



# WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

## (Authorizing a Lease of Tribal Building Space to the Whiteriver Assembly of God, dba the Hope Center)

**WHEREAS,** the Whiteriver Assembly of God Church has requested a lease for the Hope Center where they may continue to provide the services for needy families, individuals with addictions, the homeless and others whom may require assistance with food, clothing, small appliances as well as church services and a 24-hour suicide prevention hotline; and

**WHEREAS,** the Whiteriver Assembly of God Church, dba the Hope Center, proposes to lease the building and property that formerly was held by the Manzanita Mortuary on East Manzanita Drive in Whiteriver; and

**WHEREAS,** the lease will be for a period of five (5) years with a lease fee of \$3,600.00 per year, \$300.00 per month; and

**WHEREAS,** rent abatement may be considered for necessary repairs needed at the building, including but not limited to: replacement of the entire roof, replacement of plumbing fixtures, and other repairs. In order to qualify for rent abatement, all repairs, materials, and labor costs must be documented, itemized and submitted to the Tribe in advance; and

**WHEREAS,** the Whiteriver Assembly of God Church, dba the Hope Center, is not permitted to use the premises as a residence as outlined in the lease; and

**WHEREAS,** the Tribal Council finds that it is in the best interest of the White Mountain Apache Tribe to authorize the Whiteriver Assembly of God Church, dba the Hope Center, to lease the Tribal building (formerly Manzanita Mortuary) on terms and conditions to be determined and agreed to by the Tribe's Realty Specialist and the Tribal Attorney General.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes a lease to the Whiteriver Assembly of God Church, dba the Hope Center, for use of the Tribal building (formerly Manzanita Mortuary) located on East Manzanita Drive, for the purpose of providing services for needy families, individuals with addictions, the homeless and others whom may require assistance with food, clothing, small appliances as well as church services and a 24-hour suicide prevention hotline.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the lease term shall be for a period of five (5) years, at the lease fee of \$3,600.00 per year, and shall include rent abatement provisions as identified in the proposed lease, attached hereto and incorporated by reference herein.

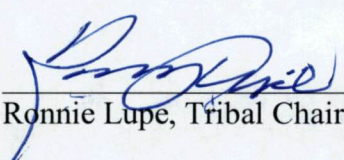
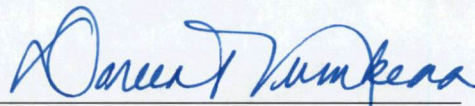
***Resolution No. 01-2015-02***

**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 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 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 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 was on JANUARY 14, 2015 duly adopted by a vote of ELEVEN 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 September 30, 1993, and federally recognized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).

	<u>1-21-15</u>		<u>1-21-2015</u>
Ronnie Lupe, Tribal Chairman	Date	Doreen T. Numkena, Tribal Secretary	Date



**WHITE MOUNTAIN APACHE TRIBE  
FORT APACHE INDIAN RESERVATION  
Whiteriver, Arizona**

**BUSINESS SITE  
LEASE AGREEMENT**

*Lease No. **TBL15002***

This Lease is made this \_\_\_ day of January, 2015, by and between the **WHITE MOUNTAIN APACHE TRIBE** (Landlord), whose address is: P.O. Box 700, Whiteriver, Arizona 85941; and **ASSEMBLY OF GOD CHURCH. dba HOPE CENTER**, (Tenant), whose address is: P.O. Box 597, Whiteriver, Arizona 85941. In consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the parties hereby agree as follows:

**WHEREAS**, Tenant desires to obtain from Landlord the right to use the Tribal Building, identified as the former Manzanita Mortuary Building, for the purpose of providing services for needy families, individuals with addictions, the homeless and others whom may require assistance with food, clothing, small appliances, church services, as well as working in conjunction with local organizations to address suicide prevention for residents of the Fort Apache Indian Reservation; and

**WHEREAS**, Landlord has evidenced its intention to enter into a Lease Agreement with the Tenant for use of the former Manzanita Mortuary Building, by adoption of Resolution No. \_\_\_\_\_.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, Landlord and Tenant agree as follows:

**1. Lease Premises:** For and in consideration of the rents, covenants, and agreements hereinafter set out, Landlord hereby leases to Tenant, and Tenant leases from Landlord, together with rights of ingress and egress, those certain premises described as follows and hereinafter referred to as "Lease Premises":

The Tribal Building, (formerly Manzanita Mortuary) including the fenced area, located at 380 Manzanita Street; Whiteriver Community; containing approximately 1.0 acre, more or less.

**2. Term:** The duration of this Lease shall be five (5) years, effective February 1, 2015, and expiring January 31, 2020.

**3. Condition of Premises:** Tenant has examined and is familiar with the Lease Premises and verifies that no representations as to the condition thereof have been made by Landlord or any agent of Landlord prior to or at the time of the execution of this Lease and Tenant

warrants that it has not relied on any warranty or representation made by or for Landlord, but solely upon Tenant's independent investigation of the lease Premises.

**4. Use of Facility:** Should Tenant voluntarily close or abandon its use of the Lease Premises for a period of thirty (30) consecutive days or more, or for a period of thirty (30) days in the aggregate within any consecutive ninety (90) day period for reasons other than approved repairs, restoration and/or alterations, Landlord, at its option, shall be entitled to immediately terminate this Lease. It is agreed, however, that should Tenant close its establishment, it shall still be responsible for the obligations under this Lease during the period of such closure until the Lease is terminated by Landlord.

**5. Purpose.** Tenant shall use and operate the lease Premises exclusively for the development and operation of a non-profit establishment, providing services for needy families, individuals with addictions, the homeless and others whom may require assistance with food, clothing, small appliances, church services, as well as working in conjunction with local organizations to address suicide prevention for residents of the Fort Apache Indian Reservation. Tenant shall restrict its use to such purpose and shall not use or permit the use of the Lease Premises for any other purpose or activities, except with the prior written consent of Landlord.

**6. Identity of Tenant/Operations Owner:** The activities to be conducted at the Lease Premises are under the sole ownership and management of Tenant, Whiteriver Assembly of God, a non-profit organization. There shall be no other owners or partners in the operations conducted at the Lease Premises, except upon the prior written consent of the Tribe, which consent can be withheld for any reason.

**7. Unlawful Uses:** Tenant agrees that it will not use or cause to be used or permit any part of the Lease Premises to be used for any unlawful conduct or purpose, or for any purpose unrelated to its purpose as defined in Paragraph 5 of this Agreement. Tenant shall not do or permit to be done in or about the Lease Premises, nor bring or keep or permit to be brought or kept therein, anything which is prohibited by, or will in any way conflict with any law, statute, ordinance, or governmental rule or regulation now enforced or which may hereafter be enacted or promulgated and governing Tenant's use of the lease Premises, or which is prohibited by Landlord's fire insurance policy on the building and improvements, or will in any way increase the existing rate of or affect any fire or other insurance upon the building and improvements or any of its contents, or cause a cancellation of any insurance policy of Landlord covering the building or any part thereof or any of its contents. Tenant shall not do or permit anything to be done in or about the Lease Premises which will in any way obstruct or interfere with the rights of other tenants, if any, in the building or improvements, or injure or annoy them, or use or allow the Lease Premises to be used for any improper, immoral, unlawful or objectionable purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Lease Premises or commit or suffer to be committed any waste in, on, or about the Lease Premises. The lawfulness of Tenant's conduct shall be defined by the laws, ordinances and regulations of the White Mountain Apache Tribe and any applicable laws and regulations of the United States.

A. Tenant shall not use or permit any portion of the Lease Premises to be used as a residence for any individual, group, or organization, unless advance written authorization is obtained by Landlord.

**8. Rental Amount.**

A. **Rent Abatement:** The parties agree that in lieu of cash rent, Tenant shall perform renovation work and improvements to the structure, in an amount not less than \$18,000.00 over the five (5) year lease period. Therefore, rent for this facility will be based at the rate of \$300.00 per month for 60 months (5 years). Prior to undertaking any work, Tenant shall provide Landlord with a scope of work, outlining repairs, improvements, etc., and an estimated time frame for completion of each item. No work shall commence except upon the prior written approval of Landlord. At the time each work or improvement project is undertaken, the Landlord and Tenant shall identify the agreed value of the project work in order to verify compliance with Rent Abatement conditions. The parties agree that project value may be based upon the reasonable value of labor and materials for the project.

B. For the purpose of ensuring compliance with the rent abatement process, Tenant shall submit for approval the scope of work, material expenses, labor expenses, and such information as shall reasonably be requested by Landlord, including information substantiating Tenant's ability to pay for the work to the Tribal Property Management/Inventory Control Manager, who will be responsible for review and approval and for inspection of work performed to verify the completed work conforms with the work proposal and with the applicable building and safety codes. Within a reasonable period following completion of such work, Tenant shall furnish to Landlord "as built" plans showing the changes made to the improvements as initially constructed or installed. Tenant may, at its discretion, complete additional improvements to the Lease Premises, with the prior consent of Landlord, in excess of the work necessary to meet Tenant's obligations for Rent Abatement under this Section. Landlord has no obligation and has made no promise to alter, remodel, improve, repair, decorate or paint the Lease Premises or any part thereof.

C. If Tenant fails to complete work within the time specified pursuant to the Scope of Work, or pursuant to an extension approved in writing by the Tribal Property Management/Inventory Control Manager, Landlord may at its option demand as due and payable the cash rental amount of \$300.00 per month for the period which cash rent or agreed upon work renovation project values cannot be attributed. Thereafter, Landlord, at its option may continue the Lease on a month-to-month basis in exchange for monthly cash rent in the amount of \$300.00, or agree to a plan for a work or improvement project equal to or greater than the Rent Abatement requirements. In the event the work and improvement projects in the full value amount are not completed pursuant to the time period specified, Landlord, at its option may terminate this Lease and/or demand immediate payment of the monthly cash rent of \$300.00 per month for the period which cash rent or agreed upon work renovation project values cannot be attributed.

**9. Maintenance:** Tenant, at Tenant's sole cost and expense, shall maintain the lease Premises, including the adjacent parking lot and fenced grounds, and all improvements thereon in good order and in a neat and attractive condition. In the event there are other tenants in the building which house the Lease Premises, Tenant shall be responsible for only its pro-rata share of general maintenance costs, based upon the proportionate share of square feet under rent.

**10. Utilities:** Tenant shall pay its share of the cost of gas, electricity, water, and sewage to the Lease Premises. Tenant shall not be responsible for utility bills incurred by prior or other tenants. Tenant shall pay all charges for services such as telephone, internet, cable television, etc., and maintain all said services in its own name and at its own expense.

**11. Community Services:** Landlord, except as herein specifically noted, shall not be responsible for providing any services to the Lease Premises including, but not limited to, police protection, medical services and garbage disposal. These services shall be provided on a non-discriminating basis only as is customary in the community.

**12. Sublease, Assignment, Transfer:** Tenant shall not, in whole or in part, sublease, assign or transfer this Lease or any right to or interest in this Lease, or any of the improvements on the Lease Premises, without the prior written approval of Landlord, and no such sublease, assignment or transfer shall be valid or binding without such approval, and then only upon the condition that the sublease, assignee or other successors in interest shall agree in writing to be bound by each and all of the covenants and conditions of the Lease. Any attempt to sublease, assign or transfer this Lease without the consent of the Landlord shall be deemed a violation of this paragraph and shall be cause to terminate the Lease at the option of Landlord.

**13. No Merger, Status of Subleases:** The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of Landlord, terminate all existing subleases, or may, at the option of Landlord, operate as an assignment to it of any or all subleases.

**14. Encumbrance:** This Lease, or any right to or interest in this Lease or any of the improvements on the Lease Premises, may not be encumbered by Tenant without the prior written consent of Landlord. Any attempt to do so shall be void and shall constitute cause for immediate termination of the Lease by Landlord.

**15. Public Liability Insurance; Worker's Compensation Insurance:**

**A.** At all times during the term of this Lease, Tenant shall carry a Comprehensive General Liability Insurance Policy or alternative suitable to Landlord, in the amount of One Million Dollars (\$1,000,000.00) combined single limit for bodily injury to any one person, for any one accident or personal injury, and for property damages. Tenant's Comprehensive General Liability Insurance Policy shall insure the performance by Tenant of the indemnity agreement set forth in Paragraph 29, and shall be endorsed to provide that (i) it may not be canceled or altered in such a manner as adversely to affect the coverage afforded thereby without 30 days prior written notice to Landlord; (ii) Landlord is named as additional insured; (iii) Such insurance is primary with respect to Landlord and that any other insurance maintained by Landlord is excess and non-contributing with such insurance. A copy of said policy or a certificate thereof with endorsements shall be furnished to Landlord within 10 days of the execution of this Lease. If Tenant fails to obtain such insurance or to furnish Landlord any such duplicate policy, a certificate or binder as herein required, Landlord may, at its election, without notice to Tenant and without any obligation to do so, procure and maintain such coverage and Tenant shall reimburse Landlord on demand as additional rent, for any premium so paid by Landlord. Landlord, nor its officers, agents and employees shall be liable for

any loss, damage, death or injury of any kind whatsoever to the person or property of Tenant or subtenant, or of any other person whomsoever, caused by any use of the Lease Premises, or by any defect in any structure erected thereon, or arising from any accident, fire, or other casualty on said Lease Premises or from any other cause whatsoever; and Tenant, as a material part of the consideration of this Lease, hereby waives on Tenant's behalf, all claims against Landlord and its officers, agents, and employees, free and harmless from liability for all claims for any loss, injury or death arising from the use of the Lease Premises by Tenant, together with all costs and expenses in connection therewith.

**B.** Tenant shall at all times during the term of this Lease, maintain workers' compensation coverage, covering its employees in an amount equal to the statutory requirements set by the State of Arizona and as adopted by the White Mountain Apache Tribe.

**16. Fire and Damage Insurance:** Landlord shall maintain and carry fire and damage insurance covering the insurable value of the permanent improvements on the Lease Premises. In the event of damage to any improvements on the Lease Premises, Landlord shall have the sole option of whether or not to reconstruct said improvements; and if Landlord decides not to reconstruct the said improvements, the Lease shall terminate. In any event, while the Lease Premises are inhabitable due to damage or fire, Landlord will make reasonable efforts to relocate Tenant to a suitable site at which to conduct its youth recreational center. Tenant at its discretion may obtain insurance coverage for Tenant's personal property located on the Lease Premises.

**17. Default**

**A.** Time is declared to be of the essence of this Lease. Should Tenant breach any covenant of this Lease, and if such breach shall continue uncured for a period of ten (10) days except when delay is attributable to action or non-action of Landlord, after written notice thereof by Landlord to Tenant, during which ten-day period Tenant shall have the privilege of curing such breach, then Landlord may, in addition any other remedies provided herein or by law, re-enter the premises and remove all persons and property therefrom, excluding the personal property belong to any authorized subtenant, and either:

1. Re-let the Lease Premises without terminating this Lease. The terms and conditions of such re-letting shall be at the discretion of Landlord, who shall have the right to alter and repair the Lease Premises as deemed advisable, and to re-let with or without any equipment or fixtures situated thereon.

2. Terminate this Lease at any time, but shall not preclude recovery of any amount due to Landlord for the period prior to termination.

3. Take any other action deemed necessary to protect any interest of Landlord. No waiver of a breach of any of the covenants of this Lease shall be construed to be a waiver of any succeeding breach of the same or any other covenant.

**B.** Any action taken or suffered by Tenant as a debtor under any insolvency or bankruptcy act shall constitute a breach of this Lease. In such event, Landlord shall have the

options set forth in Subparagraph A1, 2 and 3 above, and furthermore, Landlord is hereby declared to be a first preferred creditor.

C. Breaches of the Lease which occur due to events beyond the control of either party, including acts of God, shall not be cause to terminate this Lease.

18. **Attorneys Fees:** If an actions is brought by either party in unlawful detainer for rent or any other sums of money due under this Lease, or to enforce performance of any of the covenants and conditions of this Lease, the losing party shall pay the reasonable attorney's fees of the prevailing party, said fees to be fixed by the Court as a part of the costs in any such action.

19. **Holding Over:**

A. Holding over by Tenant after the expiration of this Lease shall not constitute a renewal or extension thereof or give Tenant any rights hereunder or in or to the Lease Premises, and to the event Tenant does holdover beyond the expiration of this Lease, Tenant shall be treated as a month-to-month Tenant.

B. All buildings and improvements, excluding removable personal property and trade fixtures located on the Lease Premises, shall remain on the Lease Premises after the termination or expiration of this Lease and shall thereupon become the property of Landlord. All removable personal property and all personal property trade fixtures and equipment shall be removed by Tenant within thirty (30) days from the termination of this Lease. Should Tenant fail to remove all removable personal property trade fixtures and equipment within the time specified, unless an extension of time is granted in writing by Landlord, shall become the property of Landlord.

20. **Payments and Notices:** All notices, payments and demands shall be sent to the parties hereto at the addresses herein recited or to such addresses as the parties may hereafter designate in writing. Notices and demands shall be sent by registered mail. Service of any notice or demand shall be deemed complete five (5) days after mailing certified, return receipt requested, or the date actually received, whichever occurs first. Copies of all notices and demands shall be sent to the parties at the following addresses:

White Mountain Apache Tribe  
General Counsel  
P.O. Box 700  
Whiteriver, AZ 85941

Whiteriver Assembly of God Church  
Robert Jimenez, Pastor  
P.O. Box 597  
Whiteriver, AZ 85941

21. **Compliance with Laws:**

A. Tenant, Tenant's employees, agents and subtenants, agree to abide by all laws, regulations and ordinances of the White Mountain Apache Tribe.

B. The White Mountain Apache Tribal Court shall have exclusive jurisdiction over all claims, disputes, or actions filed by Tenant against Landlord, and arising from or relating to this Lease or breach thereof.



C. This Lease shall be construed and enforced in accordance with the laws of the White Mountain Apache Tribe,

D. Landlord warrants that this Lease is fully authorized and complies with all applicable laws of the White Mountain Apache Tribe, and that Landlord is empowered to execute and deliver the same.

**22. Employment:** Tenant agrees to give employment preference to Tribal Members pursuant to the Tribal Employment Rights (TERO) laws of the White Mountain Apache Tribe, currently or hereafter in force and effect, and to comply with all applicable TERO laws and regulations, including payment of any TERO fees.

**23. Inspection:** Landlord and its authorized representatives shall have the right, at any reasonable time during the term of this Lease, to enter upon the Lease Premises, or any part thereof, to inspect the same and all buildings and other improvements erected and placed thereon.

**24. Delivery of Premises:** At the termination of this Lease, Tenant will peaceably and without legal process deliver up possession of the Lease Premises to Landlord.

**25. No Partnership:** Tenant or Landlord are not in partnership or joint venture, notwithstanding any other provision of this Lease.

**26. Upon Whom Binding:** It is understood and agreed that the covenants and agreements herein mentioned shall extend to and be binding upon the parties subscribing hereto, and their heirs, assigns, successors, executors and administrators.

**27. Liquor Sales:** Tenant shall not offer for sale or sell alcoholic beverages to the public for consumption on or off the Lease Premises.

**28. Tribal Licensing:** Tenant shall procure from the Business Office of the White Mountain Apache Tribe, an annual business license pursuant to the Business Code of the White Mountain Apache Tribe, and all other requisite licenses. All licenses must be obtained prior to beginning Tenant's business operations. Tenant shall be solely responsible for the payment of the license fee.

**29. Indemnification:** Tenant hereby waives all claims against Landlord for damage to any property or injury to, or death of, any person in, upon or about the Lease Premises, arising at any time, or from any cause. To the fullest extent permitted by law, Tenant shall indemnify and hold harmless Landlord and its agents, representatives and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees arising out of or resulting from the activities of Tenant in connection with Tenant's use of the Lease Premises, including but not limited to, construction of any improvements placed on the Lease Premises and from Tenant's failure to properly maintain the Lease Premises and the improvements thereon, or from Tenant's non-observance of any law, ordinance or regulation applicable thereto. Such obligation shall not be construed to abrogate any obligation of indemnity which would otherwise exist as to any party to this Contract, nor to relieve a negligent party from liability for its conduct nor to defeat the

contractual benefits to Landlord and/or Tenant of any insurance contract. This obligation shall survive termination or expiration of this Lease Agreement with respect to any damage, injury or death occurring prior to such termination.

**30. Sovereign Immunity:** Nothing in this Lease Agreement shall be construed to constitute a waiver of the sovereign immunity of the White Mountain Apache Tribe, its elected officials, agents, employees, or attorneys for any purpose whatsoever.

**31. Entire Agreement:** This instrument contains the entire agreement between the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and no statement, promises, or inducements made by either party or agent of either party that is not contained in this written Agreement shall be valid or binding, and this Agreement shall supersede all previous communication, representations, or agreements, either verbal or written, between the parties hereto. This Agreement may not be enlarged, modified, or altered except in writing signed by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement at Whiteriver, Arizona this \_\_\_\_ day of January, 2015.

**LANDLORD: WHITE MOUNTAIN APACHE TRIBE**

By: \_\_\_\_\_  
Ronnie Lupe, Tribal Chairman

**TENANT: WHITERIVER ASSEMBLY OF GOD CHURCH**

By: \_\_\_\_\_  
Robert Jimenez, Pastor