

**RESOLUTION NO. 81 -22
OF THE GOVERNING BODY OF THE
YAVAPAI-APACHE NATION**

**A Resolution Approving an Independent Contractor Agreement Between the
Yavapai-Apache Nation and Catherine Kelley for Prosecution Services**

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 under Article V(a) of the Constitution; and

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

WHEREAS: The Nation proposes to enter into an Independent Contractor Agreement (“Agreement”) as follows:

- 1. Department/Program:** Office of the Prosecutor
- 2. Contractor:** Catherine Kelley
- 3. Description of Contract Services:** Contractor will provide prosecution services to the Nation’s Office of the Prosecutor on a “as needed” basis as assigned by the Nation’s Chief Prosecutor or the Attorney General
- 4. Term:** Starting May 16, 2022 and continuing through December 31, 2022
- 5. Compensation/Contract Amount:** \$60.00/hour not to exceed \$10,000.00 during the Term
- 6. Funding Source:** DOJ Tribal Victim Set-Aside Formula Grant Program Grant, FY 2021 TVSSA award; and

WHEREAS: The Council has determined that it is in the Nation’s best interest to authorize execution of the above described Agreement.

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 an Independent Contractor Agreement, as described above, with Catherine Kelley in accordance with the Terms and Conditions set out in the form of Agreement attached to this Resolution as Exhibit A, under which Contractor will provide the above described services.

BE IT FINALLY RESOLVED that the Chairman and Vice-Chairwoman, or either of them, are hereby authorized 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 May 11 2022, by a vote of 9 9 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
Karla Reimer, Council Secretary

Approved as to Form:



Office of the Attorney General

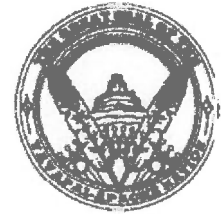
EXHIBIT A

Independent Contractor Agreement between the
Yavapai-Apache Nation and Catherine Kelley

YAVAPAI-APACHE NATION

PHONE (928) 567-3649

FAX (928) 567-3994



INDEPENDENT CONTRACTOR AGREEMENT BETWEEN THE YAVAPAI-APACHE NATION AND CATHERINE KELLEY

(Attach copy of Position Requisition Form and the W-9 Form)

The undersigned, Catherine Kelley, P.O. Box 1000, Humboldt, Arizona 86329 ("Contractor") and the Yavapai-Apache Nation, 2400 West Datsi Street, Camp Verde, Arizona 86322 ("Nation") hereby enter into this Independent Contractor Agreement ("Agreement"), under which Contractor agrees to provide services for the Yavapai-Apache Nation as an Independent Contractor subject to the following terms and conditions:

1. **SERVICES TO BE PERFORMED:** Contractor agrees to provide the following prosecution services for the Nation acting through the Nation's Office of the Prosecutor ("Services"):
 - A. Contractor shall provide prosecution services to the Nation's Office of the Prosecutor on an "as needed" basis as assigned by the Nation's Chief Prosecutor or the Attorney General.
 - B. Contractor shall follow the Nation's Constitution, Rules of Criminal Procedure, Criminal Code, and other applicable laws of the Nation in the provision of the Services.

Contractor will determine the method, details, and means of performing the above-described services, provided that Contractor shall periodically report to the Chief Prosecutor or the Attorney General on the status of the Services.

2. **COMPENSATION:** As full compensation for the Services provided by Contractor under this Agreement, the Contractor shall be compensated at the rate of Sixty Dollars per hour (\$60.00/hour), with total compensation, inclusive of all fees and expenses, not to exceed **Ten Thousand and 00/100 Dollars (\$10,000.00)** for the Term of this Agreement. Compensation shall be paid to Contractor within thirty (30) days of receipt of Contractor's monthly invoice for Services rendered, supported by reasonable documentation. Contractor's invoices for payment under this Agreement shall be submitted to the Chief Prosecutor or the Attorney General for review and processing of payment.
3. **TERM AND TERMINATION:** Services under this Agreement shall commence effective as of **May 16, 2022** (the "effective date"), and shall continue through **December 31, 2022** (the "expiration date"). Contractor agrees to perform all Services and submit all invoices for payment in accordance with this Agreement and on or before the expiration date. The Nation reserves the right to terminate this Agreement at any time without cause and without further obligation to Contractor except for any payment due for Services satisfactorily performed prior to the effective date of such termination. Except as expressly provided in this Section 3 of the Agreement, no other Compensation shall be due and payable to Contractor upon termination of this Agreement. The General Provisions, stated below in paragraph 6-11, shall survive any termination or expiration of this Agreement.

4. **INDEPENDENT CONTRACTOR STATUS:** Contractor acknowledges that he/she is an Independent Contractor and is not an employee of the Nation and understands that as an Independent Contractor, he/she is not entitled to any employee benefits as may be set forth in the Nation's Employee Handbook or otherwise available to employees of 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.
5. **CONTRACTOR OBLIGATIONS:** Contractor stipulates that he/she is a fully licensed member in good standing with the State Bar of Arizona and will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by other members of the profession currently practicing in the United States. Contractor is solely responsible for providing, at Contractor's own expense, general liability, professional 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 as a result of the compensation paid to Contractor for Services under this Agreement. Contractor agrees to indemnify the Nation from and against any claims, costs, losses, fees, penalties, interest, or damages suffered by Nation resulting from Contractor's failure to comply with this provision.

GENERAL PROVISIONS:

6. **Indemnification:** The Nation shall have no 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 services provided under this Agreement. Contractor agrees to indemnify and hold harmless the Nation against any and all liability, loss or expense, including personal injury, death or property damage, resulting from the negligent acts, omissions or errors of the Contractor, its officers, directors, employees and sub-contractors arising from the services 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
7. **Confidentiality:** In the course of performing services under this Agreement, Contractor may come in contact with or become familiar with information which 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 Nation personnel. Upon termination of the Agreement, Contractor will return to the Nation all documents and other materials provided to Contractor by the Nation, unless the Nation has expressly consented to the Contractor's retention of such documents and materials.
8. **Entire Agreement:** This Agreement constitutes the entire agreement of the parties with regard to 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. In the event of any conflict between the terms and conditions of this Agreement and those of any attached exhibits, the terms and conditions of this Agreement shall govern.
9. **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.
10. **Ownership:** All ideas, plans, improvements, inventions, or documents developed and produced by Contractor in connection with the services rendered under this Agreement shall belong to and remain the property of the Nation, unless otherwise agreed to in writing.

11. **Jurisdiction:** The Yavapai-Apache Nation is a federally recognized Indian Tribe and possesses sovereign immunity under law and the Nation's Constitution. Any and all disputes arising under this Agreement shall be resolved according to the laws of the Yavapai-Apache Nation (including the laws of the state of Arizona where the Laws of the Nation do not address a particular matter), and the Yavapai-Apache Nation's Tribal Courts shall have exclusive jurisdiction to the extent necessary to interpret and enforce this Agreement in any actions brought by the Nation or Contractor and arising under this Agreement. No other court or tribunal shall have jurisdiction over any action arising under this Agreement and brought by Contractor. No third-party shall have any right to bring an action under this Agreement, whether against the Nation or against Contractor. In all actions brought by the Contractor against the Nation, the Tribal Courts shall have jurisdiction only to the extent necessary to determine the amount of any earned but unpaid compensation under this Agreement and to order its payment. The Tribal Courts shall not have jurisdiction for any other purpose in any action brought by the Contractor under this Agreement.

THIS AGREEMENT is executed on the Yavapai-Apache Nation Reservation, this 11th day of May, 2022.

Yavapai-Apache Nation

By:  _____
Jon Huey, Chairman

Independent Contractor

By: _____
Catherine Kelley

Approved as to form:

Office of Attorney General Lisa Estensen Date: 5-9-22

Originals returned to Human Resources and copies delivered to the Attorney General's Office, and Finance.