



SENECA NATION OF INDIANS
- STANDARD CONSTRUCTION CONTRACT -

DEPARTMENT: _____

PROJECT TITLE: _____

This contract, in quadruplicate, between the SENECA NATION OF INDIANS (“Nation” or “Nation’s Agent”), a Sovereign Nation, by and through its President, J. Conrad Seneca, with business addresses of 12837 Route 438, Irving, NY 14081 and 90 Ohi:yo Way, Salamanca, NY 14779, and _____ (“Contractor”), located at _____, with a business telephone number of _____, is entered into on this ____ day of _____, in the year _____, on the lands of the Seneca Nation. Nation and Contractor are sometimes referred to herein individually as a “Party” and collectively as “the Parties.” The said parties, for the consideration hereinafter mentioned, agree to the following:

1. **SCOPE OF WORK.** The Contractor agrees to provide all of the material and labor required to perform any and all necessary Nation-directed work for the _____ as provided in the Contractor’s Proposal, which is hereinafter attached and made a part of this agreement as Exhibit A. In the performance of service, the Contractor agrees to comply with all applicable laws and regulations, standards, specifications, and requirements, including the Nation’s Procurement Policy and bidding requirements, which are also incorporated into and made a part of this Contract. The Contractor agrees to coordinate all work with the Nation and perform all services within the timeframe heretofore established. _____ (“Nation’s Agent”), may, at the direction of the Nation be authorized to act on the Nation’s behalf for all purposes under this Contract.

2. **PAYMENT.** The Nation hereby agrees to pay the Contractor, for the aforesaid materials and labor, a sum not to exceed (NTE) _____ US dollars (\$ _____), as per the Contractor’s proposal (Exhibit A) (“Contract Sum”). Payment shall be made upon satisfactory progress of the project monthly, to be determined by the Nation; and be on such form that describes work completed and documented. Final payment shall be due at the time of final completion, upon acceptance of the work by the Nation. *If the NTE amount set forth herein is in excess of, in the aggregate for the Consultant and the Department during the previous twelve months, \$49,999.99, this Agreement shall not become effective until and unless approved by the Nation’s Council.*

3. **TIME FOR PERFORMANCE.** Time is of the essence with respect to performance of this contract. The Contractor agrees that the entire above-described work shall be completed no later than the ____ day of _____, _____ (“Contract Time”).

4. **MATERIALS.** The Contractor agrees to provide and pay for all materials, tools and equipment required for the prosecution and timely completion of the work. All materials, equipment and articles incorporated into the work and covered by this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided for in this Contract. References in the specifications to materials, equipment, articles 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.
5. **WORKERS.** In the prosecution of the work, the Contractor shall employ a sufficient number of workers skilled in their trades to suitably perform the work.
6. **EMPLOYMENT RIGHTS.** Contractor shall be obligated to comply with the provisions of the Seneca Nation Tribal Employment Rights Ordinance (TERO), a copy of which has been furnished to the Contractor. Contractor shall have a TERO Compliance Plan completed and approved by the TERO Director before commencing any work under the contract, and shall be required to pay any applicable TERO fees. Any portion of work that involves specialty work shall be limited to the extent required for Project completion and, upon written approval by the Nation, shall be exempt from any relevant TERO provisions.
7. **PERMITS.** The Contractor shall obtain and maintain all licenses or permits, including any applicable Nation Business Licenses, and meet all requirements of local, state or federal law necessary for the successful completion of this Project.
8. **SUBCONTRACTING.** Contractor shall not enter into any subcontracts for any of the work performed under this contract, or assign any right, interest or obligation under this contract without obtaining prior written approval of the Nation. If such approval for subcontracting is granted, the Contractor shall be solely liable to all subcontractors for the prompt payment of all just debts, demands and obligations incurred in the performance of this contract and shall be responsible for providing the Nation with a waiver of lien from any subcontractor before receiving payment from the Nation for work performed. Under no circumstances may the contractor or a subcontractor establish a lien against the Nation, Nation lands or improvements on Nation lands.
9. **COMPLIANCE WITH STANDARDS AND LAWS.** Contractor agrees to perform and complete the work with the degree of skill and care observed by those performing the same or similar work and by following and applying at all times all professional, technical and industry guidelines and standards applicable to the performance of such work. All work will be performed by Contractor in compliance with all applicable specifications established by the Nation and Contractor ("Specifications") and with all applicable statutes, acts, ordinances, laws, rules, regulations, codes, standards, license and permit requirements, and with all requirements for the Project and all requirements under any programs or grants under which any portion of the Project is being funded. Contractor shall not deliver any work or other materials to the Nation, except in strict conformance with a plan approved in advance by the Nation, including a plan to secure and protect such work and other materials. Contractor shall bear the risk-of-loss for all work and other materials until all work and other materials are accepted by the Nation.

- 10. TERMINATION.** The Nation may, by written notice of default, terminate the whole or any part of this agreement if the Contractor fails to perform in the manner called for by this Contract; or fails to provide the services within the time specified herein, or any extension hereof; or fails to perform any of the other provisions of this contract; or pursues the work as to endanger performance of this contract in accordance with its terms, and fails to correct such failures. Contractor may be compensated, partially, for the work that has been satisfactorily completed, dependent upon costs that it will take a third party to complete the project. Determinations of satisfactory work will be made by the Nation in accordance with generally accepted standards of trade.
- 11. DELAYS.** In the event the Contractor is hindered, delayed or prevented from performance of the work by “*Force Majeure*”, causes, events or circumstances which are beyond the reasonable control of the Contractor, including, without limitation, acts of God, war, insurrections, hostilities, riots, lockouts, strikes, labor disputes, floods, fire, hurricanes, or acts of Governmental Authorities, Contractor, upon written notice to that effect and termination of such Force Majeure, shall resume performance of any suspended obligation and the time for completion of the work shall be extended for the same period as the delay occasioned by any of the aforementioned causes.
- 12. WARRANTY – ONE YEAR MINIMUM.** The Contractor warrants that work performed under this contract conforms to the contract requirements and is free from any defect in equipment, materials or design furnished or workmanship performed by the Contractor or any subcontractor or supplier at any tier. The warranty term shall be the greater of industry standard for the work performed, the warranty period identified in the Contractor’s Proposal, and one year. The warranty term shall commence on the date of final acceptance of the work. The Contractor shall remedy at his expense any failure to conform to the contract requirements.
- 13. MAINTENANCE OF WORK AREA.** The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before final inspection and acceptance, the Contractor shall remove from the worksite and premises any rubbish, tools, scaffolding, equipment and materials that are not the property of the Nation. The Contractor shall leave the work area in a clean, neat and orderly condition.
- 14. CHANGES.** All changes and deviations in the work ordered by the Nation must be in writing and approved by the Nation’s CEO or CFO before proceeding with the ordered change provided the total contract amount, including the change, 1) does not exceed \$49,999.99 or 2) is approved by the Nation’s Council.
- 15. ACCESS.** The Nation and the Nation’s Agent shall at all times have access to the work.
- 16. CONTRACTOR INSURANCE.** Contractor shall provide the Nation with Certificate(s) of Insurance consistent with the minimum requirements of the Seneca Nation. See attached “SNI Insurance Requirements”.
- 17. BONDING REQUIREMENTS.** If the Contract is grant-funded, Contractor must certify, where applicable, that it meets the bonding requirements of 2 CFR Part 200.326.

18. **LIQUIDATED DAMAGES.** In the event the work is delayed due to the neglect of the Contractor, the Contractor agrees to pay the Nation the sum of Two Hundred Fifty US dollars (\$250.00) per day as liquidated damages until such time as the work is completed.
19. **ENTIRE AGREEMENT.** This Agreement constitutes the entire Agreement between the parties as to the matters covered herein and supersedes any other previous agreement, oral or written, between the parties.
20. **AMENDMENTS.** This Agreement can be modified or amended only by the written agreement of the Nation and the Contractor. In the event any provision in the body of this Agreement is inconsistent with a provision in an attachment or other incorporated document, the provision(s) in the body of this Agreement shall control.
21. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same original, and the execution of separate counterparts by the parties shall bind them as if they had each executed the same counterpart.
22. **NO ASSIGNMENT.** Neither the Nation nor Contractor shall have the right to assign any rights or interests occurring under this Agreement without the written consent of the other, nor shall the Contractor assign any sums due, or to become due, under the provisions of this Agreement.
23. **INDEPENDENT CONTRACTOR.** The Contractor shall be deemed to be an independent contractor of the Nation. In no event shall the Contractor be deemed an employee or agent of the Nation and the Contractor shall have no power to bind or commit the Nation or otherwise act on the Nation's behalf. The Nation will not be responsible for withholding any income tax or social security contributions or providing any benefits to the Contractor or the Contractor's employees which may be conferred upon or incurred on behalf of Nation employees. Contractor shall provide the Nation with a complete W-9 before commencement of work. If the Internal Revenue Service or any other government agency questions or challenges the Contractor's independent contractor status, then it is agreed that both the Nation and the Contractor shall have the right to participate in any conference, discussion or negotiation with the government agency, irrespective of whom initiates discussions or negotiations.
24. **BACKGROUND CHECKS.** The Contractor shall provide the Nation with an Authorization for Release of Information for Background Check of Contractor or, where appropriate, Company.
25. **APPLICABLE LAW.** This Agreement shall be governed by and interpreted in accordance with the laws of the Seneca Nation.
26. **SOVEREIGN IMMUNITY.** Notwithstanding anything to the contrary, nothing in this Agreement waives or may be deemed to waive the Nation's sovereign immunity from suit.
27. **FINAL ACCEPTANCE.** Project completion shall occur upon the date that the last of the following occurs: satisfactory inspection of the work by or on behalf of the Nation and any other required entities, acceptance by the Nation of the scope of work, and acceptance by the Nation of all required documents and/or records relating to the work, and any applicable lien waivers.

28. CONFIDENTIALITY. Contractor agrees that all reports, calculations, plans, specifications, records, lists of names, journals, ledgers, reports, and other recorded information developed in connection with the Work provided by Contractor hereunder ("Nation Materials"), shall always be and remain the property of the Nation and shall constitute Confidential Information of the Nation. Contractor agrees to keep all Nation Materials confidential and not to reproduce, disclose or disseminate the Nation Materials or the information contained therein to third parties without the prior written consent of the Nation. Upon termination of this contract for any reason (or upon the request of the Nation), Contractor shall immediately return all Nation Materials, and any copies thereof, to the Nation.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

SENECA NATION OF INDIANS

CONTRACTOR

By: _____
J. Conrad Seneca, President
Date: _____

By: _____
Title: _____
Date: _____

EXECUTE 4 ORIGINALS

Distribute Originals to: 1) Contractor 2) Project Manager 3) to A/P with P.O. 4) Purchasing

NON-COLLUSIVE BIDDING CERTIFICATION

BY SUBMISSION OF THIS BID OR PROPOSAL, THE BIDDER CERTIFIES THAT:

1. This bid or proposal has been independently arrived at without collusion with any other bidder or with any other competitor or potential competitor.
2. This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids or proposals for this project, to any other bidder, competitor or potential competitor.
3. No attempt has been made to induce any other person, partnership or corporation to submit or not to submit a bid or proposal.
4. The person signing this bid or proposal certifies that he/she fully informed himself/herself regarding the accuracy of the statements contained in this certification, and under the penalties of perjury, affirms the truth thereof, such penalties being applicable to the bidder as well as to the person signing on its behalf.

Bidder

By: _____

Signature

Print Name

Date: _____

Project Number: _____

Project Address: _____

Prime Contractor: _____

LIEN WAIVER

For valuable consideration, the undersigned and/or employees of the undersigned, hereby waive all right to claim a Mechanics Lien for labor, services, machinery, tools, equipment or materials furnished prior to _____, 20____, to the Seneca Nation of Indians, Agent and _____, Contractor in the improvements located on the lands of the Seneca Nation known as # _____, Street/Avenue, _____.

This release is valid on the condition that check # _____ drawn by _____ on the _____ Bank for \$ _____ dollars dated _____, 20____ is paid when presented.

Signature: _____

Signature: _____

Signature: _____

Signature: _____

Signature: _____

Signature: _____

PAYMENT CERTIFICATION
FOR CONSTRUCTION CONTRACT
PROGRESS PAYMENTS

**SUBMIT THIS ORIGINAL FORM ALONG WITH THE CONTRACTOR INVOICE (IF ANY) TO THE
A/P DEPARTMENT.**

[Section 1— To BE COMPLETED BY PROJECT MANAGER]

PO # _____

Payment # _____ (1st, 2nd, 3rd, Final, etc.)

Contractor: _____

[Section 2]

Attach Original Consultant Invoice

[Section 3— To BE COMPLETED BY PROJECT MANAGER]

I certify that the above work has been completed in accordance with the contract specifications and that it is acceptable. I hereby request that a progress payment be made to the contractor in the following amount:

\$ _____.

Project Manager Signature: _____ Date: _____

Cost Center Director Signature: _____ Date: _____

Revenue Source Director Signature: _____ Date: _____

SNI INSURANCE REQUIREMENTS

- 1) All Insurance Carriers must have a financial strength rating of A (Excellent) or higher by A.M. Best.
- 2) All Certificates submitted must name the Seneca Nation of Indians as an additional insured on a primary and non-contributory basis.
- 3) All Certificates must include: the Seneca Nation of Indians and their respective subsidiaries, directors, officers, agents, representatives and employees are named as additional insured(s) on the General Liability and Auto policies. A Waiver of Subrogation applies in favor of the Seneca Nation of Indians for General Liability, Auto Liability and Workers' Compensation.
- 4) Each bidder shall provide and maintain insurance and require all its Subcontractors of all tiers to provide and maintain insurance of the type and in limits set forth in the Contractor agreement.
- 5) Upon award, the Contractor & all of the Sub-Contractors shall submit an updated Certificate of Insurance with Endorsements to the Seneca Nation of Indians for review.
- 6) All policies shall not be cancelled or reduced in coverage unless Seneca Nation of Indians has been given thirty (30) days prior written notice by registered mail.
- 7) All Certificates shall list the Seneca Nation of Indians as the Certificate Holder:
 - Seneca Nation of Indians
 - Attn: Cheryl Watts, Comptroller
 - 90 Ohi:yo' Way
 - Salamanca, NY 14779
- 8) Commercial General Liability minimum requirements.
 - a) \$1,000,000 Per Occurrence
 - b) \$2,000,000 General Aggregate
 - i) General Aggregate coverage applies per project
- 9) Automobile Liability minimum requirements.
 - a) \$1,000,000 Combined Single Limit
 - i) Coverage applies per accident
 - ii) Coverage applies to any and all automobiles
- 10) Workers Compensation and Employers' Liability minimum requirements.
 - a) Statutory Limits for Workers Compensation
 - b) \$1,000,000 Employers' Liability
 - i) Each Accident
 - ii) Disease – Each Employee
 - iii) Disease – Policy Limit

**Seneca Nation of Indians
Standard Construction Agreement**

**AUTHORIZATION FOR RELEASE OF INFORMATION
FOR BACKGROUND CHECK FOR CONTRACTOR**

In connection with my proposal to contract with the Seneca Nation, I consent to an investigation into my background and employment history. This document authorizes release to the Seneca Nation of requested information whether or not such information would be otherwise protected from disclosure by any constitutional, statutory or common law privilege.

I authorize release of any information related to my activities including: schools, property interests (real or personal), employment, criminal justice agencies, regulatory agencies, businesses, financial institutions, lending institutions, medical institutions, hospitals and health care professionals.

I authorize review and copying of all documents.

I relinquish any right that I may otherwise have to pursue a cause of action against any person (or his/her agent) to whom this request is presented when such cause of action arises out of a response to a request for information. I further agree to indemnify and hold harmless any person to whom this request is lawfully presented.

First Middle Last
(please print)

Address

City, State, Zip

Date of Birth

Social Security Number

Signed this ____ day of _____, 20____.

Signature

**Seneca Nation of Indians
Standard Construction Agreement**

**AUTHORIZATION FOR RELEASE OF INFORMATION
FOR BACKGROUND CHECK OF COMPANY**

In connection with the proposal to contract with the Seneca Nation, (*insert name of company*) _____ hereby consents to the release of any and all information to the Seneca Nation.

Additionally, (*insert name of company*) _____ agrees:

1. to provide the Seneca Nation, upon reasonable request, any and all information related to the education, skills, experience, professional association status and licensing status of employees or agents assigned to this project listed herein by name and title; and

<u>Employee Name</u>	<u>Title</u>
_____	_____
_____	_____
_____	_____
_____	_____

2. to authorize review and copying of all documents; and
3. to relinquish any right that (*insert name of company*) _____ may otherwise have to pursue a cause of action against any person (or his/her agent) to whom this request is presented when such cause of action arises out of a response to a request for information. (*Insert name of company*) _____ further agrees to indemnify and hold harmless any person to whom this request is lawfully presented.

Name of Company

Name of Authorized Official

Title

Signed this ____ day of _____, 20____.

Signature

EXHIBIT A