

AGREEMENT BETWEEN OWNER AND CONSTRUCTION CONTRACTOR

(Small Contract Form, under \$250,000)

The _____ (Owner) and _____
_____ (Contractor), enter into the following Contract.

1.0 SCOPE OF WORK

1.1 The work to be performed under this Contract is known as _____
_____ and consists of providing all labor, materials, tools, permits, and services to complete _____

1.2 The specifics of this work are set forth in Attachment A (Plans and Specifications).

2.0 CONTRACT SUM

2.1 The Contractor shall be paid the fixed price contract sum of \$ _____
for all the work required under this Contract subject to additions and deductions approved in writing by
Owner as change orders.

3.0 PAYMENTS

3.1 The Contractor shall be paid upon completion and acceptance of work on the following payment
schedule:

- Payment in full upon completion and acceptance of all work.
- Payment every two weeks for work completed and accepted to that date.
- Payment for work completed and accepted at following stages: _____

(Check box. If no box is checked, then the first box shall be deemed checked.)

3.2 Retainage of 10% will be withheld from each payment until full and final completion, except that the
sum of \$1,000.00 may continue to be withheld for a period of three months after full and final completion.
The Owner may use this withholding if necessary to correct any work or obligation, including warranty
obligations, that the Owner finds that the Contractor has failed to perform. If no claims exist, these sums
shall be released to the Contractor.

3.3 At any time the Owner may require evidence, including written releases, that all laborers,
subcontractors and suppliers are being properly paid by the Contractor or by any subcontractor.

4.0 DATE OF COMMENCEMENT, COMPLETION AND CLAIMS

4.1 The Contractor agrees to properly complete all the work required under this Contract no later than
_____, _____. No Notice to Proceed will be issued on this Contract. The
Contractor shall commence work within ten days of the date of this Contract and shall continue diligently
and continuously until completion. If the Contractor fails to complete all the work by the above date, the
Owner may recover damages for its actual and consequential losses as well as attorneys' fees and other
legal costs. It is agreed that time is of the essence. The Contractor shall not be entitled to damages for
Owner caused delays but may receive time extensions if justified.

4.2 If the Contractor has a claim under this Contract, he shall put the claim in writing and deliver it to the Owner within 15 days of the claim having arisen, or the Contractor waives his claim. Such a claim shall not excuse work from proceeding as scheduled.

5.0 EXPRESS WARRANTIES

5.1 The Contractor expressly warrants that all material and equipment furnished under this Contract will be of good quality and new unless otherwise required or permitted expressly by the Plans and Specifications (Attachment A), that all work will be free from defects, and that all work will conform to the requirements of this Contract. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, improper or insufficient maintenance, improper operation, or normal usage. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

6.0 INSURANCE

6.1 Before commencing work, the Contractor must furnish the Owner with certificates of insurance, in a form acceptable to the Owner, showing that the following minimum insurance is in force and will insure all operations under this Contract:

<u>Workers' Compensation:</u>	In accordance with State Workers' Compensation laws for the State in which the work is located.
<u>Commercial General Liability:</u>	Combined single limit for bodily injury and property damage of not less than \$300,000 per occurrence.
<u>Automobile Liability:</u>	Combined single limit for bodily injury and property damage of not less than \$300,000 per occurrence.
<u>Builder's Risk (fire and extended):</u>	\$ _____ (if not applicable, write N/A)

6.2 Insurance shall be carried with companies which are financially responsible and admitted to do business in the State in which the work is located. All certificates of insurance shall show the Owner as additional loss payee and shall provide that no coverage may be cancelled or non-renewed by the insurance company until at least thirty days written notice has been given to the Owner. The Contractor shall not allow insurance coverage to lapse during the construction period and until at least final acceptance of all work. The Contractor shall be liable for all work until it is fully and formally accepted by the Owner and the Contractor assumes all risk until that time.

6.3 The Contractor is responsible for assuring that each subcontractor also carries the above required minimum insurance coverage and continues such coverage in full force and effect for the construction period and until final acceptance of all work.

7.0 LABOR

7.1 If other labor is hired or contracted for, the Contractor and any subcontractor must abide by all Owner, tribe, state and federal employment rules, as applicable, including workers' compensation, Indian preference, Davis-Bacon prevailing wage rates (for contract sums in excess of \$2,000) and Tribal Employment Rights Ordinance. This includes but is not limited to proper and prompt payment. The Contractor shall complete and submit periodically all required payroll/work reports upon request of Owner.

8.0 INSPECTIONS

8.1 The Contractor shall maintain and carry out an adequate inspection system and ensure that work performed under the Contract conforms to Contract requirements. All work is subject to the right of Owner to inspect at all places and times. Owner inspections do not relieve the Contractor of responsibility for providing adequate quality control measures nor relieve the Contractor of responsibility for strict compliance with the terms of this Contract.

9.0 ASSIGNMENT/SUBCONTRACT

9.1 The Contractor may not assign nor subcontract any of the work covered by this Contract without the prior written permission of the Owner, but such permission, if granted, does not constitute the Owner's approval of a particular subcontractor. The Contractor must also provide the Owner written notice of all subcontractors prior to commencement of any work by a subcontractor.

10.0 TERMINATION

10.1 The Owner may terminate the Contractor's right to proceed under this Contract with or without cause. Such termination shall be effective immediately upon delivery of written notice to the Contractor. If the Owner terminates without cause, the Contractor shall be paid a fair and reasonable amount for the work properly completed prior to the notice of termination.

11.0 INDIAN PREFERENCE

11.1 The work to be performed under this contract is on a project subject to section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)) (the Indian Act). Section 7(b) requires that, to the greatest extent feasible:

- (A) Preferences and opportunities for training and employment shall be given to Indians; and
- (B) Preferences in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned economic enterprises.

11.2 The parties to this contract shall comply with the provisions of section 7(b) of the Indian Act.

11.3 In connection with this contract, the contractor shall, to the greatest extent feasible, give preference in the award of any subcontracts to Indian organizations and Indian-owned economic enterprises, and preferences and opportunities for training and employment to Indians.

11.4 The contractor shall include this section 7(b) clause in every subcontract in connection with the project; shall require subcontractors at each level to include this section 7(b) clause in every subcontract they execute in connection with the project; and shall, at the direction of the recipient, take appropriate action pursuant to the subcontract upon a finding by the recipient or HUD that the subcontractor has violated the section 7(b) clause of the Indian Act.

12.0 REQUIREMENTS IMPOSED BECAUSE OF FEDERAL FUNDING

12.1 The additional requirements imposed by federal funding sources set forth in Attachment B (Other Federal Requirements) must also be complied with by the Contractor and subcontractors and are made part of this Contract.

13.0 MODIFICATIONS OR AMENDMENTS

13.1 This Contract may not be modified nor amended unless in a writing signed by both parties. Any additions or modifications executed at the time of signing of this Contract must be set forth in Attachment C. In the event of any conflict between items in Attachment C and items in the rest of the Contract, Attachment C controls.

This Contract is dated this _____ day of _____, _____.

OWNER:

CONTRACTOR:

_____ (type of entity)

_____ (type of entity)

By: _____

By: _____

Title: _____

Title: _____

_____ (mailing address)

_____ (mailing address)

_____ (city) _____ (state) _____ (zip code)

_____ (city) _____ (state) _____ (zip code)

Telephone: _____

Telephone: _____

Fax: _____

Fax: _____

ATTACHMENT A

to Agreement Between Owner and Construction Contractor

PLANS AND SPECIFICATIONS

(Owner's initials) (date)

(Contractor's initials) (date)