



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Approving Memorandum of Understanding between the Tribe, the Arizona Diamondback Foundation, Pimmex Contracting and Nelsen Architects for Renovation of Ballpark, and Approving Waiver of TERO Obligations and Limited Waiver of Sovereign Immunity, for the Same)

- 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 agreements of every description...”; and
- WHEREAS,** The Arizona Diamondbacks Foundation, Inc. (“Foundation”), the non-profit entity of the Arizona Diamondbacks Major League Baseball team, partners with local governments and private companies to provide ballpark construction and renovation in communities across Arizona; and
- WHEREAS,** The Foundation has proposed a partnership between itself, the Tribe, Pimmex Contracting, and Nelsen Architects, for the funding, design and construction of renovations to the Tribe’s Riverside Ballpark near the old fairgrounds (“Project”); and
- WHEREAS,** The parties have reached a draft Memorandum of Understanding (“MOU” attached and incorporated herein), under which the Foundation will fund the renovations, Nelsen Architects will design them free of charge, and Pimmex Contracting will donate the labor to construct them; and
- WHEREAS,** The Tribe’s obligations under the MOU are to maintain, repair and operate the ballpark in accordance with strict maintenance guidelines for not less than 25 years; and
- WHEREAS,** The Foundation is asking for a waiver of the Tribe’s TERO fee and TERO Ordinance, as Pimmex Contracting is a Native-owned business and has a crew who are experienced in these types of projects, and as all parties are donating their time and funds for the Project; and
- WHEREAS,** The MOU also contains a limited waiver of the Tribe’s sovereign immunity, for the purpose of allowing binding arbitration under the laws of the State of Arizona, and suits in the state to enforce such judgment; and

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WHEREAS, The Council has reviewed the Project proposal and the attached draft MOU and finds that its approval, with the afore-mentioned waivers, will enable much-needed renovations to the baseball field, and is in the best interests of the Tribe and its members.

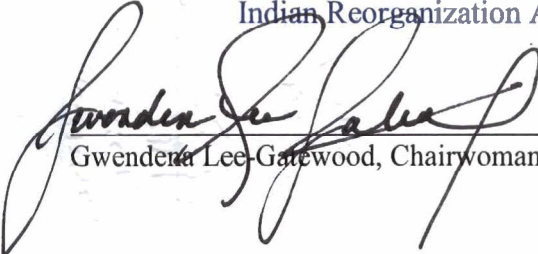

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the attached memorandum of understanding between the Tribe, the Arizona Diamondback Foundation, Nelsen Architects and Pimmex Construction for renovations to the Tribe's Riverside Ballpark are hereby approved, with the limited waiver of the Tribe's sovereign immunity and waiver of TERO ordinance.

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 JUNE 2, 2021 duly adopted by a vote of SIX for, ZERO against, and THREE 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>6.2.21</u>		<u>6-2-2021</u>
Gwendolyn Lee-Gatewood, Chairwoman	Date	Doreen T. Numkena, Tribal Secretary	Date