

# Request for Proposal

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**Deliver Proposals to:**  
**The Shoalwater Bay Indian Tribe**  
**C/O Scott Baergen**  
**2373 Old Tokeland Road**  
**Tokeland, Washington 98590**  
[Sbaergen1@gmail.com](mailto:Sbaergen1@gmail.com)  
[sbaergen@shoalwaterbay-nsn.gov](mailto:sbaergen@shoalwaterbay-nsn.gov)

**Invitation Number:**  
**SBIT 1505-1021**  
**(HUD ICDBG B-09-SR-53-1418)**

**RFP Post date 9 JUN 2015**  
**RFP close date 29 JUN 2015 (bids due no later than**  
**3p.m. at above address)**  
**Pre Bid Meeting 17 JUN 2015 1030a.m.**  
**4168 S.R. 105 Annex Bldg. Tokeland**

## **Division I**

**REQUEST FOR PROPOSAL: Eagle Hill Multipurpose Building**

### **SCOPE OF WORK**

Attachment 12

### **SPECIFICATIONS**

Attachments 13&14

### **CONTRACTOR QUALIFICATIONS**

The contractor must have five (5) years of contracting construction experience in commercial vertical construction, have a State of Washington contractor's license. The Contractor will provide references from at least three other similar projects in commercial vertical construction.

### **INSURANCE AND BOND REQUIREMENTS**

The Contractor shall provide comprehensive general liability insurance. As to cover actual loss, injury, or damage in performance of the contract in an amount no less than \$5,000,000. A bid bond for 5% of the total bid must accompany the bid. Additionally, prior to the Notice to Proceed, a performance bond for 100% of the contract amount must be submitted. The Contractor will also provide Automobile Liability up to \$1,000,000 and Workers Compensation up to \$1,000,000.

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## **General terms and conditions governing bids:**

1. Bidders are encouraged to inspect the site where services are to be performed and to satisfy themselves as to all general and local conditions that may affect the cost of performance of the CONTRACT to the extent such information is reasonably obtainable. In no event will a failure to inspect the site constitute grounds for withdrawal of a bid after opening or constitute grounds for a claim after CONTRACT award.
2. A bid guarantee in the form of irrevocable letter of credit payable to TRIBE, executed by the bidder in an amount equal to five percent (5%) of the bid, is required to be submitted with each bid. The 5% will be held until closeout of the project. An itemized cost breakdown, separating materials and labor, is required with each bid. This requirement will be in addition to the bid guarantees defined in Division II.
3. Should the successful bidder fail to execute the required CONTRACT and furnish satisfactory performance bond within the time stated in this RFB, the bid proposal deposit shall be forfeited to the TRIBE. The bid guarantee submitted by non-successful bidders will be returned.
4. The CONTRACT will be awarded to the lowest responsive and responsible bidder whose bid does not exceed the amount of funds estimated by TRIBE to be available for construction of the project. Only bids meeting all bid requirements included herein shall be considered for award. In the event that the lowest bidder is not awarded the CONTRACT, a dissenting bidder has forty-eight (48) hours in which to file a written complaint to the Project Coordinator.
5. Bids will be opened on **JUNE 30<sup>th</sup> 2015** . Bids may not be withdrawn for a period of thirty (30) days following the opening of bids without the consent of TRIBE.
6. All labor furnished for the work defined in this CONTRACT shall be competitive. It is required to be at or above the current prevailing wage rate as determined by the Davis Bacon Act.

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## Division II

### Instructions to Bidders

1. Bid Form
2. Interpretations
3. Bid Guarantee
4. Non-Collusion Affidavit Declaration
5. Bidder's Construction Experience
6. Time for Receiving Bids
7. Opening of Bids
8. Withdrawal of Bids
9. Award of Contract / Rejection of Bids
10. Execution of Contract, Performance and Payment Security
11. Equal Employment Opportunity
12. Indian Preference
13. Pre-Construction Conference
14. Taxes
15. Permits
16. HUD requirements

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## 1. **BID FORM**

*All bids must be submitted on forms furnished by TRIBE as attachments and shall be subject to all requirements of the specifications and drawings. Bids need to be furnished in duplicate. Both copies of the bid shall be signed. The bid documents shall be sealed in an envelope which shall be clearly labeled with the words "Bid Documents" the project name and name of bidder. The following documents constitute a complete bid and are required to be submitted to form a responsive bid:*

- A. Form of Bid/Schedule-Exhibit A Reference: Attachment 1
- B. Bid Bond-Exhibit B Reference: Attachment 2
- C. Non-Collusion Declaration Affidavit-Exhibit C Reference: Attachment 3
- D. Contract Bond-Exhibit D Reference: Attachment 4
- E. Construction Contract-Exhibit E Reference: Attachment 5
- F. Notice to Proceed-Exhibit F Reference: Attachment 6

## 2. **INTERPRETATIONS**

- A. No oral interpretation will be made to any bidder as to the meaning of the specifications and drawings. Every request for an interpretation shall be made in writing or by e-mail and any inquiry received ten (10) or more days prior to the date fixed for opening bids will be given consideration. E-mail should be sent to [sbaergen1@gmail.com](mailto:sbaergen1@gmail.com) and/or [sbaergen@shoalwaterbay-nsn.gov](mailto:sbaergen@shoalwaterbay-nsn.gov)

Interpretations will be in the form of addenda which will be on file in the offices of TRIBE at least seven (7) days before bids are opened. In addition, addenda will be emailed to each bidder and they shall become a part of the CONTRACT and all bidders shall be bound by such addenda whether or not received by the bidders.

- B. Any reference to the masculine gender in the CONTRACT documents includes the feminine and vice versa.
- C. Any Reference: to days shall be interpreted to mean calendar days.

## 3. **BID GUARANTEE**

The bid guarantee shall not be less than five percent (5%) of the amount of the bid, and shall be a bid bond secured by a surety appearing on the State of Washington's most current Form **SF351**. The bid guarantee shall ensure the execution of the CONTRACT and the furnishing of performance and payment bond or bonds by the successful bidder in the appropriate amount. The bid guarantee of unsuccessful bidders shall be returned as soon as practicable after the

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opening of bids. Reference: **Exhibit B-Attachment 2**. Failure to furnish a bid guarantee in the proper form and amount, by the time set for opening of bids, may be cause for rejection of the bid.

## **4. NON-COLLUSION DECLARATION AFFIDAVIT**

Each person submitting a bid for any portion of the work contemplated by the bidding documents shall execute an affidavit, in the form provided by TRIBE, to the effect that he has not colluded with any other person, firm or corporation in regard to any bid submitted. Such affidavit shall be attached to the bid. Reference: **Exhibit C-Attachment 3**.

## **5. BIDDER'S CONSTRUCTION EXPERIENCE**

Before a bid is considered for award, the bidder may be requested by TRIBE to submit additional information regarding his previous experience in performing comparable work, his business and technical organization, and financial resources.

## **6. TIME FOR RECEIVING BIDS**

Bids received prior to the time of opening will be kept unopened in a secure place. TRIBE will not accept bids after the time defined within this document. No responsibility will attach to an TRIBE for the premature opening of a bid not properly addressed and identified.

## **7. OPENING OF BIDS**

Bids will be opened at the digression of TRIBE after the posted closing of the bid time has passed. Bids will not be opened in public.

## **8. WITHDRAWAL OF BIDS**

Bids may be withdrawn prior to closing time of the bid. Negligence on the part of the bidder in preparing his bid confers no right of withdrawal or modification of his bid after such bid has been opened.

## **9. AWARD OF CONTRACT / REJECTION OF BIDS**

The CONTRACT will be awarded to the responsible bidder submitting the lowest proposal complying with the conditions of the Request for Bids and Instructions to Bidders, provided the bid is reasonable and it is to the interest of TRIBE to accept it. The bidder to whom the award is made will be notified at the earliest practicable date.

TRIBE reserves the right to apply highly subjective criteria in the process of the selecting the successful proposal, with the evaluation factors described herein. Until the award of the CONTRACT, TRIBE reserves the right to reject any and all proposals or to advertise for new proposals without liability to TRIBE.

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The information submitted in the Bid Packages will be evaluated based on the following criteria (100 point scale):

General Compliance with the Terms of the RFP: 15 points

A. Completeness of the response to project RFP

1. Clarity of management structure and accountability for project work

B. Project Work Plan: 20 Points

1. Demonstration of understanding of the statement of work objectives

2. Appropriate methodology for the project work tasks

3. Demonstration of availability to finish project by completion date

C. Project Staffing: 20 Points

1. Qualifications of project manager

2. Qualifications of key staff and any consultants

3. Commitment to project by key staff

D. Experience Record: 20 Points

1. Size of firm and background to handle the project

2. Experience with similar projects (scope and type)

3. Primary firm management experience

4. Random client Reference: consideration

5. Experience working with Indian Tribes

F. Indian owned and managed/operated companies: 10 Points

- *Claimants should include proof of Native enrollment with their bid packet.*

- *Native Owned business will be verified in advance by Tribal Grant Coordinator Jamie Judkins ([jjudkins@shoalwaterbay-nsn.gov](mailto:jjudkins@shoalwaterbay-nsn.gov) 360 267 8152).*

G. Non-Native American but other minority or women owned and managed/operated: 5 Points

TRIBE, however, reserves the right to reject any and all bids.

TRIBE also reserves the right to reject the bid of any bidder who has previously failed to perform properly and or complete previous projects on time; who is deemed by TRIBE as being unable complete the project as required; and/or who has habitually and without just cause neglected the payment of bills or otherwise disregarded his obligations to subcontractors, suppliers, or employees.

The ability of a bidder to obtain a performance and payment security shall not be regarded as the sole test of such bidder's competency or responsibility.

## **10. EXECUTION OF CONTRACT, PERFORMANCE AND PAYMENT SECURITY**

Subsequent to the award of the bid and within ten (10) days after the prescribed forms are presented for signature, the successful bidder shall execute and deliver to TRIBE a CONTRACT in the form furnished in such number of counterparts as TRIBE may require. Having satisfied all conditions of the award, as set forth elsewhere in these documents, the successful bidder shall, present a Contract Bond along with the CONTRACT.

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- A. The bond must be in a penal sum of at least the full amount of the CONTRACT as awarded, and secure the faithful performance of the CONTRACT and the payment of all persons, firms or corporations to whom CONTRACTOR may become legally indebted for labor, materials, tools, equipment, or services, of any nature, employed or used by him/her in performing the work. Such bond shall bear the same date as, or a date subsequent to, the date of the CONTRACT.
- B. On each bond, the rate of premium shall be stated, together with the total amount of the premium charged. The current power of attorney for the person who signs for any surety company shall be attached to such bond. The bond shall be in the form of **Exhibit D**.
- C. Surety companies executing bonds must appear on the State of Washington's Form SF351 and must be authorized to transact business in the state where the project is located.

The failure of the successful bidder to execute the CONTRACT and to supply the required security within ten (10) days after the prescribed forms are presented for signature, or within such extended period as TRIBE may grant, shall be grounds for TRIBE to either award the CONTRACT to the next lowest responsible bidder or re-advertise for bids. In such event, TRIBE may charge against the bidder the difference between the amount of the bid and the amount for which a CONTRACT for the work is subsequently executed, irrespective of whether the amount thus due exceeds the amount of the bid guaranty.

## **11. EQUAL EMPLOYMENT OPPORTUNITY**

Attention is called to the Equal Employment Opportunity provisions of the CONTRACT, sections 44 and 45.

## **12. INDIAN PREFERENCE**

During the performance of this CONTRACT, CONTRACTOR agrees as follows:

*CONTRACTOR, to the greatest extent feasible and allowable under law, shall give preference to Shoalwater Bay Tribal members and other Native Americans, in hiring, promotion, training lay-offs and all other aspects of employment in connection with this project.*

## **13. PRE-CONSTRUCTION CONFERENCE**

Within ten (10) calendar days of CONTRACT execution and prior to the commencement of work, CONTRACTOR or his representative shall attend a Pre- Construction Conference with TRIBE. The Conference will serve to acquaint the participants with the general plan of CONTRACT administration and requirements under which the project is to proceed and will review their obligations under equal employment opportunity, and labor standards provisions, if applicable. The date, time and place of the Conference will be furnished to CONTRACTOR by TRIBE.

#### **14. TAXES**

TRIBE is exempt from paying taxes on any work within this project as it is on an Indian Reservation.

#### **15. Permits**

TRIBE will be responsible for obtaining any permits required for this CONTRACT unless otherwise specified in this CONTRACT. The cost of permits shall be at TRIBE's expense. Drawings, documents and the like needed to obtain the permit(s) will be provided by CONTRACTOR at his expense.

#### **16. HUD REQUIREMENTS**

This H.U.D. funded project (**HUD ICDBG B-09-SR-53-1418**) has provisions referenced in CFR 24 Part 85 that will be followed by all parties.

[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title24/24tab\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title24/24tab_02.tpl)

- Compliance with the Copeland "Anti-Kickback" Act (18 USC 874) as supplemented in Dept. of Labor regulations (29 CFR part 3). Applicable to all contracts for construction or repair.
- Compliance with the Davis-Bacon Act (40 USC 276a to 276a-7) as supplemented by Dept. of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees.
- Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Dept. of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers).
- Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 1857 (h)), section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)
- The Tribe is required to complete regulatory evaluations to maintain funding agency compliance. Contractor will provide progress reporting on all activities. Contractor submitted Percent complete reporting along with daily construction reports will be used to formulate the funding reports. Additionally itemized invoicing will be evaluated. Contractors will also be required to fill out Section 3 Compliance Forms. **Reference Attachment 7 Exhibit G**

### **Division III**

## **General Conditions of the Construction CONTRACT**

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## 1. **DEFINITIONS**

**Contract** - the entire agreement entered into between TRIBE and CONTRACTOR. It includes all the terms and conditions of the Request for Proposal (“RFB”) and all the documents referenced and incorporated therein, including but not limited to, Request for Bids, Instructions to Bidders, the form of bid, the Bid Bond, the Non-Collusive Affidavit, the Bidder's Certification of Eligibility, the requirements for Performance and Payment Security, the form of Construction Contract, General Conditions, any applicable Special Conditions, Specifications, and Drawings (and attachments, exhibits and addenda, if any thereto, and on file in the office of TRIBE), and all formal changes to any of those documents by addendum, change order, or other modification.

**CONTRACT Price** - the amount payable to CONTRACTOR under the CONTRACT.

**CONTRACT Work** - the work to be performed under the CONTRACT.

**Drawings** - the drawings enumerated in the schedule of drawings contained in the specifications and as described in the section entitled Specifications and Drawings for Construction.

**Engineer** - the party designated by TRIBE to perform engineering and other related services in connection with the CONTRACT.

**TRIBE** - Shoalwater Bay Indian TRIBE.

**Project** - the Project to be constructed in whole or in part under this CONTRACT.

**Project Coordinator** - the person within TRIBE's organization authorized to administer the CONTRACT and coordinate and authorize work tasks as set forth in the RFB and the CONTRACT for TRIBE. This person need not be the person executing the CONTRACT for TRIBE. TRIBE shall advise CONTRACTOR as to the identity of the designated Project Coordinator, and may change such designation from time to time by written notification to CONTRACTOR.

**Specifications** - the written technical requirements for construction, including the criteria and tests for determining whether the requirements are met.

## 2. **PRE-CONSTRUCTION CONFERENCE AND NOTICE TO PROCEED**

A. Within ten (10) calendar days of CONTRACT execution and prior to the commencement of work, CONTRACTOR or his representative and all known subcontractors shall attend a Pre-Construction Conference with TRIBE. The Conference will serve to acquaint the participants with the general plan of CONTRACT administration and requirements under which the construction operation is to proceed, and will inform CONTRACTOR and subcontractors(s)

in detail of their obligations under equal employment opportunity, and labor standards provisions as applicable.

The date, time and place of the conference will be furnished to CONTRACTOR by TRIBE.

B. CONTRACTOR shall begin work upon receipt of a written Notice to Proceed from the Project Coordinator or designee. CONTRACTOR shall not begin work prior to receiving such notice.

### **3. OBLIGATIONS OF CONTRACTOR**

A. Except as otherwise specifically stated in the CONTRACT, CONTRACTOR shall provide and pay for all materials, labor, tools, equipment, light, heat, transportation, supervision, temporary construction of every nature, taxes legally payable due to contracted work, and all other services and facilities of every nature whatsoever necessary to perform the CONTRACT work and deliver it complete in every respect within the specified time.

1. Water is at the site and usage is free of charge, from existing shutoff valve will be the responsibility of CONTRACTOR to rout the service throughout the site.

B. CONTRACTOR shall supervise the work, and shall have a competent superintendent on the work at all times with full authority to act for CONTRACTOR. CONTRACTOR shall provide staff adequate to coordinate and expedite his work and that of his subcontractors to ensure compliance with CONTRACT requirements.

C. CONTRACTOR may authorize his superintendent or other individuals to sign for him in his name if CONTRACTOR has filed with TRIBE a notarized statement evidencing such authorization and authenticating of the signature(s) to be honored.

D. CONTRACTOR shall lay out the work and be responsible for all lines, levels and measurements of all work executed under the CONTRACT. He shall verify the figures before laying out the work and will be held responsible for any error resulting from his failure to do so.

E. CONTRACTOR shall be responsible for all damages to persons or property that occur as a result of CONTRACTOR's fault or negligence, and shall take proper safety and health precautions to protect the work, the workers, the public and the property of others. CONTRACTOR shall hold and save TRIBE, its officers and agents, free and harmless from liability of any nature occasioned by CONTRACTOR's performance. CONTRACTOR shall be responsible for all materials delivered and work performed until completion and acceptance of the entire project except for any completed unit of work which may have been accepted under the CONTRACT.

- F. CONTRACTOR shall confine all operations, including storage of materials, on TRIBE's premises in areas authorized or approved by the Project Coordinator.
- G. CONTRACTOR shall, at all times, keep the work area, including storage areas, free from accumulations of waste materials. After completing the work and before final inspection, CONTRACTOR shall:
1. Remove from the premises all equipment, tools, and materials (including rejected materials) that are not the property of TRIBE and all rubbish caused by its work;
  2. Leave the work area in a clean, neat, and orderly condition satisfactory to the Project Coordinator;
  3. Perform all specified tests; and,
  4. Deliver the installation in complete and operating condition.
- H. CONTRACTOR's responsibility will terminate when all work has been completed and with the final inspection made and complete with no open punch list items open. The work will be accepted by the Project Coordinator in writing closing the Contract. CONTRACTOR will then be released from further obligation except as required by the warranties specified elsewhere in the CONTRACT.
- I. CONTRACTOR will be responsible for the furnishing of staking by a professional Land Surveyor, licensed in the State of Washington. The staking performed shall be sufficient to construct all items of work to the line and grade shown in the drawings.
- J. CONTRACTOR will be required to maintain safe and clearly defined pedestrian and vehicular access to all driveways and roads during construction unless a temporary detour is required to complete the project work. Any temporary detours are to be clearly marked with appropriate signage, cones and/or other accepted delineators. Safety plan must address above issues.

#### **4. OTHER CONTRACTS**

TRIBE may award other contracts for additional work, and CONTRACTOR shall fully cooperate with such other contractors and carefully fit his own work to that provided under other contracts as may be directed by TRIBE. CONTRACTOR shall not commit or permit any act which will interfere with the performance of work by any other contractor. Where other contractors are employed for such additional work, it shall be the responsibility of TRIBE to coordinate the work of all contractors unless otherwise expressly provided elsewhere in this CONTRACT.

#### **5. ASSIGNMENT OF CONTRACT**

CONTRACTOR's obligations and duties under this CONTRACT shall not be assigned in whole or in part by CONTRACTOR without the written approval of TRIBE, with the exception of assignment of the proceeds due hereunder to a bank or financial institution or as otherwise allowed in this CONTRACT.

**6. CONSTRUCTION PROGRESS SCHEDULE**

- A. CONTRACTOR shall, within five (5) days after the work commences on the CONTRACT or another period of time determined by the Project Coordinator, prepare and submit to the Project Coordinator for approval a practicable schedule showing the order in which CONTRACTOR proposes to perform the work and the dates on which CONTRACTOR contemplates starting and completing the several salient features of the work (including acquiring labor, materials, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If CONTRACTOR fails to submit a schedule within the time prescribed, the Project Coordinator may withhold approval of progress payments or take other remedies under the CONTRACT until CONTRACTOR submits the required schedule.
- B. CONTRACTOR shall enter the actual progress on the chart as required by the Project Coordinator, and immediately deliver the annotated schedule to the Project Coordinator. The schedule shall show daily progress, progress slide, changes, milestones, number of employees, hours worked and labor grade of each employee. If the Project Coordinator determines, upon the basis of inspection conducted pursuant to the section entitled Inspection and Acceptance of Construction, herein that CONTRACTOR is not meeting the approved schedule, CONTRACTOR shall take steps necessary to improve progress, including those that may be required by the Project Coordinator, without additional cost to TRIBE. In this circumstance, the Project Coordinator may require CONTRACTOR to increase the number of shifts, overtime operations, days of work, to submit for approval any supplementary schedule or schedules in chart form as the Project Coordinator deems necessary to demonstrate how the approved rate of progress will be regained.
- C. Failure of CONTRACTOR to comply with the requirements of the Project Coordinator under this section shall be grounds for a determination by the Project Coordinator that CONTRACTOR is not proceeding with diligence sufficient to ensure completion within the time specified in the CONTRACT. Upon making this determination, the Project Coordinator may terminate CONTRACTOR's right to proceed with the work, or any separable part of it, in accordance with the Default section of this CONTRACT.

**7. SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK**

A. CONTRACTOR acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to:

1. Conditions bearing upon transportation, disposal, handling, and storage of materials;
2. The availability of labor, water, electric power, and roads,
3. Uncertainties of weather, river stages, tides, or similar physical conditions at the site;
4. The conformation and conditions of the ground; and
5. The character of equipment and facilities needed preliminary to and during work performance.

CONTRACTOR also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials, or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by TRIBE, as well as from the drawings and specifications as included in this CONTRACT. Any failure of CONTRACTOR to take the actions described and acknowledged in this paragraph will not relieve CONTRACTOR from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to TRIBE.

B. TRIBE assumes no responsibility for any conclusions or interpretations made by CONTRACTOR based on the information made available by TRIBE. TRIBE does not assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this CONTRACT, unless that understanding or representation is expressly stated in this CONTRACT.

## **8. DIFFERING SITE CONDITIONS**

A. CONTRACTOR shall promptly, and before the conditions are disturbed, give a written notice to the Project Coordinator of subsurface or latent physical conditions at the site which differ materially from those indicated in this CONTRACT or unknown physical conditions at the site(s), of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the CONTRACT.

B. The Project Coordinator shall investigate the site conditions promptly after receiving the notice. Work shall not proceed at the affected site, except at CONTRACTOR's risk, until the Project Coordinator has provided written instructions to CONTRACTOR. If the conditions do materially so differ and cause an increase or decrease in CONTRACTOR's cost of, or the time required for, performing any part of the work under this CONTRACT, whether or not changed as a result of the conditions, CONTRACTOR shall file a claim in writing to TRIBE

within ten (10) days after receipt of such instructions. An equitable adjustment in the CONTRACT price, the delivery schedule, or both shall be made under this section and the CONTRACT modified in writing accordingly. The contract modification shall be made prior to commencing work.

- C. No request by CONTRACTOR for an equitable adjustment to the CONTRACT under this section shall be allowed, unless CONTRACTOR has given the written notice required unless the time prescribed in (A) above is extended by the Project Coordinator.
- D. No request by CONTRACTOR for an equitable adjustment to the CONTRACT for differing site conditions shall be allowed if made after final payment under this CONTRACT.

## **9. SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION**

- A. CONTRACTOR shall keep a copy of the drawings and specifications on the work site and shall allow the Project Coordinator access thereto at all times. Anything noted in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy the figures, in the drawings, or in the specifications, the matter shall be submitted in writing within 24 hours to the Project Coordinator, who shall make a determination in writing. Any adjustment by CONTRACTOR without such a determination shall be at its own risk and expense.
- B. Wherever in the specifications or upon the drawings the words directed, required, ordered, designated, prescribed, or words of like import are used, it shall be understood that the direction, requirement, order, designation, or prescription, of the Project Coordinator is intended and similarly the words approved, acceptable, satisfactory, or words of like import shall mean approved by, or acceptable to, or satisfactory to the Project Coordinator, unless otherwise expressly stated.
- D. Where as shown, as indicated, as detailed, or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this CONTRACT unless stated otherwise. The word provided as used herein shall be understood to mean provide complete in place, that is furnished and installed.
- E. "Shop drawings" means drawings, submitted to TRIBE by CONTRACTOR, subcontractors, or any lower tier subcontractors, showing in detail the proposed fabrication and assembly of structural elements and the installation (i.e., form, fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data furnished by CONTRACTOR to explain, in detail, specific portions of the work required by the CONTRACT. TRIBE may duplicate, use,

and disclose in any manner and for any purpose shop drawings delivered under this CONTRACT.

- F. If this CONTRACT requires shop drawings, CONTRACTOR shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with order requirements and shall indicate approval thereon with engineers stamp as evidence of such coordination and review. Shop drawings submitted to the Project Coordinator without evidence of CONTRACTOR's approval may be returned for resubmission. The Project Coordinator will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate TRIBE's reasons therefore in writing. Any work done before such approval shall be at CONTRACTOR's risk. Approval by the Project Coordinator shall not relieve CONTRACTOR from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this CONTRACT, except with respect to variations described and approved in accordance with (G) below.
- G. If shop drawings show variations from the CONTRACT requirements, CONTRACTOR shall describe such variations in writing, separate from the drawings, at the time of submission. If the Project Coordinator concurs, the Project Coordinator shall issue an appropriate modification to the CONTRACT. The Project Coordinator will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate TRIBE's reasons therefore in writing. Any work done before such approval shall be at CONTRACTOR's risk.
- H. It shall be the responsibility of CONTRACTOR to make timely requests of TRIBE for such large scale and full size drawings, color schemes, and other additional information, not already in his possession, which shall be required in the planning and production of the work. Such requests may be submitted as the need arises, but each such request shall be filed seven days prior to need to permit appropriate action to be taken by all parties involved so as to avoid delay.
- I. CONTRACTOR shall submit to the Project Coordinator for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by TRIBE and one set will be returned to CONTRACTOR. As required by the Project Coordinator, CONTRACTOR, upon completing the work under this CONTRACT, shall furnish a complete set of all shop drawings as finally approved. These drawings shall show all changes and revisions made up to the time the work is completed and accepted.
- J. This section shall be included in all subcontracts at any tier: "It shall be the responsibility of CONTRACTOR to ensure that all shop drawings prepared by subcontractors are submitted to the Project Coordinator."

## 10. **AS-BUILT DRAWINGS**

- A. "as-built drawings," as used in this section, means drawings submitted by CONTRACTOR or subcontractors at any tier to show the construction of a particular structure or work as actually completed under the CONTRACT. "as-built drawings" shall be synonymous with "record drawings."
- B. As required by the Project Coordinator, CONTRACTOR shall provide the Project Coordinator accurate information to be used in the preparation of permanent as-built drawings. For this purpose, CONTRACTOR shall record on one set of CONTRACT drawings all changes from the installations originally indicated, and record final location of underground lines by depth from finish grade and by accurate horizontal offset distances to permanent surface improvements such as buildings, curbs, or edges of walks.
- C. This section shall be included in all subcontracts at any tier: "It shall be the responsibility of CONTRACTOR to ensure that all as-built drawings prepared by subcontractors are submitted to the Project Coordinator."

## **11. MATERIAL AND WORKMANSHIP**

- A. All equipment, material furnished under this CONTRACT shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this CONTRACT. Reference: in the CONTRACT to equipment, material or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. CONTRACTOR shall submit for approval, as an option, to use any equipment, material, article, or process that, in the judgment of, and as approved by the Project Coordinator, is equal to that named in the specifications, unless otherwise specifically provided in this CONTRACT.
- B. CONTRACTOR shall obtain the Project Coordinator's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, CONTRACTOR shall furnish to the Project Coordinator the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When required by this CONTRACT or by the Project Coordinator, CONTRACTOR shall also submit all submittals identified in this CONTRACT, identified submittals shall be approved before CONTRACTOR can commence work any work done without approved submittals shall be at the sole risk of CONTRACTOR. CONTRACTOR shall also obtain the Project Coordinator's approval of the material or equipment which CONTRACTOR contemplates incorporating into the work. When requesting approval, CONTRACTOR shall provide full information concerning the material or articles. Machinery, equipment, material that do not have the required approval shall be installed or used at the risk of subsequent rejection.

C. CONTRACTOR shall comply with the prohibition against the use of lead-based paint contained in the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) as implemented by 24 CFR Part 35.

## **12. SAMPLES, CERTIFICATES AND TESTS**

- A. When required by the specifications or the Project Coordinator, CONTRACTOR shall submit appropriately marked samples (and certificates related to them) for approval to the Project Coordinator at CONTRACTOR's expense, with all shipping charges prepaid by CONTRACTOR. CONTRACTOR shall label, or otherwise properly mark on the container, the material or product represented, its place of origin, the name of the producer, CONTRACTOR's name, and the identification of the construction project for which the material or product is intended to be used.
- B. Certificates shall be submitted in triplicate, describing each sample submitted for approval, and certifying that the material, equipment, or accessory complies with contract requirements. They shall include the name and brand of the product, name of manufacturer and the location where produced.
- C. Approval of any material, equipment, or accessory by TRIBE shall not constitute a waiver of TRIBE's right to demand full compliance with contract requirements. Materials, equipment, and accessories may be rejected by TRIBE for cause even though such articles have been given approval.
- D. Wherever materials are required to comply with recognized standards or code such specifications shall be accepted as establishing the technical qualities and testing methods, but shall not govern the number of tests required to be made nor modify other contract requirements. TRIBE may require laboratory test reports on the basis of data submitted in certificates with samples. Check tests will be made on materials delivered for use, only as frequently as TRIBE considers necessary to ensure compliance of materials.
- E. Except as otherwise specifically stated in the CONTRACT, the costs of testing will be born by CONTRACTOR:
1. CONTRACTOR will furnish without extra cost, including packing and delivery charges, all samples required for testing purposes;
  2. CONTRACTOR will assume all costs of re-testing materials which fail to meet CONTRACT requirements;
  3. CONTRACTOR will assume all costs of testing materials offered in substitution for those found deficient;

4. CONTRACTOR will be responsible for the scheduling of material testing by a certified commercial laboratory; and
- F. After approval, samples will be kept in CONTRACTOR's project office until completion of project. Materials representing approved samples may be built into the work as approved by TRIBE.

### **13. COMPLIANCE WITH APPLICABLE LAW**

- A. CONTRACTOR shall give all notices and comply with all applicable Federal, state, tribal and local laws (including ordinances, codes, rules, and regulations, and waivers). The intent of this provision is that CONTRACTOR shall base his bid upon the drawings and specifications, but that all work installed shall comply with applicable laws and waivers. Before performing the CONTRACT work, CONTRACTOR shall examine the drawings and the specifications for compliance with the applicable laws and waivers, and shall immediately report any noncompliance to TRIBE when the requirements of the drawings and specifications do not comply with such applicable law, unless waivers have been obtained.
- B. TRIBE shall secure and pay for all permits, fees and licenses necessary for the proper execution and completion of the work unless otherwise specified in this CONTRACT. CONTRACTOR is responsible to supply TRIBE all supporting documents, drawings, calculations and engineering to gain any needed for permits, fees and licenses at no cost.

### **14. REQUESTS FOR SUPPLEMENTARY INFORMATION**

It shall be the responsibility of CONTRACTOR to make timely requests of TRIBE for such large scale and full size drawings, color schemes, and other additional information, not already in CONTRACTOR's possession, which CONTRACTOR will require in the planning and production of the work. Such requests may be submitted from time to time as the need is approached, but each such request shall be filed seven days prior to the need to permit appropriate action to be taken by all parties involved so as to avoid delay.

### **15. HEALTH, SAFETY, AND ACCIDENT PREVENTION**

- A. In performing this CONTRACT, CONTRACTOR shall:
  1. Ensure that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and/or safety;
  2. Protect the lives, health, and safety of other persons.
  3. Prevent damage to property, materials, supplies, and equipment.
  4. Avoid work interruptions.

B. For these purposes, CONTRACTOR shall:

1. Provide appropriate safety barricades, signs, and signal lights.
2. Furnish, install, and maintain ample sanitary facilities for the workers. These facilities shall be sufficient to meet the project needs and be located to the satisfaction of the Project Coordinator. All such facilities and services shall be furnished in strict accordance with governing health regulations.
3. Include the terms of section 15 in every subcontract so that such terms will be binding on each subcontractors.

C. CONTRACTOR shall maintain an accurate record of exposure data on all accidents incident to work performed under this CONTRACT resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment. CONTRACTOR shall report this data in a written report to the Project Coordinator with each occurrence. The occurrence shall be documented with the following information: what happened, where it happened, when did it happen, how can it be prevented from happening again, estimated costs if damage occurred and delay to the project.

D. The Project Coordinator shall notify CONTRACTOR of any noncompliance with these requirements and of the corrective action required. This notice, when delivered to CONTRACTOR or CONTRACTOR's representative at the site of the work, shall be deemed sufficient notice of the noncompliance and corrective action required. After receiving the notice, CONTRACTOR shall now take corrective action immediately. If CONTRACTOR fails or refuses to take corrective action immediately, the Project Coordinator may issue an order stopping all or part of the work until satisfactory corrective action has been taken. CONTRACTOR shall not base any claim or request for equitable adjustment for additional time or money on any stop order issued under these circumstances. CONTRACTOR will be responsible for covering costs caused by by failure to correct in a timely manner.

E. CONTRACTOR shall be responsible for its subcontractor's compliance with the provisions of this section. CONTRACTOR shall take such action with respect to any subcontract as TRIBE, and shall direct as a means of enforcing such provisions.

## **16. PROTECTION OF EXISTING VEGETATION STRUCTURES, UTILITIES, AND IMPROVEMENTS**

A. CONTRACTOR shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work sites, which are not to be removed under this CONTRACT, and which do not unreasonably interfere with the work required under this CONTRACT.

- B. CONTRACTOR shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during performance of this CONTRACT, or by the careless operation of equipment, or by workmen, CONTRACTOR shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Project Coordinator.
- C. CONTRACTOR shall protect from damage all existing improvements and utilities at or near the work site and on adjacent property of a third party, the locations of which are made known to or should be known by CONTRACTOR. Prior to disturbing the ground on the construction site, CONTRACTOR shall ensure that all underground utility lines are clearly marked.
- D. CONTRACTOR shall shore up, brace, underpin, secure, and protect as necessary all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be affected by the excavations or other operations connected with the construction of the project.
- E. Any new equipment temporarily removed as a result of work under this CONTRACT shall be protected, cleaned, and replaced in the same condition and fully functioning as found at the time of award of the release of the site to the CONTRACTOR.
- F. New work which connects to existing work shall correspond, blend and function in all respects with that to which it connects unless otherwise required by the specifications.
- G. CONTRACTOR shall give all required notices to any adjoining or adjacent property owner or other party before the commencement of any work. All notices shall be copied and given to the Project Coordinator prior start of work. Any issues coming from the notices delivered to adjacent property owners or other party needs to be resolved prior to commencing work. Any issues shall be resolved with Project Coordinator and Contractor and owner of said complaint or issue.
- H. CONTRACTOR shall indemnify and hold TRIBE harmless from any damages on account of settlement or the loss of lateral support of adjoining property, any damages from changes in topography affecting drainage, and from all loss or expense and all damages for which TRIBE may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.
- I. CONTRACTOR shall, at his cost, repair and or replace any damage to vegetation, structure, equipment, utilities, or improvements, including those that are the property of a third party, resulting from failure to comply with the requirements of this CONTRACT or failure to exercise reasonable care in performing the work. If CONTRACTOR fails or refuses to repair the damage promptly, the Project Coordinator may have the necessary work performed and charge the cost to CONTRACTOR. TRIBE reserves the right to deduct these costs from final payment.

**17. TEMPORARY HEATING- When Required**

CONTRACTOR shall provide and pay for temporary heating, covering and enclosures necessary to protect properly all work and materials against damage by dampness and cold, to dry out the work, and to facilitate the completion of the work. Any permanent heating equipment used shall be turned over to TRIBE in the condition, and at the time, required by the Specifications.

**18. AVAILABILITY AND USE OF UTILITY SERVICES**

Except as otherwise specifically stated in the CONTRACT, CONTRACTOR shall provide and pay for all utility's used during construction. There is power at the site located that can be utilized during the construction phase of the project the power usage will be at the cost of TRIBE. TRIBE will not be responsible for the routing of power from the service panel. CONTRACTOR is responsible for removing any temporary power connection and returning electrical service power source to pre-project condition. All other utility's will be the responsibility of CONTRACTOR as well as any associated costs to obtain, maintain and permit such services for the duration of the construction project.

**19. TEMPORARY BUILDINGS AND TRANSPORTATION OF MATERIALS**

- A. Temporary buildings (e.g., storage sheds, shops, offices, sanitary facilities) and utilities may be erected by CONTRACTOR only with the approval of the Project Coordinator and shall be built with labor and materials furnished by CONTRACTOR without expense to TRIBE. The temporary buildings and utilities shall remain the property of CONTRACTOR and shall be removed by CONTRACTOR at his expense upon completion of the work.
- B. CONTRACTOR shall, as directed by the Project Coordinator, use only established roadways, or use temporary roadways constructed by CONTRACTOR when and as authorized by the Project Coordinator. When materials are transported during conduction of the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, state, or local law or regulation. When it is necessary to cross curbs or sidewalks, CONTRACTOR shall protect them from damage. CONTRACTOR shall repair or pay for the repair of any damaged curbs, sidewalks, or roads. If CONTRACTOR fails to repair or pay for damages, the Project Coordinator may have the necessary works performed and charge the cost to CONTRACTOR. TRIBE reserves the right to deduct these costs from final payment.

**20. INSPECTION AND ACCEPTANCE OF CONSTRUCTION**

- A. Definitions as used specifically in this section:

1. "Acceptance" means the act by which the Project Coordinator assumes Ownership of the work performed under this CONTRACT. Acceptance may be partial or complete.
  2. "Inspection" means examining and testing the work performed under the CONTRACT (including, when appropriate, raw materials, equipment, components, and intermediate assemblies) to determine whether it conforms to CONTRACT requirements.
  3. "Testing" means that element of inspection that determines the properties or elements, including functional operation, materials, equipment, or their components, by the application and established scientific principles and procedures.
- B. CONTRACTOR shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the CONTRACT conforms to CONTRACT requirements. All work is subject to TRIBE inspection and testing at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of CONTRACT. However, all instructions and approvals with respect to the work shall be given to CONTRACTOR by the Project Coordinator only and not by anyone else.
- C. TRIBE inspections and tests are for the sole benefit of TRIBE and do not:
1. Relieve CONTRACTOR of responsibility for providing adequate quality control measures;
  2. Relieve CONTRACTOR of responsibility for loss or damage of the material before acceptance;
  3. Constitute or imply acceptance; or,
  4. Affect the continuing rights of TRIBE after acceptance of the completed work under paragraph "J" below.
- D. The presence or absence of TRIBE's inspector does not relieve CONTRACTOR from any CONTRACT requirement, nor is the inspector authorized to change any term or condition of the specifications without the Project Coordinator's written authorization.
- E. CONTRACTOR shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Project Coordinator. TRIBE may charge to CONTRACTOR any additional cost of inspection or test when work is not ready at the time specified by CONTRACTOR for inspection or test, or when prior rejection makes re-inspection or retest necessary. TRIBE shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size and performance tests may be required and will be performed as described in the CONTRACT and are subject to change through the submittal process depending on the product specifications submitted. All costs associated with testing shall be the cost of CONTRACTOR.

- F. TRIBE may conduct routine inspections of the construction site on a daily basis.
- G. CONTRACTOR shall, without charge, replace or correct work found by TRIBE not to conform to CONTRACT requirements, unless TRIBE decides that it is in its interest to accept the work with an appropriate adjustment in CONTRACT price. CONTRACTOR shall promptly segregate and remove rejected material from the premises.
- H. If CONTRACTOR does not promptly replace or correct rejected work, TRIBE may by CONTRACT or otherwise, replace or correct the work and charge the cost to CONTRACTOR, or terminate for default CONTRACTOR s right to proceed.
- I. If any work requiring inspection is covered up without prior approval of TRIBE, it must be uncovered at the expense of CONTRACTOR if requested by the Project Coordinator. Further, if at any time before final acceptance of the entire work, TRIBE considers it necessary or advisable to make an examination of work already covered or completed, CONTRACTOR shall on request promptly furnish all necessary facilities, labor, and material to uncover the work for such examination and for satisfactory reconstruction after the examination. If such work is found to be defective or nonconforming in any material respect due to the fault of CONTRACTOR or its subcontractors, CONTRACTOR shall defray all the expenses of the examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the CONTRACT, the Project Coordinator shall make an equitable adjustment. The price shall be based off the base contract schedule to cover the cost of examination and reconstruction.
- J. CONTRACTOR shall notify the Project Coordinator, in writing, as to the date when in its opinion all or a designated portion of the work will be substantially completed and ready for inspection. If the Project Coordinator determines that the state of preparedness is as represented, TRIBE will promptly arrange for the inspection. Unless otherwise specified in the CONTRACT, TRIBE shall accept, as soon as practicable after completion, inspection and correction of punch list, all work required by the CONTRACT or that portion of the work the Project Coordinator determines and designates can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or TRIBE's right under any warranty or guarantee.

## **21. WARRANTY OF TITLE**

CONTRACTOR warrants good title to all materials, supplies, and equipment incorporated in the work, and agrees to deliver to 4112 State Route 105 Tokeland WA 98590 and all improvements free from any claim, lien, security interests, or charges, and agrees further that neither he nor any other person, firm, or corporation shall have any right to a lien or security interest upon the site located at 4112 State Route 105 Tokeland WA 98590 or improvements.

## **22. WARRANTY OF CONSTRUCTION**

- A. In addition to any other warranties in this CONTRACT, CONTRACTOR warrants, except as provided in paragraph "J" of this section, that work performed under this CONTRACT conforms to the CONTRACT requirements and is free of any defect in equipment, material, or workmanship performed by CONTRACTOR or any subcontractors or supplier at any tier. This warranty shall continue for a period of (one year unless otherwise indicated) from the date of final acceptance of the work. If TRIBE takes possession of any part of the work before final acceptance, CONTRACTOR shall warranty all items accepted by TRIBE prior to final acceptance, during the time prior to final acceptance CONTRACTOR shall bear the costs associated with the warranty. The entire project will fall under one (1) warranty start date and the warranty shall commence with final acceptance. The warranty shall continue for a period of one (1) year unless otherwise indicated from the date of final acceptance. Items that carries a manufacturer's warranty that exceeds the 12 month warranty shall have that extension given to TRIBE. These items with warranties that exceed (1) year shall be shown during the submittal of the item. Any item that fails during the time of warranty shall have the warranty period restart once the correction of the failed item has been made.
- B. CONTRACTOR shall remedy, at his expense, any failure to conform, or any defect. In addition, CONTRACTOR shall remedy, at his expense, any damage to tribally-owned or controlled real or personal property when the damage is the result of CONTRACTOR's failure to conform to CONTRACT requirements or any defects of equipment, material, workmanship or design furnished by CONTRACTOR.
- C. CONTRACTOR shall restore any work damaged in fulfilling the terms and conditions of this section. CONTRACTOR's warranty with respect to work repaired or replaced will run for one (1) year (unless otherwise indicated) from the date of acceptance of repair or replacement.
- D. The Project Coordinator shall notify CONTRACTOR, in writing, within eight hours time after the discovery of any failure, defect, or damage.
- E. If CONTRACTOR fails to remedy any failure, defect, or damage within seven days time after receipt of notice, TRIBE shall have the right to replace, repair or otherwise remedy the failure, defect, or damage at CONTRACTOR s expense. TRIBE reserves the right to deduct these costs from final payment.
- F. With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and material furnished under this CONTRACT, CONTRACTOR shall:
1. Obtain all warranties that would be given in normal commercial practice;

2. Require all warranties to be executed in writing, for the benefit of TRIBE; and
  3. Enforce all warranties for the benefit of TRIBE.
- G. In the event CONTRACTOR's warranty under paragraph (A) of the section has expired, TRIBE may bring suit, at its his expense, to enforce a subcontractor's, manufacturer's or supplier's warranty.
- H. Unless a defect is caused by the negligence of CONTRACTOR or subcontractors or supplier at any tier, CONTRACTOR shall not be liable for the repair of any defect of material or design furnished by TRIBE or for the repair of any damage that results from any defect in Tribally furnished material or design.
- I. Notwithstanding any provisions herein to the contrary, the establishment of the time periods in paragraphs (A) and (C) above relate only to the specific obligation of CONTRACTOR to correct the work, and have no relationship to the time within which its obligation to comply with the CONTRACT may be sought to be enforced, nor to the time within which proceedings may be commenced to establish CONTRACTOR's liability with respect to its obligation other than specifically to correct the work.
- J. This warranty shall not limit TRIBE's rights under Section 20-Inspection and Acceptance of Construction of this CONTRACT with respect to latent defects, gross mistakes or fraud.

## **23. CONFLICT OF LAWS**

In the event of a conflict between these General Conditions and the Specifications, the General Conditions shall prevail. In the event of a conflict between the CONTRACT and any applicable state or local law, state or local law shall prevail; provided, that such state or local law does not conflict with, or is less restrictive than, applicable Tribal law or regulation or Federal law, regulation, or Executive Order. In the event of such a conflict, applicable Tribal law or Federal law, regulation, and Executive Order shall prevail.

## **24. SEVERABILITY**

If a court of competent jurisdiction finds any provision of this CONTRACT to be illegal, invalid, or unenforceable as to any circumstance under any applicable law of any jurisdiction, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this CONTRACT. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this CONTRACT shall not affect the legality, validity or enforceability of any other provision of this CONTRACT.

## **25. SUBCONTRACTS**

- A. Definitions as used specifically in this section and throughout this document unless specifically defined in otherwise:
1. "Subcontract" means any CONTRACT, purchase order, or other purchase agreement, including modifications and change orders to the foregoing, entered into by a subcontractor to furnish supplies, materials, equipment, and services for the performance of the prime CONTRACT or a subcontract.
  2. "Subcontractors" means any supplier, vendor, or firm that furnishes supplies, materials, equipment, or services to or for CONTRACTOR or another subcontractor.
- B. CONTRACTOR shall not enter into any subcontract with any subcontractors who is presently suspended or debarred from participating in contracting programs by any agency of the Federal government or of the state in which the work under this CONTRACT is to be performed.
- C. CONTRACTOR shall be as fully responsible for the acts or omissions of its subcontractors, and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by CONTRACTOR.
- D. CONTRACTOR shall insert appropriate sections in all subcontract to bind subcontractors to the terms and conditions of this CONTRACT insofar as they are applicable to the work of subcontractors.
- E. Nothing contained in this CONTRACT shall create any contractual relationship between any subcontractors and TRIBE. TRIBE reserves the right to approval all subcontract prior to award at TRIBES discretion.

## **26. PAYMENTS**

- A. TRIBE shall pay CONTRACTOR the price as provided in this CONTRACT.
- B. TRIBE shall make progress payments approximately every thirty (30) days as the work proceeds based on estimates of work accomplished which meets the standards of quality established under the CONTRACT and as approved by the Project Coordinator. TRIBE may, subject to written determination and approval of the Project Coordinator, make more frequent payments to CONTRACTORS.
- C. Before the first progress payment under this CONTRACT, CONTRACTOR shall furnish, in such detail as requested by the Project Coordinator, a breakdown of the total CONTRACT Price showing the amount included therein for each principal category of the work, which shall substantiate the payment amount requested in order to provide a basis for determining

progress payments. The breakdown shall be approved by the Project Coordinator. The values and quantities employed in making up this breakdown are for determining the amount of progress payments and shall not be construed as a basis for additions to or deductions from the CONTRACT price. CONTRACTOR shall prorate its overhead and profit over the construction period of the CONTRACT.

- D. CONTRACTOR shall submit, on forms approved by TRIBE, periodic estimates showing the value of the work performed during each period based upon the approved breakdown of the CONTRACT price. Such estimates shall be submitted not later than 7 days in advance of the date set for payment and are subject to correction and revision as required. The estimates must be approved by the Project Coordinator with the concurrence of the Architect (if applicable) prior to payment.
- E. Along with each request for progress payments and the required estimates, CONTRACTOR shall furnish the following certification, or payment shall not be made:

I hereby certify, to the best of my knowledge and belief, that:

1. The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the CONTRACT;
2. Payments to subcontractors and suppliers have been made from previous payments received under the CONTRACT, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements; and,
3. This request for progress payments does not include any amounts which the prime CONTRACTOR intends to withhold or retain from a subcontractors or supplier in accordance with the terms and conditions of the subcontract.

(Name) \_\_\_\_\_

(Title) \_\_\_\_\_

(Date) \_\_\_\_\_

- F. Except as otherwise provided under applicable laws, TRIBE shall retain ten (10) percent of the amount of progress payments until completion and acceptance of all work under the CONTRACT; except, that if upon completion of fifty-percent (50%) of the work, the Project Coordinator, determines that CONTRACTOR's performance and progress are satisfactory, TRIBE may make the remaining payments in full for the work subsequently completed. If the Project Coordinator subsequently determines that CONTRACTOR's performance and progress are unsatisfactory, TRIBE shall reinstate the ten (10) percent (or other percentage as provided in local law) retainage until such time as the Project Coordinator determines that performance and progress are satisfactory.

G. The Project Coordinator may authorize material delivered on the site and preparatory work done to be taken into consideration when computing progress payments. Material delivered to CONTRACTOR at locations other than the site may also be taken into consideration if CONTRACTOR furnishes satisfactory evidence that:

1. It has acquired title to such material;
2. The material is properly stored in a bonded warehouse, storage yard, or similar suitable place as may be approved by the Project Coordinator;
3. The material is insured to cover its full value; and
4. The material will be used to perform this CONTRACT.

Before any progress payment which includes delivered material is made, CONTRACTOR shall furnish such documentation as the Project Coordinator may require to be assured the protection of TRIBE's interest in such materials. CONTRACTOR shall remain responsible for such stored material notwithstanding the transfer of title to TRIBE.

H. All material and work covered by progress payments made shall, at the time of payment, become the sole property of TRIBE, but this shall not be construed as relieving CONTRACTOR from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or waiving the right of TRIBE to require the fulfillment of all of the terms of the CONTRACT. In the event the work of CONTRACTOR has been damaged by other CONTRACTORS or persons other than employees of TRIBE in the course of their employment, CONTRACTOR shall restore such damaged work without cost to TRIBE and to seek redress for its damage only from those who directly caused it.

I. TRIBE shall make the final payment due CONTRACTOR under this CONTRACT after (1) completion and final acceptance of all work; and (2) presentation of release of all claims against TRIBE arising by virtue of this CONTRACT, other than claims, in stated amounts that CONTRACTOR has specifically excepted from the operation of the release. Each such exception shall embrace no more than one claim, the basis and scope of which shall be clearly defined. The amounts for such excepted claims shall not be included in the request for final payment. A release may also be required of the assignee if CONTRACTOR's claim to amounts payable under this CONTRACT has been assigned.

J. Prior to making any payment, the Project Coordinator may require CONTRACTOR to furnish receipts or other evidence of payment from all persons performing work and supplying material to CONTRACTOR, if the Project Coordinator determines such evidence is necessary to substantiate claimed costs.

- K. TRIBE shall not (1) determine or adjust any claims for payment or disputes arising there under between CONTRACTOR and its subcontractors or material suppliers; or, (2) withhold any moneys for the protection of the subcontractors or material suppliers. The failure or refusal of TRIBE to withhold moneys from CONTRACTOR shall in no way impair the obligations of any surety or sureties under any bonds furnished under this CONTRACT.
- L. CONTRACTOR is responsible for any damages, warranties or like as detailed in previous sections. The TRIBE reserves the right to withhold specified damages from contractually due payments.

## **27. CONTRACT MODIFICATIONS**

- A. Only the Project Coordinator, on behalf of TRIBE, has authority to modify any term or condition of this CONTRACT. Any CONTRACT modification shall be authorized in writing.
- B. The Project Coordinator may modify the CONTRACT unilaterally: pursuant to a specific authorization stated in a CONTRACT section (e.g., Changes); or for administrative matters which do not change the rights or responsibilities of the parties (e.g., change in TRIBE's address). All other CONTRACT modifications shall be in the form of supplemental agreements (i.e., change orders) signed by CONTRACTOR and the Project Coordinator which becomes an addendum to the CONTRACT upon execution.

## **28. CHANGES**

- A. The Project Coordinator may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make changes in the work within the general scope of the CONTRACT including changes:
1. In the specifications (including drawings and designs);
  2. In the method or manner of performance of the work;
  3. Tribally furnished facilities, equipment, materials, services, or site; or,
  4. Directing the acceleration in the performance of the work.
- B. Any other written order or oral order (which, as used in this paragraph (B), includes direction, instruction, interpretation, or determination) from the Project Coordinator that causes a change shall not be treated as a change order under this section.
- C. Except as provided in this section, no order, statement or conduct of the Project Coordinator shall be treated as a change under this section or entitle CONTRACTOR to an equitable adjustment.

- D. If any change under this section causes an increase or decrease in CONTRACTOR's cost of, or the time required for the performance of any part of the work under this CONTRACT, whether or not changed by any such order, the Project Coordinator shall make an equitable adjustment and modify the CONTRACT in writing. However, except for an adjustment based on defective specifications, no proposal for any change under paragraph (B) above shall be allowed for any costs incurred more than twenty (20) days before CONTRACTOR gives written notice as required. In the case of defective specifications for which TRIBE is responsible, the equitable adjustment shall include any increased cost reasonably incurred by CONTRACTOR in attempting to comply with the defective specifications.
- E. CONTRACTOR must assert its right to an adjustment under this section within thirty (30) days after receipt of a written change order under "A" of this section, or the furnishing of a written notice under "B" of this section, by submitting a written statement describing the general nature and the amount of the proposal. If the facts justify it, the Project Coordinator may extend the period for submission. The proposal may be included in the notice required under paragraph (B) above. No proposal by CONTRACTOR for an equitable adjustment shall be allowed if asserted after final payment under this CONTRACT.
- F. CONTRACTOR's written proposal for equitable adjustment shall be submitted in the form of a lump sum proposal supported with the itemized breakdown of all increases and decreases in the CONTRACT with a minimum of the following details:
1. Direct Costs.
    - a. Materials (list individual items, the quality and unit cost of each, and the aggregate cost); and Transportation and delivery costs associated with materials;
    - b. Labor breakdowns by hours and unit costs (identified with specific work to be performed);
    - c. Construction equipment exclusively necessary for the change;
    - d. Costs of preparation and/or revision to shop drawings resulting from the change;
    - e. Worker Compensation and Public Liability Insurance;
    - f. Employment taxes under FICA and FUTA and,
    - g. Bond Costs-when size of change warrants revision.
    - h. Other costs as appropriate
  2. Indirect Costs. Indirect costs may include overhead, general and administrative expenses, and fringe benefits not normally treated as direct costs. CONTRACTOR to detail indirect costs computation along with justification for inclusion as appropriate.

3. Profit. The amount of profit shall be negotiated and may vary according to the nature, extent, and complexity of the work required by the change. CONTRACTOR to detail proposed profit margin including computation. Profit to be allowed will be negotiated. The allow ability of the direct and indirect costs shall be determined in accordance with the CONTRACT Cost Principles and Procedures for Commercial Firms in Part 31 of the Federal Acquisition Regulation (CFR 1-31) cite any grant specific requirements relevant to section in effect as of the date of this CONTRACT. CONTRACTOR shall not be allowed a profit on the profit received by any subcontractors. Equitable adjustments for deleted work shall include a credit for profit and may include a credit for indirect costs. On proposals covering both increases and decreases in the amount of the contact, the application of indirect costs and profit shall be on the net-change in direct costs for CONTRACTOR or subcontractors performing the work.
- G. CONTRACTOR shall include in the proposal any applicable and appropriate requests for time extensions along with a proposed revised timeline and shall include sufficient information and dates to demonstrate whether and to what extent the change will delay the completion of the CONTRACT in its entirety.
- H. The Project Coordinator shall act on proposals within ten (10) days after their receipt in writing.
- I. Failure to reach an agreement on any proposal shall be a dispute under Section 30-Disputes herein. Nothing in this section, however, shall excuse CONTRACTOR from proceeding with the CONTRACT as changed.
- J. An emergency-endangering situation must be reported orally to the Project Coordinator within one (1) hour of occurrence and in writing within twenty-four (24) hours.

## **29. SUSPENSION OF WORK**

- A. The Project Coordinator may order CONTRACTOR in writing to suspend, delay, or interrupt all or any part of the work of this CONTRACT for the period of time that the Project Coordinator determines appropriate for the convenience of TRIBE.
- B. If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Project Coordinator in the administration of this CONTRACT, or by the Project Coordinator's failure to act within the time specified (or within a reasonable time if not specified) in this CONTRACT an adjustment shall be made for any increase in the cost of performance of the CONTRACT (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the CONTRACT modified in writing accordingly. However, no adjustment shall be made under this section for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of CONTRACTOR or for which any equitable adjustment is provided for or excluded under any other provision of this CONTRACT.

C. A claim under this section shall not be allowed for any costs incurred more than twenty (20) days before CONTRACTOR shall have notified the Project Coordinator in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the CONTRACT.

### **30. DISPUTES**

- A. "Claim," as used in this section, is a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a specific sum, the adjustment or interpretation of CONTRACT terms, or other relief arising under or relating to the CONTRACT. A claim arising under the CONTRACT, unlike a claim relating to the CONTRACT, is a claim that can be resolved under a CONTRACT section that provides for the relief sought by the claimant. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by complying with the requirements of this section, if it is disputed either as to liability or amount or is not acted upon in twenty (20) days.
- B. Except for disputes arising under Section 41-Disputes Concerning Labor, all disputes arising under or relating to this CONTRACT, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved in accordance with this section.
- C. All claims by CONTRACTOR shall be made in writing and submitted to the Project Coordinator for a written decision. A claim by TRIBE against CONTRACTOR shall be subject to a written decision by the Project Coordinator.
- D. The Project Coordinator shall, within thirty (30) days after receipt of the request, decide the claim or notify CONTRACTOR of the date by which the decision will be made.
- E. The Project Coordinator's decision shall be final unless CONTRACTOR (1) appeals in writing to a higher level in TRIBE in accordance with TRIBE's policy and procedures, or (2) in accordance with the procedures set forth below, refers the appeal to an independent mediator, and if mediation fails, then the appeal may be referred to binding arbitration, or (3) files suit in a court as provided in Section 32(B) below. Prior to filing suit, a party to the CONTRACT must have attempted in good faith to resolve the dispute by exercise of one or more of the other remedies set forth above.
- F. Appeals as Referenced in this Disputes section must be made within 30 days after receipt of the Project Coordinator's decision. Further, the remedies contained in this Disputes section shall be cumulative. Except as expressly stated herein, the exercise of any one of the remedies outlined above shall not preclude the exercise of any of the other remedies outlined above.

G. CONTRACTOR shall proceed diligently with performance of this CONTRACT, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the CONTRACT, and comply with any decision of the Project Coordinator.

### **31. INDEPENDENT MEDIATION**

TRIBE or CONTRACTOR may initiate independent mediation by filing a written request for such mediation with the American Arbitration Association (AAA). Subject to mutual consent by TRIBE and CONTRACTOR, any claim, controversy, or dispute arising out of or related to the CONTRACT may be settled by independent mediation in accordance with the current Construction Industry Mediation Rules of the AAA. Prior to submitting a matter to arbitration, a party to the CONTRACT must refer the claim, controversy, or dispute to an independent mediator for resolution.

### **32. DISPUTE RESOLUTION: ARBITRATION AND LIMITED WAIVER OF IMMUNITY**

A. Binding Arbitration. It is the intention of the parties to establish a successful working relationship through open communications and to cooperate as fully and reasonably as possible. Any claim, controversy, or dispute arising out of or related to the CONTRACT may be settled by arbitration in accordance with the following procedures, and judgment upon the award rendered by the arbitrators may be entered in a court as provided in Section 32(B) below.

#### **B. Procedure.**

1. The parties shall each appoint an Arbitrator within ten (10) days of notice by one of the parties that a dispute exists under this CONTRACT. In the event that either party fails to appoint an Arbitrator within such ten (10) day period, then the appointed Arbitrator shall be the sole Arbitrator of the dispute notwithstanding subparagraph 32(A)(2).
2. Once the two arbitrators have been appointed within ten (10) days following their appointment, they will agree on and appoint within ten (10) days following their appointment, a third arbitrator, and if the two arbitrators cannot agree on a third arbitrator, the third arbitrator will be appointed in accordance with the current rules and procedures of the American Arbitration Association.
3. Such arbitrators will hold an arbitration hearing at a location agreed upon by both parties within twenty (20) days after the third arbitrator is appointed or there is a default in the appointment of an arbitrator, as the case may be. The hearing will be conducted in accordance with current Commercial Arbitration Rules of the American Arbitration Association. The arbitrator or arbitrators, as the case may be, will allow each party to present its case, evidence and witnesses, if any, in the presence of the other parties, and will render their written

determination within ten (10) days. Each party will bear the costs of its own arbitrator, its own attorney's fees and costs, and one-half the costs of the third arbitrator (if any).

4. The award of the majority of the arbitrators or the single arbitrator, as the case may be, will be binding on the parties, and either party may commence an action in an appropriate Federal District Court to enforce an arbitration award. In addition, either party may commence an action in such court to compel arbitration. Neither party will argue that the Federal District Court does not have jurisdiction and both parties will assert that it does have jurisdiction over any judicial proceedings; if, nevertheless, the Federal District Court determines that it lacks jurisdiction, then the proceeding will be dismissed, appealed or re-brought or recommenced in, the appropriate State Court in Washington. Compliance with the provisions of this subparagraph 25(A)(4) shall conclusively be deemed an exhaustion of tribal court and administrative remedies and proceedings. TRIBE and CONTRACTOR do hereby unconditionally waive any right to require any exhaustion of tribal administrative or judicial remedies in any manner other than as set forth in this subparagraph 25(A)(4). In the event the governing law of the United States of America looks to the law of a particular state for its content, the law applicable in that instance will be the laws of the State of Washington not inconsistent with the terms hereof.
5. Survival of the Arbitration Agreement: The arbitration provision of this CONTRACT shall, with respect to such controversy or dispute, survive the termination or expiration of this CONTRACT.
6. Statute of Limitations: A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when the initiation of legal or equitable proceedings based on such claim would be barred by the applicable statute of limitations.
7. Lack of Arbitrator's Authority to Modify CONTRACT: Nothing contained in this CONTRACT shall be deemed to give the arbitrators any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this CONTRACT.

C. Sovereign Immunity: Limited Waiver

1. Except as set forth in this Section, nothing in this CONTRACT is intended or shall be construed to waive in any manner TRIBE's immunity from suit with respect to any dispute or matter outside of the terms of this CONTRACT or any claims or demands of any person or entity not a signatory to this CONTRACT or who is not a successor or permitted assignee to this Contract or CONTRACTOR or subcontractors of all or part of the CONTRACT. Nothing is intended or shall be construed to be a waiver or limitation on sovereign immunity except as provided expressly in this Section.

2. With the goal of insuring the successful completion of the CONTRACT, and to induce CONTRACTOR to enter into and perform this CONTRACT, TRIBE does hereby, subject always to the conditions of subparagraphs (2), (3), (4), (5), (6) and (7) of this subparagraph 32(B), unequivocally waive its sovereign immunity from suit and binding arbitration as to both jurisdiction and liability in regard to matters involving or claimed to involve this CONTRACT (hereinafter the "Limited Waiver").
3. The Limited Waiver extends only to TRIBE's representations and obligations under this CONTRACT, and any subcontract.
4. The Limited Waiver extends only to, and is for the sole benefit of, CONTRACTOR and its permitted assigns and subcontractors. No other person or entity whatsoever, private, public, or governmental, shall have the right to use or assert the Limited Waiver in any manner or for any purpose whatsoever.
5. Under the Limited Waiver, CONTRACTOR and its permitted assigns and subcontractors shall have the joint and several rights to a court order for: (i) equitable relief, whether by way of injunction or otherwise, to enforce CONTRACTOR's rights, or TRIBE's duties or obligations, or any rights, duties or obligations of any of CONTRACTOR's subcontractors or any of them under this CONTRACT; and/or (ii) enforcement of an arbitration award under subparagraph 25(A); and/or (iii) an order compelling arbitration under subparagraph 25(A).
6. If judicial proceedings are brought to compel arbitration, enforce binding arbitration or register an arbitration award as set forth in the Commercial Arbitration Rules of the American Arbitration Association, such proceedings shall be brought only in the United States District Court of Washington. Neither party shall argue that the Federal District Court does not have jurisdiction and both parties shall assert that it does have jurisdiction over any judicial proceedings; if, nevertheless, such Federal District Court determines that it lacks jurisdiction, then the proceeding shall be moved to, or re-brought in the Washington State Courts. In the event the governing law of the United States of America looks to the law of a particular state for its content, the law applicable in that instance shall be the laws of the State of Washington.
7. In any action brought pursuant to the provisions of this CONTRACT, the non-prevailing party agrees to pay and discharge all reasonable costs, attorney's fees and expenses that may be incurred by any prevailing party in enforcing the provisions hereof.
8. Notwithstanding the Limited Waiver and any order, judgment or decree resulting there from, there shall be no attachment, execution, garnishment charge or levy whatsoever on any assets or funds of TRIBE except as may be specified in a separate security agreement and other encumbrance instrument.

### **33. DEFAULT**

- A. If CONTRACTOR refuses or fails to complete the work, or any separable part thereof, with the diligence that will insure its completion within the time specified in this CONTRACT, or any extension thereof, or fails to complete said work within this time, the Project Coordinator may, by written notice to CONTRACTOR, terminate the right to proceed with the work (or separable part of the work) that has been delayed. In this event, TRIBE may take over the work and complete it, by CONTRACT or otherwise, and may take possession of and use any materials, equipment on the work site necessary for completing the work. CONTRACTOR and its sureties shall be liable for any damage to TRIBE resulting from CONTRACTOR's refusal or failure to complete the work within the specified time, whether or not CONTRACTOR's right to proceed with the work is terminated. This liability includes any increased costs incurred by TRIBE in completing the work.
- B. CONTRACTOR's right to proceed shall not be terminated or CONTRACTOR charged with damages under this section if:
1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of CONTRACTOR. Examples of such causes include (i) acts of God, or of the public enemy, (ii) acts of TRIBE or other governmental entity in either its sovereign or CONTRACTUAL capacity, (iii) acts of another CONTRACTOR in the performance of a CONTRACT with TRIBE, (iv) fires, (v) floods, (vi) epidemics, (vii) quarantine restrictions, (viii) strikes, (ix) freight embargoes, (x) unusually severe weather, or (xi) delays of subcontractors for supplies at any tier arising from unforeseeable causes beyond the control and with the fault or negligence of both CONTRACTOR and the subcontractors or supplies; and
  2. CONTRACTOR, within days ten (10) days from the beginning of such delay (unless extended by the Project Coordinator) notifies the Project Coordinator in writing of the causes of delay. The Project Coordinator shall ascertain the facts and the extent of the delay. If, in the judgment of the Project Coordinator, the findings of fact warrant such action, time for completing the work shall be extended by written modification to the CONTRACT. The findings of the Project Coordinator shall be reduced to a written decision which shall be subject to the provisions of the Disputes section of this CONTRACT.
- C. If, after termination of CONTRACTOR's right to proceed, it is determined that CONTRACTOR was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been for the convenience of TRIBE.

### **34. LIQUIDATED DAMAGES**

- A. If CONTRACTOR fails to complete the work within the time specified in the CONTRACT, or any extension, as specified in the section 38-Default of this CONTRACT, CONTRACTOR shall pay to TRIBE as liquidated damages, the sum of \$500.00 for each day of delay. If different completion dates are specified in the CONTRACT for separate parts or stages of the

work, the amount of liquidated damages shall be assessed on those parts or stages which are delayed. To the extent that CONTRACTOR's delay or nonperformance is excused under another section in the CONTRACT, liquidated damages shall not be due TRIBE.

CONTRACTOR remains liable for damages caused other than by delay.

- B. If TRIBE terminates CONTRACTOR's right to proceed, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned TRIBE in completing the work.
- C. If TRIBE does not terminate CONTRACTOR's right to proceed, the resulting damage will consist of liquidated damages until the work is completed or accepted.

### **35. TERMINATION FOR CONVENIENCE**

- A. The Project Coordinator may terminate this CONTRACT in whole, or in part, whenever the Project Coordinator determines that such termination is in the best interest of TRIBE. Any such termination shall be effected by delivery to CONTRACTOR of a Notice of Termination specifying the extent to which the performance of the work under the CONTRACT is terminated, and the date upon which such termination becomes effective.
- B. If the performance of the work is terminated, either in whole or in part, TRIBE shall be liable to CONTRACTOR for reasonable and proper costs resulting from such termination upon the receipt of TRIBE of a properly presented claim setting out in detail:
  - 1. the total cost of the work performed to date of termination less the total amount of CONTRACT payments made to CONTRACTOR;
  - 2. the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, payment for which has not been made by TRIBE to CONTRACTOR or by CONTRACTOR to the subcontractors or supplier;
  - 3. the cost of preserving and protecting the work already performed until TRIBE or assignee takes possession thereof or assumes responsibility therefore;
  - 4. the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to TRIBE; and
  - 5. an amount constituting a reasonable profit on the value of the work performed by CONTRACTOR.
- C. The Project Coordinator will act on CONTRACTOR's claim within sixty (60) days of receipt of CONTRACTOR's claim.

D. Any disputes with regard to this section are expressly made subject to the provisions of section 30-Disputes of this CONTRACT.

### **36. INSURANCE**

A. Before commencing work, CONTRACTOR and each subcontractors shall furnish TRIBE with certificates of insurance showing the following insurance is in force and will insure all operations under the CONTRACT.

1. Workers' Compensation, in accordance with state Workers' Compensation laws.
2. Commercial General Liability with a combined single limit for bodily injury and property damage of not less than \$1,000,000 per occurrence to protect CONTRACTOR and each subcontractors against claims for bodily injury or death and damage to the property of others. In addition, Washington Stop Gap Liability (Employer's Liability) with a limit of \$1,000,000 is required. This shall cover the use of all equipment, hoists, and vehicles on the site(s) not covered by Automobile Liability under (3) below. are these \$\$\$\$ in alignment with our HUD and USDA grant requirements? needs to be verified
3. Automobile Liability on owned and non-owned motor vehicles used on the site(s) or in connection therewith for a combined single limit for bodily injury and property damage of not less than \$1,000,000 per occurrence.

B. All insurance shall be carried with companies which are financially responsible and admitted to do business in the State in which the project is located. If any such insurance is due to expire during the construction period, CONTRACTOR (including subcontractors, as applicable) shall not permit the coverage to lapse and shall furnish evidence of coverage to the Project Coordinator. All certificates of insurance, as evidence of coverage, shall provide that no coverage may be canceled or non-renewed by the insurance company until at least 30 days prior written notice has been given to the Project Coordinator.

### **37. ROYALTIES AND PATENTS**

CONTRACTOR shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save TRIBE harmless from loss resulting from use of a particular design or process or the product of a particular manufacturer or manufacturers specified in the CONTRACT, but if CONTRACTOR has reason to believe that the design or process or product specified is an infringement of a patent, CONTRACTOR shall be responsible for such loss unless he promptly gives such information to TRIBE.

### **38. WAGES**

All labor furnished for the work defined in this CONTRACT shall be at or above Davis Bacon wage rates.

**39. PAYROLLS AND RELATED REPORTS**

- A. Payrolls and basic records relating thereto shall be maintained during the course of the work and preserved by CONTRACTOR and all subcontractors for a period of three years thereafter for all laborers and mechanics employed in the development of the Project. Such records shall contain the name and address of each such employee, and the employee's correct classification, rates of pay, daily and weekly number of hours worked, deductions made and actual wages paid or required by State of Washington Department of Labor & Industries.
- B. CONTRACTOR shall also furnish to TRIBE any other information or certifications relating to employees in such forms as TRIBE may request.

**40. TERMINATION BECAUSE OF VIOLATION OF LABOR PROVISIONS**

None

**41. DISPUTES CONCERNING LABOR**

All questions arising under this CONTRACT for any subcontract relating to the application or interpretation of prevailing wages shall be referred by TRIBE to State of Washington Department of Labor & Industries for decision. The ruling or interpretation by State of Washington Department of Labor & Industries, as the case may be, shall be final.

**42. INSERTION OF LABOR PROVISIONS IN SUBCONTRACTS**

None

**43. INDIAN PREFERENCE** During the performance of this CONTRACT, CONTRACTOR agrees as follows:

- A. CONTRACTOR, to the greatest extent feasible and allowable under law, shall give preference to Shoalwater Bay Tribal members and other Native Americans, in hiring, promotion, training lay-offs and all other aspects of employment in connection with this project.

**44. EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this CONTRACT, CONTRACTOR agrees as follows:

CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or against qualified disabled individuals.

**45. SUBCONTRACTING WITH SMALL AND MINORITY BUSINESS FIRMS  
WOMEN'S BUSINESS ENTERPRISES AND LABOR SURPLUS AREA FIRMS**

CONTRACTOR shall take appropriate steps to ensure that, whenever possible, subcontracts are awarded to small business firms, minority firms, women's business enterprises, disadvantaged business enterprises, and labor surplus area firms.

**46. CONFLICT OF INTEREST**

No member, officer, or employee of TRIBE, no member of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which TRIBE was activated, and no other public official of such locality or localities which exercises any functions or responsibilities with respect to the project shall, during his or her tenure, or for one (1) year thereafter, will have any interest, direct or indirect, in this CONTRACT or the proceeds thereof.

**47. REVIEW OF WORK: ACCESS TO RECORDS**

TRIBE or any of their duly authorized representatives, shall at all times and places have access to and be permitted to observe and review all work, materials, equipment, payrolls, personnel records, employment conditions, material invoices, CONTRACTs, books of account, and other relevant data and records.

**48. ENVIRONMENTAL REGULATIONS**

Throughout the work, CONTRACTOR shall comply with all current rules of the resource agencies having jurisdiction over the affected areas in accordance with Section 1-07.5, Environmental Regulations of the Standard Specifications for Road, Bridge, and Municipal Construction, M41-10, current edition. **Reference: Attachment 8 Exhibit H Title 23 Section 23.05 and Attachment 9 Exhibit I Environmental Assessment.**

**49. MANDATORY STANDARDS AND POLICIES RELATING TO ENERGY  
EFFICIENCY**

CONTRACTOR agrees to comply with all mandatory standards and policies relating to energy efficiency which are contained in Washington State Energy Policy issued in compliance with the Energy Policy and Conservation Act (PUB L. 94-163).

**50. HOLD HARMLESS AND INDEMNIFY**

CONTRACTOR shall indemnify and hold harmless TRIBE from any and all liability, costs, damages, and expenses (including reasonable attorney's fees and court costs) resulting from, arising out of, or incurred by reason of any claims, actions, or suits based upon or alleging bodily injury, including death or property damage arising out of or resulting from CONTRACTOR's negligent acts under this project, whether such negligence be by himself or

by CONTRACTOR's subcontractors or anyone directly or indirectly employed by either of them. CONTRACTOR shall obtain insurance for this purpose and shall file certificates of such insurance with TRIBE.

**Division IV**

**Part 1: Special Conditions**

**["NONE"]**

Not used

**Part 2: Technical Provisions**

**["NONE" OR**

**Not use**

### **Part 3: Attachments**

- Attachment 1: **Exhibit A** Form of Bid/Schedule
- Attachment 2: **Exhibit B** Bid Bond
- Attachment 3: **Exhibit C** Non Collusion Affidavit
- Attachment 4: **Exhibit D** Contract Bond
- Attachment 5: **Exhibit E** Construction Contract
- Attachment 6: **Exhibit F** Notice To Proceed
- Attachment 7: **Exhibit G** Sect 3 Contractor Compliance Forms
- Attachment 8: **Exhibit H** Title 23 Part 23.05
- Attachment 9: **Exhibit I** Environmental Assessment
- Attachment 10: **Exhibit J** Geotechnical Report MPB
- Attachment 11: **Exhibit K** Geotech. Report Criblock Wall
- Attachment 12: **Exhibit L** Scope of Work
- Attachment 13: **Exhibit M** MPB Specifications
- Attachment 14: **Exhibit N** Civil Specifications
- Attachment 15: **Exhibit O** MPB Drawings
- Attachment 16: **Exhibit P** Civil Drawings

ATTACHMENT 1 EXHIBIT A

FORM OF BID/SCHEDULE

(Page 1 of 4)

**PROJECT NAME: Eagle Hill Multipurpose Building**

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1. The undersigned, having been familiarized with the existing conditions at the site of the work, and with the Contract documents, which include the Invitation for Bids, Instructions to Bidders, this bid, the Bid Bond or Letter of Credit, the Non-Collusive Affidavit, the requirements for Performance and Payment Security, the form of Construction Contract, General Conditions of the Construction Contract, any applicable Special Conditions, Specifications and Drawings (and exhibits and addenda, if any thereto, and on file in the office of the Shoal Water Bay Indian Tribe), hereby proposes to furnish all supervision, technical personnel, labor, material, machinery, tools, equipment, fixtures, and services including transportation services, and to perform and complete all work required within the time specified in the Contract documents for the sum shown below. Bidder shall submit along with bid a unit breakdown for the cost of all work listed in the Bid Schedule.

BASE BID (See Bid Schedule on Page 4 of 4):

WRITTEN SUM (Schedule): \_\_\_\_\_ \$ \_\_\_\_\_

2. In submitting this bid, it is understood that the right is reserved by the Shoalwater Bay Indian Tribe to reject any and all bids. If written notice of the acceptance of this bid is mailed, e-mailed or delivered to the undersigned within thirty days after the opening thereof, or at any time thereafter before this bid is withdrawn, the undersigned agrees to execute and deliver a Contract in the prescribed form and furnish the required performance and payment security within ten (10) days (or within a time period as the Shoal Water Bay Indian Tribe may grant) after the contract is presented to him for a signature.
3. Security in the sum of \_\_\_\_\_ dollars.

(\$ \_\_\_\_\_) in the form of

\_\_\_\_\_ is

submitted here within accordance with the Invitation to Bidders.

ATTACHMENT 1 EXHIBIT A

FORM OF BID/SCHEDULE

(Page 2 of 4)

4. Attached hereto is an affidavit in proof that the undersigned has not colluded with any person with respect to this proposal.
5. The bidder represents that he/she \_\_\_ has, \_\_\_ has not, participated in a previous contract or subcontract subject to the equal opportunity clause prescribed by Executive Orders 10925, 11114, or 11246; that he/she \_\_\_ has, \_\_\_ has not, filed all required compliance reports, and that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards. (The above representation need not be submitted in connection with subcontracts which are exempt from the clause.)
6. Certification of Non-Segregated Facilities. By signing this bid, the bidder certifies that he/she does not maintain or provide for his/her employees any segregated facilities at any of his/her establishments and that he does not permit his/her employees to perform their services at any location, under his control, where segregated facilities are maintained. He/she certifies further that he/she will not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she will not permit his/her employees to perform their services at any location, under his control; where segregated facilities are maintained. The bidder agrees that a breach of this certification is a violation of the Equal Opportunity clause in the Contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom or otherwise. He/she further agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Employment Act; that he/she will retain such certification in his/her files; and that he/she will forward a notice to his/her proposed subcontractors as provided in the Instruction to Bidders.
7. The undersigned acknowledges that this bid includes one schedule of work.

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

ATTACHMENT 1 EXHIBIT A

FORM OF BID/SCHEDULE

(Page 3 of 4)

Date: \_\_\_\_\_

Company Name of Bidder:

\_\_\_\_\_

Company Official Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

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

ATTACHMENT 1 EXHIBIT A

FORM OF BID/SCHEDULE

(Page 4 of 4)

SCHEDULE

Firm Name/By:

\_\_\_\_\_

SUBTOTAL: \$ \_\_\_\_\_

PROJECT TOTAL: \$ \_\_\_\_\_

Acknowledge receipt of addenda: \_\_\_\_\_

ATTACHMENT 2 EXHIBIT B  
BID BOND

1. Individual sureties, partnerships or corporations not in the surety business are not acceptable.
2. The name of the Principal shall be shown exactly as it appears in the contract.
3. The penal sum shall not be less than required by the contract.
4. If the Principals are partners or joint ventures, each member shall execute the bond as an individual and state his place of residence.
5. The official character and authority of the person(s) executing the bond for the Principal,
6. If a corporation, shall be certified by the Secretary of Assistant Secretary thereof under the corporate seal, or copies attached to such records of the corporation as will evidence the official character and authority of the officer signing, duly certified by the Secretary of Assistant Secretary, under the corporate seal, to be true copies.
7. The current power-of-attorney of the person signing for the surety company must be attached to the bond.
8. The following information must be placed on the bond by the surety company:
  - a. The rate of premium in dollars per thousand: and
  - b. The total dollar amount of premium charged.
9. Type or print the name underneath each signature appearing on the bond.
10. An executed copy of the bond must be attached to each copy of the Contract (original counterpart) intended for signing.



See Instructions to Bidders

NOTE: Type or Print in Ink

PRINCIPAL (Legal name and business address)

TYPE OF ORGANIZATION (Check one)

- INDIVIDUAL                       PARTNERSHIP  
 JOINT VENTURE                       CORPORATION

SURETY(IES) (Name(s) and business address(es))

SUM AMOUNT OF BOND  
(Amount not to exceed)

DOLLARS  
% of BID PRICE

\$ \_\_\_\_\_

**BID IDENTIFICATION**

BID DATE                      INVITATION NO.                      FOR  
 MATERIALS/SUPPLIES/EQUIPMENT                       CONSTRUCTION                       SERVICES

WE, the Principal and Surety(ies), are firmly bound and obligated to the State of Washington in the above sum amount on conditions set forth below, for the payment of which we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH that the Principal has submitted the bid identified above.

THE ABOVE OBLIGATION shall be void and of no effect if the Principal, upon acceptance of the bid identified above, within the period specified therein for acceptance (sixty (60) days if no period is specified), shall execute such further contractual documents and give bond(s) as may be required by the terms of the bid as accepted within the time specified (ten (10) days if no period is specified) after receipt of the forms by him. Furthermore, in the event of failure to execute additional contractual documents and give bond(s), the above obligation shall be null and void if the Principal pays the State of Washington for any cost of procuring the work which exceeds the amount of his bid.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this bond and have affixed their signatures and seals on the date set forth above.

**PRINCIPAL**

1. NAME OF PRINCIPAL AND TITLE	PHONE NO.	SIGNATURE	L.S. (Corporate Seal)
2.			

**SURETY(IES)**

<b>Surety A</b>	NAME AND ADDRESS		LIABILITY LIMIT	L.S. (Corporate Seal)
	1. NAME AND TITLE (Attorney in Fact)	PHONE NO.	SIGNATURE	
	2. NAME AND TITLE	PHONE NO.	SIGNATURE	
<b>Surety B</b>	NAME AND ADDRESS		LIABILITY LIMIT	L.S. (Corporate Seal)
	1. NAME AND TITLE (Attorney in Fact)	PHONE NO.	SIGNATURE	
	2. NAME AND TITLE	PHONE NO.	SIGNATURE	

## Attachment 3 Exhibit C

### NON-COLLUSION AFFIDAVIT

I state that I am \_\_\_\_\_ of \_\_\_\_\_  
(Title) (Name of Firm)

and that I am authorized to make this AFFIDAVIT on behalf of my firm, and its owners, directors, and officers. I am the person responsible in my firm for the price(s) and the amount of this proposal.

I state that:

(1) The budgets shown in this proposal have been arrived at independently and without consultation, communication or agreement with any other contractor, responder, or potential responder to this Request for Proposal (RFP).

(2) Neither the price(s) nor the amount of the proposal, and neither the approximate budgets nor approximate amounts in this proposal, have been disclosed to any other firm or person who is a responder or potential responder to this RFP, and they will not be disclosed before the proposal opening.

(3) No attempt has been made or will be made to induce any firm or person to refrain from responding to this RFP, or to induce them to submit a budget that is higher than the budget in this proposal, or to submit any intentionally high or noncompetitive proposal or other form of non-responsive proposal.

(4) The proposal and budget prepared by my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.

(5) \_\_\_\_\_, its affiliated, subsidiaries, officers, directors, and  
(Name of Firm)  
employees are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as follows:

I state that \_\_\_\_\_ understands and acknowledges that the  
(Name of Firm)

above representations are material and important, and will be relied on by the California Agricultural Commissioners and Sealers Association (CACASA) in awarding the contract(s) for which this proposal is submitted. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from CACASA of the true facts relating to the submission of proposals for this contract.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Print Name and Title)

SWORN TO AND SUBSCRIBED  
BEFORE ME THIS \_\_\_\_\_ DAY  
OF \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
(Notary Public)

My Commission Expires \_\_\_\_\_

ATTACHMENT 4 EXHIBIT D

CONTRACT BOND

(Page 1 of 2)

It shall be binding by this document, that \_\_\_\_\_

of, \_\_\_\_\_ as Principal, and  
\_\_\_\_\_ as Surety,

are jointly and severally held and bound unto the , Shoalwater Bay Indian Tribe, in the penal sum of \_\_\_\_\_

Dollars (\$ \_\_\_\_\_ ), the payment of which we jointly and severally bind ourselves, our heirs, executors, administrators, and assigns, and successors and assigns, firmly by these presents. The CONDITION of this bond is such that WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_

the said \_\_\_\_\_

Principal, herein, executed a certain Contract with the Shoalwater Bay Indian Tribe, by the terms, conditions and provisions of which Contract the said

Principal, herein, agree to furnish all material and do certain work, to wit: That will undertake and complete the construction of **Project Name: “Eagle Hill Multipurpose Building”** according to the maps, plans and specifications made a part of said Contract, which Contract as so executed, is hereunto attached, is now referred to and by reference is incorporated herein and made a part hereof as fully for all purposes as if here set forth at length. This bond shall cover all approved change orders as if they were in the original Contract.

NOW, THEREFORE, if the Principal herein shall faithfully and truly observe and comply with the terms, conditions, and provisions of said Contract in all respects and shall well and truly and fully do and perform all matters and things by them undertaken to be performed under said Contract, upon the terms proposed therein, and within the time prescribed therein, and until the same is accepted, and shall pay all laborers, mechanics, subcontractors, and material men, and all persons who shall supply such contractor or subcontractor with provisions and supplies for the carrying on of such work, and shall in all respects, faithfully perform said Contract according to law, then this obligation to be void, otherwise to remain in full force and effect.

ATTACHMENT 4 EXHIBIT D

CONTRACT BOND

(Page 2 of 2)

WITNESS our hands this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Principal)

\_\_\_\_\_  
(Attorney-in-fact, Surety)

\_\_\_\_\_  
Name and Address Local Office Agent

APPROVED: Shoalwater Bay Indian Tribe

By:

\_\_\_\_\_  
Date:  
\_\_\_\_\_

Surety Bond No.

Contract No.

ATTACHMENT 5 EXHIBIT E  
CONSTRUCTION CONTRACT

(Page 1 of 4)

This Contract made this \_\_\_\_\_ day of \_\_\_\_\_, by

---

and between \_\_\_\_\_, herein called  
the "Contractor",

and the Shoalwater Bay Indian Tribe, herein called the "SBIT". The Contractor and the SBIT  
agree as follows:

**I. Statement of Work**

The Contractor shall furnish all labor, material, equipment and services, and perform and  
complete work required for the construction of project **SBIT 1505-1021 "Eagle Hill  
Multipurpose Building"**.

**Description of work:** The following identified tasks shall be considered the scope of work under this contract  
titled "**Eagle Hill Multipurpose Building**" (HUD ICDBG B-09-SR-53-1418).

Any modifications to any schedules will be a collective agreement mediated thru the Tribes Project Coordinator.

The project will include the following work completed unless otherwise indicated as *owner furnished*. The General  
Contractor shall construct a 3200 square foot slab on grade multipurpose building for the Shoalwater Bay Indian  
Tribe. The location will be on Eagle Hill Road, Tokeland, Washington on a previously prepared pad. The  
construction will include site preparation, utility installation, structural slab/foundation, and framing of building  
superstructure to the dry-in stage. Electrical, Plumbing, and Mechanical work will be completed at a later date  
TBD by other solicitation.

Construction shall conform to the 2012 International Building Code (IBC)

ATTACHMENT 5 EXHIBIT E  
CONSTRUCTION CONTRACT

(Page 2 of 4)

**II. Period of Contract**

The Contract shall commence on the date of signing by the last party and terminate in [ ] calendar days, or within the schedule established in the Notice to Proceed issued by the Project Coordinator, whichever is shorter. Work shall be substantially complete within [ ] days of Notice to Proceed.

**III. Contract Price**

The Tribe shall pay the Contractor for performance of the contract, subject to additions or deductions as provided in the Contract, the sum of:

BASE BID (See Bid Schedule in Exhibit A Page 4 of 4):

PROJECT TOTAL (Schedule Page 4 of 4):      \$\_\_\_\_\_

**IV. Contract Documents**

1. This Contract includes all the terms and conditions of the Request for Proposal (“RFP”) and all the documents referenced and incorporated therein, including but not limited to, Invitation for Bids, Instructions to Bidders, the form of bid, the Bid Bond, the Non-Collusive Affidavit, the Bidder's Certification of Eligibility, the requirements for Performance and Payment Security, the form of Construction Contract, General Conditions of the Construction Contract, any applicable Special Conditions, Specifications, and Drawings (and attachments, exhibits and addenda, if any thereto, and on file in the office of the WBE), and all formal changes to any of those documents by addendum, change order, or other modification.

ATTACHMENT 5 EXHIBIT E  
**CONSTRUCTION CONTRACT**

(Page 3 of 4)

**V. Points of Contact**

The principal points of contact for communications regarding this Contract are

For SBIT:

For Contractor:

Name: Scott Baergen

Name: \_\_\_\_\_

Phone: (360)637 4681

Phone: \_\_\_\_\_

**VI. Acceptance**

For the Contractor: By: \_\_\_\_\_

(Authorized signature)

Dated: \_\_\_\_\_

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

Business Address: \_\_\_\_\_

ATTACHMENT 5 EXHIBIT E  
CONSTRUCTION CONTRACT

(Page 4 of 4)

Telephone: \_\_\_\_\_

(Attach evidence of authority to sign)

For the SBIT: By: \_\_\_\_\_  
(Authorized signature)

Dated: \_\_\_\_\_

Telephone: \_\_\_\_\_

(Attach evidence of authority to sign)

ATTACHMENT 6 EXHIBIT F

NOTICE TO PROCEED

Date: \_\_\_\_\_

Contractor: \_\_\_\_\_

Address: \_\_\_\_\_

Project Name: \_\_\_\_\_

Location: \_\_\_\_\_

Amount of Contract: \_\_\_\_\_

Gentlemen/Ladies:

Pursuant to the terms of your Contract, dated \_\_\_\_\_, you are hereby notified to commence work there under at the start of business \_\_\_\_\_. The time for completion set forth herein is \_\_\_\_ calendar days, including the starting day, which \_\_\_\_\_ establishes as the completion date. Please acknowledge receipt of this Notice to Proceed by signing, and returning this document to the Project Coordinator.

Sincerely,

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

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

License No. \_\_\_\_\_

Date: \_\_\_\_\_

For The Shoalwater Bay Indian Tribe: By: \_\_\_\_\_

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

Date: \_\_\_\_\_

**Attachment 12 Exhibit L**  
**Scope of Work**

**SBIT 1505-1021 Eagle Hill Multipurpose Building**

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The project will include the following work completed unless otherwise indicated as *owner furnished*. The General Contractor shall construct a 3200 square foot slab on grade multipurpose building for the Shoalwater Bay Indian Tribe. The location will be on Eagle Hill Road, Tokeland, Washington on a previously prepared pad. The construction will include limited site preparation, utility stub out/preparation, structural slab/foundation, and framing of building superstructure to the dry-in stage. Electrical, Plumbing, and Mechanical work will be completed at a later date TBD by other solicitation. The multipurpose building will be a fast track delivered structure. The compliance date is 31 August 2015 for completion of this scope.

Construction shall conform to the 2012 International Building Code (IBC).