

RESOLUTION NO. 119 -22  
OF THE GOVERNING BODY OF THE  
YAVAPAI-APACHE NATION

**A Resolution Approving the Yavapai-Apache Nation's Construction Contract with MKE Construction for Interior Renovations and Exterior Clean-up to the Nation's House and Property at 2882 Cloverleaf Ranch Road, Camp Verde, Arizona,**

- 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 Yavapai-Apache Nation owns the house and property at 2882 Cloverleaf Ranch Road ("Cloverleaf House"); and
- WHEREAS:** The Council, upon the recommendation of the Executive Department, has determined that certain renovations and other work for the Cloverleaf House (the "Work") are needed to render the house suitable for the Nation's purposes; and
- WHEREAS:** The Executive Department recommends that the Nation contract with MKE Construction ("MKE") for the Work in accordance with the terms and conditions of the Construction Contract attached to this Resolution as **Exhibit A** and in accordance with MKE's Proposal and Quote, which is made a part of the Contract; and
- WHEREAS:** The Council has determined that Funding for payment of the costs of the Work is available and shall be paid from the Nation's Economic Development Fund as established under Tribal Council Resolution No. 158-21, which Resolution provides in part that the Council may appropriate funds from the Economic Development Fund for the limited purposes specified in the Resolution, including, but not limited to, the following purposes:

(b) Acquisition, construction, reconstruction, rehabilitation, or installation of public improvements or facilities, including the planning and design of all such improvements or facilities, (e.g., governmental and neighborhood buildings, public safety facilities, schools, streets, sidewalks, parks, playgrounds, water and sewer facilities, utility services, and any other improvements and facilities that are either publicly owned by the Nation or that are of the type of facility or

improvement traditionally provided by the Nation or other local governments);

**WHEREAS:** The Council has determined that execution of the Contract with MKE is in the best interests of the Nation.

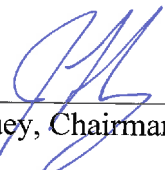
**NOW THEREFORE BE IT RESOLVED** that the Yavapai-Apache Tribal Council, in Council assembled, at which a quorum is present, hereby authorizes the Nation to enter into a Construction Contract with MKE Construction, in accordance with the terms and conditions set out in the form of Construction Contract attached to this Resolution as **Exhibit A**, together with the Contract Documents referenced in the Contract, with compensation paid to MKE under the Contract **not to exceed the "Contract Sum" of Thirteen Thousand Seventy and 00/100 Dollars (\$13,070.00)**, unless an amendment to the Contract is approved by the Tribal Council.

**BE IT FURTHER RESOLVED** that the Council hereby finds that funding for payment of the Contract Sum under the Contract is available from the Nation's Economic Development Fund and said funding is hereby appropriated in the amount of **Thirteen Thousand Seventy and 00/100 Dollars (\$13,070.00)** for payments under the Contract.

**BE IT FINALLY RESOLVED** that the Chairman, and Vice Chairwoman, or either of them, are hereby authorized to execute the above referenced Contract 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 July 14 2022, by a vote of 8 8 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**

## **YAVAPAI-APACHE NATION CONSTRUCTION CONTRACT**

**MKE Construction**

**Interior Renovations and Exterior Clean-up  
Nation's House and Property  
2882 Cloverleaf Ranch Road, Camp Verde, AZ**

**YAVAPAI-APACHE NATION  
CONSTRUCTION CONTRACT  
Fixed Price Basis**

This **CONSTRUCTION CONTRACT** (hereinafter "Agreement") is made and entered into on the 14th day of July 2022 (the "Effective Date"), by and between The Yavapai-Apache Nation ("NATION"), 2400 West Datsi Street, Camp Verde, Arizona 86322, and M.K.E. Construction, ("Contractor"), 1100 E. Logan Circle, Cottonwood, Arizona 86326.

**PROJECT DESCRIPTION:** Provide interior renovations and exterior cleanup to the Nation's house and property at 2882 Cloverleaf Ranch Road. All work will be provided in accordance with Contractors Proposal/Quote of July 6, 2022, a copy of which is attached to this Agreement and incorporated herein by reference.

**PROJECT LOCATION:** House and property at 2882 Cloverleaf Ranch Road, Camp Verde, AZ 86322 (Nation's Property)

**CONTRACTOR AND CONTACT INFORMATION:** Michael Kent Eaton DBA MKE Construction, 1100 E. Logan Circle, Cottonwood, AZ 86326, AZ-ROC License No. 196664, Phone: 928-300-8374, [mke.construction@earthlink.com](mailto:mke.construction@earthlink.com).

**RECITALS**

**WHEREAS:** The Yavapai-Apache Nation owns the house and property at 2882 Cloverleaf Ranch Road; and

**WHEREAS:** NATION desires to retain M.K.E. Construction as Contractor for the Work under this Agreement, and Contractor is willing to provide the Work 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, NATION and Contractor do hereby agree as follows:

1. **SCOPE OF WORK TO BE PROVIDED BY CONTRACTOR:** Contractor will provide all labor, equipment, and materials necessary to accomplish the following work: Provide interior renovation and exterior cleanup work at the Nation's house and property at 2882 Cloverleaf Ranch Road. The work includes the following general scope: (1) master bath renovations, (2) master closet renovations, (3) interior painting, (4) replace missing closet doors, and (5) exterior yard clean-up, collectively, the "Work". All Work shall be done in accordance with Contractor's Proposal/Quote dated July 6, 2022, a copy of which is attached to this Agreement as Exhibit A and incorporated herein by reference, and together with all other Contract Documents; including this Agreement and the following additional

**Contract Documents: Contractor's attached proposal/quote only. Contractor agrees to complete the Work for a total price of Thirteen Thousand Seventy and 00/100 Dollars (\$13,070.00), the "Contract Sum", which sum NATION agrees to pay for satisfactory completion of the work in accordance with the schedule of compensation set forth herein below. The Contract Sum includes 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 July 6, 2022.**

Contractor will determine the method, details, and means of performing the above-described services, provided that Contractor shall coordinate and work with NATION'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 Sum, 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 NATION's Chairman *before* beginning the changed Work. If the Change Order is not approved

by the Chairman and the work has already been completed by Contractor, NATION is not obligated to pay for the unapproved changed Work.

2. **COMPENSATION AND PAYMENT:** As full compensation for satisfactory completion of the Work provided by Contractor under this Agreement (see Section 1 above), NATION shall pay Contractor compensation, inclusive of all fees, costs, and expenses, in **an amount not to exceed Thirteen Thousand Seventy and 00/100 Dollars (\$13,070.00), the “Contract Sum”**.

The Contract Sum shall be paid to Contractor as follows:

- (a) Contractor shall provide NATION an Invoice-Request for a Progress Payment (“Request for Progress Payment”) based upon a 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. NATION shall make payment to Contractor in the amount of the Request for Progress Payment no later than ten (10) business days after the delivery of same by Contractor to NATION. NATION agrees to provide Contractor a 50% advance against the Contract Sum for mobilization and purchase of materials upon execution of this Agreement and issuance of the Notice to Proceed and payment will be made in accordance with the following Schedule:

|                            | <u>Amount</u>      |
|----------------------------|--------------------|
| 1. 50% Deposit             | \$6,535.00         |
| 2. 50% upon Completion     | \$6,535.00         |
| <b>Total Contract Sum:</b> | <b>\$13,070.00</b> |

- (b) Contractor shall promptly pay its workers, suppliers, and each subcontractor, upon receipt of each progress payment from NATION, 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. NATION 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 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 NATION (1) an affidavit that all payrolls, bills for materials and equipment and other indebtedness connected with the Work, for which NATION 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 NATION. If any subcontractor or materialman refuses to furnish a release or waiver required by NATION to indemnify it against any such lien, Contractor may furnish a bond satisfactory to NATION to indemnify it against any such lien. If any such lien remains unsatisfied after all payments are made, Contractor shall refund to NATION 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 NATION to Contractor upon the reasonable mutual determination by NATION and Contractor that the Work is complete, except for the responsibilities of Contractor under the Warranty provided hereunder. **The Nation's Project Manager, Dave Schreiner, shall inspect Contractor's Work and verify its satisfactory completion and eligibility for Final Payment.**
- (f) **Contractor must provide the NATION a completed IRS Form W-9 for Independent Contractors. Payment to the Contractor under this Agreement will not be made by NATION unless a completed W-9 is on file with the Nation.**

**3. CONTRACT TIME - DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION:** Contractor shall commence the Work on a day established by NATION 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 NATION 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 NATION that the Work is sufficiently complete in accordance with the Contract Documents so that NATION 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 NATION to Contractor. **The Nation's Project Manager, Dave Schreiner, shall inspect Contractor's Work and verify its satisfactory completion and eligibility for Final Payment.**

**4. LIQUIDATED DAMAGES:** Contractor acknowledges and agrees that NATION 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 NATION liquidated damages in an amount equal to **One Hundred Dollars (\$ 100.00)** for each calendar day that Substantial Completion is delayed beyond the Contract Time. NATION and Contractor agree that said liquidated damages are a reasonable estimate of the actual damages that NATION will incur because of such delay in achieving Substantial Completion. Subject to the provisions of the Contract Documents, NATION 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 NATION 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 NATION.

5. **TERMINATION:** NATION 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 NATION 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 NATION, may be considered defective. If required by NATION, 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 NATION 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 NATION, as evidenced in a written 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 NATION to do so. This Warranty obligation shall survive termination of the Contract.
- (d) Contractor shall assign to the NATION any warranties provided by the manufacturers of the materials and furnishings installed by Contractor as part of the Work.

**GENERAL PROVISIONS:**

7. **INDEPENDENT CONTRACTOR STATUS:** Contractor acknowledges that it is an Independent Contractor and is not an employee of NATION and understands that as an Independent Contractor, Contractor is not entitled to any employee benefits as may be available to employees of 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 NATION showing that the following insurance is in force and will protect Contractor and NATION (NATION 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 NATION, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by 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 NATION.

9. **INDEMNIFICATION:** The Yavapai-Apache 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 Work. Contractor agrees to indemnify and hold harmless 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:** While performing Services under this Agreement, Contractor may encounter or become familiar with information which 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 NATION. Upon expiration or termination of this Agreement, Contractor will return to NATION all documents and other materials, unless NATION has 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 NATION for any claims, costs, losses, fees, penalties, interest, or damages suffered by 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.

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 NATION 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:**

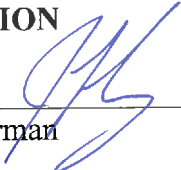
- (a) Informal Negotiations.** NATION and Contractor agree to engage in informal negotiations to resolve any dispute arising under this Agreement. If any dispute between NATION and Contractor is not resolved through informal negotiations, the Parties agree that, subject to the Limited Waiver of Sovereign Immunity provided by NATION in Section 18(b) below, the dispute may be resolved through the Nation's Tribal Court.
- (b) Limited Waiver of Sovereign Immunity.** The Yavapai-Apache Nation is protected by 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 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, NATION grants to Contractor a limited waiver of its sovereign immunity as follows: (1) NATION 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) NATION 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 NATION and Contractor that the limited waiver of sovereign immunity provided by this Section 18(b), shall extend only to disputes between NATION 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 NATION by any party other than Contractor (including without limitation any purported third party beneficiary of the Agreement); (4) The liability of NATION 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 NATION'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 NATION 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 an amount up to but not exceeding the Contract Sum; 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 \_\_\_\_\_, 20\_\_\_\_.

NATION

  
\_\_\_\_\_  
Chairman

Contractor – MKE Construction

\_\_\_\_\_  
Owner/Representative

### NOTICE TO PROCEED

TO:

M.K.E Construction

1100 E. Logan Circle

Cottonwood, AZ 86326

Date:

\_\_\_\_\_

**Project: Renovations 2882 Cloverleaf**

**Ranch Road**

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

By:  \_\_\_\_\_

Title: Chairman \_\_\_\_\_

### ACCEPTANCE OF NOTICE

Receipt of the above NOTICE to PROCEED

Is hereby acknowledged by:

M.K.E. Construction,

(Contractor)

this \_\_\_\_\_ day,

of \_\_\_\_\_, 2022,

By: \_\_\_\_\_

Title: \_\_\_\_\_

# **EXHIBIT A**

**To**

**YAVAPAI-APACHE NATION  
CONSTRUCTION CONTRACT**

**MKE Construction  
Proposal/Quote of July 6, 2022**

**Interior Renovations and Exterior Clean-up  
Nation's House and Property  
2882 Cloverleaf Ranch Road, Camp Verde, AZ**

MKE Construction

928-300-8374

①

INVOICE NO.

INVOICE

INVOICE  
DATE

CUSTOMER  
ORDER NUMBER

July 6<sup>th</sup> 2022

SOLD TO:

YANTH

SHIP TO:

Project - 2882 Cloverleaf Ranch Road

SALESPERSON

SHIPPED VIA

TERMS

F.O.B.

| QTY ORDERED | QTY SHIPPED | DESCRIPTION  | UNIT | AMOUNT |
|-------------|-------------|--|------|--------|
| ①②          |             | Master bath<br>Install new 5' vanity cabinet and 5'<br>cultured marble vanity top with ② recessed<br>oval bowls                |      |        |
| ⑥           |             | Install ② Delta single handle chrome faucets<br>on marble top  |      |        |
| ③           |             | Provide new drain hookups and water supply lines to<br>faucets   |      |        |
| ②           |             | Provide ② new shower control handles. one<br>will have diverter for over head shower head. Also<br>included ③ new shower heads |      |        |
| ⑤           |             | Provide drywall texture at shower exterior side walls<br>and shower ceiling  |      |        |
| ⑤           |             | Install new shower floor tile  |      |        |
| ⑤           |             | grout and seal wall and floor tile   |      |        |
|             |             | Install ③ 30" wall cabinets in laundry room<br>provide filler pieces on ends and crown molding                                 |      |        |



# MKE Construction

2

DATE  
CUSTOMER  
ORDER NUMBER

July 6<sup>th</sup> 2022

|                                       |          |
|---------------------------------------|----------|
| YANTH                                 | SHIP TO: |
| Project - 2882 Clover leaf Ranch Road |          |

|             |             |       |        |
|-------------|-------------|-------|--------|
| SALESPERSON | SHIPPED VIA | TERMS | F.O.B. |
|-------------|-------------|-------|--------|

| QTY ORDERED | QTY SHIPPED | DESCRIPTION   | UNIT | AMOUNT |
|-------------|-------------|---|------|--------|
| ②           |             | Master Closet   |      |        |
|             |             | Install new 12" wide bull nose shelving   |      |        |
|             |             | one shelf & pole at back of closet  |      |        |
|             |             | Two shelves on each side of closet  |      |        |
| ③           |             | Interior house painting   |      |        |
|             |             | Ⓐ provide masking cover for all none painting surfaces                            |      |        |
|             |             | Ⓑ caulk and spackle where needed  |      |        |
|             |             | Ⓒ apply Sherwin Williams interior paint to all paintable surfaces including doors |      |        |
|             |             | Ⓓ exclusion - ceiling area  |      |        |
|             |             | Ⓔ color to be cottage white in semi-gloss   |      |        |
| ④           |             | Replace ③ missing closet doors  |      |        |
|             |             | 1- 2'6"   |      |        |
|             |             | 2- 2'6"   |      |        |
|             |             | flush textured finish   |      |        |
|             |             | provide privacy and passage door handles for all interior doors                   |      |        |
|             | ⑥           | privacy   |      |        |
|             | ⑤           | passage   |      |        |

# MKE Construction ③

DATE  
CUSTOMER  
ORDER NUMBER



|   |          |
|---|----------|
| YANTH<br>Project - 2882 Cloverleaf Ranch Road | SHIP TO: |
|---|----------|

|             |             |       |        |
|-------------|-------------|-------|--------|
| SALESPERSON | SHIPPED VIA | TERMS | F.O.B. |
|-------------|-------------|-------|--------|

| QTY ORDERED            | QTY SHIPPED | DESCRIPTION   | UNIT      | AMOUNT |
|------------------------|-------------|---|-----------|--------|
| ⑤                      |             | Exterior yard cleanup   |           |        |
|                        |             | ① Remove all loose yard debris from property and place in YANTH provided roll off dumpster  |           |        |
| ⑥                      |             | Well service and irrigation repair not included in this proposal. Can submit separate proposal for those items when prices are determined |           |        |
| Total price of project |             |   |           |        |
| \$13,070.00            |             |   |           |        |
| TERMS                  |             |   |           |        |
| 1/2 DOWN               |             |   | \$6535.00 |        |
| 1/2 COMPLETION         |             |   | \$6535.00 |        |