



# **WHITE MOUNTAIN APACHE TRIBE**

*A Sovereign Nation Exercising Self-Governance  
Over the Fort Apache Indian Reservation*

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## **Resolution No. 12-2013-232**

### **(Authorizing Cellular One Lease for Communications Tower in Cedar Creek)**

- WHEREAS,** the White Mountain Apache Tribe (“Tribe”), as a federally recognized Indian tribal government, with inherent rights of self-governance, and pursuant to its Tribal Constitution, exercises rights of self-determination and self-governance through its duly elected Tribal Council (“Council”); and
- WHEREAS,** on this day, the Tribal Council did hear from District II Tribal Council Representative Clinton Kessay, Jr. regarding the Tribe’s desperate need for placement of a tower in Cedar Creek, a community in the District that he was elected to represent; and
- WHEREAS,** according to the Councilman, the existing communications gap in Cedar Creek is a safety risk for Tribal members in the area, because of the inability of his constituents to communicate or call for help during emergency situations; and
- WHEREAS,** Councilman Clinton Kessay, Jr. further explained that the Attorney General’s inability to strike a deal satisfactory to Cellular One was frustrating his effort to erect a tower in Cedar Creek. Regardless of the history and ongoing negotiations, the bottom line was that Cedar Creek did not have the tower it was promised by Cellular One in 2012 and therefore, Councilman Kessay decided to take action; and
- WHEREAS,** for the reasons stated above, District II Council Representative Clinton Kessay, Jr., in his sole discretion and with the assistance of Tribal Planner Joe Waters, determined it was in the Tribe’s best interest to unilaterally negotiate lease agreement terms with Cellular One’s telecommunications division without the aid of the Attorney General’s Office; and
- WHEREAS,** Councilman Kessay explained to the Council that because the Attorney General was involved in prior negotiations and his lack of progress in securing a tower for Cedar Creek had become an inconvenience to people and lacking emergency communications, was becoming a safety risk for District II; and
- WHEREAS,** in order to resolve this problem, Councilman Kessay informed the Tribal Council that former Tribal Attorney and current Outside Counsel George Hesse had reviewed the agreement, among other experts by way of Joe Waters. The Attorney General reluctantly agreed to cede authority over legal review to former Tribal Attorney George

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Hesse, as he had confidence that George Hesse was a highly regarded legal expert and great asset to the Tribe over his many years of service; and

**WHEREAS,** members of the governing body expressed their great interest in securing emergency communications for Cedar Creek due to safety concerns and therefore reluctantly agreed that the Attorney General should step aside because attorney George Hesse had already provided a legal review of the agreement; and

**WHEREAS,** the Tribal Council finds that it is in the Tribe’s best interest to authorize an agreement with Cellular One for the purpose of placing a tower in Cedar Creek that will address the safety and emergency concerns of the Tribe.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the Chairman to sign an agreement between the Tribe and Cellular One, only for the purpose of placing a tower in Cedar Creek, in order to address the safety concerns raised by Councilman Clinton Kessay. As the agreement was previously reviewed by George Hesse, final legal review by our Attorney General is not required for the purpose of this agreement.

**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 declared null and void and of 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 Acting Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution. In the event that the Chairman fails to delegate signatory authority to an Acting Chairman, the Vice-Chairman may sign.

The foregoing resolution was on **DECEMBER 4, 2013** duly adopted by a vote of **SIX** for, **ZERO** against, and **ONE** abstention by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (b), (c), (h), (n), (s), (t) and (u) of the Tribal Constitution, 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).

  
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Ronnie Lupe, Chairman

12/12/13  
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Date

  
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Mariddie J. Craig, Secretary

12/12/2013  
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Date