MASTER PLANNING FOR
THE COWLITZ INDIAN TRIBE
RESERVATION
REQUEST FOR PROPOSAL
(RFP)

Cowlitz Indian Tribe Reservation Ridgefield WA 98632

August 11th, 2023
COWLITZ INDIAN TRIBE
TABLE OF CONTENTS

COVER SHEET
REQUEST FOR PROPOSALS (RFP) FOR MASTER PLANNING
SPECIAL CONSIDERATIONS
SINGLE POINT OF CONTACT
RFP SUBMITTAL TERMS
TYPE OF BID
PRE-PROPOSAL CONFERENCE, SITE VISIT, QUESTIONS
PUBLIC INFORMATION STATUS
DOCUMENT EXAMINATION AND PROCUREMENT
PROPOSAL CONTENT & REQUIREMENTS
PREQUALIFICATION
SELECTION PROCESS
OWNER’S RIGHT TO REJECT BIDS
OWNER’S BEST INTEREST
INSURANCE REQUIREMENTS
COMPLIANCE WITH STANDARDS
TARGET SCHEDULE OF EVENTS
SOVEREIGN IMMUNITY
ATTACHMENT A – SCOPE OF WORK (3 PAGES)
ATTACHMENT B – BID FORM (2 PAGES)
ATTACHMENT C – NON-COLLUSION AFFIDAVID (1 PAGE)
ATTACHMENT D – SAMPLE CONTRACT (10 PAGES)
REQUEST FOR PROPOSAL (RFP)

RFP Title: Master Planning for The Cowlitz Indian Tribe Reservation

| RFP Response Due Date and Time: 3:00 P.M. PST, August 31st 2023 | Number of Pages in RFP packet (including cover and all Attachments): 24 | Issue Date: August 11th, 2023 |

ISSUING AGENCY INFORMATION

Cowlitz Indian Tribe (CIT)
1055 9th Avenue, Longview, WA 98632

Single Point of Contact (SPOC): Amanda Lomasney, CIT Programs Manager,
Tel. (360) 353-9936 x2735, email alomasney@cowlitz.org

INSTRUCTIONS TO BIDDERS

Submit Proposal to:
Amanda Lomasney
Programs Manager
Cowlitz Indian Tribe
929 Fir Street
Longview WA. 98632
alomasney@cowlitz.org

Mark Face of Envelope with:
“RFP Response - Title: Master Planning for The Cowlitz Indian Tribe Reservation”

Special Instructions:
Proposals can be either mailed or emailed to alomasney@cowlitz.org any time prior to the 3:00 p.m. deadline on August 31st, 2023

FIRMS MUST COMPLETE THE FOLLOWING

<table>
<thead>
<tr>
<th>Firm Name/Address:</th>
<th>(Name and Title)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(Signature)</td>
</tr>
<tr>
<td>Print name and title and sign in ink. By submitting a response to this RFP, offeror acknowledges they understands and will comply with the RFP specifications and requirements</td>
<td></td>
</tr>
<tr>
<td>Type of Entity (e.g., corporation, LLC, etc.)</td>
<td>Phone Number:</td>
</tr>
<tr>
<td>E-mail Address:</td>
<td>Fax Number:</td>
</tr>
</tbody>
</table>

FIRMS MUST RETURN THIS COVER SHEET WITH RFP RESPONSES
REQUEST FOR PROPOSALS (RFP) FOR MASTER PLANNING

The Cowlitz Indian Tribe (CIT) is soliciting proposals for qualified companies to develop a master plan for the CIT Reservation located in Ridgefield WA. and as described in the Scope of Work provided in Attachment A. All work must meet federal, state, and local standards, specifications, and codes.

SPECIAL CONSIDERATIONS

A. All bidding, contractual, and work processes for all participating parties must meet federal, state, and local standards.

B. Upon award of this contract to the successful bidder, this RFP document will be referenced as an attachment to the contract between both parties.

C. This is a Fixed Fee Contract with a Guaranteed Maximum Price (GMP). If contractor does not elect to attach a schedule of values (SOV) and or milestone payment schedule, the contractor will submit an invoice for approval by owner upon final completion of project.

D. Professional Liability insurance is required.

SINGLE POINT OF CONTACT

The Single Point of Contact (SPOC) for this solicitation is:
Amanda Lomasney, Cowlitz Indian Tribe Programs Manager
929 Fir Street, Longview WA 98632
Office: 360-353-9936, Ext. 2735, Cell: 360-353-8171, alomasney@cowlitz.org

RFP SUBMITTAL TERMS

A. Proposals, addressed and mailed or emailed to Amanda Lomasney, alomasney@cowlitz.org, must be submitted on attached Bid Form, provided in Attachment B, and received at CIT Public Works Department Building at:
929 Fir Street, Longview, WA 98632, no later than

RFP Response Due Date and Time:
3:00 P.M. PST, August 31st, 2023

B. Proposals shall be marked:
“RFP Response - Master Planning for The Cowlitz Indian Tribe Reservation”
TYPE OF BID

This bid shall be for the entire project including labor, materials, equipment, permitting, taxes etc. – all in accordance with the Scope of Work provided in Attachment A.

PRE-PROPOSAL CONFERENCE, SITE VISIT, QUESTIONS

A non-mandatory site visit is highly encouraged.

Questions about the RFP must be submitted via e-mail or in writing to the single point of contact on or before: 3:00 P.M. PST August 23rd, 2023.

Amanda Lomasney, Programs Manager, Cowlitz Indian Tribe
929 Fir Street, Longview WA. 98632
Tel.: (360) 353-9936, Ext. 2735, Cell: 360-353-8171; alomasney@cowlitz.org

No additional project questions will be addressed after this date.

A Response addendum with all questions received and Cowlitz Indian Tribe’s responses will be posted in an Addendum on August 25th, 2023 on the Cowlitz Indian Tribe website at https://www.cowlitz.org/newsroom/announcements. It is the responsibility of each firm to check this website for Addenda or updates about the project.

PROPOSAL CONTENT & REQUIREMENTS

Proposals should demonstrate that the contractor has the professional capability and availability to satisfactorily and timely complete all the tasks as described in this RFP. Responses should include:

A. The firms legal name, address, telephone number and principal contact e-mail address.
B. The experience, qualifications, and assigned roles of all staff to be assigned to the project.
C. Description of the contractor’s prior experience, including any similar projects, location of those project(s), and total construction costs.
D. Proposed staffing for the project.
E. Any concerns regarding proposed method of administration, construction, or schedule.
F. Description of the Consultants current work activities and how these will be coordinated with the project, as well as the Consultants anticipated availability during the term of the project.
G. The proposed work plan and schedule for activities to be performed.
H. Proposal will be good for at least 90 days.
PREQUALIFICATION

Proposals need to include a minimum of three references that are knowledgeable regarding the consultants recent performance on projects, including client’s name, location where services were provided, contact person(s), contact telephone number, contact e-mail address, and a complete description of services provided, including dates of service. These references may be contacted to verify a consultants ability to perform the contract. CIT reserves the right to use any information or additional references deemed necessary to establish the ability of the firm to perform the contract. (Negative references may be grounds for proposal disqualifications).

SELECTION PROCESS

Upon receipt of responses, selection committee members will evaluate all responsive proposals. The firm selected may be asked to attend an interview, or Cowlitz Indian Tribe may opt to open direct negotiations with the firm that presents the most qualified proposal. If interviews are conducted, finalists are encouraged to bring renderings/photos of related examples of work and any other pertinent past project information.

Contract negotiations will commence with the highest-ranking bidder. The contract will be awarded upon reaching an appropriate price for the work to be done. If an appropriate agreement cannot be reached with the highest-ranked bidder, the second ranked bidder will be approached, and so on. Unsuccessful bidders will be notified as soon as possible.

This solicitation is being offered in accordance with federal and state statues governing procurement of construction contracts, in addition to Cowlitz Indian Tribe statutes. Accordingly, the Cowlitz Indian Tribe reserves the right to negotiate an agreement based on fair and reasonable compensation for the scope of work and services proposed, as well as the right to reject any and all responses deemed unqualified, unsatisfactory, or inappropriate.

Cowlitz Indian Tribe reserves the right to increase the scope of work with the selected firm as a long as the increase is within the firm’s ability. Payment and contract terms will be negotiated with the selected contractor.

OWNER'S RIGHT TO REJECT BIDS

Cowlitz Indian Tribe reserves the right to waive irregularities and to reject any or all bids. The Tribe shall select a preferred contractor based on best value to the project.

OWNER'S BEST INTEREST

While Cowlitz Indian Tribe had every intention to award a contract resulting from this RFP, issuance of the RFP in no way constitutes a commitment by the CIT to award and execute a contract. Upon a determination such actions would be in its best interest, the Cowlitz Indian Tribe, in its sole discretion, reserves the right to:

A. Cancel or terminate this RFP; or
B. Reject any or all proposals received in response to this RFP; or
C. Not award a contract, if it is in the Cowlitz Indian Tribes best interest not to proceed with contract execution; or
D. If awarded, terminate any contract if the Cowlitz Indian Tribe determines adequate funds are not available.
INSURANCE REQUIREMENTS

Before commencing the Work and as a condition of payment, and as part of the Lump Sum Amount, Contractor shall purchase and maintain insurance as described below from an insurer admitted to do business in Washington with an A.M. Best financial strength rating of A1 or better, that will protect it from bodily injury or property damage claims arising out of its operations under this Contract, whether the operations are by Contractor, Contractor's consultants or subcontractors, anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

A. **Commercial General Liability (CGL)** insurance providing bodily injury liability and property damage liability with combined single limits of not less than $1,000,000 per occurrence. $2,000,000 general aggregate limits, and Products/Completed Operations aggregate limits of $2,000,000, written on an occurrence form.

   If the Owner requires that Contractor’s general liability policy be endorsed so that the aggregate limits of insurance apply on this job, both parties must check the appropriate box: Owner [ ] Contractor [ ].

   Owner shall be included as an additional insured under the CGL policy. Prior to starting work, Contractor shall provide a copy of the actual additional insured endorsement or blanket additional insured policy wording to the CGL policy that documents the Owner’s additional insured status.

B. **Automobile Liability (AL)** insurance with a minimum limit of liability of not less than $300,000 per occurrence for all owned, non-owned and hired automobiles.

C. **Workers Compensation (WC)** insurance with a minimum limit of liability of not less than required by the Laws of the State of Washington.

D. **Professional Liability** covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than Two Million Dollars ($2,000,000) per claim and Two Million Dollars ($2,000,000) in the aggregate.

Owner and Contractor will waive their rights of subrogation against one another for any losses covered by the required insurance policies except that Contractor shall be liable for the property insurance deductible if a claim is made against such property insurance and that claim arises out of Contractor's negligence.

COMPLIANCE WITH STANDARDS

This project must comply with all federal and state labor standards as applicable, including compliance with federal Davis-Bacon and/or state prevailing wage labor standards, and assuring equal opportunity labor standards and others, as applicable.
## TARGET SCHEDULE OF EVENTS

<table>
<thead>
<tr>
<th>EVENT</th>
<th>TIME</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Request for Proposal (RFP) issued</td>
<td></td>
<td>August 11th, 2023</td>
</tr>
<tr>
<td>Non-Mandatory Site Visit</td>
<td></td>
<td>Upon Request</td>
</tr>
<tr>
<td>Written Questions due to CIT</td>
<td>3:00 P.M.</td>
<td>August 23rd, 2023</td>
</tr>
<tr>
<td>Addendum with Questions &amp; Answers Issued by CIT</td>
<td></td>
<td>August 25th, 2023</td>
</tr>
<tr>
<td>RFP Proposals Due to Cowlitz Indian Tribe</td>
<td>3:00 P.M.</td>
<td>August 31st, 2023</td>
</tr>
<tr>
<td>Notice of Intent to Award is issued</td>
<td></td>
<td>September 7th, 2023</td>
</tr>
<tr>
<td>Intended Date for Notice to Proceed</td>
<td></td>
<td>The date the contract is duly executed by both parties. Anticipated Date: September 20th, 2023</td>
</tr>
<tr>
<td>Work Begins</td>
<td></td>
<td>As described in the Notice to Proceed Letter sent to consultant.</td>
</tr>
<tr>
<td>Work Complete</td>
<td></td>
<td>90 days</td>
</tr>
</tbody>
</table>

## SOVEREIGN IMMUNITY

The Owner is a Federally Recognized Indian Tribe and exercises Sovereign Immunity, as stated in CIT Procurement Code, §9-401 Sovereign Immunity in Connection with Contracts, as follows:

1. **Solicitation and Award of Contracts.** If concerning a matter outside of the Tribal Trust lands, unless otherwise modified by contract signed by duly authorized Tribal Council representative or by funding obligations outside the control of Tribal government, the Cowlitz Tribal Court shall have jurisdiction over an action between the Tribe and a bidder, offeror, or contractor, prospective or actual, to determine whether a solicitation or award of a contract is in accordance with the Constitution, statutes, policies, and the terms and conditions of the solicitation. The Tribal Court shall have such jurisdiction, whether the actions are at law or in equity, and whether the actions are for monetary damages or for declaratory, injunctive, or other equitable relief.

2. **Debarment or Suspension.** The Cowlitz Tribal Court shall have jurisdiction over an action between the Tribe and a person who is subject to a suspension or debarment proceeding, to determine whether the debarment or suspension is in accordance with the Constitution, statutes, and policies. The Cowlitz Tribal Court shall have such jurisdiction, whether the actions are at law or in equity, and whether the actions are for declaratory, injunctive, or other equitable relief.

3. **Actions Under Contracts or for Breach of Contract.** The Cowlitz Tribal Court shall have jurisdiction over an action between the Tribe and a contractor, for any cause of action which arises under, or by virtue of, the contract, whether the action is at law or in equity, whether the action is on the contract or for a breach of the contract, and whether the action is for monetary damages or declaratory, injunctive, or other equitable relief.

4. **Limited Finality for Administrative Determinations.** In any judicial action under this Section, factual or legal determinations by employees, agents, or other persons appointed by the Tribe shall have no finality and shall not be conclusive, notwithstanding any contract provision, regulation, or rule of law to the contrary, except as provided in Section 3-701 (Finality of Determinations).

By submitting a proposal to this solicitation, Bidder agrees that the Cowlitz Indian Tribe has not waived or otherwise abridged its sovereign immunity. The Bidder further understands that the Cowlitz Indian Tribe does not and will not submit to the jurisdiction of any state or Federal courts in any finally executed contract between the parties.
ATTACHMENT A
SCOPE OF WORK

The Cowlitz Indian Tribe (CIT) is seeking proposals from planning professionals to prepare an initial phase comprehensive Master Plan. Ultimately, CIT seeks a Master Plan that is concise, user friendly, and provides guidance for the next 10+ years for its Reservation and associated properties and potential acquisitions located in Clark County in SW Washington State, near the cities of LaCenter and Ridgefield (the “Reservation”). This project envisions the first phase of such a Plan. In this Phase, independent physical surveys and inspections of buildings is not required.

CIT desires a phased approach to an increasingly detailed Master Plan to transform government and economic development needs into physical form. The Plan shall identify desirable opportunities, assets, and attributes to support CIT’s current commercial and government operations as well as its strategic and practical aspirations.

The current CIT Reservation environment is a comprehensive network of land, buildings and infrastructure supporting a complex, diverse, and rapidly growing organization. It is imperative the Reservation’s evolution maximizes both opportunities and offerings in the interests of the Cowlitz Indian Tribe and its members.

The Reservation will be a desirable, safe, inclusive, and accessible place to work, visit, learn, and utilize services and entertainment. The Reservation will include a variety of uses, such as office, retail, hospitality, and other commercial and government facilities, as well as motorized and non-motorized, pedestrian and transit, systems, routes and paths, surface and/or structured parking facilities, and related infrastructure (utility, distribution, and otherwise).

The Reservation will utilize distinctive architecture, landscaping, wayfinding standards, art, and amenities and thoughtful retail and government facilities and offerings, both to attract desirable entities, assets, and growth opportunities within the Reservation that are aligned with its service and economic mission and to retain the best regional talent and maximize opportunities for the dignity of meaningful employment for its members and the broader communities the Tribe shares.

The CIT intends to work toward “smart” transportation solutions and energy and water infrastructure that allow the Reservation to meet sustainability metrics such as net-zero emissions and water consumption. Living Building and regenerative/net positive design may be considered for certain improvements onsite. In addition to its revenue-generating and infrastructure components, the Reservation is envisioned to include government and Tribal member facing as well as public facing non-retail/commercially focused components.

Two Tribal government facilities of immediate focus are a Tribal Administration Building and a Public Safety/Court Building. A Tribal Museum component of the Tribal Administration Building or a less time-critical free-standing museum is also under consideration. These facilities and all future facilities, assets, and functions envisioned must operate in concert with the existing ilani Resort and Casino and its evolving expansion trajectory. Location feasibility of the Administration and Public Safety/Court facilities is a required deliverable of this project.

Discretion and structured focus is essential in the analyses and presentation associated with the
conceptual status and manifestation of current reservation lands, current trust lands, current fee lands, known fee parcel acquisition opportunities, potential fee parcel acquisition opportunities, Reservation “zoning” and geographic area distinction opportunities and assessments of the Reservation overall.

The CIT envisions phased service provision over time in its efforts to optimize Reservation use and growth and seeks the following Initial “Phase A” services:

**Phase A**

- Creation of an initial phase Master Plan for the Reservation consisting of one or more site maps (hereafter “Site Map”) which incorporates the elements and goal outlined below, along with accompanying narratives. This will guide development of the Reservation in a functional and cohesive manner, optimizing the relations of the existing and future facilities, structures, and improvements to each other and overall Reservation conditions, as the CIT proceeds to build particular asset types or improvements over time. This phase of planning shall conclude with a formal deliverable, inclusive of imagery and design narratives, that address all necessary planning aspects as necessary to appropriately achieve the described attributes and objectives noted herein, as further described below:

1. Participate in meetings (in-person and remote) with CIT leadership, staff and stakeholders to assess and coordinate efforts regarding Reservation facilities and operations, and gain a working knowledge of previously determined Reservation plans, which will inform the deliverables contemplated by this RFP.

2. Taking into consideration aforementioned plans and physical limitations, provide feasible conceptual locations for office, retail, hospitality, and other commercial and government facilities, open and green space, motorized and non-motorized, pedestrian and transit systems, routes and paths, surface and/or structured parking facilities, and related infrastructure and basic 3D renderings to depict these elements.

3. Collaborate with Cowlitz Tribal Gaming Authority to ensure the vision for the ongoing operation and expansion of the ilani Resort and Casino aligns and integrates with their development plans.

4. Provide a Site Map which includes an assessment of topography, inclusive of features such as wetlands and easements, and a corresponding narrative describing associated challenges and opportunities.

5. Provide a Site Map depicting existing and anticipated utilities, a narrative describing challenges and opportunities associated with existing conditions; and diagrams or site maps depicting recommended additions, alterations, and improvements.

6. The Site Map should evaluate current and anticipated traffic patterns utilizing previously performed traffic studies and collaborate with CIT staff and consultants to provide a narrative and diagrams on changes and/or upgrades.
required.

7. Provide site development phasing diagrams based on input from CIT leadership, staff, and consulting professionals.

8. Within the Site Map and ancillary visualizations, include portrayals (through conceptual renderings or otherwise) of architectural, landscaping and branding and design standards for the Reservation.

9. Create and coordinate presentations at phase-end, and periodic update presentations when requested. And Upon substantial completion of Phase A services, advise CIT on the nature, necessity, and elements of subsequent Phases of a Comprehensive Master Plan.
THE PROJECT AND THE PARTIES

1.01 TO:
A. Cowlitz Indian Tribe (the Owner)
B. 1055 - 9th Avenue
C. Longview, WA 98632

1.02 FOR: Master Planning for The Cowlitz Indian Tribe

1.03 SUBMITTED BY: (Bidder to enter name and address)
A. Bidder's Full Name
1. Address
2. City, State, Zip

1.04 OFFER
A. Having examined the Place of The Work and all matters referred to in the Instructions to Bidders, Supplemental Instructions to Bidders, and the Contract Documents prepared by the Cowlitz Indian Tribe for the above-mentioned project, we, the undersigned, hereby offer to enter into a Contract to perform the Work for the Sum of:

B. Base Bid: (dollars (Words Only) $____________, (Figures Only) in lawful money of the United States of America.

C. The signed Non-Collusion Affidavit form and included them with this Bid Form.

D. The Bid Amount includes Tax.

1.05 ACCEPTANCE
A. This offer shall be open to acceptance and is irrevocable for thirty days from the bid closing date.

B. If this bid is accepted by Cowlitz Indian Tribe within the time stated above, we will:
1. Furnish a certificate of insurance within seven days of receipt of Notice of Award.
2. Commence work within seven days after written Notice to Proceed for this bid.
1.06 CONTRACT TIME

If this Bid is accepted, we will complete all work as scheduled in Section Target Schedule of Events of this RFP.

1.07 ADDENDA

A. The following Addenda have been received. The modifications to the Bid Documents noted below have been considered and all costs are included in the Bid Sum.
   1. Addendum # ______ Dated ________________.
   2. Addendum # ______ Dated ________________.
   3. Addendum # ______ Dated ________________.
   4. Addendum # ______ Dated ________________.

1.08 BID FORM SIGNATURE(S)

A. The Corporate Seal of

B. _______________________________________

C. (Bidder - print the full name of your firm)

D. was hereunto affixed in the presence of:

E. _______________________________________

F. (Authorized signing officer, Title)

G. (Seal)

H. _______________________________________

I. (Authorized signing officer, Title)

1.09 If the Bid is a joint venture or partnership, add additional forms of execution for each member of the joint venture in the appropriate form or forms as above. Using a copy machine, copy this page and complete paragraph 1.08 for each joint venture or partnership and attach to this Bid Form.

END OF BID FORM
ATTACHMENT C
NON-COLLUSION AFFIDAVIT

I, ____________________________, being first duly sworn under oath, do hereby attest and affirm as follows:

1. That I am a duly authorized officer or agent of ____________________________, the bidder submitting the competitive bid attached to this Affidavit, for the purpose of certifying the facts pertaining to the existence of collusion among the bidders or between this bidder and any officer, agent or employee of Cowlitz Indian Tribe (Tribe, CIT), as well as facts pertaining to the giving or offering things of value to officers, agents or employees of CIT or the Tribe in return for special consideration in the letting of any contract pursuant to the attached competitive bid.

2. That I am fully aware of the facts and circumstances surrounding the making of the competitive bid and has been personally and directly involved in the proceedings leading to the submission of such competitive bid.

3. That the competitive bid submitted is genuine and is not the product of any collusion and is not a sham bid, and that all statements in the competitive bid are true.

4. That neither the bidder named above nor anyone subject to the bidder’s direction or control has been a party:

   a. to any collusion among bidders to agree to bid at a fixed price or to refrain from bidding, or as to quantity, quality, cost element, profit, overhead, or price in the prospective contract or as to any other term of the prospective contract;

   b. to any collusion with any CIT or Tribal officer, agent or employee as to quantity, quality, cost element, profit, overhead, or price in the prospective contract or as to any other term of the prospective contract;

   c. to any discussions between bidders or between this bidder and any officer, agent or employee of CIT or the Tribe pertaining to the giving or offering things of value to officers, agents or employees of CIT or the Tribe in return for special consideration in the letting of any contract pursuant to the attached competitive bid.

So sworn this ___ day of ____________, 20__.

_____________________________
Signature of Affiant

Certification

County of ____________

) ss
State of ____________

I, the undersigned, a duly commissioned and sworn notary public, do hereby certify that on the ___ day of ____________, 20__, the above-signed ____________________________ personally appeared before me and was personally known to me, and executed the within instrument and acknowledged that he/she signed the same as his/her free and voluntary act and deed, for the uses and purposes therein mentioned.

_____________________________
Notary Public for ________________ My Commission Expires:

00050 -NON-COLLUSION AFFIDAVIT
CONSULTANT AGREEMENT

Between:

The Cowlitz Indian Tribe on behalf of its (insert expandable text box here) program.

P.O. Box 2547
Longview, WA 98632
General Phone: (360) 577-8140
Program Phone: ____________
(Hereinafter “Tribe”)

(Consultant Name)
Address
Address
Phone:
(Hereinafter “Consultant”)

This Consultant Agreement (“Agreement”) is executed by and between Consultant and the Tribe, a federally recognized sovereign nation pursuant to 65 Fed. Reg. 8436 (Feb. 18, 2000). Consultant and Tribe may be collectively referred to herein as the “Parties”, and each may be referred to as a “Party”.

TERMS & CONDITIONS

1. Term. The effective term of this Agreement shall be from (insert expandable text box here!), through (insert expandable text box here!), absent a valid termination action in accordance with the express terms of this Agreement.

2. Consultant Obligations. The Consultant agrees to perform services as set forth below and detailed in the attached “Exhibit A—Statement of Work” (collectively, the “Services”)

3. Designated Staff Contacts. The following Staff Contacts shall act as the primary points of contact for the Parties during the term of this Agreement. Tribe and Consultant agree that these Staff Contacts are designated for purposes of technical communication and service coordination only, and shall have no authority to authorize any changes, modifications, or addendums to this Agreement. The Parties may from time to time change their designated Staff Contact by giving the other Party reasonable notice of such change.

Tribe’s Staff Contact:

(insert text cells)

Consultant’s Staff Contact:

(insert cells)

4. Notice; Designated Legal Contacts. All legal notice required by or issued pursuant to this Agreement must be provided in writing, and shall be delivered postage pre-paid via certified mail or a reputable overnight courier to the following Legal Contacts:
4.1. Legal notice to Consultant shall be at the address set forth on page one of this Agreement, and care of the Consultant’s designated staff contact identified above.

4.2. Legal notice to the Tribe shall be to the Cowlitz General Council Chair at the address set forth on page one of this Agreement, with courtesy copies sent to the Tribe’s designated Staff Contact listed above, and to the General Counsel of the Cowlitz Indian Tribe Legal Department at P.O. Box 996 Ridgefield, WA 98642.

4.3 Either Party may from time to time change its designated address for legal notice, or designated Legal Contact(s) for notice, by giving the other Party reasonable notice of such change in writing.

5. *Change Orders.* Consultant understands and agrees that any material changes, modifications, or addendums to this Agreement and/or the underlying Project must be authorized in writing by the Cowlitz Tribal Council, acting through its designated representative and executed by the Cowlitz General Council Chair.


6.1. *Maximum Compensation.* The maximum total compensation amount approved by Tribe and payable to Consultant under this contract shall not exceed ___________ ($______); which amount shall include any and all compensation for Services and “Eligible Expenses” (including but not limited to mileage, travel, and payment or reimbursement of direct actual costs and expenses), as further described below and set forth in detail in the attached “Exhibit B — Budget”. If Exhibit B describes separate and specific maximum compensation amounts for Services and expenses, then at the end of the term of this Agreement, any remaining balance in the amount allocated for expenses may be used by Tribe, at its sole discretion, to cover fees for authorized Services, so long as the total compensation amount set forth above is not exceeded.

6.2 *Rates.* Tribe shall compensate Consultant according to the billing rate(s) and/or fee schedule(s) set forth in Exhibit B in an amount not to exceed that stated in Section 6.1 above.

6.3 *Eligible Expenses.* Consultant may only seek reimbursement for Eligible Expenses, which are those reasonable expenses incurred with the prior written approval of Tribe or its designated representative. For Eligible Expenses, Consultant must provide a receipt or other proper proof of expense to receive reimbursement from Tribe.

6.3.1 *Travel Expenses.* Subject to applicable law, Tribe shall evaluate and determine the reasonableness and allowability of travel expenses in accordance with the standards set forth in 41 C.F.R. Subtitle F, Chapter 301, as amended. Provided, however, that where such standards conflict with any Cowlitz Indian Tribe law or policy, the Cowlitz Indian Tribe law or policy shall govern.

6.3.2 *Ownership of Expensed Items.* Tribe shall retain sole and exclusive ownership of all property — real, movable, and/or intellectual — for which Tribe has provided any reimbursement to Consultant under this Agreement. Consultant shall promptly deliver to Tribe any Cowlitz Indian Tribe property upon request, or at the completion or termination of this Agreement.
6.3.3 Availability of Funds. Notwithstanding any other provisions of this Agreement, Consultant understands and agrees that compensation for Services and expenses under the terms of this Agreement shall be contingent upon the availability of funds (a) placed to the credit of Tribe in the Treasury of the United States, (b) appropriated by Congress, or (c) from local funds maintained in the name of the Tribe.

6.4 Federal & Grant Funds. Consultant understands and agrees that contracts funded by federal funds or other grant funds may be subject to certain legal requirements. These may include, but are not limited to, those requirements set forth in the United States Office of Management and Budget’s Uniform Guidance, 2 C.F.R. Part 200, and/or the terms of an applicable source grant. Consultant agrees to comply with and utilize funds in accordance with all applicable laws, regulations, and guidelines, and in accordance with any applicable grant or contract terms. Consultant understands and agrees that the use of such funds may be subject to audit by the grantor. Consultant shall reimburse Tribe for any costs of the Consultant that are disallowed by a grantor.

6.5 Invoicing & Payment. Consultant shall submit monthly invoices and appropriate supporting documentation to Tribe, including, but not limited to, expense receipts and a brief summary of daily activities associated with Services performed by Consultant. Unless the Parties agree in writing to different terms, invoice periods shall begin on the first day of each month and end on the last day of each month. Invoices shall be submitted by Consultant to Tribe’s designated Staff Contact within fifteen (15) days after the end of the month in which the Services were provided and/or expenses were incurred. Consultant waives the right to receive full payment on invoices submitted more than sixty days following the end of the proper invoice period.

6.5.1 Progress Reports. At Tribe’s request, or as otherwise agreed upon by the Parties in writing, Consultant shall submit a progress report along with its monthly invoice. Such progress reports should generally include, as attached exhibits, copies of all work product prepared or created by Consultant during the relevant invoice period(s). In addition, at Tribe’s request, Consultant will provide oral reports and presentations to the Cowlitz Tribal Council and/or General Council.

6.5.2 Invoice Issues. If a question or concern arises regarding an item on an invoice, Tribe shall notify Consultant of the question or concern. Within five (5) business days following such notification, Consultant shall take action to sufficiently explain or correct the item, or Consultant shall be deemed to have waived their right to demand payment for the item.

7 Maintenance & Retention of Records; Financial Management for Accounting and Audits. Consultant shall maintain and retain auditable records during the term of this Agreement and for a period of at least three (3) years following the expiration or termination of this Agreement. Consultant shall maintain its records to comply with the Audit Act of 1984, P.L. 98-502 (31 U.S.C. § 7501 et. seq.), as amended, and the Office of Management and Budget’s Uniform Guidance requirements set forth at, 2 C.F.R. part 200, Subpart F, as amended. Consultant shall adhere to a systematic accounting method that assures timely and appropriate resolution of audit findings and recommendations in compliance with the Uniform Guidance. Subject to applicable law, Consultant agrees that the Tribe, the grantor agency (if applicable), the Comptroller General of the United States,
or any of their duly authorized representatives, shall have timely access to Consultant’s records which are pertinent to the subject matter of this Agreement and the performance of obligations contained herein, for the purpose of conducting an audit and/or examination, and/or making copies.

8 Performance.

8.1 Independent Contractor. Consultant shall employ, at its own expense, all personnel reasonably necessary to perform the Services contemplated by this Agreement. Such personnel shall not be considered Tribe’s employees. Consultant shall ensure that all personnel engaged in performing Services are fully qualified to undertake the work in accordance with applicable tribal, federal, state, and local laws. Consultant shall at all times in performance of this Agreement operate as, and have the status of, an independent contractor, and will not be an agent or employee of Tribe; nor will Consultant or its personnel be entitled to any employee benefits provided by the Tribe. The Parties are not engaged in a joint venture or partnership. Neither Party can represent or bind the other.

8.2 Discrimination. Consultant shall not discriminate against any employee or applicant for employment because of handicap, race, age, religion, or sex. Consultant will take affirmative steps to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their handicap, race, age, religion, or sex.

8.2.1 Indian Preference. Notwithstanding the above, Consultant shall, for all work performed on or near the Cowlitz Indian Reservation pursuant to this Agreement, and consistent with Section 703(i) of the 1964 Civil Rights Act, give preference in employment (including any authorized subcontracts) to equally qualified Indians regardless of their handicap, age, religion or sex. To the extent feasible and consistent with the efficient performance of this Agreement, the Consultant shall provide employment and training opportunities to Indians that are not fully qualified to perform under this Agreement, regardless of their handicap, age, religion or sex. Further, the Consultant shall comply with any applicable Indian preference laws and requirements established by the Cowlitz Indian Tribe.

8.3 Taxes, Permits, Fees. Unless expressly agreed to herein, the Tribe shall not be responsible for the payment of any taxes, permits, licenses or other expenses incurred by Consultant during the performance of this Agreement. Consultant shall be solely responsible to secure and pay for any necessary or appropriate permits, fees, licenses, inspections, or other prerequisites necessary for proper performance of the Services contemplated by this Agreement.

8.4 Subcontractors. Consultant shall not be permitted to hire a subcontractor to perform the Services contemplated by this Agreement without the Tribe’s express prior written authorization. Any unauthorized attempt by Consultant to subcontract for such Services shall be null and void, and Consultant shall be responsible for all expenses, fees, and costs associated with any such unauthorized subcontract.

8.5 Assignment. Consultant shall not assign its interest in this contract, or any part thereof, including its right to receive payment for Services performed, to another Party. Any attempt by Consultant to assign any obligations, rights, or fees under this Agreement will be null and void, and Consultant shall be responsible for all expenses, fees, and or costs associated with any unauthorized assignment.
9 Representations & Warranties.

9.2 Professional Work. Consultant shall perform Services in a professional, thorough, skillful, and safe manner, consistent with the relevant standard of care expected from professionals with similar credentials and experience, and in accordance with the usual and customary standards accepted in Consultant’s profession for similar projects. Consultant shall notify Tribe of any inconsistencies or errors in Consultant’s work that do not meet the aforementioned standards as soon as possible.

9.3 Compliance with Applicable Laws. Consultant shall comply with all applicable tribal, federal, state and local laws, regulations, guidelines and policies in performance of Services and fulfillment of duties and obligations pursuant to this Agreement. Consultant represents that it has reviewed, and is familiar with, all laws relevant to the performance of Services under this Agreement.

9.4 Project Conflicts. Consultant shall not accept work from any third party during the term of this Agreement that creates a conflict of interest or the appearance of a conflict of interest with the Services.

9.5 Broad Protection. All representations and warranties set forth in this section, or memorialized elsewhere in this Agreement and its Exhibits, shall be interpreted expansively to afford the broadest protection available to Tribe.

10 Access to Records, Personnel, and Facilities. Subject to applicable law, Tribe will provide Consultant with reasonable access to its personnel, facilities, and records necessary to the performance of this Agreement.

10.1 Confidential Information. Where Consultant receives any documents or information typically maintained in confidence by the Tribe (“Confidential Information”), Consultant will, subject to applicable law, make all reasonable efforts to prevent the disclosure of such Confidential Information to any and all third parties. Further, Consultant shall not use the Confidential Information for any purposes other than performance of this Agreement.


11.1 “Work Product” Defined. “Work Product” includes, but is not limited to, any and all papers, reports, information, drawings, internal memoranda, files, proposals, papers, copyrights, patents, photographs, data, and any written or graphic material, or any other material or property, whether stored electronically or in hard copy, in any and all formats including native formats, and however produced, prepared, collected, generated, or created by the Consultant in connection with this Agreement.

11.2 Ownership. Tribe shall own all Work Product associated with this Agreement; and Consultant agrees that it will not retain any interest in such work product, and shall, in accordance with any and all applicable law, turn over all Work Product property to Tribe upon the expiration or termination of this Agreement or upon request.

11.3 Confidentiality. All Work Product shall be considered highly confidential, and Consultant shall take all necessary measures to maintain that confidentiality, and shall not disclose, publish, or disseminate any Work Product without the express prior written authorization from Tribe. Internally, Consultant shall only disclose Work Product to employees when necessary to
perform the Services contemplated by this Agreement; and Consultant shall require all employees to maintain the Work Product’s confidentiality.

11.4. **Injunctive Relief.** Consultant acknowledges that the breach or threatened breach by Consultant of the terms and provisions of this Section would cause irreparable injury to the Tribe, which could not be adequately compensated by money damages. Thus, Consultant agrees that Tribe may obtain a restraining order and/or injunction prohibiting Consultant’s breach or threatened breach of these provisions in addition to any other legal or equitable remedies. Consultant agrees that this provision is fair and necessary to protect the Tribe’s unique political and cultural interests, rights, and confidential information.

12. **Insurance.**

12.1. **Whether Required.** Insurance ☐ IS ☐ IS NOT required. (If unchecked, insurance is required.)

12.2. **Generally.** If insurance is required, Consultant shall (subject to applicable law) maintain, at a minimum, the following insurance throughout the term of this Agreement and for a period of three (3) years following substantial completion or termination of the Project, naming Tribe as an additional insured:

12.2.1 Commercial General Liability Insurance in the amount of at least one million dollars per occurrence and two million dollars aggregate.

12.2.2 Commercial Automobile Liability Insurance in an amount equal to the greater of either (a) one million dollars for all vehicles used in performance of Services pursuant to this Agreement, or (b) any other amount required by applicable law.

12.2.3 Worker’s Compensation Insurance, Disability Benefits Insurance, and any other insurance required by applicable law.

12.3. **Delivery of Certificates.** If insurance is required, Consultant shall deliver certificates of insurance showing the foregoing coverage within ten days of the start of the work.

12.4. **Cancellation, Termination, and/or Lapse of Insurance.** Consultant agrees to provide Tribe with at least thirty (30) days prior notice of Consultant’s intent to cancel, terminate, or allow any insurance policy required herein to lapse during term of this Agreement, and for a period of three (3) years following the expiration or termination of this Agreement.

**No Subrogation.** Consultant waives all subrogation rights it may have against the Tribe and any of the Tribe’s contractors, subcontractors, agents, officers, employees or entities.

13. **Indemnification.** Consultant agrees to, at its sole expense, hold harmless, indemnify, and (at Tribe’s sole discretion) defend the Tribe and its officers, agents, employees, and assigns against any and all claims, demands, judgments, losses, costs, damages, expenses or other liabilities whatsoever, including court costs and reasonable attorney’s fees and expenses, incurred by or claimed against the Tribe, its officers, agents, employees, and/or assigns, that arise out of or are based upon, whether directly or indirectly, Consultant’s and/ or Consultant’s employees’, officers’, or agents’ errors, actions, omissions, and/or breach of contract related to this Agreement, including, but not limited to, accidents or injuries to persons or property.
14. Termination.

14.1. For Convenience. Either Party may terminate this Agreement by giving to the other Party at least ninety (90) days prior written notice. The notice shall specify the effective date of termination.

14.2. For Breach. Either Party may immediately terminate this Agreement by written notice following a material breach by the other Party.

14.3. By Tribal Council Executive Committee. Notwithstanding anything herein to the contrary, Consultant understands and agrees that the Cowlitz Tribal Council Executive Committee may immediately terminate this Agreement by written notice.

14.4. Effect. Upon termination, the obligations of the Parties for the further performance of this Agreement shall cease, but the Parties shall not generally be relieved of the duty to perform their obligations arising up to the date of termination. Termination shall in no way limit or restrict any right or remedy at law or equity which would otherwise be available to Tribe, including, but not limited to, the right to contract with other qualified persons to complete the performance of Services identified in or contemplated by this agreement.

15. Dispute Resolution.

15.1. Negotiation. If a dispute arises between the Parties over the performance, interpretation, or enforcement of this Agreement, the Parties in the first instance shall attempt in good faith to resolve the dispute informally through face-to-face negotiations. These negotiations shall take place at the Cowlitz Indian Reservation in Ridgefield, Washington, unless otherwise agreed upon in writing by the Parties. All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the Parties, their agents, employees, experts and/or attorneys shall be considered confidential, privileged and inadmissible for any purpose, including impeachment, in any other proceeding involving the Parties. Provided, however, that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiations.

15.2. By General Council Chairman. If the Parties are unable to resolve the dispute through negotiation, the aggrieved Party shall submit the matter, in writing, to the Chairman of the Cowlitz Tribal Council. A copy of the aggrieved Party's submission shall be served upon the other Party in accordance with the notice provisions of this Agreement. The Chairman shall promptly convene a meeting of the Parties, which shall be held at the Cowlitz Indian Reservation in Ridgefield, Washington, to resolve the matter. The decision of the Chairman shall be final and binding upon both Parties. Provided, however, that nothing shall operate to limit or prohibit Tribe from otherwise enforcing its rights under this Agreement.

15.2.1. Conflict of Interest. In the event that the Chairman has a conflict of interest that would prevent her/him from hearing the dispute, s/he may, at her/his sole discretion, either decline to hear the dispute, or appoint an alternate Tribal Leader or Elder to serve in his/her place.

16.1. Headings. Headings are provided for convenience and do not affect the meaning of the provisions to which they are affixed.

16.2. Severability. If any term of this Agreement is to any extent illegal, otherwise invalid, or incapable of being enforced, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms hereof shall remain in full force and effect; and to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term.

16.3. Entire Agreement. This Agreement incorporates all of the agreements, covenants, and understandings between the Parties, and supersedes all prior or contemporaneous oral or written agreements between the Parties. No agreement or understanding, verbal or otherwise, of the Parties regarding their responsibilities under this Agreement shall be valid or enforceable unless embodied in the Agreement.

16.3.1. Attachments. The following documents are hereby incorporated by this reference and made part of this Agreement:
- Exhibit A – Statement of Work
- Exhibit B – Budget
- Exhibit C – RFP

16.4. Amendments. No change, amendment, modification, or addendum to this Agreement shall be valid unless it is in writing and executed by authorized representatives of both Parties.

16.5. Survival. The requirements of Section 7 (Maintenance & Retention of Records; Financial Management for Accounting & Audits), Section 11 (Work Product), Section 13 (Indemnification), and Section 15 (Dispute Resolution) of this Agreement shall survive termination of this Agreement. Further, provisions that, by their nature, are reasonably expected by the Parties to be performed after the expiration or termination of this Agreement shall survive and be enforceable. Any and all liabilities, actual or contingent, which have arisen during the term of and in connection with this Agreement, shall survive the expiration or termination of this Agreement.

16.6. No General Waiver. Any waiver or failure of the Parties to enforce or insist upon any term in this Agreement does not constitute a general waiver or relinquishment of that term.

16.7. No Construction Against Drafter. Each party has participated in negotiating and drafting this Agreement. If any ambiguity or question of intent or interpretation arises, this Agreement is to be construed as if the Parties had drafted it jointly, as opposed to being construed against one party because it was responsible for drafting one or more provisions.

16.8. Conflicts. In the event of a conflict between the terms and conditions of this Agreement and those of a Statement of Work or other exhibit or attachment to this Agreement, the terms and conditions of this Agreement shall be controlling.

16.9. Execution. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement.
The counterparts of this Agreement and any ancillary documents may be executed and/or delivered by electronic means by any of the Parties to any other Party and the receiving Party may rely on the receipt of such document so executed or delivered as if the original had been received.

17. **Force Majeure.** This Agreement is subject to force majeure, and is contingent on strikes, accidents, acts of God, weather conditions, fire, and other circumstances that are beyond the control of the Parties. If the terms and conditions of this Agreement are unable to be performed as a result of any cause of force majeure, then this Agreement shall be void, without penalty to any Party for such non-performance.

18. **Jurisdiction & Venue.** The validity, interpretation, and performance of this Agreement, and any and all written instruments, agreements, specifications and other writings of whatever nature which relate to or are part of this Agreement, shall be governed by and construed in accordance with the laws of the Cowlitz Indian Tribe. This Agreement is deemed executed at the Cowlitz Indian Reservation in Ridgefield, Washington. Both Parties understand and agree that this Agreement establishes a consensual business relationship between the Parties for purposes of Cowlitz Tribal Court jurisdiction. Venue of any court action filed to enforce or interpret the provisions of this Agreement shall be exclusively in the Cowlitz Tribal Court(s). In the event of litigation to enforce the provisions of this Agreement, the prevailing Party shall be entitled to reasonable legal fees and expenses in addition to any other relief allowed.

19. **Sovereign Immunity.** Notwithstanding any other terms or provisions of this Agreement, Consultant understands and agrees that the Cowlitz Indian Tribe, by entering into this Agreement, does not waive its sovereign immunity from suit, nor does it waive, alter, or otherwise diminish its sovereign rights, privileges, remedies, or services guaranteed by federal law.

20. **Special Provisions.** In addition to the foregoing terms and conditions, the following requirements are agreed to and shall apply to this Agreement:

20.1. [This Section purposefully left blank]

[Signature page(s) to follow.]
Cowlitz Indian Tribe:

By: _________________________________

Date: ______________________________

Name: ______________________________

Title: _______________________________

(INsert Consultant's Legal Name Here):

By: _________________________________

Date: ______________________________

Name: ______________________________

Title: _______________________________