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Alaska Native Tribal Health Consortium

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

SOUTHCENTRAL FOUNDATION,

Plaintiff and Counter-Defendant,

v.

ALASKA NATIVE TRIBAL HEALTH
CONSORTIUM,

Defendant and Counterclaimant.

Case No.: 3:17-cv-00018-TMB

DEFENDANT'S NOTICE OF WAIVER
OF SOVEREIGN IMMUNITY

For the reasons set out in the attached ANTHC Board Resolution No. 18-01, ANTHC has decided to waive its sovereign immunity for the sole and limited purpose of seeking a decision from the United States District Court for the District of Alaska in *Southcentral Foundation v. Alaska Native Tribal Health Consortium*, 3:17-cv-00018-TMB, on the declaratory issues of law that are fully briefed and awaiting a decision as of February 12, 2018, specifically, the issues raised by ANTHC and Southcentral Foundation's motions at Docket Nos. 34, 36, 38, 61, 72, 83, 91, 96, 103, 105, 114, and 116. ANTHC accordingly withdraws its Motion to Dismiss based on its sovereign immunity, at Docket No. 30.

NOTICE OF INTENT OF WAIVER OF SOVEREIGN IMMUNITY

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The Board does not waive the Consortium's sovereign immunity for any other purpose or any other type or sort of relief whatsoever, in any forum.

DATED: February 15, 2018

STOEL RIVES LLP

By: /s/ James E. Torgerson
JAMES E. TORGERSON

Attorney for Defendant and Counterclaimant
Alaska Native Tribal Health Consortium

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CERTIFICATE OF SERVICE

I hereby certify that on February 15, 2018, I filed a true and correct copy of the foregoing document with the Clerk of the Court for the United States District Court – District of Alaska by using the CM/ECF system. Participants in this Case No. 3:17-cv-00018-TMB who are registered CM/ECF users, and who are listed below, will be served by the CM/ECF system.

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NOTICE OF INTENT OF WAIVER OF SOVEREIGN IMMUNITY

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**ALASKA NATIVE TRIBAL HEALTH CONSORTIUM
BOARD OF DIRECTORS
Resolution No. 18-01**

TITLE: LIMITED WAIVER OF SOVEREIGN IMMUNITY
Southcentral Foundation v. Alaska Native Tribal Health Consortium

WHEREAS, the Alaska Native Tribal Health Consortium is a tribal organization and an inter-tribal consortium formed by federally-recognized tribes, tribally controlled P.L. 93-638 tribal organizations and inter-tribal consortia; and

WHEREAS, the Consortium provides health care and other core governmental services to Alaska Natives, and American Indians and other eligible individuals on behalf of tribes, tribal organizations and inter-tribal consortia participating in the Consortium; and

WHEREAS, tribally formed entities are recognized under federal common and statutory law as having the same rights and responsibilities as the Tribes themselves, including the right to assert the Tribes' sovereign immunity, especially when the tribal entity is an agency fulfilling a governmental function and/or serves as an "arm of the Tribes"; and

WHEREAS, the Consortium shares in the sovereign immunity of its participating tribes, tribal organizations and inter-tribal consortia, and has asserted that immunity in the matter of *Southcentral Foundation v. Alaska Native Tribal Health Consortium*, 3:17-cv-00018-TMB, a case in which SCF has asked a federal court to override the decisions made by a significant majority of the Consortium's governing board; and

WHEREAS, through allocation of Compact funds, other tribally authorized providers contribute annually to the Consortium funding and an adverse decision that affects the authority or the resources of the Consortium necessarily impinges on the authority and resources that the Tribes have given to the Consortium; and

WHEREAS, upon further consideration, the Board of Directors has decided to waive the Consortium's sovereign immunity in certain limited aspects so that the United States District Court may decide certain questions of law presented in that matter;

NOW THEREFORE BE IT RESOLVED that the Board of Directors hereby waives the Consortium's sovereign immunity for the sole and limited purpose of seeking a decision from the United States District Court for the District of Alaska in *Southcentral Foundation v. Alaska Native Tribal Health Consortium*, 3:17-cv-00018-TMB, on the declaratory issues of law that are fully briefed and awaiting a decision as of February 12, 2018, specifically, the issues raised by the Consortium and Southcentral Foundation's motions at Dockets 34, 36, 38, 61, 72, 83, 91, 96, 103, 105, 114 and 116. The Board does not waive the Consortium's sovereign immunity for any other purpose or any other type or sort of relief whatsoever, in any forum.

BE IT FURTHER RESOLVED that the President of the Consortium is authorized to effectuate this Resolution.

CERTIFICATION

This resolution was duly adopted by a quorum of the Board of Directors of the Alaska Native Tribal Health Consortium at a duly-noticed meeting held on the 12th day of February, 2018, in Anchorage, Alaska with two abstentions.

Attested:



Andy Teuber, Chairman & President



Charlene Nollner, Secretary