

RESOLUTION OF THE  
WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION

WHEREAS, the Tribal Council was previously advised that all Assembly of God Church permits have expired, with the exception of the Whiteriver Assembly of God Church; and

WHEREAS, Pastor Odell of the Cedar Creek Assembly of God Church, who also serves as the Presbyterian of the East Section of Assemblies of God Native American Churches, met with the Tribal Realty Office to negotiate a Master Church Lease which would include all six Assembly of God Church locations now operating on the Fort Apache Indian Reservation; and

WHEREAS, Pastor O'Dell has requested that the Whiteriver Assembly of God Church Lease be canceled in order that it may be included in the Assembly of God master church lease; and

WHEREAS, the Tribal Realty Office has prepared a master lease for the Assembly of God Church in conformity with the form lease previously approved by the Tribal Council, a copy of which is attached to this resolution and incorporated by reference herein; and

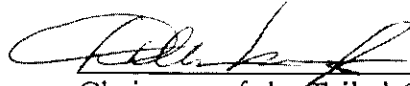
WHEREAS, the Tribal Council concludes that a 25-year lease should be granted to the Assembly of God Church for the six locations, serving the Whiteriver, McNary, Canyon Day, Cedar Creek, Carrizo and Cibecue communities, at an annual lease fee of \$100.00 per Church location, in accordance with the conditions, provisions and legal descriptions set forth in the attached lease, incorporated by reference herein.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves a lease of tribal land to the Assembly of God Church for its six locations serving the Whiteriver, McNary, Canyon Day, Cedar Creek, Carrizo, and Cibecue communities, at an annual lease fee of \$100.00 per Church location, for a term of twenty-five years commencing March 1, 1999, pursuant to the lease form attached to this resolution and incorporated by reference herein.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the existing Church Lease No. CFA-104 for the Whiteriver Assembly of God premises is hereby canceled effective this date, in order that it may be included in the Assembly of God master church lease.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Tribal Chairman and in his absence the Vice Chairman, are hereby authorized to sign any and all documents necessary to carry out the purpose of this resolution.

The foregoing resolution was on March 4, 1999 duly adopted by a vote of SEVEN for and ZERO against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1(a), (i), (m), (t), and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



Chairman of the Tribal Council

1999 1 7 1000



Secretary of the Tribal Council

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

THIS LEASE, made and entered into this 24th day of March, 19 99 by and between the **White Mountain Apache Tribe**, hereinafter called the Lessor, whose address is P.O. Box 700, Whiteriver, Arizona 85941, and **Arizona District Council of the Assemblies of God**, hereinafter called Lessee, whose address is 2009 N. 7<sup>th</sup> Street, Phoenix, Arizona 85006-2194, as follows:

1. **LEASED PREMISES:** For and in consideration of the rents, covenants, and agreements hereinafter set out, the Lessor hereby leases to the Lessee those certain parcels of land and premises located in the communities of Whiteriver, McNary, Canyon Day, Cedar Creek, Carrizo and Cibecue, within the boundaries of the Fort Apache Indian Reservation and more particularly described in Exhibits A through F, attached hereto, containing a combined total of **7.52 acres** more or less.

2. **TERM:** The term of this lease shall be twenty-five (25) years, beginning on the 1st day of March, 1999 and renewable at the expiration of the original term as provided in Section 3.

3. **RENEWAL:** This Lease may be renewed for an additional term of 25 years upon renegotiation of the lease terms and upon the mutual consent of the Lessee and Lessor.

4. **CONDITION OF LEASED PREMISES:** Lessee has examined and is familiar with the leased premises and verifies that no representations as to the physical condition thereof have been made by the Lessor or any agent of Lessor prior to or at the time of the execution of this Lease and Lessee warrants that it has not relied on any warranty or representation regarding the physical condition of the premises made by or for Lessor but solely upon Lessee's independent investigation.

5. **PURPOSE:** Lessee shall use and operate the leased premises for its non-profit religious purposes and the holding of such religious, social and educational activities on the premises as are consistent with its religious purposes. If the Lessee does not use and operate the leased premises, or any portion thereof, for religious purposes for a period of fifteen (15) consecutive months, this lease, or the unused portion of the leased premises (as identified in Exhibits A through F), shall terminate.

6. **UNLAWFUL USES:** The Lessee agrees that it will not use or cause to be used or permit any part of the leased premises to be used for any unlawful conduct or purpose, or for any purpose unrelated to its religious activities as defined in Paragraph 5.

The lawfulness of Lessee's conduct shall be defined by the existing tribal laws and applicable laws of the United States. Lessor warrants and represents that the intended use by Lessee does not at this time violate tribal law or applicable laws of the United States.

7. **LEASE FEE:** The Lessee, as a non-profit organization, in consideration of the foregoing covenants, agrees to pay in lawful money of the United States of America to the White Mountain Apache Tribe, the following:

A. An annual lease fee, inclusive of tribal taxes, of One Hundred Dollars (\$100.00) per church site, for a total annual fee of Six Hundred Dollars (\$600.00), payable in one (1) equal installment of \$600.00, with the first installment due and payable on or before March 1, 1999 and the remaining installments due and payable on or before March 1st of each succeeding year during the term of this lease. Lessee may pay for more than one year of the lease period in advance at Lessee's option.

B. In the event that lessee fails to pay any annual rental fee installment of Six Hundred Dollars (\$600.00) within thirty (30) days of its due date, then interest at a rate of ten percent (10%) per annum shall be assessed on the unpaid rental from the date the payment is due until paid.

C. The Tribal Realty Office of the White Mountain Apache Tribe is hereby designated as Lessor's agent for the administration of this lease and for the receipt and collection of all proceeds due the Lessor pursuant to the terms of this lease, and for the receipt of all documents, certifications and correspondence arising out of or relating to this lease.

8. **IMPROVEMENTS:** Unless otherwise provided herein, all improvements or construction on said leased premises shall be at the expense of the Lessee. In addition to the installations and improvements, which Lessor has already placed on the leased premises, if any, Lessee shall have the right to place on said premises at its own expense, such improvements as it may deem necessary and only as limited herein to carry on the purposes authorized by this Lease. Provided, however, that before any additional exterior structural improvements in excess of \$5,000.00 shall be placed on the premises, the consent of the Lessor in writing, which consent will not be unreasonably withheld, must first be obtained. Lessor shall not be required to make any improvements on said premises, nor shall Lessor be responsible for the upkeep of any part of said leased premises, unless provided otherwise herein.

Upon termination or cancellation of this lease, the Lessee may remove within ninety (90) days, weather permitting, all improvements and structures except those owned by the White Mountain Apache Tribe, and further excepting therefrom all septic tanks or water or sewage lines which are attached to the land and all electric lines or poles. All improvements and personal property not so removed within the time specified shall be considered abandoned by the Lessee and shall become the property of the Lessor.

**9. CONSTRUCTION, MAINTENANCE, REPAIR AND ALTERATION:** The Lessee shall maintain the leased premises and all improvements thereon in good order and repair and in a neat and attractive condition which Lessor acknowledges exists as of this date at all times during the term of this lease and at Lessee's sole cost and expense. Lessee shall construct, maintain, and repair, as required by law all improvements on the leased premises and any alterations, additions, or appurtenances thereto, and shall otherwise comply with all existing laws, ordinances, and regulations of the White Mountain Apache Tribe, copies of which Lessor acknowledges are available for public inspection or will be provided upon request by Lessee, and any other laws applicable to said premises. Lessee shall indemnify and hold harmless the Lessor and the United States Government against liability for all claims arising from Lessee's construction of the improvements placed on the premises and from Lessee's failure to maintain said premises and the improvements thereon as hereinabove provided, or from Lessee's non-observance of any law, ordinance or regulations applicable thereto.

**10. UTILITIES:** The Lessee shall pay the cost of gas, electricity, garbage collection, water and sewage and the cost of all other utility services to the premises.

**11. COMMUNITY SERVICES:** Lessor shall not be responsible for providing any services to the leased premises including, but not limited to, police and fire protection, medical services and garbage disposal, except to the extent that said services are customary provided on a non-discriminating basis in the community.

**12. SUBLEASE, ASSIGNMENT, TRANSFER:** The Lessee shall not sublease, assign or transfer this Lease or any right to or interest in this Lease or any of the improvements on the leased premises without the prior written approval of the Lessor, which consent may be withheld in the complete discretion of Lessor and no such sublease, assignment or transfer shall be valid or binding without such approval, and then only upon the condition that the sublessee, assignee or other successor in interest shall agree in writing to be bound by each and all of the covenants and conditions of this Lease. Any attempt to assign this lease without the consent of the Tribe shall be deemed a violation of this paragraph and shall be cause to terminate the lease at the option of Lessor.

**13. STATUS OF SUBLEASE:** Termination of this Lease, by cancellation or otherwise, shall not serve to cancel approved subleases or subtenancies, but shall operate as an assignment to Lessor of any and all such subleases or subtenancies.

**14. ENCUMBRANCE:** This Lease, or any right to or interest in this Lease or any of the improvements on the leased premises may not be encumbered by the Lessee. Any attempt to do so shall be void and shall constitute cause for immediate termination of the lease by Lessor.

**15. PUBLIC LIABILITY INSURANCE:** At all times during the term of this Lease, Lessee shall carry a public Liability Insurance Policy or alternative suitable to the Lessor, including self-insurance for the leased premises, in the amount of one million

dollars, (\$1,000,000) combined single limit for bodily injury to any one person; for any one accident or personal injury; and for property damage; said policy shall be written jointly to protect Lessee and Lessor. In the event Lessee fulfills this requirement by obtaining an insurance policy, a copy of said policy or a certificate thereof shall be furnished to the Lessor within 10 days of the execution of this lease. Neither the Lessor nor the United States Government, nor their officers, agents and employees shall be liable for any loss, damage, death or injury of any kind whatsoever to the person or property of the Lessee or sublessee, or of any other person whomsoever, caused by any use of the leased premises, or by any defect in any structure erected thereon, or arising from any accident, fire, or other casualty on said premises or from any other cause whatsoever; and Lessee, as a material part of the consideration of this Lease, hereby waives on Lessee's behalf all claims against Lessor and the United States Government and agrees to hold Lessor and the United States Government, and their officers, agents, and employees, free and harmless from liability for all claims for any loss, injury or death arising from the use of the premises by Lessee, together with all costs and expenses in connection therewith.

**16. FIRE AND DAMAGE INSURANCE:** Lessee shall, from the date of approval of this Lease, carry fire insurance with extended coverage endorsements and insurance covering vandalism, in the name of the Lessee or provide adequate self-insurance covering the insurable permanent improvements on the leased premises. In the event of damage to any improvements on the leased premises, the Lessee shall have the sole option of whether or not to reconstruct said improvements; and if Lessee decides not to reconstruct the said improvements, this Lease shall terminate, and the insurance proceeds shall be paid to the Lessee. Lessee shall provide to the Lessor a Certificate of Insurance evidencing the coverage required by this Lease within 10 days of the execution of this Lease. Lessee shall clean up all debris within ninety (90) days after loss or damage to the improvements, weather permitting. If Lessee decides to reconstruct said improvements, reconstruction shall commence within one year after the ninety (90) day clean-up period and be completed within one year thereafter.

**17. EMINENT DOMAIN:**

**A. Lessee's Option.** The term "total taking" as used in this Article means the taking of the entire leased land in fee under the power of eminent domain. The term "partial taking" means any other taking in fee under the power of eminent domain, except, due to the small size of the leased premises, that if [fifty] percent (50%) or more by area but not all of the leased land is so taken, the Lessee shall have the option within sixty (60) days of the date of such taking by notice in writing to the Lessor to have such taking deemed a "total taking."

**B. Total Taking.** In case of a total taking, the leasehold estate of Lessee and his liability for future installments of rental (except accrued percentage rental, if any) shall cease and terminate as of the date of actual physical possession of the leased premises or portions thereof which shall be so taken.

**C. Partial Taking.** In the case of a partial taking, this Lease shall terminate as to the portion taken upon the date on which actual possession of said portion is taken, but this Lease shall continue in full force and effect as to the remainder of the leased land; and each ensuing installment of minimum rental only shall be abated in the ratio that the ground area of the leased land taken bears to the total area of said land prior to the taking. If the taking does not interfere with the operation of the lessee's business, then there shall be no abatement of the rental payment.

**D. Refund of Advance Rentals.** There shall be no refund of minimum rental paid in advance because of total or partial taking of the leased premises.

**E. Compensation for Improvements.** In the event of a total or partial taking, as defined herein, or other eminent domain proceedings by the Tribe, Lessee shall have the option of moving the improvements or receiving compensation. In the event that Lessee elects to move the improvements, Lessor agrees to provide a suitable relocation site and pay the cost of moving, provided that said cost does not exceed the appraised value of the improvements. If Lessee elects to be compensated for the improvements, Lessor will pay to Lessee the appraised value of the improvements and a pro rata refund of any advance lease fees paid to Lessor and this lease shall terminate. The appraised value shall be determined by an independent appraiser or government appraiser agreed upon by the parties.

**18. DEFAULT:** Time is declared to be of the essence of this Lease. Should Lessee default in any payment of monies, as required by the terms of this Lease, and unless provided otherwise herein, and if such default shall continue uncured for a period of thirty (30) days after written notice thereof by the Lessor to Lessee, during which thirty-day period Lessee shall have the privilege of curing such default, or should Lessee breach any other covenant of this Lease, and if such breach shall continue uncured for a period of thirty (30) days except when delay is attributable to action or non-action of Lessor after written notice thereof by the Lessor to Lessee, during which thirty day period Lessee shall have the privilege of curing such breach, then Lessor may in addition to any other remedies provided herein, either:

**A.** Collect by suit or otherwise, all monies as they become due hereunder, or at the option of the Lessor, collect by suit or otherwise all monies due for the full term of the lease, or enforce, by suit or otherwise, Lessee's compliance with any other provisions of this Lease, or

**B.** Re-enter the premises and remove all persons and property therefrom excluding the personal property belonging to authorized subleases, and either,

**(1)** Re-let the premises without terminating this Lease as the agent and for the account of Lessee, but without prejudice to the right to terminate held by the Lessor or any obligation of Lessee hereunder. The Terms and conditions of

such re-letting shall be at the discretion of Lessor, who shall have the right to alter and repair the leased premises as deemed advisable, and to re-let with or without any equipment or fixtures situated thereon. Rents from any such re-letting, shall be applied first to the expenses of re-letting, collecting, altering, and repairing the leased premises and to satisfy any attorney's fees or other cost of collecting, and any real estate commission actually paid by Lessor in connection with re-letting or collecting, and any insurance, taxes and assessments and thereafter the remainder shall be applied as payment to liquidate the total rental due from Lessee, Lessee shall pay to Lessor monthly, when due, any deficiency, and Lessor may sue thereafter as each monthly deficiency shall arise, or

(2) Terminate this Lease at any time even though Lessor has exercised rights as outlined in Subparagraph (1) above. Exercise of this remedy shall exclude recourse to any other remedy, but shall not preclude recovery of any amount due to Lessor for the period prior to termination.

C. Take any other action deemed necessary to protect any interest of Lessor. 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. Any action taken or suffered by Lessee as a debtor under any insolvency or bankruptcy act shall constitute a breach of this Lease. In such event, the Lessor shall have the options set forth in subparagraph B (1) and B (2) herein, and furthermore, the Lessor is hereby declared to be a first preferred creditor.

D. 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.

19. **ATTORNEY'S FEES:** If action be brought by either party in unlawful detainer for rent or any other sums of money due under this Lease, or to enforce the 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.

20. **HOLDING OVER:** Holding over by the Lessee after the termination of this Lease shall not constitute a renewal or extension thereof or give the Lessee any rights hereunder or in or to the leased premises. Lessee agrees to remove all removable, personal property as defined under the terms of this Lease at the termination of this Lease, and if Lessee fails to do so, Lessor shall have the right to cause Lessee's personal property to be removed from the premises and have it stored at Lessee's expense, or to exercise the rights otherwise set forth herein.

21. **FEDERAL GOVERNMENT TRUST RELATIONSHIP - FEDERAL LAW:** This Lease shall remain in full force and effect regardless of the existence of Federal Trust responsibilities with respect to the Lessor during the term of this Lease. Applicable federal law as set forth at 25 U.S.C. § 415 et. seq. and at 25 C.F.R. Part 162 et seq. are



incorporated herein by reference and shall form a part of this lease agreement as if fully set forth herein, both as now stated and as may subsequently be amended.

**22. OBLIGATIONS OF LESSEE:** While the leased premises are in trust or restricted status, all of the Lessee's obligations under this Lease, and the obligations of their sureties, are to the United States as well as to the Lessor.

**23. 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 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  
Legal Department/Tribal Realty Division  
P.O. Box 700  
Whiteriver, Arizona 85941

Arizona District Council of the Assemblies of God  
2009 N. 7<sup>th</sup> Street  
Phoenix, Arizona 85006-2194

**24. RESERVATION LAWS AND ORDINANCES, RESOLUTION OF DISPUTES AND APPLICABLE LAW:**

**A.** The Lessee, Lessee's employees, agents and sublessee and their employees and agents agree to abide by all laws, regulations and ordinances of the White Mountain Apache Tribe now in force and effect or that may hereafter be in force and effect, copies of which will be provided to Lessee upon specific written request.

**B.** The White Mountain Apache Tribal Court shall have exclusive jurisdiction over all claims, disputes, or actions filed by the Lessee against the Lessor, and arising from or relating to this lease or breach thereof.

**C.** This lease shall be construed and enforced in accordance with the specific laws of the White Mountain Apache Tribe, as applicable, and otherwise by federal and state law.

**D.** The Lessor warrants that this lease is fully authorized and complies with all applicable laws of the White Mountain Apache Tribe and the United States, and that Lessor is empowered to execute and deliver the same; Lessor will use its best efforts and due diligence at its expense to secure further approvals, if needed.

25. **EMPLOYMENT:** The Lessee agrees to give employment preference to tribal members pursuant to all Tribal Employment Rights laws of the Tribe currently or hereafter in force and effect.

26. **INSPECTION:** The Lessor and its authorized representatives shall have the right, at any reasonable time during the term of this Lease, to enter upon the leased premises, or any part thereof, to inspect the same and all buildings and other improvements erected and placed thereon.

27. **DELIVERY OF LEASED PREMISES:** At the termination of this Lease, Lessee will peaceably and without legal process deliver up the possession of the leased premises to the Lessor in good condition.

28. **NO PARTNERSHIP:** Lessee and Lessor are not in partnership, even if the terms of rental hereunder are in whole or in part on a percentage basis.

29. **UPON WHOM BINDING:** It is understood and agreed that the covenants and agreements hereinbefore mentioned shall extend to and be binding upon the parties subscribing hereto, and their heirs, assigns, successors, executors and administrators. While the leased premises are in trust or restricted status, all of the Lessee's obligations under this Lease, and the obligations of its sureties are to the United States as well as to the owner of the land.

30. **LIQUOR SALES:** The Lessee shall not offer for sale or sell alcoholic beverages to the public for consumption on or off the leased premises.

31. **INDEMNIFICATION:** To the fullest extent permitted by law, Lessee shall indemnify and hold harmless Lessor and all 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 Lessee in connection with Lessee's use of the leased premises; provided that any such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom, to the extent caused in whole or in part by any negligent act or omission of Lessee or anyone directly or indirectly employed by Lessee or anyone for whose acts Lessee may be liable, regardless of whether it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to abrogate any obligation of indemnity which would otherwise exist as to any party to this Contract. It is not intended by this paragraph to relieve a negligent party from liability for its conduct nor to defeat the contractual benefits to Lessor and/or Lessee of any insurance contract.

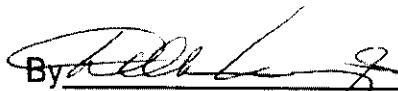
32. **SOVEREIGN IMMUNITY:** Nothing in this agreement shall be construed to constitute a waiver of the sovereign immunity of the White Mountain Apache Tribe, its agents, employees, or attorneys, for any purpose whatsoever.

**33. 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 communications, 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.

**EXECUTED** at Whiteriver, Arizona this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

**LESSOR:**

WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION

By: 

Tribal Chairman

ATTEST:

\_\_\_\_\_  
Tribal Council Secretary

**LESSEE:**

ARIZONA DISTRICT of the ASSEMBLY OF GOD

By: 

Rev. Charley Odell, East Section Presbyterian

**APPROVED:  
SECRETARY OF THE INTERIOR**

By \_\_\_\_\_

Superintendent, Fort Apache Agency  
UNITED STATES DEPARTMENT OF THE INTERIOR  
Pursuant to the Authority delegated to the Assistant  
Secretary - Indian Affairs by 209 DM 8, re delegated to  
Phoenix Area Director by Sec. Order Nos. 3150 and 3177,  
as amended, 10 BIAM Bulletin 13, as amended, and to the  
Superintendent by Area Office Addendum to 10 BIAM  
Bulletin 11; and 10 BIAM Bulletin 13.

Date: \_\_\_\_\_