

RESOLUTION NO. 216 -22
OF THE GOVERNING BODY OF THE
YAVAPAI-APACHE NATION

A Resolution Approving a Special Counsel Attorney Contract between the
Yavapai-Apache Nation and the Law Firm of Stinson LLP

- WHEREAS:** The Yavapai-Apache Tribal Council (“Council”) is authorized to represent the Yavapai-Apache Nation (“Nation”) and to 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, as the legislative body of the Nation, is authorized to enact laws, ordinances and resolutions incidental to the exercise of its legislative powers, as provided under Article V (v) of the Constitution; and
- WHEREAS:** The Council is authorized to employ legal counsel, as provided under Article V(c) of the Constitution; and
- WHEREAS:** The Council is authorized to appropriate and regulate the use of tribal funds as provided under Article V (k) of the Constitution; and
- WHEREAS:** The Nation wishes to become a participating employer in the Arizona Public Safety Personnel Retirement System (“PSPRS”) on behalf of eligible employees of the Nation’s Police Department; and
- WHEREAS:** The PSPRS requires an opinion from outside legal counsel retained by the Nation reflecting that the Nation has legal authority to enter into the PSPRS Tribal Joinder Agreement along with other things specified in the PSPRS Tribal Joinder Agreement; and
- WHEREAS:** The Council desires to contract with the law firm Stinson LLP (*a copy of the Special Counsel Attorney Contract, hereinafter the “Contract”, is attached to this Resolution as Exhibit A*) to provide the required legal opinion regarding the Nation’s participation in PSPRS, which includes the review of documents in support of the legal opinion; and
- WHEREAS:** Funding is available from the Police Department’s approved FY2022 Budget to contract with Stinson LLP; and
- WHEREAS:** The Council has reviewed the proposed Contract with Stinson LLP and deems it to be in the best interest of the Nation to enter into the Contract in accordance with the terms and conditions as provided therein.

NOW THEREFORE BE IT RESOLVED that the Yavapai-Apache Tribal Council, in Council assembled, at which a quorum is present, hereby approves the Special Counsel Attorney Contract between the Nation and the law firm of Stinson LLP (attached to this Resolution as Exhibit A) in accordance with the terms and conditions provided therein.

BE IT FURTHER RESOLVED that the Tribal Council directs that the Term of the Contract shall be for period beginning November 16, 2022 and ending December 7, 2022 and that the fees and expenses of the Contract shall be paid from the approved 2022 Budget of the Police Department, said payments to be limited over the Term of the Contract to an amount **not to exceed Five Thousand and 00/100 Dollars (\$5,000.00) without the further authorization of the Tribal Council.**

BE IT FURTHER RESOLVED that the Tribal Council directs that the legal work of Stinson LLP, as provided in the Contract, shall be managed and supervised by the Nation's Attorney General, or his designee, acting in coordination with the Tribal Council.

BE IT FINALLY RESOLVED that the Chairwoman, and Vice-Chairman, or either of them, are hereby authorized to execute the Contract on behalf of the Nation and to take such further action as deemed necessary to carry out the purposes and intent 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 November 16 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.



Tanya Lewis, Chairwoman

ATTEST:



Karla Reimer, Council Secretary

Approved as to form:



Office of the Attorney General

EXHIBIT A

Special Counsel Attorney Contract with Stinson LLP

**SPECIAL COUNSEL ATTORNEY CONTRACT WITH
STINSON LLP**

THIS CONTRACT ("Contract" or "Agreement") is by and between the Yavapai-Apache Nation of 2400 West Datsi Street, Camp Verde, Arizona 86322 ("NATION") and the law firm of Stinson LLP, 1850 N. Central Avenue, Suite 2100, Phoenix, Arizona 85004 (hereafter "FIRM"). Under Article V (c) of the Constitution of the Yavapai-Apache Nation, the NATION is authorized to retain legal counsel, and this Agreement is therefore approved under a Resolution of the NATION. Under this limited scope Special Counsel Attorney Contract, the FIRM is authorized to work only on specific legal issues the NATION has identified and requested in writing or via email for FIRM to work on. This Agreement shall replace and supersede prior agreements which may exist, if any, between FIRM and the NATION.

WITNESSETH

1. By resolution of the NATION's Tribal Council, adopted on the 16th day of November, 2022, which is attached hereto and made a part hereof, the NATION hereby contracts with, retains, and employs FIRM as attorneys in the matters hereinafter mentioned. It is understood by FIRM and the NATION that the primary attorney at FIRM responsible for legal representation of the NATION under this Agreement is Sharon W. Ng although the NATION understands that FIRM may engage other attorneys within FIRM as well as paralegals and support staff as necessary and as FIRM deems appropriate. The term of this Contract shall be November 16, 2022 conditioned on all appropriate waivers (hereafter the "Effective Date") through December 7, 2022 and may be extended by mutual written agreement of the parties.

2. It shall be the duty of the FIRM to provide the NATION a legal opinion regarding the NATION'S admission to the Arizona Public Safety Personnel Retirement System (PSPRS) and reviewing any documents in support of preparing the legal memorandum or opinion.

3. FIRM is authorized to undertake representation of NATION in additional matters beyond the above-stated General Scope of Legal Services only with the NATION'S prior written approval. Any assignments which FIRM works on will be directed through the NATION's Office of Attorney General in consultation with the Tribal Council of the NATION.

4. In consideration of the legal services to be rendered under this Agreement, FIRM's cost of legal services will be based on the hourly rates stated below, unless alternate billing arrangements, discounts, or flat fees are agreed to in advance in writing with respect to specific assignments, and no change to hourly rates will go into effect without at least thirty (30) days advance written notice. Expenses (postage, photocopying, telephone, telefax and transportation) will be reimbursed. Fees and expenses will be payable monthly.

Hourly Rates. The FIRM's billing rate for Sharon W. Ng is Four Hundred Ninety-Five and 00/100 Dollars (\$495.00) per hour. All time will be billed in increments of six minutes.

CAP on Contract. Total compensation to FIRM under this Agreement for the term of the Agreement shall not exceed **Five Thousand and 00/100 Dollars (\$5,000.00)** unless expressly agreed to by the NATION's Tribal Council as set forth in a Resolution of the Council amending this Agreement.

5. No assignment of the obligations of this Agreement, in whole or in part, shall be made without the consent, previously obtained, of the Tribal Council, nor shall any assignment or encumbrance be made of any interest of the FIRM in compensation to be paid under this Agreement without such consent, provided that if such an assignment of the obligations of this Agreement, or assignment or encumbrance for any interest in the compensation to be paid is made in violation of the provisions of this paragraph, the Agreement may be terminated at the option of the NATION and no FIRM or attorney having any interest in the Agreement or in the fee provided herein shall be entitled to any compensation whatsoever for any services rendered or expenses incurred subsequent to the date of termination.

6. It is understood that FIRM and its attorneys, paralegals and support staff are Independent Contractors with respect to the NATION and are not employees of the NATION.

7. FIRM shall be paid for all services and expenses as provided under this Agreement, through the effective date of any termination hereunder, upon the submission of proper invoices detailing the work accomplished and the fees and expenses billed, to the Office of the Attorney General of the NATION for review and approval. The NATION may terminate legal services at any time by notifying FIRM in writing of its intention to do so and the effective date of such termination, in which case the NATION shall be obligated to pay only for work performed up to the effective date of the termination. The FIRM may terminate this engagement and withdraw from representation for any reason permitted in the Rules of Professional Conduct for Lawyers. The Agreement shall remain in effect until terminated or modified.

8. This Agreement shall be construed in accordance with the laws of the State of Arizona. In the event a dispute arises under the terms of this Agreement, NATION and FIRM agree to the following:

(A) Prior to mediating or arbitrating any dispute, NATION and FIRM shall negotiate in good faith any controversy or claim arising out of or related to this Agreement and shall attempt in good faith to resolve the dispute amicably through direct negotiation.

(B) After attempting a negotiated resolution pursuant to Section 8(A) and prior to arbitrating any dispute, NATION and FIRM shall first try in good faith to settle any dispute by mediation administered by the American Arbitration Association ("AAA") under its commercial mediation rules. NATION and FIRM shall pay their own attorneys' fees and share the costs of the mediator equally.

(C) After attempting resolution of a dispute pursuant to Section (8)(A) and (B), the dispute shall be resolved by binding arbitration as prescribed in this Section 8(C).

(1) The Federal Arbitration Act governs the arbitration, including but not limited to the question of whether a claim is subject to arbitration. The parties each agree to waive any right to trial in a court of law and any right to a trial by jury that may otherwise exist.

(2) The arbitration will be administered by the AAA under its commercial arbitration rules. The arbitrator(s) shall be licensed attorneys with at least ten years' experience in the jurisdiction of Phoenix, Arizona. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

(3) NATION and FIRM shall pay their own attorneys' fees and share the costs of the arbitrator equally.

(4) NATION does hereby grant, consent, and agree to a limited waiver of its sovereign immunity from lawsuits as follows: (1) NATION agrees that all unresolved disputes arising out of or related to this Agreement shall be submitted to arbitration as provided above; (2) NATION agrees that the Tribal Court shall have subject matter jurisdiction over the resolution of disputes arising under this Agreement for the limited purposes of confirming and enforcing any arbitration award arising out of or related to this Agreement; (3) this limited waiver of sovereign immunity shall extend only to the parties of this Agreement and shall apply only to an action to arbitrate and enforce an arbitration award for any claim for breach of this Agreement, and shall therefore not extend to or be effective as to any claim or action by any non-party (including without limitation any purported third party beneficiary of this Agreement); and (4) each party's liability for any recovery against the other by arbitration and enforcement 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, punitive or any other damages, all of which are hereby expressly declared to be outside of the scope of this waiver of sovereign immunity.

9. The FIRM stipulates that Sharon W. Ng is a fully licensed member in good standing of the State Bar of Arizona. To the best of FIRM'S knowledge, no disciplinary proceedings have been instituted against Sharon W. Ng by any bar association of any jurisdiction of the United States or its territories which are pending and/or unresolved, and she have not been disbarred or suspended from the practice of law in any jurisdiction in the United States or its territories.

10. All notifications to FIRM pursuant to this Agreement shall be mailed Sharon W. Ng, Stinson LLP, 1850 N. Central Avenue, Suite 2100, Phoenix, Arizona 85004, with a copy by e-mail to Sharon.ng@stinson.com. All notifications to the NATION pursuant to this Agreement shall be mailed to Yavapai-Apache Nation, c/o Office of the Attorney General, 2400 West Datsi Street, Camp Verde, Arizona 96322, with a copy by e-mail to lbluelake@yan-tribe.org. FIRM and the NATION may change their notification addresses at any time by sending a notification of the new address to the other party.


In WITNESS WHEREOF, the following parties execute this Agreement as set forth below:

YAVAPAI-APACHE NATION

STINSON LLP

Date: 11.16.22

Date: _____

By: 
Tanya Lewis, Chairwoman

By: _____
Sharon W. Ng, Partner

Approved as to Form:

YAVAPAI-APACHE NATION
OFFICE OF THE ATTORNEY GENERAL

Date: 11-15-22

By: 
Lisa Estensen, Assistant Attorney General