

RESOLUTION NO. 54 -21
OF THE GOVERNING BODY OF THE
YAVAPAI-APACHE NATION

A Resolution Authorizing the Yavapai-Apache Nation Tribal Housing Department to Enter into a Contract with AZ Fire Sprinklers, LLC, for all Work Necessary to Design, Engineer, and Install the Fire Sprinkler System in the Community Building/Gymnasium at the Nation's Tax Credit VII Housing Project at Clarkdale

WHEREAS: The Yavapai-Apache Tribal Council ("Council") is authorized to represent the Yavapai-Apache Nation ("Nation") and act on all matters that concern the health and welfare of the Nation, and to make decisions not inconsistent with or contrary to the Constitution of the Yavapai-Apache Nation ("Constitution") as provided by Article V(a) of the Constitution; and

WHEREAS: The Council is authorized to "manage all tribal economic affairs and enterprises" and to "appropriate and regulate the use of tribal funds" as provided by Article V (i) and (k), respectively, of the Constitution; and

WHEREAS: The Council is responsible for developing quality housing for the benefit of the Nation and its people; and

WHEREAS: The Council, with the assistance of the Yavapai-Apache Nation Tribal Housing Department ("YANTH"), as authorized under Tribal Council Resolution No. 150-18, is continuing development of a new tax credit financed housing subdivision (the "Project") located in the Clarkdale community at Kwait Heights, and the Project is now proceeding through its construction phase; and

WHEREAS: The Director of YANTH has recommended to the Council that YANTH be authorized to contract with AZ Fire Sprinklers, LLC, for the design, engineering, and installation of the fire sprinkler system playground within the Project's community building/gymnasium in accordance with the terms and conditions of the Construction Contract ("Contract"), a copy of which is attached to this Resolution as **Exhibit A**, together with the Contract Documents referenced in the Contract; and

WHEREAS: The Council has determined that execution of the Contract with AZ Fire Sprinklers LLC, is in the best interests of the Nation.

NOW THEREFORE BE IT RESOLVED that the Yavapai-Apache Tribal Council, in Council assembled, at which a quorum is present, hereby authorizes YANTH to enter into a Construction Contract with AZ Fire Sprinklers LLC, in accordance with the terms and conditions set out in the form of Construction Contract attached to this Resolution as **Exhibit A**, together with the Contract Documents referenced in the Contract, with compensation paid to AZ Fire Sprinklers LLC under the Contract **Not To Exceed Twenty-Nine Thousand Five Hundred Twenty-Eight**

and 00/100 Dollars (\$29,528.00), unless an amendment to the Contract is approved by the Tribal Council.

BE IT FURTHER RESOLVED that funds made available to YANTH under the Yavapai-Apache Homes Tax Credit VII Project shall be used to fund compensation paid to AZ Fire Sprinklers LLC under the Contract.

BE IT FINALLY RESOLVED that the YANTH Executive Director is hereby authorized to execute the above referenced Contract on behalf of YANTH and to take such further action as deemed necessary to carry out the intent and purposes of this Resolution.


CERTIFICATION

I hereby certify that the foregoing resolution was adopted by an affirmative vote of the Tribal Council, with a quorum in attendance, presented for approval on March 25 2021, by a vote of 9 8 in favor, 0 opposed and 1 abstaining, pursuant to the authority contained under the Constitution of the Yavapai-Apache Nation as cited above.



Jon Huey, Chairman

ATTEST:



Karla Reimer, Council Secretary

Approved as to Form:



Office of the Attorney General

EXHIBIT A

**CONSTRUCTION CONTRACT
BETWEEN
YAVAPAI-APACHE NATION TRIBAL HOUSING
AND
AZ FIRE SPRINKLERS, LLC**

**FOR WORK UNDER THE YAVAPAI-APACHE HOMES TAX CREDIT VII
PROJECT
(FIRE SPRINKLER SYSTEM IN KWAIL HEIGHTS COMMUNITY
BUILDING/GYMNASIUM)**

**MARCH 25, 2021
CONTRACT NUMBER: 21-1841**



Yavapai-Apache Nation Tribal Housing

1500 E. Cherry Creek Road, PO Box 3310 – Camp Verde, AZ 86322

Phone (928)567-4191 Fax (928)567-5310

aschaeffer@yan-tribe.org

CONSTRUCTION CONTRACT

Fixed Price Basis

Contract Number 21-1841

This CONSTRUCTION CONTRACT (hereinafter "Agreement") is made and entered into on the 25th day of March 2021 (the "Effective Date"), by and between **The Yavapai-Apache Nation Tribal Housing Department ("YANTH")** and **AZ Fire Sprinklers, LLC, ("Contractor")**.

PROJECT DESCRIPTION: Design, engineer, and Install the fire sprinkler system in Community Building/Gymnasium.

PROJECT LOCATION: Tax 7 Project, Kwait Heights Community Building/Gymnasium, Clarkdale, AZ

CONTRACTOR AND CONTACT INFORMATION: AZ Fire Sprinklers LLC

606 S. Park Circle, Camp Verde, AZ 86322, AZ-Roc License Number 224090, CR-16 Fire Protection Systems

RECITALS

WHEREAS: YANTH is a Governmental Department of the Yavapai-Apache Nation ("Nation") providing an essential governmental service for the benefit of the Nation and its membership; and

WHEREAS: YANTH desires to retain AZ Fire Sprinklers LLC, to design, engineer, and install the fire sprinkler system in the Tax 7 Project's Kwait Height's Community Building/Gymnasium, and Contractor is willing to construct and install said improvements in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, all of which are incorporated into this Agreement, the terms and conditions contained herein and attached hereto, the provisions of the Limited Warranty set out in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, YANTH and Contractor do hereby agree as follows:

1. **SCOPE OF WORK TO BE PROVIDED BY CONTRACTOR:** Contractor will provide all labor (either directly or by sub-contract), equipment, and materials necessary to accomplish the following work: design, engineer, and install the Fire Sprinkler System for the Nation's Tax 7 Project Community Building/Gymnasium (the "Work") in accordance with Contractor's *Fire Sprinkler Quote* ("Proposal") dated Feb 26, 2021, a copy of which is attached to this Agreement as Exhibit A and incorporated herein by reference as part of this Agreement, and together with all other Contract Documents; including this Agreement and the following additional Contract Documents: Contractor's Proposal only. The Work will be completed by Contractor for a total price of **Twenty-Nine Thousand Five Hundred Twenty-Eight and 00/100 Dollars (\$29,528.00), the "Contract Sum"**, which sum YANTH agrees to pay for satisfactory

completion of the work in accordance with the schedule of compensation set forth hereinbelow. The Contract Sum is intended to include all costs necessary for Contractor to complete the work, including but not limited to the following items:

- (a) Wages of Contractor's workers directly employed by Contractor to perform the Work, including welfare, unemployment compensation, worker's compensation, social security, and other benefits.
- (b) Costs, including transportation, of materials and equipment incorporated or to be incorporated in the completion of the Work; all discounts for cash or prompt payment shall accrue to Contractor.
- (c) Payments made by Contractor to all subcontractors in accordance with the requirements of the subcontracts.
- (d) Cost of all materials, temporary storage facilities, equipment, and hand tools not customarily owned by the workers, which are provided by Contractor at the site and fully consumed in the performance of the Work.
- (e) Rental costs for necessary temporary facilities, machinery, equipment, and hand tools used at the site of the Work.
- (f) That portion directly attributable to this Agreement of premiums for insurance and bonds.
- (g) Costs of removal of debris from the site.
- (h) Costs of any required building permits, fees for access to and consumption of water, sewer, electric power, gas, telephone, and other utilities and costs of any other governmental or private licenses or permits necessary to the Work.
- (i) All taxes payable by Contractor arising out of this Agreement and the Work, except that no taxes shall be imposed by the Yavapai-Apache Nation on the Contractor or against the Work.
- (j) All other costs necessary to complete the Work in accordance with Contractor's Proposal of Feb 26, 2021.

Contractor will determine the method, details, and means of performing the above described services, provided that Contractor shall coordinate and work with YANTH's Project Manager, David Schreiner, in scheduling and carrying out the Work. All changes in the above Scope of Work that result in a change in the Contract Amount or the contract time established under section 3 of this Agreement, must be set out in a Change Order having the prior written approval of YANTH's Executive Director *before* beginning the changed Work. If the Change Order is not approved by said Executive Director and the work has already been completed by Contractor, YANTH is not obligated to pay for the unapproved changed Work.

All Work under this Agreement shall be performed on weekdays only between the hours of 8:00 AM and 5:00 PM and Contractor shall not work on weekends or holidays, unless authorized in writing by YANTH.

2. COMPENSATION AND PAYMENT: As full compensation for satisfactory completion of the Work to be provided by Contractor under this Agreement, YANTH shall pay Contractor compensation, inclusive of all fees, costs (as defined under Section 1 above), and expenses, in **an amount not to exceed Twenty-Nine Thousand Five Hundred Twenty-Eight and 00/100 Dollars (\$29,528.00), hereinafter the "Contract Sum"**.

The Contract Sum shall be paid to Contractor as follows:

- (a) Contractor shall provide YANTH an Invoice-Request for a Progress Payment ("Request for Progress Payment") based upon Schedule of Values setting forth the portion of the Compensation that Contractor determines to be payable for the Work performed and materials ordered or supplied as of the date of the Request for Progress Payment. YANTH shall make payment to Contractor in the amount of the Request for Progress Payment, **minus Retainage as provided under subsection 2(g) herein below**, no later than ten (10) business days after the delivery of same by Contractor to YANTH.

	<u>Gross Amount</u>	<u>5% Retention</u>	<u>Net Paid</u>
1. 50% Deposit	\$14,764.00	\$738.20	\$14,025.80
2. Completion	\$14,764.00	\$738.20	\$14,025.80

- (b) Contractor shall promptly pay its workers, suppliers and each subcontractor, upon receipt of each progress payment from YANTH, out of the amount paid to Contractor on account of such workers, suppliers, and subcontractor's work, the amount to which each is entitled. Contractor shall, by an appropriate Contract with each subcontractor (if any), require each subcontractor to make payments to his sub-subcontractors and suppliers in a similar manner. YANTH shall have no obligation to pay or to see to the payment of any moneys to any workers, suppliers, or subcontractors.
- (c) Contractor warrants that title to all Work, materials and equipment covered by a Request for Payment will pass to YANTH and the Nation either by incorporation in the Work or upon the receipt of payment by Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances, and that no work, materials or equipment covered by a Request for Progress Payment will have been acquired by Contractor or by any other person performing work at the site or furnishing materials and equipment subject to a Contract under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by Contractor or such other person.
- (d) The final payment to Contractor shall not become due until the WORK is fully complete under the Contract Documents and Contractor submits to YANTH (1) an affidavit that all payrolls, bills for materials and equipment and other indebtedness connected with the Work, for which YANTH might in any way be responsible, have been paid or otherwise satisfied; (2) consent of surety, if any, to payment; and (3) other data establishing payment or satisfaction of all such obligations, including but not limited to: receipts, releases and waivers of liens arising out of this Agreement to the extent and in such form as may be required by YANTH. If any subcontractor or materialman refuses to furnish a release or waiver required by YANTH to indemnify it against any such lien, Contractor may furnish a bond satisfactory to YANTH to indemnify it against any such lien. If any such lien remains unsatisfied after all payments are made, Contractor shall refund to YANTH all moneys that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.
- (e) Upon full satisfaction of the above requirements for final payment, the final payment of the entire unpaid balance of the Contract Sum shall be paid by YANTH to Contractor upon the reasonable mutual determination by YANTH and Contractor that the Work is complete, except for the responsibilities of Contractor under the Warranty provided hereunder.
- (f) **Contractor must provide the YANTH a completed IRS Form W-9 for Independent Contractors. Payment to the Contractor under this Agreement will not be made by YANTH unless a completed W-9 is on file with the Nation.**

- (g) YANTH shall withhold **RETAINAGE** as follows: YANTH will withhold and retain Five Percent (5%) of each of the Contractor's progress payments provided for under Section 2 hereinabove, Compensation and Payment, as a guarantee that the Work, including any warranty work and any other financial obligation of Contractor under the Contract Documents will be completed to YANTH's satisfaction. The total amount of such retainage shall be held for a period of one (1) year following final completion of the Work and shall then be paid to Contractor if there is then no outstanding Work or Warranty Work under the Contract Documents.

3. **CONTRACT TIME - DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION:** Contractor shall commence the Work on a day established by YANTH in a written Notice to Proceed, and Contractor shall achieve Substantial Completion of the Work on or before the expiration date stated on the Notice to Proceed (the "Contract Time"), subject to such extensions of the Contract Time as YANTH and Contractor mutually agree to in a written amendment to this Agreement set forth as an approved Change Order. The Work shall be deemed Substantially Complete upon the determination by YANTH that the Work is sufficiently complete in accordance with the Contract Documents so that YANTH can occupy or utilize the Work suitable for its intended purpose, notwithstanding the existence of minor items of Work to be completed or corrected prior to final payment by YANTH to Contractor.

4. **LIQUIDATED DAMAGES:** Contractor acknowledges and agrees that YANTH will suffer damages if Contractor fails to achieve Substantial Completion of the Work within the Contract Time established hereinabove and that it is difficult to ascertain the extent of such damages in advance. Therefore, Contractor agrees to pay and shall pay YANTH liquidated damages in an amount equal to **Five Hundred Dollars (\$ 500.00)** for each calendar day that Substantial Completion is delayed beyond the Contract Time. YANTH and Contractor agree that said liquidated damages are a reasonable estimate of the actual damages that YANTH will incur as a result of such delay in achieving Substantial Completion. Subject to the provisions of the Contract Documents, YANTH shall be entitled to liquidated damages for failure of the Contractor to complete the Work within the specified Contract Time. Liquidated damages shall be paid by deduction by YANTH from progress payments in the final payment period. If the total amount of liquidated damages assessed against the Contractor exceeds deductions from progress payments in the final payment, Contractor shall be liable for the difference, and shall immediately pay the same to YANTH.

5. **TERMINATION:** YANTH reserves the right to terminate this Agreement at any time without cause and without further obligation to Contractor except for payment due for services provided prior to the effective date of such termination.

6. **WARRANTY:**

- (a) Contractor warrants to YANTH that all materials and equipment furnished under the Contract will be new unless otherwise specified in the Contract Documents and that all installed Work will be of the highest quality, free from faults and defects and in strict conformance with the Contract Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized by YANTH, may be considered defective. If required by YANTH, the Contractor shall furnish satisfactory evidence as to the type and qualities of materials and equipment provided for the Work.
- (b) Contractor shall promptly correct all Work rejected by YANTH as defective or as failing to conform to the Contract Documents, whether observed before or after substantial completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work.

- (c) If within one year after the date of final acceptance of the Contract Work by YANTH, as evidenced in a writer certificate of acceptance, or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, or provided by the Contractor, any of the Contractor's work is found to be defective or not in accordance with the Contract Documents, Contractor, at its sole expense, shall correct it promptly after receipt of a written notice from YANTH to do so. This Warranty obligation shall survive termination of the Contract.

GENERAL PROVISIONS:

7. **INDEPENDENT CONTRACTOR STATUS:** Contractor acknowledges that it is an Independent Contractor and is not an employee of YANTH or the Nation and understands that as an Independent Contractor, Contractor is not entitled to any employee benefits as may be available to employees of YANTH or the Nation, including but not limited to employee tax withholding, sick leave, vacation, disability or unemployment insurance, worker's compensation or any other employment benefit.

8. **INSURANCE:** Before commencing the Work, Contractor, and at the discretion of the Contractor, each of its subcontractors, shall provide insurance coverage against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the Work hereunder by the Contractor, its agents, representatives, employees, or subcontractors, and all such policies of insurance shall be maintained for the duration of the contract, *and for 1 year thereafter, and certificates of said policies shall be furnished to* the YANTH showing that the following insurance is in force and will protect Contractor and the Nation (each to be named as an additional insured on Contractor's insurance) from claims which may arise out of or result from Contractor's operations under this Contract, whether such operations be by Contractor or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

MINIMUM SCOPE AND LIMITS OF INSURANCE

Coverage shall be at least as broad as:

- (a) **Commercial General Liability (CGL)** with limits of no less than \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, personal injury, and property damage (not to be written on a per-project basis).
- (b) **Automobile Liability** with limits no less than \$1,000,000.00 (combined single limit) per accident for bodily injury and property damage, including uninsured/underinsured liability.
- (c) **Workers' Compensation** insurance with Statutory Limits as required by the State of Arizona, and Employers' Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury and \$1,000,000 for each disease and a 1,000,000-policy limit.

OTHER INSURANCE PROVISIONS: The required insurance policies as specified above are to contain, or be endorsed to contain, the following provisions:

- (a) The Yavapai-Apache Nation, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL and automobile liability policies with respect to liability arising out of work or operations performed by or on behalf of the Contractor, including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG2337 forms if later revisions used).

- (b) For any claims related to this Project, the Contractor's insurance coverage shall be primary insurance as respects YANTH and the Nation, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by YANTH and the Nation, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
- (c) Each insurance policy required by this clause shall provide that coverage shall not be canceled, except with 30-days' written notice to YANTH and the Nation.

9. **INDEMNIFICATION:** Neither YANTH nor the Yavapai-Apache Nation ("Nation") shall have any obligation to indemnify Contractor should any losses, claims, damages, and expenses result, in whole or in part, from the negligent acts, omissions or errors of Contractor in connection with the Work. Contractor agrees to indemnify and hold harmless YANTH and the Nation against all liability, loss or expense resulting from the negligent acts, omissions or errors of the Contractor, its officers, directors, employees, and sub-contractors arising from the Work provided. Contractor agrees to pay all costs of any such actions, including expenses and reasonable attorneys' fees. Each party shall give the other prompt written notice of the assertion of any claim or the commencement of any action that may expose the other to liability.

10. **CONFIDENTIALITY:** In the course of performing Services under this Agreement, Contractor may come in contact with or become familiar with information which YANTH and/or the Nation may consider confidential. Contractor agrees to keep all such information confidential and not to discuss or divulge any of it to anyone other than appropriate personnel of YANTH and the Nation. Upon expiration or termination of this Agreement, Contractor will return to YANTH and/or the Nation all documents and other materials, unless YANTH and the Nation have expressly consented to the Contractor's retention of such documents and materials.

11. **CONTRACTOR OBLIGATIONS:** As provided hereinabove, Contractor is solely responsible for providing, at Contractor's own expense, general liability, automobile liability, disability, unemployment, workers' compensation, and other applicable insurance, training, permits, and licenses for Contractor. Contractor is also responsible for paying when due all federal and state income taxes, including estimated taxes or withholding, social security, and other taxes incurred because of the compensation paid to Contractor for services under this Agreement. Contractor agrees to indemnify YANTH and the Nation for any claims, costs, losses, fees, penalties, interest, or damages suffered by YANTH and the Nation resulting from Contractor's failure to comply with this provision.

12. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement of the parties regarding the subject matter contained herein, and replaces and supersedes all other agreements or understandings, whether written or oral. No amendment, extension, or change of this Agreement shall be binding unless in writing and signed by both parties at least two (2) days prior to the date of the intended cancellation or modification.

13. **WAIVER:** The failure of either party to insist on strict compliance with any of the terms or conditions of this Agreement by the other party shall not be deemed a waiver of that term or condition. If any provision in this Agreement is held by the Nation's Tribal Court to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being invalidated.

14. **OWNERSHIP:** All ideas, plans, improvements, inventions, or documents developed by Contractor in connection with the services rendered under this Agreement shall belong to the Nation, unless otherwise agreed to in writing.

15. **COMPLIANCE WITH LAWS AND REGULATIONS:** Contractor shall comply with all laws, ordinances, rules, regulations, or orders of the Yavapai-Apache Nation and applicable Federal laws and regulations relating to the performance of the Work, the YANTH will advise Contractor whether funds paid as compensation under this Agreement are derived from federal sources.

16. **EMPLOYMENT PREFERENCE YAVAPAI-APACHE NATION TRIBAL EMPLOYMENT RIGHTS PROGRAM:** This Agreement is subject to the Yavapai-Apache Nation Tribal Employment Rights Office Code (TERO). The contractor agrees to comply with all requirements of the Nation's TERO Code. The Nation does not assess a TERO Compliance Fee. However, the Contractor's failure to comply with any requirement of the TERO Code may subject the Contractor to Enforcement Procedures and to the assessment of monetary penalties and fines. The TERO Code shall be a part of the Contract Documents. The Contractor agrees to fully comply with all requirements of the TERO Code. Prior to commencing Work under this Agreement, the Contractor shall meet with the Nation's TERO Officer and negotiate and enter into a Compliance Agreement as required under the Code. The Notice to Proceed under this Agreement will not be issued until YANTH has received and reviewed the Compliance Agreement approved by the TERO Officer. The Contractor acknowledges that under the Code the Contractor has the initial and primary responsibility to ensure that all of Contractor's Subcontractors comply with the Code.

For additional information on Indian Employment and the Indian Preference requirements under this Agreement, the Contractor is advised to contact the TERO Officer; Phone (928) 567-1080.

17. **STATE SALES TAXES:** The Yavapai-Apache Nation is a federally recognized Indian Tribe. All Work to be performed by Contractor under this Agreement will occur within the boundaries of the Nation's reservation lands. The Nation is exempt from the payment of Arizona State sales taxes and will provide contractor with a certificate evidencing such tax exemption. Contractor shall not include any amount for state sales taxes in its invoices under this Agreement.

18. **DISPUTE RESOLUTION:**

- (a) **Informal Negotiations.** YANTH and Contractor agree to engage in informal negotiations to resolve any dispute arising under this Agreement. In the event that any dispute between YANTH and Contractor is not resolved through informal negotiations, the Parties agree that, subject to the Limited Waiver of Sovereign Immunity provided by YANTH in Section 18(b) below, the dispute may be resolved through the Nation's Tribal Court.
- (b) **Limited Waiver of Sovereign Immunity.** As a governmental Department of the Yavapai-Apache Nation, YANTH is protected by the Nation's sovereign immunity from unconsented lawsuits. Except as provided in this Section 18(b), nothing in this Agreement or other writing is or shall be deemed to be a waiver of the Yavapai-Apache Nation's or YANTH's sovereign immunity from suit, which immunity is hereby expressly asserted and affirmed. However, in order to provide for dispute resolution and the enforceability of this Agreement as provided in this Section 18, YANTH grants to Contractor a limited waiver of its sovereign immunity as follows: (1) YANTH agrees that all unresolved disputes arising under this Agreement shall be submitted to the Yavapai-Apache Nation Tribal Court as provided under this Section 18(b) and that such tribal court action shall be the exclusive means of dispute resolution under this Agreement; (2) YANTH agrees that the Yavapai-Apache Nation Tribal Court shall have subject matter jurisdiction over the resolution of disputes arising under this Agreement, but only as to matters arising under this Agreement, and no other claim or dispute may be brought before the Tribal Court, and no other court or forum shall have jurisdiction to hear any claim or dispute arising under this Agreement; (3) it is acknowledged and agreed between YANTH and Contractor that the limited waiver of sovereign immunity provided by this Section 18(b), shall extend only to disputes between YANTH and Contractor and

shall apply only to an action by Contractor for any claim for breach of the Agreement, and that this limited waiver shall therefore not extend to or be effective as to any claim or action against YANTH by any party other than Contractor (including without limitation any purported third party beneficiary of the Agreement); (4) The liability of YANTH for any recovery under this Agreement as provided for hereunder shall be limited to actual unpaid contractual obligations (compensatory damages) and/or specific performance, and shall not in any case include general, consequential, incidental, special, indirect, punitive or any other damages, whether in tort or contract, all of which are hereby expressly declared to be outside of the scope of the waiver of sovereign immunity provided for under this Section 18(b), and YANTH's total liability to Contractor for compensatory damages under any judgment entered by the Court as provided for herein shall in no case exceed earned but unpaid amounts owed by YANTH to Contractor for the Work provided by Contractor under this Agreement up to but not exceeding the Contract Sum; (5) The Tribal Court's jurisdiction, as limited hereunder, shall not be construed to empower the Court to enter a judgment that reaches or encumbers the assets or property of the Yavapai-Apache Nation other than the financial assets of YANTH, and only the financial assets of YANTH shall be liable for the satisfaction of any such judgment; and (6) this limited waiver of sovereign immunity shall expire two (2) years after the termination, cancellation or completion of the Agreement, except that this limited waiver of sovereign immunity shall remain effective for any proceeding then pending and all appeals and enforcement proceedings therefore until the underlying legal claim or claims have been finally determined. The parties also agree that this limited waiver of sovereign immunity shall be strictly construed.

- (c) **Governing Law** This Agreement shall be construed in accordance with the laws of the Yavapai-Apache Nation, and, where applicable, the laws of the State of Arizona as limited by this paragraph. Arizona law shall apply, without giving effect to any conflicts of laws principles, only with regard to interpretation of this Agreement where the laws of the Yavapai-Apache Nation are silent on such interpretation. The laws of the Yavapai-Apache Nation shall apply in all other instances.

THIS AGREEMENT is executed this ____ day of _____, 2021

YANTH

Contractor: AZ Sprinklers, LLC

Nadie Beauty, Executive Director

Owner/Representative

NOTICE TO PROCEED

TO:

AZ Fire Sprinklers LLC
606 S Park Circle
Camp Verde, AZ 86322

Date: Mar 25, 2021

Project: 21-1841
Kwail Heights Comm. Building/GYM Fire
System

You are hereby notified to commence WORK for completion of the above reference Project in accordance with the Agreement date _____ and you are to complete the WORK within _____ consecutive _____ thereafter. The date of completion of all WORK is therefore _____.

Yavapai-Apache Nation
Tribal Housing

By: _____

Title: _____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE to PROCEED

Is hereby acknowledged by:

AZ Fire Sprinklers LLC
(Contractor)

this _____ day,
of _____, 2021,

By: _____

Title: _____

RECAP OF CONTRACTOR OR VENDOR EVALUATIONS

PREPARED BY: DAVID SCHREINER DATE PREPARED: 3-9-21

ACCOUNTING DEPT. REVIEW BY: [Signature] DATE REVIEWED: 3/5/21

JOB DESCRIPTION

COMPLETE FIRE SPRINKLER SYSTEM @ GYM

ADDRESS OR LOCATION

TC7 KUALA HEIGHTS

EVALUATION NUMBER 1	EVALUATION NUMBER 2	EVALUATION NUMBER 3
AZ FIRE SPRINKLER FIRE PROTECTION	ALL WEST	B&W FIRE & SECURITY
\$ 29,528. ⁰⁰	\$ 4480. ⁰⁰	\$ NO BID
75	DESIGN ONLY	

TOTAL NUMBER OF POINTS

Contract # Awarded (Acctg use only)

REMARKS:

ALL WEST WILL NOT GIVE US A COMPLETE PRICE UNTIL WE PAY \$4480.⁰⁰ FOR THEIR DESIGN -

CONTRACTOR EVALUATION

PREPARED BY: DAVID SCHREINER DATE PREPARED: 3-9-21
 ACCOUNTING DEPT. REVIEW BY: [Signature] DATE REVIEWED: 3/5/21

CONTRACT # 21-1841

NAME OF CONTRACTOR
 ADDRESS
 CITY, STATE, ZIP

AZ FIRE SPRINKLERS
606 S. PARK CIRCLE
CAMP VERDE AZ 86322

PHONE: 928-301-7761
 CONTACT PERSON: SHAUN HALL

EXT: SHAUNH1813@GMAIL.COM
 DATE OF CONTACT: 8-11-2020

DESCRIPTION OF:
 SERVICE, PURCHASE, OR PROPOSAL
COMPLETE FIRE SPRINKLER SYSTEM @ GYM
PROPOSAL

CATEGORY TO BE EVALUATED

COST	Purposed Amount	POINTS TO EVALUATE	ESTIMATED VALUE
A written calculation of all items included in the scope of the work.	\$ <u>29,528.00</u>	0 or 15	15
EXPERIENCE IN INDIAN HOUSING		0 to 15	15
Active participation in construction or activities, leading to an accumulation of knowledge and skill.		0 to 15	15
ABILITY TO WORK WITH RECIPIENTS		0 to 15	15
The manner and style of working with; employees, schedules, and subcontractors, required by Tribal Housing.		0 to 20	20
QUALITY OF WORK		0 to 10	10
Must have the desired effect and outcome to successfully arrive at the condition specified by Tribal Housing.		0 to 10	10
PROFESSIONAL EXPERTISE		0 to 15	15
Must have: license, bond, pass; background investigation, check references.		0 to 10	10
INDIAN PREFERENCE FOR INDIAN FORM		0 to 15	15
Successful completion and verification of the "Indian Preference Qualification Application."		0 to 10	10
INDIAN PREFERENCE IN TRAINING, EMPLOYMENT, AND CONTRACTING.		0 to 10	10
Preference and opportunities for training and employment shall be given to Indians, and preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned economic enterprises.		0 to 10	10
MAXIMUM POINTS		100	TOTAL VALUE
			<u>75</u>

CONTRACTOR EVALUATION

PREPARED BY: DAVID SCHREINER DATE PREPARED: 3-9-21
 ACCOUNTING DEPT. REVIEW BY [Signature] DATE REVIEWED: 3/5/21

CONTRACT # _____

NAME OF CONTRACTOR
 ADDRESS
 CITY, STATE, ZIP

ALL WEST FIRE PROTECTION SYSTEMS
2957 N. STATE ROUTE 89 STE. B
PRESCOTT AZ 86301

PHONE: 928-776-7841

CONTACT PERSON: BLAKE GRANT

***: HQ@ALLWESTFIRE.COM
 DATE OF CONTACT: 8-13-2020

DESCRIPTION OF:
 SERVICE, PURCHASE, OR PROPOSAL.

COMPLETE FIRE SPRINKLERS FOR GYM

CATEGORY TO BE EVALUATED

COST
 A written calculation of all items included in the scope of the work.

DESIGN ONLY
 Purposed Amount \$ 4480.00

EXPERIENCE IN INDIAN HOUSING
 Active participation in construction or activities, leading to an accumulation of knowledge and skill.

ABILITY TO WORK WITH RECIPIENTS
 The manner and style of working with; employers, schedules, and subcontractors, required by Tribal Housing.

QUALITY OF WORK
 Must have the desired effect and outcome to successfully arrive at the condition specified by Tribal Housing.

PROFESSIONAL EXPERTISE
 Must have: license, bond, pass background investigation, check references.

INDIAN PREFERENCE FOR INDIAN FORM
 Successful completion and verification of the "Indian Preference Qualification Application."

INDIAN PREFERENCE IN TRAINING, EMPLOYMENT, AND CONTRACTING.
 Preference and opportunities for training and employment shall be given to Indians, and preference in the award of contracts; and subcontracts shall be given to Indian organizations and Indian-owned economic enterprises.

POINTS TO EVALUATE	ESTIMATED VALUE
0 or 15	/
0 to 15	/
0 to 20	/
0 to 10	/
0 to 15	/
0 to 10	/
0 to 10	/
MAXIMUM POINTS 100	TOTAL VALUE

Residential & Commercial Fire Protection Lic.# K16-224090
606 S. Park Circle • Camp Verde, AZ 86322



Phone # (928) 301-7761 Fax # (928) 567-2243 Email: shaunh1813@gmail.com

FIRE SPRINKLER QUOTE

Yavapai-Apache Tribal Housing Dept

February 26, 2021

RE: Kwait Heights Gym
3500 Hawk Hollow Way
Clarkdale, AZ

Attn: Dave Shreiner
Email: dschreiner@yan-tribe.org
Phone: 970.989.7836

Quote: Twenty Nine Thousand Five Hundred Twenty Eight and No/100 (29,528.00) Dollars.

Price Includes: Design, P.E. Seal, Permit. AHJ plan approval, Test & Inspections. Material and Installation to conform to NFPA 13. Backflow Preventer Fire Caulking, semi-recessed heads in ceilings, Brass uprights with Head cages in Gym. Use Black Steel pipe schedule 7 & thread-able light wall. Ceiling in Gym to be removed. Gym to be open to the deck per Dave Schreiner.

AZ Fire starts: At flange provided by others located 6" +/- above finish floor.

Exclusions: Bond, Sale Tax, Special System, Liquidated Damages, Off Hour Labor, Electrical Wiring, Fire Alarms, Special Insurance requirements, Fire Pump, Hood System, Any Underground Piping, Fire Extinguisher, Freeze Protection, Fire Proof Prepping, Electrical Power, and Water on the Job. Davis Bacon

We look forward to working with you. Please call if any information is incorrect or if you have any questions.

Note: see page #2 for clarifications and/or further exclusions.

-----Bid is good for 30 days, if after that please call to confirm offer. -----

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Clarifications and/or Exclusions

- #1) Bid is based on an adequate water supply.
- #2) Styles and Finish of fire sprinkler heads to be determined at acceptance of bid. If this is not determined AZ Fire will design the system with standard commercial type heads. If we are required to change the style of heads after the design has been approved there will be an additional charge.
- #3) Fire sprinklers are to have white, brass, or chrome finish. If other colors are wanted there will be an additional charge.
- #4) **Freeze Protection:** EXCLUDED.
- #5) AZ Fire will not be responsible for any painted or damaged heads. If AZ Fire has to replace heads for the before mentioned reasons; there will be additional charges.
- #6) All invoices are due within 30 days of receipt. *Invoices not paid within 30 days will be subject to a 1.5% interest fee. *(unless other arrangements are made prior to acceptance of our bid).

Sincerely,

Shaun Hall
Project Manager
AZ Fire Sprinklers
602.680.8460
Shaunh1813@gmail.com



All West FIRE PROTECTION SYSTEMS, LLC



LIC# 252546

Mr. Dave Schreiner
dschreiner@yan-tribe.org
Yavapai-Apache Tribal Housing
1500 East Cherry Creed Road
Camp Verde, Arizona 86322
Design & Engineering Proposal

August 13, 2020

Dear Mr. Schreiner,

In the interest of providing a quality product and in beginning a working relationship with Yavapai-Apache Tribal Housing, All West Fire Protection (AWFP) is pleased to provide the following pricing to complete the outlined scope of services. AWFP will provide installation pricing based upon the Authority Having Jurisdiction approved plans at a later date.

SCOPE OF PROJECT

AWFP will provide the Scope of Services as outlined below to serve the new facility located at 3500 Hawk Hollow Way, Clarkdale, Arizona detailed in the Architectural Drawings by Designrebillot, LLC, dated 4/26/2019 designed as Kwall Heights Community Center.

SCOPE OF SERVICES

1. AUTOMATIC FIRE SPRINKLER SYSTEM

- AWFP will provide designed working drawings for the wet-pipe automatic fire sprinkler system.
- The hydraulic calculation of the automatic fire sprinkler system will be based on the fire hydrant flow test that will be conducted by AWFP and the City of Clarkdale.
- The design standard by AWFP will be in accordance with N.F.P.A. 13 guidelines, 2007 edition.
- The drawings by AWFP will be designed in 2D with AutoCAD, version 2007.

2. FIRE ALARM SYSTEM

- AWFP will provide designed working drawings for the new fire alarm system.
- The design standard by AWFP will be in accordance with N.F.P.A. 72 guidelines, 2007 edition.
- The drawings by AWFP will be designed in 2D with AutoCAD, version 2007.

PROJECT SPECIFIC NOTES

- The scope of work and associated pricing does not include onsite coordination meetings concerning the installation of the fire sprinkler and fire alarm systems.
- The fire sprinkler and fire alarm drawings to be submitted to Yavapai-Apache Tribal Housing.
- The fire sprinkler and fire alarm system Shop and As-built drawings will be the responsibility of the installing fire protection contractor.
- The scope of work by AWFP does not include compiling Performance Specifications for the design and installation of the fire sprinkler and fire alarm systems. However, if requested AWFP can provide scope of work pricing for furnishing Performance Specifications.
- AWFP will not be involved with commissioning activities to be witnessed by a qualified, independent third-party engineer.



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LIC# 252546

- A voice evacuation system will not be designed as part of the fire alarm system design.
- Working Drawings are to be defined as drawings developed by the engineering firm which represent the design concepts and restrictions of the fire sprinkler and fire alarm systems.
- Shop Drawings are to be defined as drawings developed by the contractor, based upon the design concepts, which detail the layout, coordination and installation of the fire alarm and fire sprinkler systems. This includes supplemental hydraulic calculations and battery calculations, if necessary.
- As Built Drawings are to be defined as updated shop drawings, maintained by the contractor, which represent actual installation.

Time Frame

- This agreement is valid for 10 days from the date on page one of the agreement.

Work Stoppage

- Client agrees to waive any claim against AWFP, and to indemnify, defend, and hold AWFP harmless from and against any claims arising from AWFP's suspension or termination due to client's failure to provide timely payment.

Change of Scope

- Any service requested by Client and not listed herein shall be billed as additional services. If the scope of work described changes significantly, any additional services required and requested by Client will be billed per the enclosed fee schedule.

Contract Termination

- Either the Client or AWFP may terminate this agreement by giving thirty (30) days written notice to the other party. In such event, AWFP shall forthwith be paid in full for all work authorized and performed prior to effective date of termination and all expenses incurred or committed to that cannot be cancelled.

Reimbursable Expenses

- Out-of-pocket expense costs other than time charges are based on usage, such as long distance calls, airfare, lodging, printing, plotting, renderings and Governmental Agency Fees, if required, will be billed in addition to the above fee per the attached fee schedule as reimbursable expenses. Mileage will be billed at \$.42 per mile.

Limitation of Liability

- The client agrees to limit the liability of AWFP to the client and to all services rendered, due to AWFP professional negligent acts, errors or omissions, such that the total aggregate liability of AWFP to those named shall not exceed the limit's of AWFP's General Liability.

Down Payment

- It is our policy to obtain a non-refundable down payment from all clients. Down payment must be in our office before any work will commence. Down Payment Amount: 30%



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Fee Schedule

Fire Sprinkler System Design: \$3,280.00 Three Thousand Two Hundred Eighty dollars.

Fire Alarm System Design: \$1,200.00 One Thousand Two Hundred dollars.

Project Specific Exclusions

- Installation of the designed automatic fire sprinkler and fire alarm system.
- Fire sprinkler and fire alarm system Shop Drawings and As-built drawings.
- Design and engineering of the underground fire line drawings, if warranted.
- Carbon Monoxide detection and design.
- Factory mutual and ISO guidelines and approvals for this facility.
- Night, weekend, and/or holiday work.
- Sales tax, plan review, and permit fees.

Hourly Rate Schedule

• Fire Sprinkler Designer	\$150.00
• Fire Sprinkler Draftsman	\$ 95.00
• Fire Alarm Designer	\$150.00
• Fire Alarm Draftsman	\$ 95.00

Reimbursables include, but are not limited to: Printing, Fedex, Courier, Travel Expenses, Etc. Reimbursables will be billed at cost plus 12%

Hourly rates are subject to change without notice.

If this agreement meets your approval, please indicate your acceptance by executing our agreement and returning said agreement to our office.

By: 
Blake Grant
All West Fire Protection Systems, LLC.

By: _____
Mr. Dave Schreiner
Yavapai-Apache Tribal Housing

Date: _____

Date: _____



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