



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Approving Amendment #2 to Master Lease Agreement between the Tribe and Cellular One)

WHEREAS, The Constitution of the White Mountain Apache Tribe (“Tribe”) of the Fort Apache Indian Reservation provides, at Article IV, Section 1(b) that the Tribal Council (“Council”) shall exercise the power, “To negotiate, make, and perform contracts and agreement of every description... with any person, association, or corporation...”; and

WHEREAS, On March 29, 2016, the late Chairman Lupe executed, on the Tribe’s behalf, a Master Lease Agreement (“MLA”) between the Tribe and Smith Bagely Inc. d/b/a Cellular One of North Eastern Arizona, for the leasing of several small parcels of land upon which cellular towers have been built; and

WHEREAS, As the communication needs and the population of the residents of the Fort Apache Indian Reservation (“Reservation”) have increased, so has the necessity for more towers, several of which have been approved and built since the first amendment to the MLA in January, 2017; and

WHEREAS, These new towers need to be incorporated into the MLA, as does certain new infrastructure for the First Net program, for which Cellular One is a contractor of AT&T, and which will provide the Tribe’s first responders with more reliable and flexible communications technology and frequencies; and

WHEREAS, The MLA originally provided for the Tribe to collect \$16,500.00 in monthly rent from Cellular One, whereas with the new amendment, after construction is complete, the Tribe will collect \$34,000.00 in monthly rent, in addition to likely increases in co-location revenue; and

WHEREAS, The Tribe’s Office of the Attorney General has negotiated Amendment 2 to the MLA (Attached and incorporated by reference), and it is ready for approval by Council; and

WHEREAS, the Council has reviewed and considered the proposed Amendment #2 to the MLA and finds that it’s approval will facilitate First Net, provide better communication to the Tribe’s members and first responders, is in the best interests of the Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the attached Amendment #2 to the Master Lease Agreement between the Tribe Smith Bagely Inc. d/b/a Cellular One of Northeast Arizona is hereby approved, with any non-substantive edits that may need to be made by

Resolution No. 04-2021-77

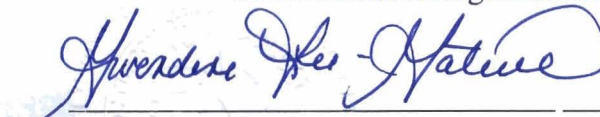
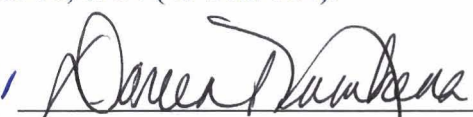
the Office of the Attorney General and subject to approval by the Bureau of Indian Affairs Realty Office.

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 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 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 16, 2021 duly adopted by a vote of SIX 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>4.19.21</u>		<u>4-19-2021</u>
Gwendena Lee-Gatewood, Chairwoman	Date	Doreen T. Numkena, Tribal Secretary	Date

SECOND AMENDMENT TO TOWER MASTER LEASE AGREEMENT

This Second Amendment (“Second Amendment”) to Tower Master Lease Agreement is made and entered into this ____ day of April, 2021 between The White Mountain Apache Tribe (“Lessor”) and Smith Bagley Inc., a District of Columbia Corporation d/b/a Cellular One of North East Arizona (“Lessee”), collectively referred to herein as the “Parties.”

The Parties agree:

1. EXHIBIT “A” is hereby amended, and shall appear as follows:

EXHIBIT “A”
(Master Tower Schedule of Tower Sites)

Lattice and/or Guy-Wire Structures:

1. Seven-Mile
2. Cibecue Ridge*
3. Cooley (SBI’s Tower)*
4. Hon-Dah†
5. Salt River North‡
6. Cedar Creek†

Monopoles:

1. Whiteriver P.D.
2. Cibecue Downtown
3. Sunrise Hotel*
4. Apache Fair‡
5. Sunrise Base

Lite Sites/Other Structures:

1. FATCO Water Tower
2. East Fork‡
3. Whiteriver North (Jurassic Park)‡
4. Rainbow‡
5. Canyon Day†
6. Whiteriver IHS†

Cell on Wheels:

1. None

* Towers that were originally included in Exhibit A of the MLA but are being replaced with a new structure to accommodate FirstNet.

† Towers that were constructed after execution of the MLA but were listed in Exhibit B of the MLA and were automatically incorporated into the MLA.

‡ Towers that were constructed after execution of the MLA and are being newly incorporated herein.

SBi/WMAT
 Second Amendment to Tower MLA

2. Schedule 1 is hereby amended and shall appear, as follows:

Second Amendment to
SCHEDULE 1
List of Tower Sites and Monthly Pricing

Lattice and/or Guy-Wire Structures:.....\$2,500.00/mo.

Owned by SBi:

- | | |
|---------------------|------------|
| 1. Seven-Mile | \$2,500.00 |
| 2. Cibecue Ridge | \$2,500.00 |
| 3. Cooley | \$2,500.00 |
| 4. Hon-Dah | \$2,500.00 |
| 5. Salt River North | \$2,500.00 |
| 6. Cedar Creek | \$2,500.00 |

Subtotal \$15,000.00/mo.

Monopoles.....\$2,000.00/mo.

Owned by Lessor, Tribe:

- | | |
|-----------------|------------|
| 1. Sunrise Base | \$2,000.00 |
|-----------------|------------|

Owned by Lessee, SBi:

- | | |
|---------------------|------------|
| 2. Whiteriver P.D. | \$2,000.00 |
| 3. Cibecue Downtown | \$2,000.00 |
| 4. Sunrise Hotel | \$2,000.00 |

Current Subtotal \$8,000.00

- | | |
|-----------------------------------|------------|
| 5. Apache Fair (when constructed) | \$2,000.00 |
|-----------------------------------|------------|

Subtotal (after construction) \$10,000.00

Lite Sites or Other Structures.....\$1,500.00/mo.

Owned by Lessor, Tribe:

- | | |
|----------------------|------------|
| 1. FACTO Water Tower | \$1,500.00 |
|----------------------|------------|

Owned by Lessee, SBi:

- | | |
|-------------------------------------|------------|
| 2. East Fork | \$1,500.00 |
| 3. Whiteriver North (Jurassic Park) | \$1,500.00 |
| 4. Rainbow | \$1,500.00 |
| 5. Canyon Day | \$1,500.00 |
| 6. Whiteriver IHS | \$1,500.00 |

Subtotal \$9,000.00

Cell on Wheels (CoW).....\$1,000.00

CoWs are considered potable and temporary and are typically used for special events at specific locations that currently do not have coverage. Therefore, Parties agree that rental fees on CoWs will only apply if the CoW is placed at a location with the intent of it being a permanent placement. A permanent placement shall mean any period greater than 180 consecutive days.

GRAND TOTAL: \$32,000.00, to increase to \$34,000.00 when Apache Fair Monopole is constructed.

SBi/WMAT
Second Amendment to Tower MLA

3. **Material Changes to Equipment.** Lessee shall provide advanced written notice to the WMAT Information Technology Department (WMAT ITD), or its designee, of its planned material changes to its equipment. Such notice shall state with specificity of the changes to its equipment. For the purposes of the Agreement, material changes shall not include routine or urgently needed maintenance or repairs, like equipment swaps, including upgrades, and/or to restore services on installations. If the WMAT ITD, or its designee, does not provide a written response within 10 business days of Lessee's dated notice, Lessee may proceed with the changes to its equipment. Any written response by WMAT ITD, or its designee, regarding Lessee's proposed new equipment shall contain a valid and technical explanation of concerns with specific details. Once Lessee provides WMAT ITD written certification that all concerns have been addressed Lessee may proceed with the changes to its equipment. Any expansion of land space on an existing specific Leased Premises site shall require the Lessor's prior written consent.

4. Lessee shall provide and maintain an updated list with the Lessor of all equipment on all towers provided for and governed by this Agreement. The list shall include the following information for each piece of equipment: Antenna type; owner; receive or transmit; manufacturer; model #; antenna weight; antenna dimensions; antenna mount height; antenna separation; rad center AGL; mount type; tower leg; direction of radiation; TX frequency; RX frequency; transmit band of frequencies; receive band of frequencies; antenna gain; # of line per antenna; line type(s); line diameter(s), if equipment is transmitting on licensed or unlicensed frequencies.


5. **Effective Date.** Parties agree that the effective date on this Second Amendment shall be the last date of signature by the parties or the date of approval by the Bureau of Indian Affairs, Realty Office, whichever shall occur last.

6. **Electronic Signature/Counterparts.** The Parties agree that this Second Amendment may be executed in counter-parts, in person or electronically, which taken together shall constitute one whole.

IN WITNESS WHEREOF, the Lessor and Lessee have set their hands and seals to this Second Amendment to Tower Master Lease Agreement as of the day and year indicated next to their representatives' signatures below.

WHITE MOUNTAIN APACHE TRIBE

SMITH BAGELY, INC.

By: 
Gwendena Lee-Gatewood, Chairwoman

By: _____

Date: 4.19.21

Date: _____