

Oneida Tribe of Indians of Wisconsin

BUSINESS COMMITTEE



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.



UGWA DEMOLUM YATE
Because of the help of
this Oneida Chief in
cementing a friendship
between the six nations
and the colony of
Pennsylvania, a new
nation, the United States
was made possible.

P.O. Box 365 • Oneida, WI 54155
Telephone: 920-869-4364 • Fax: 920-869-4040

RESOLUTION #7-5-06-DDD

CTF55T43353
CENTRAL ONEIDA PATHWAY PROJECT
(SMIT FARM)

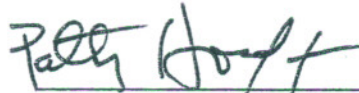
- WHEREAS, the Oneida Nation of Wisconsin is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States, and
- WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Nation of Wisconsin, and
- WHEREAS, the Oneida Business Committee has been delegated the authority of Article IV, Section 1 of the Oneida Tribe Constitution by the Oneida General Council, and
- WHEREAS, Congress by enactment of the Safe Accountable Flexible Efficient Transportation Equity Act - Legacy for Users (SAFETEA-LU) provided a mechanism for Indian Tribes to exercise the right of SELF-DETERMINATION, and
- WHEREAS, Safe Accountable Flexible Efficient Transportation Equity Act- Legacy for Users (SAFETEA-LU), has provided funding to the Bureau of Indian Affairs for the purpose of Transportation Planning , Design, Construction and Maintenance on Oneida Nation Land ,
- WHEREAS, the Oneida Nation has the staff, equipment and expertise required to successfully administer Transportation Planning and contracting on the Oneida Nation reservation, and
- WHEREAS, the Oneida Nation Department of Public Works is responsible for providing Transportation Planning, Design, Construction and Maintenance service on Oneida Nation Roads.

NOW THEREFORE BE IT RESOLVED: the Bureau of Indian Affairs has submitted to the Oneida Nation Contract No. CTF55T43353 for \$76,000.00 for the purpose of Planning, Design, Archaeological / Environmental of the right-of-way for the Central Oneida Pathway System.

BE IT FURTHER RESOLVED: that the Oneida Nation hereby authorizes its chairperson, Gerald L. Danforth, and Tribal Secretary Patty Hoeft, to sign Contract CTF55T433353 for the above stated purpose.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of nine (9) members of whom five (5) members constituting a quorum. 6 were present at the meeting duly called, noticed, and held on the 5 day of July, 2006; that the foregoing resolution was duly adopted at such meeting by a vote of 5 members for; 0 members against; 0 members not voting; and that said resolution has not been rescinded or amended in any way.



Patty Hoeft, Tribal Secretary
Oneida Business Committee



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

ENGINEERING/ROADS

Midwest Regional Office

Bishop Henry Whipple Federal Building

One Federal Drive, Room 550

Ft. Snelling, MN 55111



IN REPLY REFER TO:

Engineering/Roads

CONTRACT NO. CTF55T43353

JUN 5 2006

Honorable Gerald Danforth
Chairman, Oneida Tribe of Wisconsin
Attn: Mike Finn, Transportation Planner
P.O. Box 365
Oneida, Wisconsin 54155

Dear Chairman Danforth:

The purpose of this letter is to officially notify you that the Bureau has funds available for the Tribe to furnish all labor, materials, equipment, and personnel to perform **a portion of the design and construction of the Smit Farm project** on the Oneida Indian Reservation.

Enclosed is the Preliminary Government's Estimate for a total of \$406,000.00 which includes design and construction costs. **We currently have available \$76,000.00 for the Tribe to complete the planning, design, archaeological, environmental and right-of-way.** Additional funds, when available, can be added to this contract for the construction portion of the project and can be used upon final completion and approval of the project design, arch., environmental and right-of-way.

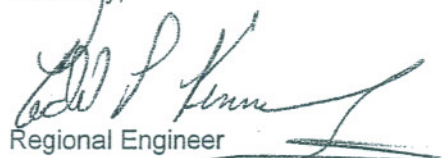
Enclosed for your consideration is our "Standard Contract Format" for an Engineering and Construction Contract. This "Standard Contract Format" describes the terms, conditions, provisions, and program standards associated with a Construction Contract. Use of this "Standard Contract Format" is optional. This would only expedite the negotiation and award of a Public Law 93-638 Contract for this project.

If you wish to contract, please complete and return the following documents and all pages marked to the attention of the Midwest Regional Office, Branch of Roads, by **June 30, 2006.**

1. Standard Form 26
2. Bid Schedule Cost
3. Authorizing Tribal Resolution (unless previously provided)
4. CPA Certification (unless previously provided)

Thank you again for your attention to this matter, and if you should have any questions, please do not hesitate to call either me at 612-725-4551 or Tony Saccoman, Civil Engineer at 612-725-4555.

Sincerely,


Regional Engineer

Enclosures:

Standard Form 26
Boiler Plate
P638 Road Construction Application

2. Contract (Proc. Inst. Ident.) NO. CTF55T43353 3. EFFECTIVE DATE Date of Award 4. REQUISITION/PURCHASE REQUEST/PROJECT NO. F5501600 (Smit Farm Project)

5. ISSUED BY CODE AWARDING OFFICIAL U.S. Department of the Interior -Bureau of Indian Affairs One Federal Drive, Room 550 Fort Snelling, MN 55111-4007 6. ADMINISTERED BY (If other than Item 5) SAME CODE

7. NAME AND ADDRESS OF CONTRACTOR (no.,street,city,county,State and ZIP Code) Oneida Tribe of Wisconsin P.O. Box 365 Oneida, Wisconsin 54155 8. DELIVERY () FOB ORIGIN () OTHER (See below) 9. DISCOUNT FOR PROMPT PAYMENT 10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN: (5) ITEM

11. SHIP TO/MARK FOR CODE N/A FACILITY CODE 12. PAYMENT WILL BE MADE BY P638 Payment System CODE

13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: N/A 14. ACCOUNTING AND APPROPRIATION DATA SIGNATURE DATE () I hereby certify that funding is available SEE "Certification of Funding"

15A. ITEM NO.	15B. SUPPLIES/SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE	15F. AMOUNT
1	The Oneida Tribe of Wisconsin shall furnish all labor, materials, equipment, and personnel to perform the design & construction of a road called Smit Farm Project (Project ID F5501600) located on the Oneida Reservation in full accordance with the terms, provisions, conditions of this contract.	1	each		

15G. TOTAL AMOUNT OF CONTRACT

(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
		PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES	
X	A	SOLICITATION/CONTRACT FORM			I	CONTRACT CLAUSES	
	B	SUPPLIES OR SERVICES AND PRICES/COSTS				PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.	
	C	DESCRIPTION/SPECS./WORK STATEMENT			J	LIST OF ATTACHMENTS	
	D	PACKAGING AND MARKING				PART IV - REPRESENTATIONS AND INSTRUCTIONS	
	E	INSPECTION AND ACCEPTANCE			K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	
	F	DELIVERIES OR PERFORMANCE				INSTRS., CONDS., AND NOTICES TO OFFERORS	
	G	CONTRACT ADMINISTRATION DATA			L	EVALUATION FACTORS FOR AWARD	
	H	SPECIAL CONTRACT REQUIREMENTS			M		

CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE

17. () CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return _____ copies to issuing office) Contractor agrees to furnish and deliver all items or perform all the services including the additions or changes made by you which additions or changes are set forth in full above, and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) award/contract, (b) the solicitation, if any and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.) 18. () AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____, including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No. further contractual document is necessary.

19A. NAME AND TITLE OF SIGNER (Type or print) Chairman, Gerald Danforth Oneida Tribe of Wisconsin 19b. NAME OF CONTRACTOR 19c. DATE SIGNED 20A. NAME OF CONTRACTING OFFICER STUART S. MANI (AWARDING OFFICIAL) BIA-2001-L2-000008 20B. UNITED STATES OF AMERICA 20C. DATE SIGNED BY → See next page (Signature of person authorized to sign) BY (Signature of Contracting Officer)

AWARD/CONTRACT		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 350)	RATING	PAGE OF PAGES
2. Contract (Proc. Inst. Ident.) NO. CTF55T43353		3. EFFECTIVE DATE Date of Award	4. REQUISITION/PURCHASE REQUEST/PROJECT NO. F5501600 (Smit Farm Project)	
5. ISSUED BY WARDING OFFICIAL S. Department of the Interior -Bureau of Indian Affairs One Federal Drive, Room 550 Fort Snelling, MN 55111-4007		6. ADMINISTERED BY (If other than Item 5) SAME		

7. NAME AND ADDRESS OF CONTRACTOR (no.,street,city,county,State and ZIP Code) Oneida Tribe of Wisconsin P.O. Box 365 Oneida, Wisconsin 54155		8. DELIVERY () FOB ORIGIN () OTHER (See below)	
		9. DISCOUNT FOR PROMPT PAYMENT	
		10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN: (5)	ITEM

CODE	FACILITY CODE	11. SHIP TO/MARK FOR N/A	12. PAYMENT WILL BE MADE BY P638 Payment System
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13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: N/A () 10 U.S.C. 2304(c)() () 41 U.S.C. 253(c)()	14. ACCOUNTING AND APPROPRIATION DATA () I hereby certify that funding is available SEE "Certification of Funding"	SIGNATURE	DATE
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15A. ITEM NO.	15B. SUPPLIES/SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE	15F. AMOUNT
1	The Oneida Tribe of Wisconsin shall furnish all labor, materials, equipment, and personnel to perform the design & construction of a road called Smit Farm Project (Project ID F5501600) located on the Oneida Reservation in full accordance with the terms, provisions, conditions of this contract.	1	each		
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17. () CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return _____ copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services including the additions or changes made by you which additions or changes forth or otherwise identified above and on any continuation sheets for the contract shall be subject to and governed by the following documents: (a) the Government's solicitation and your award/contract, (b) the solicitation, if any and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)

18. () AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____, are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your award/contract, and (b) this award/contract. No further contractual document is necessary.

19A. NAME AND TITLE OF SIGNER (Type or print) Chairman, Gerald Danforth Oneida Tribe of Wisconsin	19C. DATE SIGNED 7/14/06	20A. NAME OF CONTRACTING OFFICER STUART S. MANI (AWARDING OFFICIAL) BIA-2001-L2-000008	20B. UNITED STATES OF AMERICA	20C. DATE SIGNED
b. NAME OF CONTRACTOR		BY _____ (Signature of Contracting Officer)		

CONTRACT NO. CTF55T43353

**Indian
SELF-DETERMINATION
TWO-PHASE ENGINEERING/CONSTRUCTION
CONTRACT AGREEMENT**

ENTERED INTO UNDER THE AUTHORITY OF
TITLE I OF PUBLIC LAW 93-638 (AS AMENDED)

BETWEEN

Oneida Tribe of Wisconsin

AND

THE UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

FOR

PLANNING, SURVEY, DESIGN, ARCHAEOLOGY, ENVIRONMENTAL, RIGHT-OF-WAY,
CONSTRUCTION AND CONSTRUCTION INSPECTION
FOR THE SMIT FARM PROJECT (I.D. # F5501600)

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2. Tribal Resolution Authorizing this Contract
3. CPA Certification of Tribal Accounting/Management Systems
4. Designation of Awarding Official's Technical Representative (AOTR)

SECTION "A"

CONTRACT FORM

&

AGREEMENT

**GENERAL TERMS, PROVISIONS AND
CONDITIONS**

GENERAL TERMS, PROVISIONS & CONDITIONS

**Agreement Between the Secretary of the Interior
and the
ONEIDA TRIBE OF WISCONSIN**

Contract Number: CTF55T43353

1. AUTHORITY: This agreement, denoted as a **TWO-PHASE DESIGN/BUILD Self Determination** contract (referred to in this agreement as the "Contract"), is entered into by the Secretary of the Interior (referred to in this agreement as the Secretary"), for and on behalf of the United States of America, pursuant to Title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et. seq.), **in accordance with subpart J of 25 CFR Section 900, entitled the Indian Self-Determination and Education Assistance Act Amendments** and by the authority of the Oneida Tribe of Wisconsin (referred to in this agreement as the "Contractor"). This Contract consists of the following 2-phases:

PHASE ONE: The Contractor shall perform the survey, design, right-of-way, archeological and environmental services, for the Bureau of Indian Affairs Roads Construction Projects as identified in Section B of this contract, in full accordance with the statement of work, program standards, and the terms, provisions, and conditions of the contract, on a firm-fixed price payment basis, for work performed by the Contractor, and accepted by the Government. All work performed by the Contractor during this phase must be completed by the Contractor, and accepted by the Government, before the Contractor can proceed with Phase Two of contract.

Note: Section B of the Contract identifies the work to be performed, the estimated dollar amount to perform the work, and who (Contractor or Government) is responsible for performing the work.

PHASE TWO: The Contractor shall perform the Construction for the Bureau of Indian Affairs Roads Construction Projects identified in Section B of this contract, in full accordance with the statement of work, program standards, and the terms, provisions, and conditions of the contract, on a firm-fixed unit price, payment basis, for work performed by the Contractor, and accepted by the Government. The Contractor, following the completion of Phase One of this Contract, and prior to the Contractor's start of Phase Two of this Contract, shall submit its bid to the Government for the work to be performed during Phase Two of this contract. A fair and reasonable price for the work to be performed under this phase will be negotiated between the Contractor and the Government in accordance with the provisions of 25 CFR 900 Subpart J, Section 900.128.

2. PURPOSE: Each provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and each provision of this Contract shall be liberally construed for the benefit of the Contractor to transfer the funding and the following related non-inherent Federal functions, services, and activities, that are otherwise contractible under section 102(a) of such Act, including all related administrative functions, from the Federal Government to the Contractor; the **ADMIN/PLANNING, SURVEY, DESIGN, ARCHAEOLOGICAL, ENVIRONMENTAL, RIGHT-OF-WAY, CONSTRUCTION AND CONSTRUCTION INSPECTION** of the Bureau of Indian Affairs Indian Reservation Road (IRR) Program and Indian Reservation Roads Bridge (IRBP) Program for approved road and bridge project activities on the ONEIDA INDIAN RESERVATION as identified in Section B of this contract.

This self-determination construction contract is a government-to-government agreement that transfers control of the construction project(s), including administrative functions, to the contracting Indian tribe or tribal organization to facilitate effective and meaningful participation by the Indian tribe or tribal organization in planning, conducting, and administering the construction project(s), and so that the construction program is responsive to the true needs of the Indian Community.

3. CONTRACTORS OBLIGATION: The Contractor shall furnish the necessary qualified personnel, including licensed engineers and architects, materials, equipment services, and facilities to administer and perform the following Non-Inherent Federal Functions of the Indian Reservation Roads (IRR) Program and the Indian Reservation Roads Bridge (IRRBP) Program, **ADMIN/PLANNING, SURVEY, DESIGN, ARCHAEOLOGICAL, ENVIRONMENTAL, RIGHT-OF-WAY, CONSTRUCTION AND CONSTRUCTION INSPECTION** for the Bureau of Indian Affairs Road Construction Projects as identified in **Section B** entitled "**Budget Control Schedule**" which are located on, or provide access to the **ONEIDA INDIAN RESERVATION**, in full accordance with the Terms, Conditions, Program Standards, Program of Requirements, and all Provisions of this contract. **PRELIMINARY DESCRIPTION OF PROJECT: design and construction of the Smit Farm Project located on the Oneida reservation, Outagamie county, Wis.**

4. CONTRACT TERM AND EFFECTIVE DATE: The term of this contract shall become effective from the date of execution of this contract by the Contractor and the Government. The Contractor agrees to complete the work under this contract by the expiration date of 12/31/2007 subject to such extensions as may be authorized by the terms of the contract and the specifications made as part thereof. Upon final approval of all PS&E documents (including Archeological, Environmental and Right-of-Way documents) by the Bureau of Indian Affairs, the Contractor agrees to prepare and submit to the Government a progress schedule in accordance with FAR Clause 52.236.15, and agrees to provide Bond(s), Certificate(s) of Insurance, Safety plan, and Sub-Contractor plan prior to commencement of any construction work and issuance of a "Notice to Proceed" by the Government.

5. FUNDING AMOUNT: Contract \$76,000.00 The total amount of this contract is stated in the Award/Contract Document and is shown in **Section B** entitled "**Budget Control Schedule**" project activities that have been approved in the **Transportation Improvement Plan (TIP) located on or near the ONEIDA INDIAN RESERVATION**. For performing this contract the Contractor shall be paid for its allowable and allocable direct costs not to exceed the total budget amount stated in the Award/Contract document which identifies the **ADMIN/PLANNING, SURVEY, DESIGN, ARCHAEOLOGICAL, ENVIRONMENTAL, RIGHT-OF-WAY, CONSTRUCTION AND CONSTRUCTION INSPECTION**. The amount of this Contract may, during the life of this Contract, include sums which are based on tentative allocations of funds which the Bureau believe will be available. The actual allocation(s) of funds may be less than the tentative allocation(s) when the United States Congress makes appropriations. By signing this Contract, or any modifications thereto, the Contractor understands that all contract funds are subject to availability, the Contractor acknowledges that: (1) **The contract amount is based on a tentative allocation of funds;** (2) **that the actual allocation of funds may be less than the funds identified in the contract;** and, (3) **it may become necessary to modify the Contract to reflect the actual allocation and (4) that any such modification is required by law (25 U.S.C. 450j-1).** Notwithstanding any other provision of law, any funds provided under this contract should remain available until expended.

6. PAYMENT: The total amount of this contract is stated in the Award/Contract document and is shown **Section B** entitled "**Budget/Control Schedule**". The Contractor shall be paid for its allowable direct costs, not to exceed the total amount negotiated between the Contractor and the Government for the Design and Construction identified in the Project Control Schedule and completed construction Bid Schedule. **The Contractor agrees that they will pay any amount exceeding the amount of funding provided by this contract, as necessary to complete this roads construction contract in accordance with the terms, provisions, conditions as specified herein.** The contract payments shall be made upon presentation of partial pay Estimates of units of work actually performed. Each estimate shall contain an itemization of units completed by line item as stated in the Bid Schedule(s).

The Contractor shall submit such estimates to the AOTR/SubAOTR on an as needed basis. After the

AOTR/SubAOTR reviews and recommends the progress estimate (invoice) it will be transmitted to the Awarding Official for review and approval. After the Awarding Official reviews and approves the progress estimate, it will be transmitted to the Area Approving Official for ACH payments for processing through the P.L. 93-638 ACH Payment System. The allowability of costs for this contract and all subcontracts entered into under this contract shall be determined by 25 CFR Part 900, Subpart F, or if applicable OMB Circular A-87. Notwithstanding any other payment provisions of this contract, failure of the Contractor to submit required reports when due. Failure to perform or deliver the required work, supplies or services will result in the withholding of payments under this contract, unless such failure is determined to be "excusable" by the Awarding Official under the terms, provisions, and conditions of the contract. Except with respect to failures of subcontractors, the Contractor shall not be considered to have failed in performance of this contract if such failure arises out of causes beyond the control and with fault or negligence of the Contractor. The Government shall promptly notify the Contractor of its intention to withhold payment of any invoice or voucher submitted. The Awarding Official may withhold payment for failure to submit payrolls on a timely or proper basis, or for other reasons that the Awarding Official may determine appropriate.

7. AWARDING OFFICIAL'S TECHNICAL REPRESENTATIVE: The Awarding Official's Technical Representative (AOTR) will be designated by memorandum. Copies of memoranda designating Awarding Official's Representative(s) throughout the life of this Contract will be forwarded to the Contractor.

8. CONTRACT CHANGES DUE TO REGULATIONS IN PROCESS AT AWARD: mutual Agreement of the Contractor and the Bureau of Indian Affairs shall modify The Contract to be consistent with final regulations.

9. TECHNICAL ASSISTANCE- Should performance deficiencies or disagreement arise during the performance of this contract, Government shall offer and provide technical assistance to the Contractor and may oversee and provide technical assistance to the Contractor to resolve any such occurrences prior to taking any action for termination of work.

10. FEDERAL ACQUISITION REGULATION (FAR) AND DEPARTMENT OF THE INTERIOR (DOI) CLAUSES- FAR and DOI clauses applicable to the contract and any subcontract awarded under this contract are listed in Section I of this contract, and are incorporated into this contract by reference.

11. RESPONSIBILITIES OF CONTRACTOR: (a) (1) The Contractor is responsible for the successful completion of the **ADMIN/PLANNING, SURVEY, DESIGN, ARCHAEOLOGICAL, ENVIRONMENTAL, RIGHT-OF-WAY, CONSTRUCTION AND CONSTRUCTION INSPECTION** in accordance with the approved contract documents. (2) The Contractor shall provide the services of licensed and qualified architects/engineers and other consultants needed to accomplish the self-determination engineering services contract. (3) The Contractor shall administer and disburse funds provided through the contract in accordance with 25 CFR Part 900 Subpart F, Sec. 900.42 through Sec. 900.45 and implement a property management system in accordance with Subpart F, Sec. 900.51 through Sec. 900.60. (4) The Contractor shall direct the activities of project architects, engineers, and other project consultants, facilitate the flow of information between the Contractor and its subcontractors, resolve disputes between the Contractor and its subcontractors or between its subcontractors, and monitor the work produced by its subcontractors to ensure compliance with the POR. (5) The Contractor shall direct the work of its subcontractors so that work produced is provided in accordance with the contract budget and contract performance period as negotiated between and agreed to by the parties. (6) The Contractor shall, upon request, provide the Secretary with an opportunity to review and provide written comments on the project plans and specifications at any time during regular business hours. (7) The Contractor shall provide the Secretary with the plans and specifications after their final review so, if needed, the Secretary may obtain an independent government cost estimate in accordance with 25 CFR Part 900 Sec. 900.131(b)(4) for the construction of the project. (8) The Contractor shall retain project records and design documents for a minimum of 3 years following completion of the construction contract, **exclusive of those project records or documents identified in the "Statement of**

Work", or required by this Contract to be presented by the Contractor to the Government. (9) The Contractor shall provide progress reports and financial status reports quarterly, or as negotiated, that contain a narrative of the work accomplished, including but not limited to descriptions of contracts, major subcontracts, and modifications implemented during the report period and A/E service deliverables, the percentage of the work completed, a report of funds expended during the reporting period, and total funds expended for the project. (10) The Contractor shall also provide copies, for the information of the Secretary, of an initial work and payment schedule and updates as they may occur.

(b) If the Contractor is contracting to perform project construction phase activities, the Contractor shall have the following responsibilities: (1) The Contractor shall subcontract with or provide the services of **licensed and qualified architects/engineers** and other consultants as needed to accomplish the self-determination construction contract. (2) The Contractor shall administer and dispense funds provided through the contract in accordance with Subpart F, Sec. 900.42 through Sec. 900.45 and implement a property management system in accordance with subpart F, Sec. 900.51 through Sec. 900.60. (3) The Contractor shall subcontract with or provide the services of construction contractors or provide its own forces to conduct construction activities in accordance with the project construction documents or as otherwise negotiated between and agreed to by the parties. (4) The Contractor shall direct the activities of project architects, engineers, construction contractors, and other project consultants, facilitate the flow of information between the Indian tribe or tribal organization and its subcontractors, resolve disputes between itself and its subcontractors or between its subcontractors, and monitor the work produced by its subcontractors to assure compliance with the project plans and specifications. (5) The Contractor shall manage or provide for the management of day-to-day activities of the contract including the issuance of construction change orders to subcontractors except that, unless the Secretary agrees: (i) The Contractor may not issue a change order to a construction subcontractor that will cause the Contractor to exceed its self-determination contract budget; (ii) The Contractor may not issue a change order to a construction subcontractor that will cause the Contractor to exceed the performance period in its self-determination contract budget; or (iii) The Contractor may not issue to a construction subcontractor a change order that is a significant departure from the scope or objective of the project. (6) The Contractor shall direct the work of its subcontractors so that work produced is provided in accordance with the contract budget and performance period as negotiated between and agreed to by the parties. (7) The Contractor shall provide to the Secretary progress and financial status reports. (ii) The reports shall be provided quarterly, or as negotiated, and shall contain a narrative of the work accomplished, the percentage of the work completed, a report of funds expended during the reporting period, and total funds expended for the project. (ii) The Contractor shall also provide copies, for the information of the Secretary, of an initial schedule of values and updates as they may occur, and an initial construction schedule and updates as they occur. (iii) **Provide a summary of problems encountered and identification of potential problems that could hinder individual project development.** (8) The Contractor shall maintain on the job-site or project office, and make available to the Secretary during monitoring visits: contracts, major subcontracts, modifications, construction documents, change orders, shop drawings, equipment cut sheets, inspection reports, testing reports, and current redline drawings. (d) Upon completion of the project, the Indian Contractor shall provide to the Secretary a reproducible copy of the record plans (As Built) and a contract closeout report. (e) For cost-reimbursable projects, the Contractor shall not be obligated to continue performance that requires an expenditure of more funds than were awarded under the contract. If the Contractor has a reason to believe that the total amount required for performance of the contract will be greater than the amount of funds awarded, it shall provide reasonable notice to the Secretary. If the Secretary does not increase the amount of funds awarded under the contract, the Contractor may suspend performance of the contract until sufficient additional funds are awarded.

12. OBLIGATION OF THE UNITED STATES: (A) In General - The United States reaffirms the trust responsibility of the United States to the ONEIDA TRIBE OF WISCONSIN to protect and conserve the trust resources of the ONEIDA TRIBE OF WISCONSIN and the trust resources of individual Indians. Nothing in this Contract may be construed to terminate, waive, modify, or reduce the trust responsibility of the United

States to the tribe(s) or individual Indians. The Secretary shall act in good faith in upon holding such trust responsibility. If the Contractor is contracting solely to perform construction management services either under this subpart or section 108 of the Act, the Secretary has the following responsibilities: (1) The Secretary is responsible for the successful completion of the project in accordance with the approved contract documents. In fulfilling those responsibilities, the Secretary shall consult with the Contractor on a regular basis as agreed to by the parties to facilitate the exchange of information between the Contractor and Secretary; (2) The Secretary shall provide the Indian tribe or tribal organization with regular opportunities to review work produced to determine compliance with the following documents: (i) The POR, during the conduct of design phase activities. The Secretary shall provide the Contractor with an opportunity to review the project construction documents at the concept phase, the schematic phase, the design development phase, and the final construction documents phase, or as otherwise negotiated. Upon receipt of project construction documents for review, the Contractor shall not take more than 21 days to make available to the Secretary any comments or objections to the construction documents as submitted by the Secretary. Resolution of any comments or objections shall be in accordance with dispute resolution procedures as agreed to by the parties and contained in the contract; or (ii) The project construction documents, during conduct of the construction phase activities. The Indian tribe or tribal organization shall have the right to conduct monthly or critical milestone on-site monitoring visits or as negotiated with the Secretary; (b) If the Contractor is contracting to perform design and/or construction phase activities, the Secretary shall have the following responsibilities: (1) In carrying out the responsibilities of this section, and specifically in carrying out review, comment, and approval functions under this section, the Secretary shall provide for full tribal participation in the decision making process and shall honor tribal preferences and recommendations to the greatest extent feasible. This includes promptly notifying the Contractor of any concerns or issues in writing that may lead to disapproval, meeting with the Contractor to discuss these concerns and issues and to share relevant information and documents, and making a good faith effort to resolve all issues and concerns of the Contractor. The time allowed for Secretarial review, comment, and approval shall be no more than 21 days per review unless a different time period is negotiated and specified in individual contracts. The 21-day time period may be extended if the Contractor agrees to the extension in writing. Disagreements over the Secretary's decisions in carrying out these responsibilities shall be handled under subpart N governing contract disputes under the Contract Disputes Act. (2) To the extent the construction project is subject to NEPA or other environmental laws, the appropriate Secretary shall make the final determination under such laws. All other environmentally related functions are contractible. (3) If the Contractor conducts planning activities under this subpart, the Secretary shall review and approve final planning documents for the project to ensure compliance with applicable planning standards. (4) When a contract or portion of a contract is for project construction activities, the Secretary may rely on the Contractor's cost estimate or the Secretary may obtain an independent government cost estimate that is derived from the final project plans and specifications. The Secretary shall obtain the cost estimate, if any, within 90 days or less of receiving the final plans and specifications from the Contractor and shall provide all supporting documentation of the independent cost estimate to the Contractor within the 90 day time limit. (5) If the contracted project involves design activities, the Secretary shall, at any time, have the authority to review for general compliance with the contract requirements and provide written comments on the project plans and specifications. (6) If the contracted project involves design activities, the Secretary reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, for Federal government purposes: (i) The copyright in any work developed under a contract or subcontract of this subpart; and (ii) Any rights of copyright to which an Contractor or a tribal subcontractor purchases ownership through this contract. (7) Changes that require an increase to the negotiated contract budget or an increase in the negotiated performance period or are a significant departure from the scope or objective of the project shall require approval of the Secretary. (8) Review and comment on specific shop drawings as negotiated and specified in individual contracts. (9) The Secretary may conduct monthly on-site monitoring visits, or alternatively if negotiated with the Contractor, critical milestone on-site monitoring visits. (10) The Secretary retains the right to conduct final project inspections jointly with the Contractor and to accept the building or facility. If the Secretary identifies problems during final project inspections the information shall be provide to the Contractor and shall be limited to items that are materially noncompliant. (11) The Secretary can require the Contractor to suspend work under a contract in accordance with this paragraph. The Secretary may suspend

a contract for no more than 30 days unless the Contractor has failed to correct the reason(s) for the suspension or unless the cause of the suspension cannot be resolved through either the efforts of the Secretary or the Contractor. (i) **The following are reasons the Secretary may suspend work under a self-determination contract for construction:** (A) Differing site conditions encountered upon commencement of construction activities that impact health or safety concerns or shall require an increase in the negotiated project budget; (B) The Secretary discovers materially non-compliant work; (C) Funds allocated for the project that is the subject of this contract are rescinded by Congressional action; or (D) Other Congressional actions occur that materially affect the subject matter of the contract. (ii) If the Secretary wishes to suspend the work, the Secretary shall first provide written notice and an opportunity for the Contractor to correct the problem. The Secretary may direct the Contractor to suspend temporarily work under a contract only after providing a minimum of 5 working days' advance written notice to the Contractor describing the nature of the performance deficiencies or imminent safety, health or environmental issues which are the cause for suspending the work. (iii) The Contractor shall be compensated for reasonable costs, including but not limited to overhead costs, incurred due to any suspension of work that occurred through no fault of the Contractor. (iv) Disputes arising as a result of a suspension of the work by the Secretary shall be subject to the Contract Disputes Act or any other alternative dispute resolution mechanism as negotiated between and agreed to by the parties and contained in the contract. (12) The Secretary can terminate the project for cause in the event non-compliant work is not corrected through the suspension process specified in paragraph (11) of this section. (13) The Secretary retains authority to terminate the project for convenience for the following reasons: (I) Termination for convenience is requested by the Contractor; (ii) Termination for convenience is requested by the Secretary and agreed to by the Contractor; (iii) Funds allocated for the project that is the subject of the contract are rescinded by Congressional action; (iv) Other Congressional actions take place that affect the subject matter of the contract; **(v) If the Secretary terminates a self-determination construction contract for convenience, the Secretary shall provide the Contractor 21 days advance written notice of intent to terminate a contract for convenience;** or (vi) The Contractor shall be compensated for reasonable costs incurred due to termination of the contract.

The Government will provide representation at the Concept\Scoping meeting for project development. The Government will issue to the Contractor a notice of availability of funding upon receipt of yearly sub-allotments. The Government will inform the Contractor regarding any changes to the programs based on law, regulation, or policy. The Government will consult with the Contractor and identify any projects that qualify as "standby projects" on the BIA DOT Control Schedule, and advise the Contractor of the availability of excess program funds that may become available for obligation to their projects during the fourth quarter.

13. Designated Officials: No later than the effective date of this contract, the United States shall provide to the Contractor, and the Contractor shall provide to the United States, a written designation of a senior official to serve as a representative for notices, proposed amendments to the contract, and other purposes for this contract.

The Awarding Official's Technical Representative (AOTR) for this contract is:

NAME	PHONE
DAVE O'DONAHUE	715-682-2709

The Subordinate Awarding Official's Technical Representative (SubAOTR) for this contract is:

NAME	PHONE
(NAME OF SUB-AOTR if applicable)	(PHONE NO. OF SUB-AOTR if applicable)

The Official Representative to negotiate for the Contractor is:

NAME	PHONE

MIKE FINN

920-869-1059

14. MODIFICATIONS OR AMENDMENT: (A) this contract may be revised or amended by the Government as required to carry out the purpose of the project. The Government's right to order change within the scope of the contract be set forth in FAR Clause 52.243-1 Alternate III. In General - Except as provided above, and Public Law 93-638, Section 108, Section 1 (e)(2)(B), entitled "Exception", no modification to this Contract shall take effect unless such modification is made in the form of a written amendment to the Contract, and the Contractor and the Secretary provide written consent for the modification.

15. ACCOUNTING CERTIFICATION: The Contractor agrees to provide certification by a licensed accountant that the bookkeeping and accounting procedures which the tribal organization presently uses meet the standards of 25 CFR Part 900, Subpart F. In place of the certification; the Contractor may submit a written agreement to establish a bookkeeping and accounting system that meets the standards of 25 CFR Part 900, Subpart F, and to have the bookkeeping and accounting system certified before the Bureau disburses any funds under a contract awarded as a result of this funding agreement. The accounting system shall provide for the accumulation of costs throughout the contract term or performance period in such a manner as to facilitate audit or review of the financial records. Ultimate responsibility and accountability of the contracted project resides with the Contractor. By signing this contract, the Contractor certifies that its purchasing, financial and property systems fully meet the standards prescribed by 25 CFR SubPart F, and that staffing (including management and architectural/engineering resources) are adequate to satisfactorily perform the work required under this construction project. This certification does not limit BIA's authority to review the adequacy of Contractor's purchasing, financial, and property systems.

CHECK ONE:

- () Certification previously submitted, and on file at the Bureau of Indian Affairs.
- () Certification attached, see Section J.

16. DRAWINGS AND OTHER DATA TO BECOME PROPERTY OF THE GOVERNMENT: All designs, drawings, specifications, notes, and other work developed in the performance of this Contract shall be and remain the sole property of the Government and may be used on any other work without additional compensation under the Contract. The Secretary reserves a royalty free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, for General government purposes, the copyright in any work developed under this contract or a subcontract under this contract and any rights of copyright which the Contractor or subcontractor under this contract purchases ownership through this contract.

17. APPROVAL OF CONTRACT: Unless previously furnished to the Secretary, the resolution of the ONEIDA TRIBE OF WISCONSIN authorizing the contracting of the programs, services, functions, and activities identified in this Contract is attached to this Contract in Section J.

18. PRIVACY ACT REQUIREMENTS: When a tribal contractor operates a system of records to accomplish a Bureau function, the contractor shall comply with Subpart D of 43 CFR Part 2 which implements the Privacy Act (5 U.S.C. 552a).

19. FREEDOM OF INFORMATION: Unless otherwise required by law, the Bureau shall not place restrictions on tribal contractors which will limit public access to the tribal contractor's records except when records must remain confidential. The contractor shall make all reports and information concerning the contract available to the Indian people, which the contractor serves or represents.

20. AUDIT REQUIREMENTS-The Contractor agrees to arrange for, participate fully in, and respond promptly and fully to the recommendations of an annual single organization-wide audit as prescribed by the Single Audit Act of 1984, in the current Office of Management and Budget (OMB) Circular A-133 and in Title 43 Code of Federal Regulations, Part 12. The costs of such audit are allowable charges only if made in accordance with Circular provisions. Small and minority business audit firms shall be afforded maximum practicable opportunity to participate in contracts to fulfill the requirements herein. The preference requirements of Section 7(b), Public Law 93-638, shall apply and are to be enforced. The Contractor agrees to participate fully in, and respond promptly and fully to any special audit of this contract, if requested by the Awarding Official.

21. PENALTIES: Any officer, director, agent, employee or such other person connected in any capacity with this contract or any subcontract thereunder that embezzles, willfully misapplies, steals or obtains by fraud any of the money, funds, assets or property provided through the contract shall be fined not more than \$10,000 or imprisoned for not more than two years; or both; Provided, that if the amount embezzled, misapplied, stolen, or obtained by fraud does not exceed \$100, such person shall be fined not more than \$1,000 or imprisoned not more than one year, or both. The Contractor agrees to insert this clause in all subcontracts.

22. RECORDS, MONITORING AND REPORTING - The Contractor shall maintain a record keeping system and, upon reasonable advance request, provide reasonable access to such records by BIA. At a minimum, such records shall include completed daily reports of construction activities appropriate to the type of construction being performed. The Contractor shall be responsible for managing the day-to-day operations conducted under this contract and for monitoring activities conducted under this contract to ensure compliance with the contract and applicable Federal requirements. With respect to the monitoring activities of Government, the monitoring visits/inspections shall include those jointly determined to be necessary to ensure compliance with the contract, including structural integrity of the project and compliance with safety, health, and environmental standards or requirements. Prior to beginning of construction the Contractor and Government will agree upon Government's process for monitoring the project activities.

The Contractor shall maintain on the job-site or project office, and make available to the Secretary during monitoring visits; contracts, major subcontracts, modifications, construction documents, change orders, shop drawings, equipment cut sheets, inspection reports, testing reports, and current redline drawings.

When contracting for construction services the Contractor shall provide the reports identified in CFR 900.130(c)(7). In addition to reports which may be required by various other clauses of this contract, the Contractor shall submit the following reports to the Subordinate Awarding Official's Representative (Sub AOTR): (1) Daily Reports on Safety, (b) Annual Reports on Indian Employment, (c) Indian Hours Worked-by craft, (d) Indian Wages, (e) Non-Indian Hours Worked, and Non-Indian Wages.

23. Withholding Contract Payments: Withholding of Contract Payments shall be in strict compliance with 25 CFR Part 900, Sub Section 900.132.

24. Furnishing Facilities, Equipment, Supplies and Services - Budgeted Costs: This contract does not require the furnishing of Facilities, Equipment, Supplies and Services as budgeted costs. All facilities, equipment, supplies and service required to perform the actual construction work are incidental to the item listed in the bid schedule(s).

25. Billing for Indirect Cost: Any indirect costs associated with this contract are to be included in the item unit bid price for Project Representative and/or the individual item unit bid price. **No separate billing for indirect costs will be allowed.**

26. TRIBAL EMPLOYMENT RIGHTS ORDINANCE (TERO): TERO is applicable to this contract and to subcontracts pursuant to Section 7b and 7c of the Act.

27. ACCIDENT PREVENTION - The Contractor agrees to prepare a Accident Prevention Plan in accordance to **FAR Clause 52-236.13** and submit it to the Government prior to the commencement of construction work under this contract.

28. DISPUTES- This contract is subject to the Contract Disputes Act of 1978(CDA 41 U.S.C. 601 as amended).

29. SUSPENSION OF WORK- The Secretary can require an Indian Contractor or Contractor's Organization to suspend work under a contract in accordance with this paragraph. The Secretary may suspend a contract for no more than 30 days unless the Indian Contractor or Contractor's Organization has failed to correct the reason(s) for the suspension or unless the cause of the suspension cannot be resolved through either the efforts of the Secretary or the Indian Contractor or Contractor's Organization;

The following are reasons the Secretary may suspend work under a self-determination contract for construction: (a) Differing site conditions encountered upon commencement of construction activities that impact health or safety concerns or shall require an increase in the negotiated project budget; (b) The Secretary discovers materially non-compliant work; (c) Funds allocated for the project that is the subject of this contract are rescinded by Congressional action; or (d) Other Congressional actions occur that materially affect the subject matter of the contract. If the Secretary wishes to suspend the work, the Secretary shall first provide written notice and an opportunity for the Indian Contractor or Contractor's Organization to correct the problem. The Secretary may direct the Indian Contractor or Contractor's Organization to suspend temporarily work under a contract only after providing a minimum of 5 working days advance written notice to the Indian Contractor or Contractor's Organization describing the nature of the performance deficiencies or imminent safety, health or environmental issues which are the cause for suspending the work. The Indian Contractor or Contractor's Organization shall be compensated for reasonable costs, including but not limited to overhead costs, incurred due to any suspension of work that occurred through no fault of the Indian Contractor or Contractor's Organization. Disputes arising as a result of a suspension of the work by the Secretary shall be subject to the Contract Disputes Act or any other alternative disputes resolution mechanism as negotiated between and agreed to by the parties and contained in the contract.

30. TERMINATION OF WORK FOR CAUSE- The Secretary can terminate the project for cause in the event non-compliant work is not corrected through suspension process specified in paragraph 11 of 25 CFR Part 900, Section 900.131(b).

31. TERMINATION FOR CONVENIENCE- The Secretary retains the authority to terminate the project for convenience for the reasons; (i) Termination for convenience is requested by the Indian Contractor or Contractor's organization; (ii) Termination for convenience is requested by the Secretary and agreed to by the Indian Contractor or Contractor's Organization. (iii) Funds allocated for the project that is the subject of the contract are rescinded by Congressional action; (iv) Other Congressional actions take place that affect the subject matter of the contract. (v) If the Secretary terminates a self-determination construction contract for convenience, the Secretary shall provide the Indian Contractor or Contractor's Organization 21 days advance written notice of intent to terminate a contract for convenience; or (vi) The Indian Contractor or Contractor's Organization shall be compensated for reasonable costs incurred due to termination of the contract.

32. SUBCONTRACTS- The Contractor shall solicit, award and administer subcontracts in accordance with the following provisions;

PROCUREMENT SCHEDULE- The Contractor's purchases/contracts shall be **FIXED PRICE** contracts as described by the Federal Acquisition Regulations. The Contractor's purchases/contracts shall only be made to responsible subcontractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as subcontractor integrity, compliance with public policy, record of past performance, and financial and technical resources. The CONTRACTOR shall not make an award to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension." The CONTRACTOR shall provide the Government with a listing(s) of proposed subcontractors prior to award of such subcontract.

The CONTRACTOR is solely responsible, in accordance with good administrative practice and sound business judgement, for the settlement of all contractual and administrative issues arising out of its procurement. These issues include but are not limited to, source evaluation, protests, disputes, and claims. The CONTRACTOR shall maintain a code of standards for conduct to ensure that no employee, officer or agent of the CONTRACTOR participates in selection, award, or administration of a subcontract if a conflict of interest (actual or apparent) would be involved. The CONTRACTOR shall ensure that personnel selected to perform or manage the construction project are qualified in accordance with generally accepted professional standards of the industry. Architects, engineers, surveyors and other related design and construction professionals and related trade and craft practitioners shall be licensed under applicable state law or work under the direction of licensed engineers, architects and surveyors, and meet appropriate qualifications and experience requirements for the type of work involved.

COMPETITION. Unless a preference is permitted by the CONTRACTOR for a tribal or Indian subcontractor, all major procurement transactions will be conducted in a manner which provides for maximum practicable competition in order to obtain fair and reasonable costs or pricing.

REQUIREMENTS. Each contract entered into under the Act by the CONTRACTOR with a third party in connection with performing the obligations of the CONTRACTOR under this contract shall at a minimum: (a) Be in writing; (b) Identify the interested parties their authorities and the purposes of the contract; (c) State the work to be performed under the contract; and; (d) State the process for making any claim the payments to be made, and the terms of the contract, which shall be fixed priced; (e) Be subject to Section 7(b); and (c) of the Act. **INDIAN PREFERENCE.** Pursuant to Section 7(b) of the Indian Self-Determination and Assistance Act, as amended, to the greatest extent feasible, this contract and any subcontracts awarded shall require Indian preferences and opportunities for training and employment in connection with the administration of such contract/subcontracts. In addition, preference in the award of subcontracts shall be given to Indian organizations and to Indian-owned economic enterprises. Pursuant to Section 7(c) of the Indian Self-Determination and Assistance Act, as amended, the tribal employment or contract preference laws adopted by such Contractor shall govern with respect to the administration of the contract or portions of the contract. Attachment No. 9 provides a Roster of Indian/Alaska Native Economic Enterprises for possible subcontractors to perform work under this contract.

REASONABLENESS OF PRICE- In order to determine price reasonableness, the CONTRACTOR shall ensure the reasonableness of price for every procurement action, including subcontract modifications.

SUBCONTRACT PROVISIONS- The CONTRACTOR will use its own procurement system and procedures to ensure that each subcontract includes clauses required by Federal statutes and executive orders and their implementing regulations and state and local laws and regulations. At a minimum, all subcontracts shall incorporate the following terms and conditions in order to ensure structural integrity, safety, and health; and satisfactory completion of the construction project: (a) administrative, contractual, or legal remedies in instances where subcontractors violate or breach subcontract terms, and provide for such sanctions and penalties as may be appropriate; (b) termination for cause and for convenience including the manner by which it will be effected and the basis for settlement; (c) compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29

CFR Part 3); (d) except for the work performed by Tribal or Tribal Organization employees, compliance with Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). The Davis Bacon Wage Rates to be used for Subcontracts in excess of \$2,000.00 are included in the contract as Attachment No. 8. Attachment No. 8 also provides the Labor Standard Provisions which implements the Davis Bacon Act; (e) compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations (29 CFR Part 5); (f) compliance with Miller Act (40 USE 270a-270f) with regard to performance and payment bonds, at the Contractor's option; (g) notice of CONTRACTOR'S requirements and regulations pertaining to reporting; (h) notice of CONTRACTOR'S requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such subcontract. (i) notice of CONTRACTOR'S requirements and regulations pertaining to copyrights and rights in data; (j) access by the CONTRACTOR or the Government, the Comptroller General of the United States, or any of their duly authorized representatives to any book, documents, papers, and records of the subcontractor which are directly pertinent to the subcontract for the purpose of making audit, examination, excerpts, and transcriptions; (k) retention of all required records for three (3) years after final payment and all other pending matters are closed; (l) compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368) Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15); (m) mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163); (n) warranty that delivery of items or work required will be free of asbestos in any form whatsoever except for the use of asbestos cement pipe; (o) compliance with Federal Standard No. 313 (including revisions adopted during the term of the contract) with regard to Hazardous Material Identification and Material Safety Data

SUBCONTRACT ADMINISTRATION- The CONTRACTOR shall maintain a contract administration system which ensures that each subcontractor performs in accordance with the terms, conditions and specifications of its subcontract, including maintaining records which sufficiently detail the significant history of a subcontract. The CONTRACTOR has ultimate responsibility for the construction project and is not relieve of such responsibility by authorizing performance of the work by a subcontractor or BIA. Such responsibility includes but is not limited to:

(1) Providing adequate supervision, inspection, and materials testing to ensure that the project is completed in conformance with approved plans and specifications;

(2) Efficiently and effectively administering subcontracts through the application of sound management practices and business judgement, including; (a) ensuring that program funds have been expended and accounted for consistent with underlying agreements and program objectives; (b) assuming responsibility for employing whatever form of organization and management that is necessary to assure proper and efficient administration; (c) obtaining all access rights, licenses, and permits when the project is located on lands where the CONTRACTOR does not have legal jurisdiction or when special conditions warrant. In such instances, the CONTRACTOR will not be relieved from overall project responsibility and should coordinate with the entity having jurisdiction to perform the work with its own forces or by subcontract; (d) settling all contractual and administrative issues arising from procurement. These issues include, but are not limited to source evaluation, protests, disputes, and claims. The CONTRACTOR will have protest procedures to handle and resolve disputes relating to their subcontracts and shall disclose information regarding the protest to the Awarding Official; and (3) processing regular progress payments to subcontractors as work is accomplished. The CONTRACTOR is not authorized to make advance payments to subcontractors.

All subcontracts entered into under this contract shall contain the FAR clauses prescribed in Section I of this contract. The Contractor shall be responsible for the project site, regardless of the

subcontractor(s) contractual relationship to the Contractor. The Contractor shall cause to be removed from the work at the project site any subcontractor employee thereof whom the Awarding Official, in writing, finds to be incompetent, careless or otherwise objectionable. Failure of any subcontractor(s) to complete work described in its subcontract in a satisfactory manner, or without delay, will not excuse the Contractor from any delay in the completion of the entire contract except as provided in the applicable clause of this contract.

In connection with the performance of work under this contract, the contractor shall not subcontract with a subcontractor who, at the time of the subcontract award, is listed on the List of Parties Excluded from Federal Procurement or Non-procurement programs, unless otherwise authorized by the Government in accordance with Subpart 9.4 of the Federal Acquisition Regulations. The Contractor shall provide the Awarding Official with, in accordance with FAR Clause 52.209.5 "Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters" - the required certification from all proposed subcontractors to the Awarding Official for review, prior to the Awarding Official approving the Contractor's aware of any subcontract under this contract.

A consolidated List of Debarred, Suspended, and Ineligible Contractor is available for inspection at the office of the Awarding Official. In the event of the Contractor's noncompliance with the foregoing requirements, the Government may take appropriate action, including, but not limited to, requiring the Contractor to terminate any such subcontract and substitute an eligible subcontractor in lieu thereof, at no increase in the contract price or time for performance. The Contractor should note his responsibility to award all subcontracts in accordance with Section 7(b) of P.L. 93-638 which requires that to the greatest extent feasible-preferences and opportunities for training an employment in connection with the administration of this contract shall be given to Indians; and preference in the award of subcontracts in connection with the administration of this contract shall be given to Indian organizations and to Indian-owned economic enterprises as defined in Section 3 of the Indian Financing Act of 1974 (88 Stat. 77).

DAVIS BACON ACT (WAGES)-All laborers and mechanic's employed by subcontractors employed in the construction, alteration, or repair, including painting or decorating of buildings or other facilities in connection with subcontracts entered into under this contract shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Government of Labor in accordance with Davis-Bacon Act of March 3, 1931 (46 Stat. 1494), as amended.

EMPLOYMENT/SUBCONTRACTING PLANS-The Contractor is required to submit an Employment Plan and Subcontracting Plan with the proposal. If the Contractor fails to submit plans acceptable to the Awarding Official within the allowable time, the Contractor may be ineligible for award of the contract. An acceptable Subcontracting Plan will include as a minimum the following: 1. Name and address of proposed subcontractor(s). 2. Description of work to be subcontracted (bid item(s)). 3. Amount of subcontract by bid item(s). 4. Qualifications of subcontractor(s). 5. Indicate if Indian on Non-Indian subcontractor(s). 6. If Non-Indian, show proof of efforts made to obtain an Indian subcontractor. An acceptable Employment Plan will include as a minimum the following: 1. A listing of employment opportunities available as a result of this project. 2. Core Crew listing. 3. Name of Contractor's Employment Coordinator. 4. Contractor's goal for Indian employment on the project for each craft (laborers, operators, teamsters, etc.).

INSURANCE-The Contractor and any subcontractors who perform any of the projects identified in the contract shall secure, pay premiums for, and keep in force until the expiration of this contract, or subcontract under this contract, or any renewal thereof, the following insurance: (1) Workman Compensation Insurance, as required by the laws of the various states in which the contract is performed; (2) Owner's landlord's and tenant's bodily injury liability insurance with limits of not less than \$1,000,000 for each person, and \$5,000,000 for each accident; (3) Property Damage Liability Insurance with limits of not less than \$500,000 for each accident and a total limit of \$1,000,000 for damages arising out of bodily

injuries to or death of two persons in any one accident. Other insurance not specifically mentioned in the above paragraph when required by law or other regulations. Each insurance company of the Contractor or subcontractor must hold a current Certificate of Authority issued by the Director State Department of Insurance authorizing it to transact the appropriate kind of insurance business in State. To be acceptable, the policy of the insurance must contain a provision committing the insurer to pay for covered acts and omissions regardless of the fact that the same acts or omissions by the Contractor or subcontractors, its agents and employees may be covered under the Federal Tort Claims Act. Each policy of insurance shall be obtained by the Contractor shall also name the United States of America as an additional insured party to the policy. If the insurer denies coverage of a claim, does not defend the claim or does not pay the claim, and the claimant sues the Contractor or the United States or both for the injury, the following will occur: The Contractor or the United States of America, or both, will tender the defense to the insurance company. If the insurance carrier does not defend, and the Contractor or the United States of America defends or settles the claim, the insurer shall pay to the insured party that pays the claim (Contractor or United States of America). The amount of payment by the insurer will be the amount of the claim plus the cost of the defense, up to, but not to exceed the policy limit. Each policy of insurance shall contain an endorsement providing that cancellation by the insurance company shall not be effective unless a copy of the cancellation is mailed (registered) to the appropriate official of the Contractor at least 30 days before the effective date of the cancellation notice received, immediately upon receipt. A certificate of each policy of insurance, and any changes therein, shall be furnished to the Awarding Official immediately upon receipt from the insurance company. Insurance companies of the Contractor must be satisfactory to the Contracting Officer/Awarding Official. When in the Awarding Official's opinion an insurance company is not satisfactory for reasons stated in writing, the Awarding Official may recommend the contractor obtain insurance through companies, which he/she deems satisfactory.

Each policy of insurance shall contain a provision that the insurance carrier waives any rights which it may have to raise as a defense the tribe's sovereign immunity from suit, but such waiver shall extend only to claims in the amount and nature of which are within the coverage and limits of the policy of insurance. **The policy shall contain no provision, either express or implied, that will serve to authorize or empower, the insurance carrier to waiver or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.**

INDIAN EMPLOYMENT OF SUBCONTRACTORS-The Tribal Representative who will coordinate implementation of the Indian Employment requirement is:

Name:

Address:

ONEIDA TRIBE, P.O. BOX 365, ONEIDA, WISCONSIN 54155

Telephone No.:

Upon approval of the Employment Plan by the Awarding Official, the Contractor will contact the Tribal Representative to implement the plan. The Contractor shall obtain a written release from the Tribal Representative in the event no Indian employees are available for job openings. The Contractor may then proceed to hire subject to the remaining contract provisions.

BONDING- Performance and payment bonds with penal amounts equal to 100% and 50% respectively of the amount of the contract are required by law when the bid exceeds \$25,000. Such bonds are not required if all work performed under this contract is solely performed by the Tribe, or public non-profit corporations serving as a government instrumentality of the Tribe. Proof of public non-profit corporate status must be furnished to, and be satisfactory to the Awarding Official. **All subcontractors performing work under this contract are subject to bonding requirements.** A bid bond of 20% is required, and performance and payment bonds are required with penal amounts equal to 100% and 50% respectively of the amount of the contract. **Bonds are to be made payable to the Contractor.** Corporate sureties

offered for bonds furnished with this contract must be original documents and must appear on the list contained in the Department of Treasury Circular 570, entitled "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and Acceptable Reinsuring Companies".

SECTION 'B'

BUDGET/CONTROL SCHEDULE

- 1. SCHEDULE OF ALLOWABLE COSTS**
- 2. SUMMARY OF PROJECT(S) COSTS**
- 3. SCHEDULE OF PROJECT TARGET
DATES**

"PHASE ONE" CONTROL SCHEDULE
Schedule of Allowable Costs

Project Name: SMIT FARM PROJECT
Project I.D.: F5501600

<u>Program Cost Code</u>	<u>Expenditure Account Description</u>	<u>FY2005 Contract Funding Amount</u>	<u>Party Responsible For completing the work</u>	<u>Government Direct Service Estimated Amount</u>
F3103	Admin/Planning	\$ 15,000.00	CONTRACTOR	\$ 0.00
F3104	Survey	\$ 15,000.00	CONTRACTOR	\$ 0.00
F3105	Design	\$ 30,000.00	CONTRACTOR	\$ 0.00
F3106	Environmental	\$ 3,000.00	CONTRACTOR	\$ 0.00
F3107	Archeological	\$ 3,000.00	CONTRACTOR	\$ 0.00
F3108	Right of Way	\$ 10,000.00	CONTRACTOR	\$ 0.00

*Note: If the Government is identified as performing the work, the estimated dollar amount for the respective item(s) is not included in the total contract amount.

TOTAL "PHASE ONE" CONTRACT AMOUNT . . . \$ 76,000.00

"PHASE TWO" CONTROL SCHEDULE
Schedule of Allowable Costs

Project Name: SMIT FARM PROJECT
Project I.D.: F5501600

<u>Program Cost Code</u>	<u>Expenditure Account Description</u>	<u>FY2005 Contract Funding Amount</u>	<u>Party Responsible For completing the work</u>	<u>Government Direct Service Estimated Amount</u>
F3111	Construction	\$ 0.00	CONTRACTOR	\$ 0.00
F3114	Construction Insp.	\$ 0.00	CONTRACTOR	\$ 0.00

TOTAL "PHASE TWO" CONTRACT AMOUNT AVAILABLE construction funds to be added to contract when available
(BASED ON PRELIMINARY ENGINEER'S ESTIMATE)

TOTAL CONTRACT AMOUNT . . . \$ 76,000.00

CONTROL SCHEDULE
Summary of Project(s) Costs

PROJECT NAME and ACCOUNTING STRING **FY2005 AMOUNT**
(To be completed by the Government)

SMIT FARM PROJECT (F5501600)

<u>001/F00370/2006/F3103/F5501600/252I</u>	<u>\$ 15,000.00</u>
<u>002/F00370/2006/F3104/F5501600/252I</u>	<u>\$ 15,000.00</u>
<u>003/F00370/2006/F3105/F5501600/252I</u>	<u>\$ 30,000.00</u>
<u>004/F00370/2006/F3106/F5501600/252I</u>	<u>\$ 3,000.00</u>
<u>005/F00370/2006/F3107/F5501600/252I</u>	<u>\$ 3,000.00</u>
<u>006/F00370/2006/F3108/F5501600/252I</u>	<u>\$ 10,000.00</u>
<u>007/F00370/2006/F3111/F5501600/252I</u>	<u>\$ 0.00</u>
<u>008/F00370/2006/F3114/F5501600/252I</u>	<u>\$ 0.00</u>

TOTAL: = \$ 76,000.00

CONTROL SCHEDULE
Schedule of Project Target Dates

“PHASE ONE” SCHEDULE

<u>PROJECT NAME</u>	ADM/PLAN ENV/ARCH SURVEY/DESIGN <u>BEGIN</u>	ADM/PLAN ENV/ARCH SURVEY/DESIGN <u>END</u>	ADM/PLAN ENV/ARCH SURVEY/DESIGN <u>APPROVAL</u>
SMIT FARM PROJECT	<u>6/30/06</u>	<u>3/1/06</u>	<u>4/1/06</u>

“PHASE TWO” SCHEDULE

<u>PROJECT NAME</u>	ESTIMATED CONST <u>START</u>	ESTIMATED CONST <u>END</u>	ESTIMATED FINAL CONST <u>ACCEPTANCE</u>
SMIT FARM PROJECT	<u>6/1/07</u>	<u>10/1/07</u>	<u>11/1/07</u>

SECTION "C"

PROGRAM STANDARDS

&

STATEMENT OF WORK

PROGRAM OF REQUIREMENTS

Program Standards

Except as specifically provided in the Indian Self-Determination and Education's Assistance Act (25 U.S.C. 450 et. seq.) the Contractor is not required to abide by Bureau program guidelines, manuals, or policy directives of the Secretary, unless otherwise agreed to by the Contractor and the Secretary, or otherwise required by law.

The Contractor agrees to provide the services, functions and activities (or portions thereof) listed in the attached Statement of Work and in conformity with the following standards:

Applicable Laws and Regulations: 23 USC, 23 CFR, 25 CFR 170, Roads of the Bureau of Indian Affairs, 25 CFR 169, Right of Way Over Indian Lands; 16 USC 470aa-11 Conservation; 25 USC 450, Indian Self-Determination and Education Assistance Act, P.L. 93-638 as amended, 25 CFR Part 900, Indian Self-Determination and Education Assistance Act Amendments, 36 CFR 800, regulations implementing Section 106 of the National Historic Preservation Act of 1996, as amended (P.L. 89-655); 40 CFR 1500-1508, regulations implementing the National Environmental Policy Act of 1969; 43 CFR 7, Protection of Archaeological Resources implementing the Archaeological Resources Protection Act of 1979 and other applicable laws and regulations which expressly apply to Indian Tribes.

Guidelines: The October 29, 1987 draft or most recent version of the 57 BIAM; Chapter 6, Indian Reservation Roads of the Federal Aid Policy Guide; Indian Reservation Roads Program (IRRP) "Business Plan", January 2004; 30 BIAM, Supplement 1 and 48 CFR 44T16, September 29, 1983 "Secretary of the Interior's Standards and Guidelines" for Archeology and Prehistoric Preservation are incorporated into this Contract. The Federal Lands Highway Project Development and Design Manual. The design and details furnished for the roadway shall conform to the standards adopted by the American Association of State Highway and Transportation Officials (AASHTO) entitled, "A Policy on Geometric Design of Highways and Streets" 2004 Edition or those State of Wisconsin Department of Transportation Design Manuals and other applicable State of Wisconsin manuals as approved by the Federal Highway Administration (FHWA) and the Manual on Uniform Traffic Control Devices (MUTCD). Design specifications will be developed by the contractor to ensure the project is biddable and buildable in accordance with the plans and engineering standards utilizing FHWA "Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects (FP03) and/or the State of Wisconsin Department of Transportation Standard Specifications for Construction 2003 edition and latest Supplements.

Other Laws and Regulations: The Contractor agrees to comply with the "Wild and Scenic Rivers Act" of 1968, Section 102(a) of the "Flood Disaster Protection Act" of 1973 (P.L. 93-234). Title II and III of the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970", P.L. 91-646), "Lead Based Paint Poisoning Prevention Act", 42 USC 4801 et seq., Section 106 of the National Historic Preservation Act of 1996" as amended, and 42 USC 4321-4370D, the Public Health and Welfare.

Guidelines will be followed at the discretion of the Contractor however, alternative guidelines must be consistent with or exceed the above referenced guidelines and shall be approved by the Secretary.

Background: The Indian Reservation Roads (IRR) Construction Program was established on May 26, 1928, by Public Law 520 (Codified at 25 USC 318 (a)). The PL 97-424, Surface Transportation Assistance Act of 1982, incorporated the IRR program into the Federal Lands Highway Program (FLHP) and provided funds from the Highway Trust Fund (HTF), with reauthorization in 1987 and subsequent

modification under the Intermodal Surface Transportation Efficiency Act of 1991, (ISTEA), (PL 102-240) and the Transportation Equity Act for the 21st Century 1998 (TEA21) (PL 105-178). The IRR Construction program and the IRR Bridge program is authorized under the Federal Lands Highway (FLH) program, 23 USC 144, 204. The current IRR and HBRRP programs are jointly administered by the Bureau of Indian Affairs (BIA) and the Federal Highway Administration (FHWA) through a Memorandum of Agreement. PL 93-638, "Indian Self-Determination and Education's Assistance Act, as amended, provides for tribal governments to enter into Self-Determination contracts with the Secretary of the Interior to plan, conduct, and administer non inherent Federal functions, including construction programs administered by the Secretary of the Interior for the benefit of Indians for which appropriations are made to agencies other than the Department of Health and Human Services or the Department of the Interior. The purpose of the IRR Construction Program is to provide safe and adequate transportation and public road access to and within Indian reservations, Indian lands and communities for Native Americans, visitors, recreationists, resource uses and others while contributing to economic development, Self-Determination, and employment of Native Americans. {Indian Reservation Roads Business Plan, January 2004}.

The Regional Director of the Bureau of Indian Affairs establishes the policy within their respective Region's of how their Bureau IRR projects are selected and scheduled for construction and funding. Only those projects that have been approved by the Bureau and FHWA on the IRR Transportation Improvement Program (TIP) are eligible for funding under TEA21.

Performance Requirements: The Contractor shall, in accordance with the Terms, Provisions, and Conditions of the Contract, applicable laws and regulations, and utilizing appropriate guidelines as stipulated in the program standards, perform the Non Inherent Federal Contractible Functions, Services and Activities for those respective projects as identified in the contract. The Non Inherent Federal Contractible Functions, Services and Activities are to be performed for the IRR Construction Program and the IRR Bridge Program for those projects as identified and approved on the Bureau's TIP. As provided under Section 900-12 of Subpart J of 25 CFR Part 900, the design phase, including geotechnical services, shall be accomplished by licensed design and geotechnical professionals.

STATEMENT OF WORK

Performance Requirements

The Contractor shall, in accordance with the Terms, Provisions, and Conditions of this Agreement, applicable laws and regulations, perform the **ADMIN/PLANNING, SURVEY, DESIGN, ARCHAEOLOGICAL, ENVIRONMENTAL, RIGHT-OF-WAY, CONSTRUCTION AND CONSTRUCTION INSPECTION**. The Non-Inherent Federal functions, services and activities as listed below, are to be performed by the Contractor.

Administration & Planning

- 1) Administer/Report all applicable project specific activities including but not limited to planning, budgeting, accounting, and contracting.
- 2) Coordinate/plan project development with any/all affected parties including applicable Tribal/Federal/local governmental departments and transportation/planning committees.
- 3) Hold necessary project planning/scoping meetings with all applicable Tribal/local representatives, departments and committees identifying possible value engineering initiatives for the project. The objective is to ensure safe operations, perform qualitative and economical construction, and to ensure the overall project coincides with short and long-range Tribal transportation needs.
- 4) Hold necessary public hearings, pertaining to the IRR Construction project and issue public notices in accordance with 25 CFR 170.

Some road and bridge construction projects may require a public hearing in accordance with 25 CFR 170. A project public hearing may be required in accordance with the following criteria:

- ▶ A new route is being constructed,
 - ▶ A significant change is being made in layout or function of connected or related roads or streets,
 - ▶ There is a significant adverse effect on adjacent property,
 - ▶ Controversy is expected,
 - ▶ The Tribe requests a hearing.
- 5) Administer and disburse funds provided through the contract. Maintain Project/Contract files.
 - 6) Advertise and select consultants and construction contractors in accordance with the Act.

STATEMENT OF WORK

Survey and Design

The Contractor shall accomplish all work in accordance with the Contract's program standards. The Contractor shall furnish all labor, materials, equipment, drawings, notes and supervision as required to measure and record the location, topographic, hydraulic, and geotechnical data and to provide engineering services for those project activities as identified in Section B - the "Budget/Control Schedule" and as approved in the Transportation Improvement Program (TIP). Work is to be accomplished with accepted engineering and survey procedures. SURVEY AND DESIGN SHALL BE IN ENGLISH UNITS.

Note: ALL NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) CLEARANCES SHALL BE OBTAINED PRIOR TO COMMENCING ANY PROJECT CONSTRUCTION.

- 1) Establish vertical control and horizontal alignment for road survey as required for each project.
- 2) Collect and record appropriate topographic and hydraulic data as necessary to design the project.
- 3) Prepare Right-of-Way documents in accordance with 25 CFR Part 169.
- 4) Submit Right-of-Way documents to the Bureau for review and approval, and the granting of the easement and proper recording. Conduct all surveys in accordance with accepted highway engineering survey procedures.
- 5) Conduct and document route length soil and geotechnical investigation and analysis to obtain subsurface profile and to measure index properties of the various materials to predict how they will perform in the development of the plans, specifications, and engineer's estimate for the project. Professional engineering judgment and the practice of highway engineering shall be applied to determine the extent of the soil investigation required by the varied route site situations and/or conditions. The route length soil and geotechnical investigation shall conform to the minimum standards by those as identified in the POR program standards.
- 6) Design and develop all aspects of the roadway project, including, but not limited to: calculations for the determination of estimated quantities; pavement sections; horizontal and vertical alignment; cross sections; intersection details; typical sections; methods of drainage (structures); erosion control plans; and traffic control plans. The design and details shall conform to the minimum standards by those as identified in the POR program standards.
- 7) Develop special provisions as required to amend the Federal Governments and/or the State's Standard Specifications for Construction.
- 8) Develop specifications to ensure that the project is biddable and buildable, in accordance with the plans, and engineering standards, in conformance to the minimum standards as identified in the POR program standards.

STATEMENT OF WORK

Environmental Assessment Services

For each "undertaking" as defined by 42 USC 4321-4370d and 40 CFR 1500-1580 the Contractor shall perform the following function(s) for those projects as identified in the "Budget/Control Schedule" and as approved in the Transportation Improvement Program (TIP).

Prior to the Contractor performing environmental assessment services for this project the Contractor shall provide a proposed roadway site location map.

The Contractor shall accomplish all work in accordance with the Contract's program standards. The Contractor shall furnish all labor, materials, equipment, drawings, notes, and supervision as required to perform the following environmental services.

- 1) Identify and coordinate consultation of environmental assessment team which should include Tribal Planners, Tribal Environmental or Cultural Resources Staff, Bureau of Indian Affairs Area Roads Archaeologist/Environmental Coordinator, State or Tribal Historic Preservation Officer, United States Fish and Wildlife Service and any other necessary Federal, State, or local government agencies.
- 2) Identify the project's area of potential effect, which will include the proposed roadway corridor, borrow sites, and equipment or materials staging areas.
- 3) Identify and obtain all permits or certifications required by Tribal, Federal, State and or local governmental environmental laws.
- 4) Gather all data necessary, and prepare the following portions of the environmental assessment following guidelines established in the NEPA Handbook (30 BIAM Supplement 1):
 - Project Description (including Area of Potential Effect)
 - Purpose of Need for Action
 - Alternatives
 - Description of the Affected Environment
 - Environmental Consequences
- 5) Review the Bureau's Draft Environmental Assessment, which incorporates the portions of the environmental assessment contracted by the Tribe and are referenced above.
- 6) Prepare and arrange all public notices and public hearings regarding environmental issues required by NEPA. Publish Notice of Availability and Draft Unsigned Finding of No Significant Impact (FONSI) in local newspaper and Tribal Offices..
- 7) Evaluate any comments and incorporate any significant changes to the contracted portions and above referenced parts of the Draft Environmental Assessment produced by the Tribe.

STATEMENT OF WORK

Archaeological Services

For each "undertaking" as defined by 36 CFR 800, the contractor shall perform the following function(s) for those projects as identified in the "Budget/Control Schedule" and as approved in the Transportation Improvement Program (TIP). Prior to performing archeological services for this project, the Contractor shall provide a proposed roadway site location map.

The Contractor shall accomplish all work in accordance with the Contract's program standards and in compliance with Section 106 of the National Historic Preservation Act, and the Archaeological Resources Protection Act. The Contractor shall furnish all labor, materials, equipment, drawings, notes, and supervision as required to perform the following archaeological services.

- 1) Identify the project's area of potential effect, which will include the proposed roadway corridor, borrow sites and staging areas for equipment or materials.
- 2) Identify all recorded historic properties or archaeological sites and human burials within or nearby the project's area of potential effect. Identify all previous archaeological investigations within or nearby the project's area of potential effect.
- 3) Develop and implement measures for the identification, evaluation and protection of cultural resources and historical properties within the area of potential effect of the roadway construction project.
- 4) Prepare and submit reports of investigation and any state archaeological site inventory forms to the Bureau of Indian Affairs. The Bureau of Indian Affairs will coordinate the results with the appropriate Historic Preservation Office.
- 5) Create a curational plan for investigation records and any cultural materials recovered during these archaeological services.

The Bureau shall ensure the contractor complies with the terms of 36 CFR 800 and the Secretary of Interior Standards and guidelines for Archaeology and Historic Preservation; the Native American Graves Protection and Repatriation Act; and 43 CFR Part 7, the Archaeological Resources Protection Act.

STATEMENT OF WORK

Construction

All Design Plans, Specifications & Engineer Estimates (PS&E) documents (including Archeological, Environmental and Right-of-Way documents) shall be approved by the Government prior to start of any construction.

The Contractor shall perform the Construction for the Bureau of Indian Affairs Roads Construction Projects identified in Section B of this contract, in full accordance with the statement of work, program standards, and the terms, provisions, and conditions of the contract, on a firm-fixed unit price, payment basis, for work performed by the Contractor, and accepted by the Government. The Contractor, following the completion of Phase One of this Contract, and prior to the Contractor's start of Phase Two of this Contract, shall submit its bid to the Government for the work to be performed during Phase Two of this contract. A fair and reasonable price for the work to be performed under this phase will be negotiated between the Contractor and the Government in accordance with the provisions of 25 CFR 900 Subpart J, Section 900.128.

The project documents, including plans and specifications, as approved by the Government, are hereby incorporated into this contract through this reference.

The Contractor agrees to administer the construction in accordance with this contract and all applicable laws and regulations. The phrase, "applicable laws and regulations" means applicable provisions of 23 USC and 23 CFR, 25 CFR 170, 25 USC 450, PL 93-638 as amended, 25 CFR 900, 36 CFR 800, 40 CFR 1500-1508, 18 USC 874, 40 USC 276c, 327-333, 41 USC 401, 42 USC 4801, Titles II and III of PL 91-646, Section 102(a) of PL 93-234, 16 USC 1271, Section 1065 of the National Historic Preservation Act of 1966, 16 USC 469a-1, & 470, EO 11593, other applicable laws and regulations which expressly apply to Tribal Organizations.

Bonding: For all construction subcontracts, performance and payment bonds shall be obtained in accordance with the Miller Act, 40 USC 270 (a-f). Bid bonds in the amount of 5% will be obtained in accordance with 40 USC 270 (a-f) for those projects that require performance and payment bonds.

Governing Specifications: The Contractor shall utilize FHWA "Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects (FP03) and/or the State of Wisconsin Department of Transportation Standard Specifications for Construction 2003 edition and latest Supplements. Additionally, upon final approval by the Bureau of Indian Affairs - the following specifications, requirements, standards, and schedules are hereby incorporated in this contract:

1. Plans
2. Specifications, Testing Schedule and Special Detail Drawings
3. Bid Schedule
4. Program of Requirements (POR)
5. Statements of Work (SOW)
6. Labor Standards.

NEPA/NHPA Compliance Clauses: Federal law prohibits the excavation, removal, damage, alteration or defacement of any archaeological resource on Federal or Indian lands. The contractor shall control the action of its employees and subcontractor at the job site to ensure that any protected sites will not be disturbed or damaged. It is the obligation of the contractor to ensure those employees and subcontractors cease work in the event of a newly discovered site until further authorization is obtained. If any previously unknown archaeological or historic sites, artifacts, objects, or other remains of potential archaeological interest are discovered in the course of this undertaking, work in the immediate vicinity is to stop, and a

reasonable effort must be made to protect the discovery pending review by the BIA Area Roads Archaeologist, appropriate tribal officials and the Awarding Official (36 CFR 800.111). The Contractor shall be solely responsible for obtaining all permits and documents required by the National Environmental Policy Act (NEPA) before occupying or disturbing any area outside of the construction limits established in this contract. Activities requiring NEPA and NHPA compliance include, but are not limited to, contractor furnished borrow and aggregate material sources; construction and use of haul roads to and from borrow and aggregate material sources; disposal and stockpiling of material; use and staging areas and equipment yards; establishment of a plant for crushing or processing base and/or surfacing materials; and construction of detours. The contractor is responsible for all activities related to this construction project that occur within or outside the construction limits established in this contract and must ensure all activities comply with the following public laws:

Archaeological Resources Protection Act of 1979 (16 USC 470; 43 CFR Part 7; 25 CFR Part 262);
National Environmental Policy Act of 1969 as amended (42 USC 4231-4347; 40 CFR 1500-1508);
National Historic Preservation Act of 1966 as amended (16 USC 470; 36 CFR Part 800);
Native American Graves Protection and Repatriation Act of 1990 (25 USC 3001-3013; 43 CFR Part 10)

For construction projects where more than 1 acre is being disturbed; A site-specific Storm Water Pollution Prevention Plan (SWPPP), which meets all applicable State, Federal and Tribal standards, shall be prepared by the contractor for this project and a copy of the SWPPP shall be onsite and available for inspection during all times of construction activity. A Notice of Intent (NOI) form (EPA Form 3510-9) shall be completed and submitted to the US Environmental Protection Agency (USEPA) or their applicable state affiliate by the contractor. EPA Form 3510-9 (or state form) constitutes notice that the contractor intends to be authorized by a National Pollution Discharge Elimination System (NPDES) permit issued for storm water discharges associated with the project's construction activity as well as meeting all other applicable provisions included on the permit form.

SECTION "E"

INSPECTION AND ACCEPTANCE

STATEMENT OF WORK

Inspection and Acceptance

INSPECTION

In General: In carrying out the responsibilities of Section 900.131, and specifically carrying out the review, comment, and approval functions under this section, the Secretary shall provide full tribal participation in the decision making process and shall honor tribal preference and recommendation to the greatest extent feasible. This includes promptly notifying the Indian tribe or tribal organization of any concerns or issues in writing that may lead to disapproval, meeting with the Indian tribe or tribal organization to discuss these concerns and issues and to share relevant information and documents, and making a good faith effort to resolve all issues and concerns of the Indian tribe or tribal organization. The time allowed for Secretarial review, comment, and approval shall be no more than 21 days per review unless a different time period is negotiated and specified in individual contracts. The 21-day time period may be extended if the Indian tribe or tribal organization agrees to the extension in writing. Disagreements over the Secretary's decisions in carrying out these responsibilities shall be handled under the Provisions of the Contract Disputes Act.

Contract Monitoring: Contract monitoring shall be performed by the Awarding Official or his/her designated representative to ensure the continuing trust, programmatic, and fiscal responsibilities are adequately maintained by the Contractor.

Monitoring visits shall be made as needed by the Awarding Official and/or his/her designated representative(s) to assure that the work is being performed in accordance with the terms and conditions of the contract or if the Awarding Official determines there is reasonable cause to believe that grounds for reassumption of the contract, suspension of contract payments, or other serious contract performance deficiency may exist. Prior to any visit to the Contractor's site, the Awarding Official and/or his/her designated representative(s) shall provide a reasonable advance notice to the Contractor that includes a description of the required visit.

Plans, Specifications, and Estimate (PS&E): In accordance with Section 900.131(b)(5), the Awarding Official shall review design activities for general compliance with contract requirements and provide written comments on the project plans and specifications only at the concept phase, design development (preliminary construction documents) phase and the final construction documents phase.

For projects included in this contract, Awarding Official approval shall be at the concept phase (20%), the preliminary design phase (70%), and the final design phase (100%).

All PS&E reviews performed by the Secretary shall be conducted by personnel qualified to review work performed by the Contractor under the direction of the Regional Engineer. This requires that the reviews be conducted by personnel experienced in highway design and final approval/ acceptance of the PS&E will be made by the Regional Engineer and the Region Director by signature of the original plan title sheet.

Project/Program Reviews: The Awarding Official or his/her designated representative(s) may conduct daily on-site monitoring visits, or alternatively if negotiated with the Contractor, critical milestone on-site visits. Program and project activities shall be reviewed for general contract compliance and written comments shall be provided to the Contractor of any deficiencies identified. The Awarding Official or his/her designated representative retains the right to conduct final project inspections and audit of contract records to accept completed projects. If the Awarding Official or his/her designated representative(s) identifies problems during final inspection, the information shall be provided to the Contractor and shall be limited to items that are materially non-compliant.

SECTION 'F'

DELIVERIES OF PERFORMANCE

STATEMENT OF WORK

DELIVERABLES OF PERFORMANCE

Contract Term: The Contractor shall commence work under this contract upon award and complete the work for each scheduled project in accordance with the Schedule of Project Target Dates, as shown in Section B, Attachment A.

The Contractor shall furnish to the Awarding Official all final Survey, Right-of-Way and Design plans, notes, documents, etc., in a paper document and in a computer format software data file compatible with the Midwest Regional Office, Branch of Engineering/Roads. All plan sheets shall be AUTOCAD compatible. It shall be the Contractor's responsibility to verify the compatibility of software and storage media.

Schedule for Deliverables

Administration and Planning: In accordance with Section "B" (10)(9), the Contractor shall submit quarterly Progress Report(s) and Financial Status Report(s) to the Awarding Official. The Progress Reports and Financial Status Reports shall be submitted within twenty (20) days before the end of the calendar year quarter (January 1 to December 31). A Financial Status Report(s) as required by Section "B" (5), shall be submitted within 30 calendar days after the end of each quarter. Control Schedules shall be updated to reflect any changes and submitted at a minimum on a quarterly basis. Subsequent year Control Schedule(s) shall be submitted by August 15th annually. Planning Master File, due quarterly by the 15th day of the new quarter (provide original documents with data obtained during the preceding quarter. Meeting minutes from "Presentation of Project Alternatives" shall be provided as identified in 57 BIAM Supplement 1, 3.1. Solicitation proposals submitted for bid to potential subcontractors (one copy) shall be due prior to the selection of subcontractors. Notification shall be provided to the Awarding Official of proposed Cooperative Agreements.

Survey, Mapping and Right-of-Way: Delivery of all survey notes, plats, maps and other Right-of-Way documents shall be submitted to the Awarding Official in accordance with 25 CFR, Part 169.

Design: The Contractor shall make delivery of design documents to the Awarding Official at the Concepts Phase (20%), Preliminary Design Phase (70%), and the Final Design Phase (100%). Submittal for the concept phase shall at a minimum consist of a project overview map showing proposed alignment, typical sections, geotechnical report and recommendation, and other pertinent proposed design data.

- a) Project Master File: One original, delivery date within 15 days of the end of the quarter. Only provide new document(s) from the preceding quarter (Refer to 57 BIAM Supplement 1, 9.3).
- b) One original of all documents referenced in the Project Master File, delivery date within 15 days of the end of the quarter from which the documentation was completed.
- c) Preliminary set of Plans, Specifications and Engineer's Estimate (PS&E) for Plan in Hand review submitted along with a Plan in Hand request letter. One copy of PS&E with request letter, delivery date 3 weeks prior to plan in hand meeting.
- d) PS&E Government Review: Three sets (1 original and 2 copies) each of PS&E's. Title sheet shall be sealed by a licensed engineer, delivery date shall be a minimum of two months prior to a proposed solicitation for the construction of the project. Design Review may be completed by qualified personnel from BIA, FHWA, Army Corps of Engineers, or other applicable governmental agency.
- e) If required corrections and changes are determined to be made to the PS&E's after the Government's review the Contractor shall make the corrections and/or changes and submit one original corrected

set of PS&E's, delivery date shall be a minimum of one week prior to the proposed solicitation for the construction of the project.

The Government's review time for each submittal (20%, 70%, and 100%) shall be 21 calendar days from the receipt date of each submittal. Extensions of time needed for the Government's review shall be agreed to in writing by the Contractor. The Contractor shall promptly notify the Awarding Official in writing of any concerns or issues that may lead to disapproval and every attempt to discuss and resolve the concerns or issues shall be made between the parties. Disagreements that cannot be resolved shall be subject to the Contract Disputes Act.

Archaeological: For each project listed in the approved Transportation Improvement Plan (TIP), the Contractor shall submit two copies of the final survey report to the Awarding Official within forty five days following completion of all field work. Draft and Final Archaeological documents shall be submitted as agreed upon in writing during the initial review and consultation process. As required by 57 BIAM, Supplement 1, 2.1, documents generated by the Archaeological process are to become part of the planning section of the Project Master File, as identified in the Design Section of the 57 BIAM. Delivery: Optimum-with Plan in Hand document submittal, minimum-with PS&E final document submittal (Government Review).

Environmental: For each project listed in the approved Transportation Improvement Plan (TIP), the Contractor shall submit the necessary environmental documents (categorical exclusion checklist, environmental assessment, and/or environmental impact statement) to the Awarding Official. The environmental document(s) shall be submitted within forty five days following completion of all field work unless otherwise agreed upon in writing during the initial review and consultation process. Environmental documents shall be submitted as agreed upon in writing during the initial review and consultation process. As required by 57 BIAM, Supplement 1, 2.1, documents generated by the environmental process shall become part of the planning section of the Project Master File, as identified in the Design Section of the 57 BIAM. Delivery: Optimum-with Plan in Hand document submittal, minimum-with PS&E final document submittal (Government Review).

SECTION 'I'

**FAR CLAUSES APPLICABLE TO THIS
CONTRACT AND ALL SUBCONTRACTS
UNDER THIS CONTRACT**

CONTRACT CLAUSES

The following FAR clauses are applicable to this contract and subcontracts entered into thereunder, and are incorporated into this contract by reference:

Definitions	52.202-1
Officials Not to Benefit	52.203-1
Certificate of Independent Price Determination	52.203-2
Gratuities (4/84)	52.203-3
Contingent Fee Representation and Agreement	52.203-4
Covenant Against Contingent Fees	52.203-5
Anti-Kickback Procedures (4/84)	52.203-7
Requirement for Certificate of Procurement Integrity	52.203-9
Price or Fee Adjustment for Illegal or Improper Activity	52.203-10
Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions	52.203-11
Limitations on Payments to Influence Certain Federal Transactions	52.203-12
Protecting the Govts Interest\De-Barred Contractors	52.209-6
Availability of Specifications and Standards	52.211-1
Commencement, Prosecution and Completion of Work	52.211-10
Variation in Estimated Quantities (APR84)	52.211-12
Time Extensions	52.211-13
Variations in Estimated Quantities	52.211-18
Audit and Records-Sealed Bidding	52.214-26
Price Reduction for Defective Cost or Pricing Data - Modifications - Sealed Bidding	52.214-27
Subcontractor Cost or Pricing Data - Modifications - Sealed Bidding	52.214-28
Audit and Records-Negotiation	52.215-2
Type of Business Organization	52.215-6
Amendment to Solicitations	52.215-8
Authorized Negotiators	52.215-11
Restriction on Disclosure and Use of Data	52.215-12
Price Reduction of Defective Cost of Pricing Data	52.215-22
Price Reduction of Defective Cost of Pricing Data - Modifications	52.215-23
Subcontractor Cost or Pricing Data - Modifications	52.215-25
Contract Type	52.216-1
Fixed Fee - Construction	52.216-9
Small, Small Disadvantaged and Women-Owned Small, Small Business Concern Representation	52.219-1
Utilization of Small, Small Disadvantaged & Women-Owned Small Business Concerns	52.219-8
Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan	52.219-9
Notice to the Government of Labor Disputes	52.222-1
Convict Labor	52.222-3
Contract Work Hours and Safety Standards Act-Overtime Compensation (Jul 1995)	52.222-4
Davis Bacon Act (Feb 1995) (<i>applicable to subcontractor only</i>)	52.222-6 *
Withholding of Funds	52.222-7
Payrolls and Basic Records	52.222-8
Apprentices and Trainees (Feb 1988)	52.222-9
Compliance with Copeland Act Requirements	52.222-10

Subcontracts (Labor Standards) (Feb 1988)	52.222-11
Contract Termination-Debarment	52.222-12
Compliance with Davis-Bacon and Related Act Regulations	52.222-13
Disputed concerning Labor Standards	52.222-14
Certification of Eligibility	52.222-15
Approval of Wage Rates	52.222-16
Labor Standards for Construction Work - Facilities Contracts	52.222-17
Certification of Nonsegregated Facilities	52.222-21
Equal Opportunity	52.222-26
Affirmative Action for Special Disabled & Vietnam Era Veterans	52.222-35
Affirmative Action for Handicapped Workers	52.222-36
Clean Air and Water Certification	52.223-1
Clean Air and Water	52.223-2
Hazardous Material Identification and Material Data	52.223-3
Certification Regarding Drug-Free Work Place	52.223-5
Drug Free Work Place	52.223-6
Toxic Chemical Release Reporting	52.223-14
Privacy Act Notification	52.224-1
Privacy Act	52.224-2
Buy American Act - Construction Material	52.225-4
Buy American Act-Construction Materials	52.225-5
Restrictions on Certain Foreign Purchases	52.225-11
Notice of Buy American Act Requirement-Construction Materials	52.225-12
Enterprises	52.226-1
Patent Indemnity - Construction Contracts	52.227-4
Insurance-Work on a Government Installation (<i>applicable to subcontractor only</i>)	52.228-5 *
Bid Guarantee	52.228-1
Additional Bond Security	52.228-2
Performance and Payment Bonds (<i>applicable to subcontractor only</i>)	52.228-15 *
Federal, State and Local Taxes	52.229-3
Federal, State and Local Taxes (Noncompetitive Contract)	52.229-4
Differing Site Conditions	52.232-2
Payments Under Fixed-Price Construction Contracts	52.232-5
Limitation of Costs	52.232-20
Assignment of Claims	52.232-23
Prompt Payment for Construction Contracts	52.232-27
Disputes	52.233-1
Differing Site Conditions	52.236-2
Site Investigation and conditions effecting work	52.236-3
Physical Data	52.236-4
Material and Workmanship	52.236-5
Superintendence by the Contractor	52.236-6
Permits and Responsibilities	52.236-7
Other contracts	52.236-8
Protection of existing vegetation, structures, and equipment	52.236-9
Operation and Storage Areas	52.236-10
Use and possession prior to completion	52.236-11
Cleaning Up	52.236-12
Accident Prevention	52.236-13
Availability of Use of Utility Services	52.236-14
Schedules for Construction Contracts	52.236-15
Quantity Surveys	52.236-16
Layout of Work	52.236-17

Organization and Director of Work	52.236-19
Specification and drawings for construction	52.236-21
Design Within Funding Limitations	52.236-22
Responsibility of the Architect-Engineer Contractor	52.236-23
Work Oversight in Architect-Engineer Contractor	52.236-24
Requirements for Registration of Designers	52.236-25
Preconstruction Conference	52.236-26
Site Visit (Construction)	52.236-27
Changes and Changed Conditions	52.242-5
Suspension of Work	52.242-14
Changes-Fixed Price, Alternate III	52.243-1
Changes-COST REIMBURSEMENT	52.243-2
Changes	52.243-4
Subcontracts (Fixed-Price Contracts)	52.244-1
Subcontractors and Outside Consultants	52.244-4
Competition in Subcontracting	52.244-5
Property Records	52.245-1
Government Property (Fixed-Price Contracts)	52.245-2
Identification of Government-Furnished Property	52.245-3
Government-Furnished Property (Short Form)	52.245-4
Contractor Inspection Requirements	52.246-1
Inspection of Construction	52.246-12
Warranty of Construction	52.246-21
Value Engineering-Construction	52.248-3
Termination for Convenience of the Government (Dismantling, Demolition or Removal of Improvements)	52.249-2
REIMBURSEMENT	52.249-6
Termination (Fixed Price Architect-Engineer)	52.249-7
Excusable Delays	52.249.14
Clauses Incorporated by Reference	52.252-2
Computer Generated Forms	52.253-1

The following U.S. Department of Interior Acquisition Regulations are applicable to this contract and subcontracts entered into thereunder, and are incorporated into this contract.

Release of Claims	1452.204-70
Indian Preference - Department of the Interior (4/84)	1452.204-71
Indian Preference - Department of the Interior (4/84)	1452.204-72
Brand Name or Equal	1452.210-70
Examination of Records by the Department of Interior	1452.215-70
Indian Preference-	1452.226-70 and 1452.226.71

SECTION 'J'

ATTACHMENTS

**Preliminary Engineer's Estimate
Tribal Resolution
CPA Certification
Designation of AOTR**

(INSERT)

**Preliminary
ENGINEER'S ESTIMATE**

**Bureau of Indian Affairs
Preliminary Engineer's Government Estimate**

Tribe: Oneida

Project: Smit Farm Project

Description: Labor, materials, and equipment required to perform Preliminary Engineering (Admin/Planning, Survey, Design, Archeology, Environmental, Right-of-Way, Construction and Construction Engineering services to complete construction of Smit Farm Project.)

- A.) Preliminary Engineering
- | | |
|-------------------|-----------|
| 1. Admin/Planning | \$ 15,000 |
| 2. Survey | \$ 15,000 |
| 3. Design | \$ 30,000 |
| 4. Right-of-Way | \$ 10,000 |

Total Preliminary Engineer Costs = \$ 70,000

B.) Archaeological Costs = \$ 3,000

C.) Environmental Costs = \$ 3,000

D.) Construction Costs – Estimate

1. sidewalk/trail const \$ 300,000

Total Construction Costs = \$ 300,000

E.) Construction Engineering = \$ 30,000

Total Project Costs = \$406,000

(INSERT)

**TRIBAL RESOLUTION
AUTHORIZING CONTRACT**

(INSERT)

CPA CERTIFICATION

(INSERT)

**DESIGNATION OF
AWARDING OFFICIAL'S TECHNICAL
REPRESENTATIVE**

(AOTR)