



# WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

## (Authorizing Leasing the Whiteriver Fitness Center Complex to Rainbow Treatment Center)

---

- WHEREAS,** The Constitution of the White Mountain Apache Tribe of the Fort Apache Indian Reservation (“Constitution”) provides, as Article IV, Section 1(h) that the Tribal Council (“Council”) shall exercise the power “To regulate the uses and disposition of tribal property”; and
- WHEREAS,** The Rainbow Treatment Center (“RTC”) and Apache Diabetes Wellness Center (“ADWC”) are both programs of the Tribe operating under the Department of Health Programs; and
- WHEREAS,** Because of its limited staffing, ADWC relies on an agreement with RTC, approved by the Division of Health Programs, which authorizes RTC to administer ADWC’s third-party billing functions; and
- WHEREAS,** To comply with upcoming regulation changes from the Centers for Medicare and Medicaid Administration that impact third-party billing, RTC and ADWC have modified their administrative agreement to enhance coordination and oversight by designating ADWC as a contractor to RTC for designated service functions; and
- WHEREAS,** The new regulations, when enacted, will also require that RTC hold the rights to the facility in which the ADWC services are provided, if RTC is to continue processing the third-party billing; and
- WHEREAS,** The terms of the modified agreement between RTC and ADWC allow ADWC, at its discretion, to terminate the arrangement and resume full control of its administrative functions and the rights to the Fitness Facility, if it can administer all functions of its program operation without assistance; and
- WHEREAS,** RTC and ADWC, with the endorsement of the Division of Health Programs, request that the Tribe issue a lease of the Fitness Center complex to RTC for the reasons stated herein, and as shown in the proposed lease agreement presented this date; and
- WHEREAS,** The Council has reviewed ADWC and RTC’s request and finds that authorizing a lease of the Whiteriver Fitness Complex to Rainbow Treatment Center will help the Tribe’s programs maintain compliance with federal regulations while providing needed services, and is in the best interests of the Tribe and its members.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby approves authorizes a lease agreement between the Tribe and RTC for the Whiteriver Fitness Center complex, subject to the following terms:

1. The Lease will be in effect for a term of ten years from the date of execution; and
2. ADWC is authorized to resume full possession of the lease site at any time during the term of the lease, upon notification to RTC as provided in the operations agreement between RTC and ADWC.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby makes the following declarations about certain conditions which would otherwise be required by federal regulation, 25 C.F.R. Part 162:

1. The Tribe waives the due diligence and enforcement requirements under 25 CFR §162.417 concerning permanent improvements which may be made within the lease site;
2. The Tribe waives the assessment of rent, and for that purpose waives valuation under 25 CFR §162.420, and the Tribe further states that accepting the negotiated compensation and waiving the valuation is in the Tribe's best interest;
3. The Tribe requests that the Bureau of Indian Affairs waive the requirements under 25 CFR §162.434 for a performance bond or other security, in recognition of the Lessee's status as a Tribal program; and
4. Pursuant to 25 CFR §162.438(f), the Tribe confirms that the proposed use of the facility is in conformity with applicable Tribal law.

**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 Chairwoman, or in her 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 APRIL 14, 2022 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).

 4.21.22  4-21-2022  
Gwendena Lee-Gatewood, Chairwoman      Date      Doreen T. Numkena, Tribal Secretary      Date