

RESOLUTION NO. 74 -21  
OF THE GOVERNING BODY OF THE  
YAVAPAI-APACHE NATION

**A Resolution Authorizing an Agreement with Stantec Consulting Services, Inc., for  
Plan Review and Inspection Services for the Cliff Castle Casino Remodel Project**

- 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 Nation owns and operates the Cliff Castle Casino as a Subordinate Economic Organization of the Nation and an important part of the Nation’s economy (the “Casino”); and
- WHEREAS:** As authorized under Tribal Council Resolution No. 73-21, the Nation has contracted with I-5 Design-Build Inc. (“I-5”), for a complete remodel of the Casino’s Gaming Floor and Porte Cochere (the “Project”), and in connection with said Project the Nation requires Plan Review and Construction Inspection Services; and
- WHEREAS:** The Council desires to retain the services of Stantec Consulting Services Inc., to provide the required Plan Review and Inspection Services for the Casino Remodel Project, as specified by the Nation in accordance with the terms and conditions of the Agreement for Plan Review and Inspection Services (“Agreement”), a copy of which is attached to this Resolution as **Exhibit A** and incorporated herein by reference; and
- WHEREAS:** The Council has determined that execution of the above referenced Agreement with Stantec Consulting Services, Inc., 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 the Yavapai-Apache Nation to enter into the above referenced Agreement with Stantec Consulting Services, Inc., in accordance with the terms and conditions set out in the form of Agreement attached to this Resolution as **Exhibit A**, which is hereby incorporated into this resolution by reference.

**BE IT FURTHER RESOLVED** That the Term of the Contract shall commence on April 22, 2021 and shall continue until the required Work, including the Plan Review and Inspection Services, under the Casino Remodel Project are complete.

**BE IT FURTHER RESOLVED** that payment of compensation to Stantec under the Agreement shall be paid on an hourly-rate basis for each hour of plan review and inspection services provided under the Agreement and in accordance with the hourly fee schedule set out in the Agreement.

**BE IT FURTHER RESOLVED** that the funds used to pay compensation to Stantec Consulting Services, Inc., under the Agreement are hereby appropriated from the following sources:

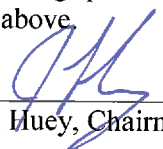
- (1) The proceeds of the Construction Line of Credit established under the Loan Agreement between the Nation and BOKF NA, dba BOK Financial ("BOKF Loan Agreement"), as recently approved by the Nation under Tribal Council Resolution No. 69-21, said Construction Line of Credit in the principal amount of and not to exceed \$13,600,000; and
- (2) The Cliff Castle Casino's FY2021 Capital Improvements Budget shall be used for payment of any amount of funds payable to Stantec Consulting Services Inc. under the Agreement that exceeds the funds available under the \$13,600,000 Construction Line of Credit authorized under the BOKF Loan Agreement; and

The Nation's Finance Director is authorized to draw upon the Construction Line of Credit established under the BOKF Loan Agreement for all payments arising under the Agreement with Stantec Consulting Services, Inc., as approved by this resolution, in accordance with the hourly fee schedule provided in the Agreement, and the Cliff Castle Casino, in coordination with the Nation's Finance Director, shall be responsible to pay all amounts in excess of funds available under the BOKF Loan Agreement from the Casino's Council-approved FY2021 Capital Improvements Budget.


**BE IT FINALLY RESOLVED** that the Chairman, and Vice-Chairwoman, or either of them, are hereby authorized to execute the above referenced Agreement with Stantec Consulting Services, Inc., on behalf of the Nation and to take such further action as deemed necessary to carry out the intent and purposes of this resolution.

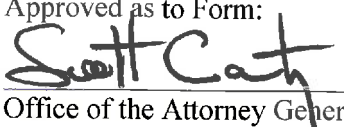
#### CERTIFICATION

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 April 22 2021, by a vote of 7 7 in favor, 0 opposed and 0 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

Yavapai-Apache Nation

Professional Services Agreement

With

Stantec Consulting Services, Inc.

For

Plan Review and Inspection Services For

Cliff Castle Remodel Project

April 22, 2021



Stantec Consulting Services Inc.  
3133 West Frye Road Suite 300, Chandler AZ 85226-5155

April 12, 2021  
File: TBD

**Attention: Anthony "Scott" Canty**  
Yavapai-Apache Nation  
2400 W. Datsi Street  
Camp Verde, AZ 86322

Dear Scott,

**Reference: Cliff Castle Casino-Hotel Gaming Floor and Porte Cochere Remodel Services**

Stantec can provide options for plan review and inspection services ("Services") based on the needs of the Yavapai-Apache Nation ("Nation") at the Cliff-Castle Casino-Hotel ("Site") for the Gaming Floor and Porte Cochere Remodels ("Project"). We will perform Services based the 2012 International Building Codes, 2012 NFPA Codes (Electrical, Fire Sprinkler, Fire Alarm), and 2010 ADA Standards for Accessible Design as specified on the approved construction documents.

### Plan Review

- A. Stantec provides certified and experienced plan reviewers for all Services.
- B. Electronic plan review submittals will be completed within ten (10) business days upon receipt of complete submittal. Incomplete submittals routed only after all necessary documentation is received.
- C. The Nation and/or their designee will receive a detailed letter addressing project data, deficiencies, code citations (when applicable), requests for compliance, and location of deficiencies within the plan. Additionally, contact information (email and direct number) for each plan reviewer will be included at the bottom of each comment letter to facilitate communications.
- D. Reviews resulting in approval will be accompanied by a letter specifying disciplines included in the approval, approved deferred submittals, required special inspections, and stamped-approved plans.
- E. Stantec reviewers are available to discuss the project in between submittals to assist the Nation and designer(s) to ensure a smooth process and shortest turnaround between first submittal and approval. We regularly initiate meetings or contact to discuss comments and possible solutions.
- F. Accuracy of Services is contingent upon accuracy of construction documents provided by Design-Builder. Discrepancies between plans and field conditions may result in additional requirements.

### Inspections

- A. Stantec provides certified and experienced inspectors for all on-site or video Services.

Reference: **Cliff Castle Casino-Hotel Gaming Floor and Porte Cochere Remodel Services**

- B. The Nation will receive an inspection report indicating the item(s) inspected, details identifying deficiencies, corrective action required, or approval and thumbnail pictures of the item(s) inspected. These reports will be provided via electronic transmittal within 24-hours of a completed inspection.
- C. Stantec is not responsible for inspection delays caused by Design-Builder prematurely scheduling inspections prior to completion of phased construction. Stantec is not responsible for delays or costs incurred by the Nation by Design-Builder and/or existing conditions.
- D. The Nation and/or Design-Builder shall allow Stantec access all areas included in the scope or work. Areas inaccessible to Stantec inspections for any reason (enclosed/concealed by Design-Builder, access denied by the Nation or Site staff, power outages, etc.) shall be inspected after area is accessible/exposed.

## Fees

- A. Services based on rates as identified below:

General Plan Reviews	<u>\$ 105.00/hour</u>
Structural Plan Reviews	<u>\$ 135.00/hour</u>
Civil Plan Reviews	<u>\$ 185.00/hour</u>
On-Site Inspections (all disciplines except civil)	<u>\$ 153.00/hour</u>
Video Inspections (all disciplines except civil)	<u>\$ 153.00/hour</u>
Civil Inspections	<u>\$ 185.00/hour</u>

- B. Stantec will make every effort to converse costs for the Nation. Stantec will not charge minimum inspection fees below unless Stantec inspector has already left to travel to Site.
- C. On-site inspections will be performed within 48 hours of Nation inspection request or as agreed upon by both parties at the above rate with a minimum six (6) hour charge per request. Six (6) hour charges include portal to portal drive time from 3133 West Frye Road, Chandler, AZ 85226 to the Casino Camp Verde location.
- D. Video inspections shall be approved by Stantec prior to scheduling. Approved video inspections will be performed for Nation within 24-hours of approved request with a minimum one (1) hour charge.
- E. Stantec reserves the right to require an on-site inspection if conditions exist during video inspection making it impossible to provide complete inspection services. Conditions include, but are not limited to, poor video quality, insufficient lighting, confined conditions, enclosed elements, contractor inability to show compliance via video, and other conditions which render the video inspection inadequate to determine code compliance.

Reference: Cliff Castle Casino-Hotel Gaming Floor and Porte Cochere Remodel Services

Regards,

**Stantec Consulting Services Inc.**



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**Kim Coyne**  
Principal  
Phone: 480 687 6050  
Fax: 602 431 9562  
kim.coyne@stantec.com

By signing this proposal, Yavapai-Apache Nation authorizes Stantec to proceed with the services herein described and the Client acknowledges that it has read and agrees to be bound by the attached Professional Services Terms and Conditions.

This proposal is accepted and agreed on the Day day of Month, Year.

Per: Yavapai-Apache Nation

Enter Name & Title Jon Huey chairman

Print Name & Title

Signature



Attachment: Standard Terms and Conditions  
c. Debi.green@stantec.com

## TERMS AND CONDITIONS

The following Terms and Conditions are attached to and form part of a proposal for services to be performed by Consultant and together, when the Client authorizes Consultant to proceed with the services, constitute the Agreement. Consultant means the Stantec entity issuing the Proposal.

**SERVICES:** Consultant shall render the services described in the Proposal (hereinafter called the "Services") to the Client. The Client acknowledges that the Services are intended to mirror those provided by the local permitting jurisdiction and that Stantec does not guarantee or warrant that the plan review services performed on the Client's documents will yield documents free of error. Services will be performed with the same standard of care provided by jurisdictional reviewers. Stantec will not compensate Client for plan deficiencies.

**CLIENT:** The Client confirms and agrees that the Client has authority to enter into this Agreement on its own behalf and on behalf of all parties related to the Client who may have an interest in the Project.

**TERMS AND CONDITIONS:** No terms, conditions, understandings, or agreements purporting to modify or vary these Terms and Conditions shall be binding unless hereafter made in writing and signed by the Client and Consultant. In the event of any conflict between the Proposal and these Terms and Conditions, these Terms and Conditions shall take precedence. This Agreement supercedes all previous agreements, arrangements or understandings between the parties whether written or oral in connection with or incidental to the Project.

**COMPENSATION:** Payment is due to Consultant upon receipt of invoice. Failure to make any payment when due is a material breach of this Agreement and will entitle Consultant, at its option, to suspend or terminate this Agreement and the provision of the Services. Interest will accrue on accounts overdue by 30 days at the lesser of 1.5 percent per month (18 percent per annum) or the maximum legal rate of interest. Unless otherwise noted, the fees in this agreement do not include any value added, sales, or other taxes that may be applied by Government on fees for services. Such taxes will be added to all invoices as required.

**NOTICES:** Each party shall designate a representative who is authorized to act on behalf of that party. All notices, consents, and approvals required to be given hereunder shall be in writing and shall be given to the representatives of each party.

**TERMINATION:** Either party may terminate the Agreement without cause upon thirty (30) days notice in writing. If either party breaches the Agreement and fails to remedy such breach within seven (7) days of notice to do so by the non-defaulting party, the non-defaulting party may immediately terminate the Agreement. Non-payment by the Client of Consultant's invoices within 30 days of Consultant rendering same is agreed to constitute a material breach and, upon written notice as prescribed above, the duties, obligations and responsibilities of Consultant are terminated. On termination by either party, the Client shall forthwith pay Consultant all fees and charges for the Services provided to the effective date of termination.

**PROFESSIONAL RESPONSIBILITY:** In performing the Services, Consultant will provide and exercise the standard of care, skill and diligence required by customarily accepted professional practices normally provided in the performance of the Services at the time and the location in which the Services were performed.

**LIMITATION OF LIABILITY:** It is agreed that the total amount of all claims the Client may have against Consultant under this Agreement, including but not limited to claims for negligence, negligent misrepresentation and/or breach of contract, shall be strictly limited to the lesser of professional fees paid to Consultant for the Services or \$50,000.00. No claim may be brought against Consultant more than two (2) years after the cause of action arose. As the Client's sole and exclusive remedy under this Agreement any claim, demand or suit shall be directed and/or asserted only against Consultant and not against any of Consultant's employees, officers or directors. Consultant's liability with respect to any claims arising out of this Agreement shall be absolutely limited to direct damages arising out of the Services and Consultant shall bear no liability whatsoever for any consequential loss, injury or damage incurred by the Client, including but not limited to claims for loss of use, loss of profits and/or loss of markets.

**GOVERNING LAW, COMPLIANCE WITH LAWS:** The Agreement shall be governed, construed and enforced in accordance with the laws of the jurisdiction in which the majority of the Services are performed. Consultant shall observe and comply with all applicable laws, continue to provide equal employment opportunity to all qualified persons, and to recruit, hire, train, promote and compensate persons in all jobs without regard to race, color, religion, sex, age, disability or national origin or any other basis prohibited by applicable laws.

**DISPUTE RESOLUTION:** If requested in writing by either the Client or Consultant, the Client and Consultant shall attempt to resolve any dispute between them arising out of or in connection with this Agreement by entering into structured non-binding negotiations with the assistance of a mediator on a without prejudice basis. The mediator shall be appointed by agreement of the parties. The Parties agree that any actions under this Agreement will be brought in the appropriate court in the jurisdiction of the Governing Law, or elsewhere by mutual agreement. Nothing herein however prevents Consultant from any exercising statutory lien rights or remedies in accordance with legislation where the project site is located.

**ASSIGNMENT, SEVERABILITY, DRAFTER:** The Client shall not, without the prior written consent of Consultant, assign the benefit or in any way transfer the obligations under these Terms and Conditions or any part hereof. If any term, condition or covenant of the Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of the Agreement shall be binding on the Client and Consultant. The parties agree that in the event this Agreement is subject to interpretation or construction by a third party, such third party shall not construe this Agreement or any part of it against either party as the drafter of this Agreement.

**FORCE MAJEURE:** Any default in the performance of this Agreement caused by any of the following events and without fault or negligence on the part of the defaulting party shall not constitute a breach of contract, labor strikes, riots, war, acts of governmental authorities, unusually severe weather conditions or other natural catastrophe, disease, epidemic or pandemic, or any other cause beyond the reasonable control or contemplation of either party. Nothing herein relieves the Client of its obligation to pay Consultant for services rendered