



# **WHITE MOUNTAIN APACHE TRIBE**

A Sovereign Tribal Nation

## **(Authorizing WMAT and Verizon to Finalize Lease Agreements for Telecommunication Purposes, Including Phone and Data Service at Cooley, Whiteriver, Cibecue, Sunrise, Mogollon Rim, and McNary )**

---

- WHEREAS,** the Tribal Council (“Council”), pursuant to the Tribal Constitution of the White Mountain Apache Tribe (“WMAT”), is empowered to make policy decisions that would benefit the general welfare of the Apache people, *see Sec. 1(a) under Powers of the Tribal Council, Article IV, Sec. 1*; and
- WHEREAS,** furthermore, the Council has the authority to hire legal counsel to handle the legal affairs of the WMAT on behalf of the Council and government *1(d)*, and finally, the Council is empowered to enter into agreements with third parties in carrying out the daily operations of the White Mountain Apache Tribal government *1(b)*; and
- WHEREAS,** in 2010, the Attorney General’s Office reached out to Verizon, Inc., in hopes of building a relationship that could one day lead to the development of a Verizon communications network within the Fort Apache Indian Reservation (“FAIR”) boundaries; and
- WHEREAS,** after two years of discussions, agreements in principle were made to facilitate the strategic placement of Verizon equipment on WMAT Telecommunications Towers (“Towers”) via a master co-location agreement; and
- WHEREAS,** the Tribal Council, having previously instructed the Attorney General’s Office to safeguard the Towers and secure them for the benefit of the Tribe, was in full support of Verizon establishing a telecommunications presence on FAIR land and coexisting with other companies currently leasing tower space from the WMAT; and
- WHEREAS,** in the process of negotiating terms, a local business with previous ties to the WMAT, created challenges that would serve to delay or prevent the establishment of Verizon’s network. To complicate matters, a former Councilman pushed forward an agreement that would relinquish the Tribe’s claim to ownership over all telecommunications towers, and after failing to disclose material facts and a lack of a proper legal review, the agreement was deemed null and void and resolution rescinded accordingly; and
- WHEREAS,** despite many obstacles that the Tribal Council, Attorney General’s Office and WMAT have had to overcome, the Tribal governing body is now in a position to introduce the Verizon Network by authorizing agreements allowing for colocation of Verizon’s equipment and tower site development at select locations, including the following:

***Resolution No. 08-2015-176***

1. **Cooley Mountain**
2. **Whiteriver / Sevenmile**
3. **Cibecue Ridge**
4. **Sunrise Resort**
5. *Mogollon Rim*
6. *McNary*

\***Bold** tower sites (above) are in process and ready for colocation or tower development pending Chairman's signature and Council approval.

\**Italicized* sites above are proposed sites only, and development is pending data received from the initial sites and with Verizon management approval, this resolution shall serve to preauthorize the development and lease agreements provided that all Tribal and applicable Federal Regulations are adhered to, and .

**WHEREAS,** the parties initially considered appraisals for the various sites that were used to set lease rental rates in prior telecommunications agreements between the WMAT and Cellular One, Inc. After a discussion and informal negotiations between the WMAT's legal team and Verizon's business and legal representatives, the parties have come to an understanding regarding lease rates and abatement, where applicable, that, are both fair and favorable to the WMAT, while making business sense for Verizon's purposes; and

**WHEREAS,** to the extent that appraisals are required by the Code of Federal Regulations for all business leases, the Tribal Council hereby asserts that the governing body is fully informed and educated on this matter and through passage of this resolution, the WMAT shall hereby waive any appraisal requirements that would help determine fair market value of the numerous tower site developments and lease rental rates; and

**WHEREAS,** the Council understands that Federal Regulations also require that in order for an agreement to incorporate State Law to interpret contractual disputes, a limited waiver of Sovereign Immunity would be required to authorize using Arizona Law to enforce the agreements contemplated herein, therefore, the Tribal Council shall waive immunity for the purpose of enforcing all agreements executed in furtherance of the WMAT-Verizon colocation and lease agreements authorized by this resolution; and

**WHEREAS,** the Tribal Council finds it in the best interest of the White Mountain Apache Tribe to authorize the WMAT-Verizon lease agreements that are subject to the terms of this resolution.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the lease agreements related to all tower colocation and developments pursuant to this resolution. The following sites are scheduled for development in the near future and long term:

1. **Cooley Mountain**
2. **Whiteriver / Sevenmile**

**Resolution No. 08-2015-176**

3. **Cibecue Ridge**
4. **Sunrise Resort**
5. *Mogollon Rim*
6. *McNary*

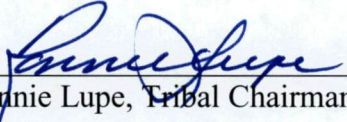
**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it declares that it hereby waives sovereign immunity for the purpose of enforcing this agreement, and waives appraisals required pursuant to Federal Regulation.

**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.

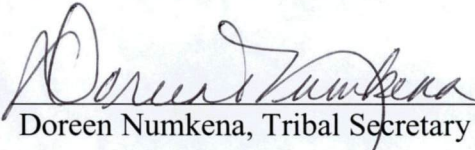
**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution or Tribal Ordinances, or any material facts concerning the issues presented are later found to be false or misrepresented, 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 AUGUST 18, 2015 duly adopted by a vote of NINE for, ZERO against, and ONE abstention 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).

  
\_\_\_\_\_  
Ronnie Lupe, Tribal Chairman

9-2-15  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Doreen Numkena, Tribal Secretary

9-9-2015  
\_\_\_\_\_  
Date