THEREFORE BE IT RESOVLED, that the Rosebud Sioux Tribal Council approves and adopt the recommendation of the RST Health Board and to approve and to agree to retain Native American Health Care Management, LLC, and agrees the terms and provisions of the proposed Facility Management Agreement; and

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BE IT FURTHER RESOLVED, that the President of the Rosebud Sioux Tribe or his authorized delegate are authorized and directed to sign any and all documents related to the approval of the Facility Management Agreement; and

CERTIFICATION

This is to certify that the above Resolution No. 2020-77 was duly passed by the Rosebud Sioux Tribal Council in session on March 25, 2020, by a vote of sixteen (16) in favor, zero (0) opposed and one (1) not voting. The said resolution was adopted pursuant to authority vested in the Council. A quorum was present.

ATTEST:

A handwritten signature in blue ink, appearing to read "Wayne Boyd", written over a horizontal line.

Wayne Boyd, Secretary
Rosebud Sioux Tribe

A handwritten signature in blue ink, appearing to read "Rodney M. Bordeaux", written over a horizontal line.

Rodney M. Bordeaux, President
Rosebud Sioux Tribe

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- THEREFORE BE IT RESOVLED,** that the Rosebud Sioux Tribal Council approves and adopt the recommendation of the RST Health Board and to approve and to agree to retain Native American Health Care Management, LLC, and agrees the terms and provisions of the proposed Facility Management Agreement; and

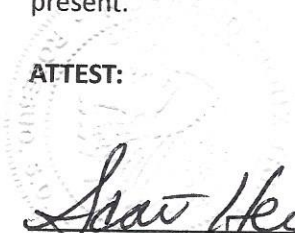
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ATTEST:



Wayne Boyd

Wayne Boyd, Secretary
Rosebud Sioux Tribe

Rodney M. Bordeaux

Rodney M. Bordeaux, President
Rosebud Sioux Tribe



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Rosebud Agency

Post Office Box 228

Mission, South Dakota 57555

IN REPLY REFER TO:
Office of the Superintendent

MAY 01 2020

Honorable Rodney Bordeaux
President, Rosebud Sioux Tribe
Post Office Box 430
Rosebud, South Dakota 57570

Attention: Louis Wayne Boyd, RST Secretary

Dear President Bordeaux:

The following resolutions, received in this office on 04/28/2020 have been reviewed and re-routed to the appropriate branches.

Resolution No. 2019-196 (Amended: 03/23/2020)	Resolution No. 2020-75
Resolution No. 2019-211 (Amended: 03/23/2020)	Resolution No. 2020-76
Resolution No. 2019-215 (Amended: 04/03/2020)	Resolution No. 2020-77
Resolution No. 2020-43	Resolution No. 2020-79
Resolution No. 2020-62	Resolution No. 2020-81
Resolution No. 2020-63	Resolution No. 2020-83
Resolution No. 2020-64	Resolution No. 2020-85
Resolution No. 2020-66	Resolution No. 2020-86
Resolution No. 2020-67	Resolution No. 2020-89 (Amended: 04/22/2020)
Resolution No. 2020-67 (Amended: 04/22/2020)	Resolution No. 2020-92
Resolution No. 2020-69	Resolution No. 2020-95
Resolution No. 2020-70	Resolution No. 2020-96
Resolution No. 2020-71	Resolution No. 2020-97
Resolution No. 2020-72	Resolution No. 2020-98
Resolution No. 2020-73	Resolution No. 2020-100
Resolution No. 2020-74	

Sincerely,

Ira Dean Wilson
Superintendent

Enclosure

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WHEREAS, The Rosebud Sioux Tribal Council is authorized to promulgate and enforce ordinances for the maintenance of law and order, and to safeguard the peace and morals, and general welfare of the Tribe, pursuant to the Rosebud Sioux Tribe Constitution and By-Laws Article IV Sections 1 (k), and (m), and

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WHEREAS, RST Ordinance No. 94-125 established a Procurement Policy and Procedure for use by the departments and entities of the Rosebud Sioux Tribe; and

WHEREAS, RST Ordinance No. 94-125 provides that purchases of \$10,000.00 and over requires the approval of the Rosebud Sioux Tribal Council; and

WHEREAS, the proposed Facility Management Agreement (“the Agreement”) with Native American Health Management, LLC, Lincoln, Nebraska, (the “Manager”) retains the Manager as agent of the Rosebud Sioux Tribe for managing and operating the White River Health Care Facility in the amount of \$31,200.00 per month with an increase of four percent (4%) each year on the first day of the anniversary month, on a sole source basis, for the reason that the nature of the services to be provided and the expertise required to deliver services justify award of the contract on a noncompetitive basis; and

WHEREAS, Nothing in the Agreement shall be deemed a waiver of the Rosebud Sioux Tribe’s sovereign immunity from suit; and

WHEREAS, Parties agree that the Agreement shall be interpreted under the laws of Rosebud Sioux Tribe and Manager agrees to comply with all applicable laws of the Rosebud Sioux Tribe; and

WHEREAS, The term of the Agreement shall be for a period of two (2) years, with an option of two one year extensions, subject to review and approval by the Rosebud Sioux Tribe; and

THEREFORE BE IT RESOVLED, that the Rosebud Sioux Tribal Council approves and adopt the recommendation of the RST Health Board and to approve and to agree to retain Native American Health Care Management, LLC, and agrees the terms and provisions of the proposed Facility Management Agreement; and

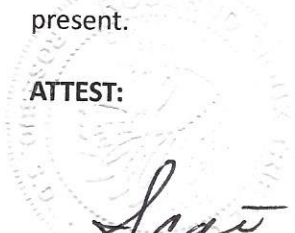
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ATTEST:



Wayne Boyd

Wayne Boyd, Secretary
Rosebud Sioux Tribe

Rodney M. Bordeaux

Rodney M. Bordeaux, President
Rosebud Sioux Tribe

FACILITY MANAGEMENT AGREEMENT

This Agreement is entered into by and between the Rosebud Sioux Tribe, Rosebud, South Dakota (hereinafter referred to as "RST"), and Native American Health Management, LLC. of Lincoln, Lancaster County, Nebraska (hereinafter referred to as "NAHM"). This Agreement is effective March 1, 2020.

RECITALS

- A. RST wishes to contract with NAHM for the services of NAHM in the field of nursing home management.
- B. NAHM is willing and qualified to perform such services.

In consideration of the above Recitals, the terms and covenants of this agreement, and other valuable consideration, the parties agree as follows:

1. **SERVICES:** It is understood that services provided by NAHM pursuant to this agreement shall be so provided on a continuing, day-to-day, as-needed basis. NAHM shall have sole discretion to perform such services as may be requested by RST (Rosebud Health Care Board-White River Health Care facility Board of Directors) with monthly reports to the RST Council including, but not limited to, management of Facility located in White River, South Dakota.
2. **COVENANTS.** In consideration of the mutual covenants contained in this Agreement, the Parties agree and covenant as follows:
 - 2.1. Engagement of Manager. Subject to the terms of this Agreement, RST hereby retains and engages Manager as RST's agent for the purposes of carrying out (directly or through third parties retained for such purposes) its duties under this Agreement, including, without limitation, promoting, managing and operating the Nursing Home Business. Subject to the terms of this Agreement, the foregoing is intended to grant Manager the exclusive right to manage the Nursing Home Business during the term of this Agreement. Nothing contained herein shall grant or is intended to grant Manager any proprietary interest in the Nursing Home Facility or to the Nursing Home Business. Manager hereby accepts such retention and agrees to use its commercially reasonable efforts to promote, manage, and operate the Nursing Home Business.
 - 2.2. Manager's Compliance with Law; Licenses. Manager will use commercially reasonable and prudent management practices to comply in all material respects with all RST Laws.

reasonable judgment of Manager), in connection with the performance of its obligations hereunder; provided that Manager has no authority to enter into any agreement or deliver any instrument on behalf of RHCS Board except as otherwise expressly permitted herein. Acquisitions of goods and services in amount of ten thousand dollars and over should have prior approval of the RHCS board.

4.2. RHCS Board's Authority and Responsibility. RHCS Board of Directors will be the Governing Board for the Nursing Home Business and comply with the responsibilities required by federal and State Medicaid laws to: a) establish and oversee the implementation of all required policies and procedures; b) appoint the Administrator of the Nursing Home Business, provided that the person recommended by the Manager to serve as Administrator will be appointed unless clear and compelling reasons exist for declining to make the appointment (administrator will be employee of Management Firm or one of manager's affiliates) and, in no event will RHCS appoint any person as Administrator over Manager's objection.; c) adopt an annual Operating Budget and Capital Expense Budget and any amendment to these budgets as may be necessary from time to time as recommended by the Manager; d) review the monthly Operating Budget and Capital Expense Budget expenditure reports; and e) perform any and all other duties and responsibilities required by federal and State Medicaid laws and applicable State licensing laws and regulations. In all other respects, RHCS Board will have full authority to approve or disapprove any power necessary or appropriate in order to fulfill its responsibilities hereunder.

4.3. Management. In managing, operating and maintaining the Nursing Home Business, and the Nursing Home Facility, Manager's duties will include, without limitation, the following: (see 4.1.1 above)

4.3.1. Affiliates. Manager will contract for certain consulting services with Rural Health Development, Inc. a Nebraska corporation as an Affiliate. Compensation for these consulting services will be paid from Manager's compensation and will not be a separate operating expense of the Nursing Home Facility.

4.4. Duties of the RHCS Board. (see 4.2 above)

4.5. Employees.

4.5.1. Manager's Responsibility. Subject to the terms of this Agreement, Manager has the exclusive responsibility and authority, subject to requirements imposed by the Nursing Home Business Personnel Policy, to (i) determine the hiring policies and minimum criteria for employment positions, (ii) select all candidates for employment, (iii) supervise all employees engaged in connection with the maintenance, operation and management of the Nursing Home Business and the Nursing Home Facility, and (iv) provide or arrange for employee training in accordance with the Nursing Home's

5. NAHM shall see to it that all licenses are maintained, and that Facility shall remain licensed for at least the same number of beds for which the Facility is currently licensed. Any modification would require RHCS Board approval.
6. NAHM shall not cause renovations to the property without the prior written consent of RHCS Board.

7. GENERAL PROVISIONS

- 7.1. Renewal and Termination. This agreement shall become effective on March 1, 2020 and shall continue for a period of two years with an option for two one-year extensions. The agreement may be renewed by the Manager upon the same terms and conditions by giving the RST written notice of its intent to renew not less than one hundred eighty (180) days prior to the end of the term. The Manager and RST may terminate the agreement at any time by giving the other party ninety (90) days written notice of termination.
- 7.2. Relationship. None of Manager, RST or RHCS Board will be construed as joint-ventures or partners by reason of this Agreement and neither the RST, on the one hand, nor Manager, on the other hand, will have the power to bind or obligate the other except as described in this Agreement.
- 7.3. Waivers. No failure or delay by Manager or RST to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement, or to exercise any right or remedy consequent upon the breach thereof, will constitute a waiver of any such breach or any subsequent breach of such covenant, agreement, term or condition. No covenant, agreement, term, or condition of this Agreement and no breach thereof will be waived, altered or modified except by written instrument. No waiver of any breach will affect or alter this Agreement, but each and every covenant, agreement, term and condition of this Agreement will continue in full force and effect with respect to any other then existing or subsequent breach thereof.
- 7.4. Captions. The captions for each Article and Section in this Agreement are intended for convenience only.
- 7.5. Severability. Whenever possible, each provision of this Agreement, and any other statement, instrument or transaction contemplated hereby or relating hereto, will be interpreted in such manner as to be effective and valid under such applicable RST Law. If any provision of this Agreement or any other statement, instrument or transaction contemplated hereby or relating hereto is deemed to be

9.2. Neither NAHM or RST, by entering into and performing their duties under this agreement, becomes liable for any of the existing or future obligations, liabilities, or debts of the other party to this agreement.

10. NAHM REPRESENTATIONS: NAHM represents and warrants that NAHM and NAHM's employees have the right to perform the services required under and pursuant to this agreement without violation of obligations to others, and that NAHM and its employees have the right to disclose to RHCS Board all information transmitted to RHCS Board in the performance of services under and pursuant to this agreement, and NAHM agrees that any information submitted to RHCS Board may be utilized fully and freely by RHCS Board.

11. MODIFICATION: Any modification of this agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if evidenced in writing signed by each party by an authorized representative of each party.

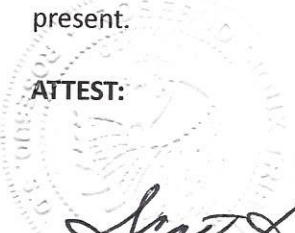
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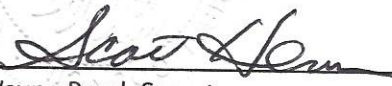
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Wayne Boyd, Secretary
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Rodney M. Bordeaux, President
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