

Request for Proposals: Seneca Nation Residential Generator Program

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Section A. Overview

1. Summary and General Information

The Seneca Nation of Indians, (“Nation”) is seeking a Certified dealer / installer to purchase and install residential generator systems as described herein this Request for Proposals (“RFP”).

This RFP has been issued to determine the eligibility of responding Contractors to purchase and install between 100 and 200 Generac generators at Seneca Nation residences located on the Allegany and Cattaraugus Territories.

The RFP and its attached exhibits describe the terms and conditions under which the Nation will select a contractor (“Contractor”). The Nation will contract with the selected Contractor using the agreements attached to this RFP. An executed contract is anticipated by April 21st, 2023.

Proposals shall describe the Applicant’s qualifications, a description of past projects which are similar in nature to this Project, an explanation of how the Applicant would perform task services, and cost estimate.

Proposals are due no later than **March 31st, 2023**. See Section C for details regarding submission instructions.

2. Scope of Services

The successful bidder shall furnish all labor, materials, tools, equipment, supervision, transportation, construction/demolition permits and any other items required or reasonably incidental to the completion of the work as described herein.

The scope of services includes the purchase and installation of 100 to 200 residential Generac generators. The Contractor shall provide quotes for:

- a. 10 kW Generac generator; and
- b. 18 kW Generac generator; and
- c. 24 kW Generac generator;

including:

- Provide and install selected generator with a whole home automatic transfer switch.
- Provide and install gravel, concrete pad and starting battery
- Connect to existing natural gas supply or propane fuel supply
- Provide and install all conduit, fittings, wire, cable and all connections necessary permitting and inspection fees
- Includes all necessary permitting and inspection fees
- Includes activation, programming and start up and owner training
- Includes 5-year factory limited warranty
- Details of when a change order would be required
- Construction timeline and schedule for completion
- Payment schedule
- Maintenance of work area

* Please show tiered pricing per volume of generators purchased.

For example, show the discounted pricing if 50, 100, 150 or 200 generators are purchased. The Nation expects the pricing per generator to reduce as the number of installations increases.

Note: The Seneca Nation of Indians is exempt from all NYS sales taxes and appropriate certificates will be provided to the successful bidder.

3. Tribal Employment Rights Ordinance. The final Agreements will be subject to the applicable requirements of the Seneca Nation's Tribal Employment Rights Ordinance, including submission of a TERO compliance plan addressing Indian preference requirements for covered employers and assessment of the employment rights fee (5%).

4. RFP Process

The RFP process will consist of three phases: (a) Proposals, (b) Selection of Certified Installer; and (c) Execution of Required Legal Documents. Deadlines and other important dates are as follows:

- Deadline for questions Mar. 24th – *(see below- Section 5)*
- Deadline for sealed proposal submission- **March 31st, 2023 - 12 PM** to the Seneca Nation – Attn: Seneca Energy – Anthony Giacobbe located in the William Seneca Building:
- 12837 Rte. 438, Irving NY 14081 (drop bids at front reception desk)
- Anticipated award date – April 10th, 2023

a. Proposals

Applicants must submit their Proposals in accordance with the instructions in Section C.

i. An application must include all information requested in the RFP and must demonstrate that the Applicant possesses relevant experience.

ii. An Applicant's submission of qualifications will be considered as permission for the Nation to make inquiries concerning the Applicant's prior performance as the Nation deems necessary.

b. Selection of Contractor

An evaluation panel ("Panel") will be assembled to review applications. The Panel may, at its discretion, notify an Applicant that additional information or clarification is necessary. The selection process may involve interviews, contacts with references, and review of other information.

An Applicant may be rejected at any time if adverse findings are made with regard to the Applicant or any of its principals or related entities. The Nation reserves the right, in its sole discretion, to reject at any time any or all applications, to withdraw the RFP, to negotiate with one or more Applicants, and/or to terminate negotiations without cause.

c. Execution of Required Legal Documents

Upon selection of the Contractor, the Nation and the Contractor will execute the attached Agreement. The terms of the Agreement, after execution, shall govern the relationship between the Nation and the Contractor. In the event of any variance between the terms of this RFP and the Agreement, the terms of the Agreement will govern. Appendix D includes the minimum standard clauses which shall be included in the Agreement.

5. Inquiries

Requests for clarifications and/or questions related to this RFP must be submitted in writing, via regular mail or electronic mail, and received no later than **March 24th, 2023**. Questions received after that time will not receive a response. No interpretations of the RFP will be made orally. All interpretations will be issued by electronic mail to all parties who receive a copy of the RFP. All inquiries shall be addressed to: Anthony Giacobbe at anthony.giacobbe@sni.org.

Section B – Standard Terms and Conditions

1. Contractor's Agreement

Upon selection as the most responsive firm to this RFP, the Contractor shall enter into an Agreement with the Nation, which shall contain the standard clauses listed in Appendix D. The Contractor, as well as any of its subcontractors or affiliates providing goods or performing work or services under the contract, shall meet the mandatory compliance requirements as set forth by law.

The Scope of Services shall conclude no later than **June 30th, 2024**. The agreement may be terminated at an earlier date upon thirty (30) written notice by either party. The agreement may be extended upon mutual agreement of the parties.

2. Business Permit (if applicable)

3. Insurance – Contractor must provide certificates of insurance for liability, worker's compensation, **and meet all insurance requirements** in the construction contract with the Seneca Nation as further addressed in the Appendix.

4. Compensation – The Nation will open a PO in the full amount of the contract and contractor will invoice each installation separately in order to process payment.

The Nation will discuss the necessity to pay for a portion of the equipment upon ordering with the selected Contractor.

5. Compliance - Laws

The Contractor and any subcontractor or affiliate must comply with all local, state and federal laws, rules and regulations applicable to any contract for the subject project and to any goods delivered, services rendered, or work performed in accordance with the same.

6. Compliance – Federal Laws

All work shall be performed in conformance with the specifications and terms contained in the following documents: [2CFR Part 200](#).

7. Compliance – State Laws

All work shall be performed in conformance with the specifications and terms contained in the following documents:

8. Causes for Rejection

Submittals pursuant to this RFP may be rejected for any or all of the following reasons:

- a. Applicant is not authorized to do business at the Seneca Nation or in the State of New York;
- b. Submission is not responsive to the requirements set forth in this RFP document; or
- c. Submission contains false or misleading statements; or
- d. Any other parameter that the Nation deems appropriate cause for rejection.

Section C – Instructions for Preparation and Submission of Proposals

1. Form and Content of Submission Documents

Contractors shall submit their Proposals in a sealed package with the following information clearly marked on the outside: name, address, and telephone number of the Applicant; and the title, **“Residential Generator Program 2023”**.

Each submission must consist of one bound original and three copies of the Applicant’s qualifications, including all documentation requested as described below. Each copy should be submitted in a three- ring binder and clearly labeled with the name of the Applicant on the cover. Applicants are also encouraged to submit a computer disk that includes all submission items.

The following submission items are required:

a. Cover Letter

The first page of the proposal shall be a cover letter identifying the overall project as identified above under Form and Content of Submission Documents.

If the proposal is submitted by a corporation (joint venture, associated firms, etc.), the cover letter shall be signed by a corporate officer authorized to do so. If made by an individual, that individual shall sign the cover letter. One or more of the partners shall sign if the Applicant is a company or partnership.

b. Qualifications Statement

Each Applicant shall submit a statement of qualifications that demonstrates the Applicant’s ability to perform the work proposed. The statement should be cognizant of the Evaluation Criteria in Subsection 2 and include the following:

Project Team Member Description

The qualifications statement shall identify a lead firm, project manager, and members of the team, including addresses, telephone numbers, fax numbers, and e-mail addresses for each.

Relevant Experiences

The statement shall also describe the Applicant's capabilities in performing the type of work that will be required by this RFP, including the Applicant's experience, capabilities and resources to perform the following: (if appropriate, list types of experiences required)

The Applicant shall provide a description of at least three relevant projects demonstrating experience with the services requested. Include the project name, a short description (i.e. location, size, current and prior land uses, environmental services conducted etc.), the Applicant's role in the project, entity for which the project was performed, and a contact name and telephone number.

c. Technical Proposal

The Applicant must describe how the project will be implemented, including procedures, best management practices, sequencing of how the work will be performed, proposed crew size, equipment to be used and any subcontractors to be used. A project schedule must be provided with the bid submittal, including pre-mobilization activities (permitting) set-up, completion of phases of site work, site restoration and demobilization, as well as proposed work seek.

d. Fee Structure (add a description of how the cost proposal should be broken out, i.e., hourly rates, equipment fees, subcontractor fees, etc. Not to Exceed (NTE) amount)

2. Evaluation Criteria

Maximum Point Value (points)

Completed all aspects of the bid (5 points)

Experience with relevant and comparable projects (15 points)

Demonstrated ability to complete assigned tasks on time and within budget (20 points)

Generac Certified Dealer (25 points)

Competitive fee structure (25 points)

Seneca Nation owned company (10 points)

3. Nation Requirements and Certifications

The Applicant must certify compliance with the SNI TERO requirements as part of the submission package including the TERO fee (5%).

4. Time and Place for Submitting Responses

Applicants shall submit the complete sealed submission package no later than 12:00 PM (noon) on March 31st, 2023 to: Seneca Nation – Attn: Seneca Energy, Anthony Giacobbe located in the William Seneca Building on Route 438, Irving, NY 14081 (drop proposals at reception desk).

Submissions will **NOT** be accepted after the above-specified date and time. A submission may be withdrawn prior to the time of receipt of proposals specified herein.

DISCLAIMER: This RFP does not obligate the Seneca Nation to pay any cost incurred by the respondents in the preparation and submission of a response. Furthermore, the RFP does not obligate the Seneca Nation to accept or contract for any expressed or implied services. The Seneca Nation reserves the right to reject any and all submittals.

Agreement Regarding Seneca Nation Global Home Standby Generator Program

This Agreement (“**Agreement**”) relating to the Seneca Nation Home Standby Generator Program (“**Generator Program**”) is made and entered into on _____ (“**Effective Date**”), by and between the **Seneca Nation**, a federally recognized sovereign Indian nation, with an address of 12837 Route 438, Irving, New York 14081 and 90 Ohi:yo’ Way, Salamanca, New York 14779 (“**Nation**”) and _____, a _____ corporation, with an address of _____ (“**Contractor**”).

WHEREAS, the Nation is seeking to encourage its members located in the Western New York region to install and operate individual home standby generator systems;

WHEREAS, Contractor represents and warrants that it has the experience, training and is an authorized distributor in the home generator industry to purchase, install and repair and maintain the individual home standby generator systems meeting the specifications set forth in Exhibit A (each, an “**Individual Project**”), and to otherwise perform its obligations pursuant to this Agreement in conformance with applicable law, including Seneca Nation law and prevailing industry standards.

NOW, THEREFORE, in consideration of the mutual promises contained herein the parties, intending to be legally bound, agree as follows:

1) Contractor. Contractor agrees to:

- a) Within 14 days of receipt of no less than eight (8) Interest Notices (as defined below) from the Nation, conduct the necessary inspection and deliver a firm cost itemization in the form attached as Exhibit B to each named Interested Nation Member (defined below) identified in each Interest Notice for an Individual Project at the location and as otherwise specified in each Interest Notice. Such firm cost itemization shall remain valid for a period of 120 days from the effective date set forth in Exhibit B. In the event there are no construction agreements (form of which is attached as Exhibit C) fully executed by the 121st day after such date, either party shall have the right to require that a new firm cost itemization be prepared;
- b) Enter into a Construction Agreement for Individual Home Standby Generator Systems with the Nation for all Eligible Nation Members (as hereafter defined) in the form and substance attached as Exhibit C (such agreement, the “**Installation Agreement**”); and
- c) If the Nation opts to install systems using an internal department or partner, Contractor will provide the necessary training, oversight and inspections. If this option is selected, the labor savings could reduce the cost from Contractor. The terms and logistics of this program would be subject to a separate agreement outlining the terms and conditions.

2) Nation. The Nation agrees to:

- a) Notify Nation members of the opportunity to purchase and have installed an Individual Project;
- b) Identify Eligible Nation Members to Contractor; and
- c) Enter into an Installation Agreement with Contractor for all Eligible Nation Members.

3) Interest Notice. An “**Interest Notice**” is a written noticed delivered to Contractor by the Nation pursuant to this Agreement identifying an Interested Nation Member and delivering a “Preliminary

Information for Home Standby Generator Installation” form from such Interest Nation Member. A copy of such form is attached as Exhibit D.

4) Interested Nation Member. An “**Interested Nation Member**” is the person(s) meeting all of the following criteria:

- a) A Nation member with a residence in Nation Territory and which has no other uses on such property;
- b) That has delivered a completed “Interest Notice” form to the Nation;
- c) Has paid to the Nation a refundable good faith deposit; and
- d) Has committed to the Nation to install an Individual Project, subject to acceptance of the cost of same.

5) Eligible Nation Member. An “**Eligible Nation Member**” is the person(s) meeting all of the following criteria:

- a) Is a Nation member;
- b) Is proposing to build an Individual Project at its residence on Nation Territory;
- c) Owns the property at which the residence is located, and provides proof of same satisfactory to the Nation;
- d) Does not use such property for any purpose other than as a residence;
- e) Is among the first ____ Nation members determined eligible by the Nation for the enhanced subsidy or the standard subsidy, as the case may be; and
- f) Must be in compliance with all Nation laws.

6) Limitations on Nation Obligations. Notwithstanding any other provision of this Agreement:

- a) The Nation shall have no further responsibility hereunder if, after seven (7) months from the Effective Date, no Eligible Nation Member has been identified;
- b) The Nation shall have no responsibility whatsoever in connection with any Individual Project once installation has been completed and the Individual Project Price paid; or
- c) Contractor may, but is not obligated to, enter into an installation agreement with a member that is not an Eligible Nation Member, in which case Contractor acknowledges and agrees that the Nation shall have no responsibility or liability whatsoever in connection with any such agreement.

7) Governing Law. This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Seneca Nation, without regard to principles of choice of law.

8) Mediation and Arbitration. The parties agree that all disputes and claims arising out of or relating to this Agreement shall be subject to mediation and arbitration.

- a) The parties agree to attempt to settle any dispute through direct discussions and mediation before recourse to arbitration. Mediation, if necessary shall be pursued in accordance with the Rules of the American Arbitration Association. The parties agree to conclude such mediation within thirty (30) days of the filing of the request.
- b) All disputes, claims and differences not settled as provided for in this Section, arising out of or in connection with the Agreement shall be referred to the American Arbitration Association or an alternate service mutually agreed upon by the parties (“**Arbitrator**”), at the offices of the Arbitrator closest to where the Property is located, for arbitration

before a mutually agreed upon member or panel of the Arbitrator in accordance with the applicable rules of arbitration of such Arbitrator, or such rules as may otherwise be mutually agreed upon by the parties. The Arbitrator's decision shall be final, subject to Section 13. Each party shall be responsible for its share of the arbitration fees in accordance with the applicable rules of arbitration.

9) Notices. All notices which are required or desired to be given hereunder shall be in writing and shall be deemed given: (i) one Business Day after deposit with a nationally recognized overnight courier service marked for overnight delivery and with all fees prepaid, or (ii) two Business Days after deposit in the United States mail if sent registered or certified mail, return receipt requested, with all postage and other charges prepaid, or (iii) upon receipt of a telefax or electronic mail (or, if that is not on a Business Day, then on the immediately following Business Day), or (iv) upon the day of actual receipt (or refusal to accept actual delivery) if given or sent by any other means; and in any of such cases addressed to the Nation and Contractor at the addresses listed above.

10) Entire Agreement. This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and commitments with respect thereto. There are no other oral understandings, terms or conditions and neither Party has relied upon any representation, express or implied, not contained in this Agreement.

11) Amendments. This Agreement may be modified or amended only by a written instrument signed by the Parties.

12) Severability. If any provision of this Agreement is found to be invalid, illegal or unenforceable, the remaining provisions hereof shall remain in full force and effect.

13) Sovereign Immunity. By entering into this Agreement, Nation does not intend to waive sovereign immunity, and nothing contained herein shall be construed as a waiver of any kind of Nation's sovereign immunity.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

OWNER:
Seneca Nation

CONTRACTOR:

By: _____
Printed Name:
Title:
Date:

By: _____
Printed Name:
Title:
Date:

EXHIBIT A

Individual Project Specifications

TBD

[NEED CLIENT INPUT]

EXHIBIT B

Calculation of Individual Project Price – Date: _____

TBD

EXHIBIT C

Form of Installation Agreement

4855-5436-2957



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, Rickey L. Armstrong, Sr., 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 Exhibit B (“Contract Sum” or “Individual Contract Price”). Payment shall be made upon satisfactory progress of the project based on the attached Exhibit B, 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 entire above-described work shall commence on or about _____ and 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 200.235.
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.** By entering into this Agreement, the Nation does not intend to waive its sovereign immunity, and nothing in this Agreement shall be construed as a waiver of any kind of the Nation's sovereign immunity.

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: _____
Rickey L. Armstrong, 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 of Indians, I consent to an investigation into my background and employment history. This document authorizes release to the Seneca Nation of Indians 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 of Indians, (*insert name of company*) _____ hereby consents to the release of any and all information to the Seneca Nation of Indians.

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

1. to provide the Seneca Nation of Indians, 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

EXHIBIT B
Contract Sum

EXHIBIT C
Payment Schedule

EXHIBIT D
Interest Notice

Preliminary Information for Home Standby Generator Installation at

Pursuant to Seneca Nation Home Standby Generator Program

Customer Name: _____

Address: _____

Name of electric utility company: _____

Electric utility account number: _____

List the roofing material (asphalt, metal, etc.): _____

If known, how many layers of roofing exist: _____

Age of roof: _____

Main electric service panel rating (200A, 150A, etc.): _____

Location of main electric service panel (basement, garage, etc.): _____

Is there a generator hooked up to the house: _____

Provide copy of electric utility invoice: _____

*Seneca Energy will require a copy of a recent electric utility bill to verify appropriate system sizing and to submit with the NYSERDA incentive application.