NOTICE OF INVITATION FOR BIDS FROM COMMERCIAL MODULAR BUILDING CONTRACTORS

IFB NO. 02-2016

FITNESS CENTER ANNEX IN PEACH SPRINGS

Notice is hereby given that the Hualapai Indian Tribe, hereinafter referred to as the "Tribe", is soliciting bids from commercial modular building contractors to provide an ADA accessible commercial modular building with access ramps and building foundation in Peach Springs, located on the Hualapai Reservation, Arizona.

The Tribe invites Indian and non-Indian owned firms to submit sealed bids. The Tribe will select the bidder whose bid does not substantially exceed the amount of funds available for construction of the project, subject to applicable Indian Preference requirements and assessments of the Bidder's responsiveness and responsibility under federal law. Funds are derived from the Health and Human Services and tribal capital. The building must be ready for occupancy no later than four (4) months after contract's Notice to Proceed is given.

A complete copy of this IFB may be obtained from our website at: http://hualapai-nsn.gov/. Internet access is available at all public libraries. Any interested offerors without internet access may obtain a copy of this solicitation by calling **(928) 769-1310**, or a hard-copy may be obtained during regular business hours at the Hualapai Planning and Economic Development Department, 887 W. Route 66, Peach Springs, AZ. Respondents are invited to review the information and to submit their Bids in accordance with the criteria established within this I F B . Written questions regarding this I F B must be received by the Planning Department no later than **October 24, 2016**. Questions may then be responded to by written amendment to this document. **Oral statements or instructions shall not constitute an amendment to the IFB.**

All submittals must be received by the due date and time assigned at the submittal location specified herein. **Any response received at the specified submittal location after the due date and time assigned will be returned unopened.** The Tribe reserves the right to reject any or all submittals, or to withhold the award for any reason it may determine, and to waive or not to waive any informalities in any submittal. All information regarding the content of the specific submittals will remain confidential until a contract is finalized or all proposals are rejected.

SUBMITTAL DUE DATE:	**November 2, 2016 AT 2:00 P.M. LOCAL AZ TIME**
SUBMITTAL LOCATION:	**Hualapai Planning and Economic Development Dept** **887 West Highway 66** **Peach Springs, AZ 86434**
PRE-SUBMITTAL CONFERENCE DATE:	**October 17, 2016**
TIME:	**2:00 P.M. LOCAL AZ TIME**
LOCATION:	**Hualapai Cultural Department** **880 West Hwy 66, Peach Springs, Arizona 86434**
QUESTIONS SHALL BE DIRECTED TO:	**Kevin A. Davidson** **Planning and Economic Development Director** **(928) 769-1310** kdavidson@hualapai-nsn.gov

10/03/16 Publish Date

INTRODUCTION/GENERAL PROJECT INFORMATION

This contract will comprise the production of a new ADA accessible commercial modular building to be known as the Fitness Center Annex, located on Rodeo Circle south of the Hualapai Tribal Court building (NE ¼ of Section 26, T25N, R11W,), in Peach Springs, AZ.

The successful contractor will be required to coordinate the construction efforts with the Tribe's designated Project Manager within the Planning and Economic Development Department and the Fitness Center.

The anticipated project scope of work will include but not be limited to design and construction of a 2,700 sq. ft. modular building, concrete foundation and parking area. The modular building must comply with applicable Americans with Disabilities Act (ADA) requirements including an ADA accessible parking spaces and ramp to each building entrance/exit door. The modular building will have four offices, reception area, one restroom for men, one restroom for women, a large area for fitness activities, and a small demonstration kitchen with seating area, oven/stove with hood, refrigerator and room for dry storage. The successful contractor shall be required to achieve Substantial Completion within 90 consecutive calendar days after the Notice to Proceed and Final Completion within 30 consecutive calendar days after Substantial Completion.

ANTICIPATED DISCIPLINES OF WORK

The Contractor's submittal must include, as a minimum:

1. Modular Building Contractor
2. Sub-contractors for concrete foundation, flatwork and to construct ADA ramps
3. All Consultants and Sub-consultants for engineering services and testing as needed

Any changes to these key Team members for the duration of the project shall require Tribal approval. All Architects, Engineers, and other disciplines shall be registered in the State of Arizona for each task or area of expertise as required by law. All Contractors shall be registered with the Arizona Registrar of Contractors. Any changes to these Contractors for the duration of the project shall require Tribal approval. All consultant members shall be considered subcontractors to the prime Contractor. The Tribe will participate and guide the Contractor in conveying the owner's requirements for the modular building.

The Contactor shall deliver to the Tribe the Fitness Center Annex ready for occupancy. The modular building shall be aesthetically pleasing and shall fit the architectural context of the tribal court and adjacent fitness center. The building design shall meet all local building code requirements (IBC 2009, 2008 NEC, etc.), all local and federal regulations, including Indian Health Services regulations. Grade site to ensure storm water flows away from building and provide ADA accessible parking spaces.

SCOPE OF WORK FOR PORTABALE MODULAR BUILDING SHALL INCLUDE THE FOLLOWING DESIGN FEATURES AND AMENITIES:

1. Concrete perimeter stem wall and foundation with concrete pier footings extended into natural grade with adequate room for crawl space to support wood tongue and groove floor decking (1.125") with R-11 floor insulation
2. 2x6 wood stud wall construction with minimum R-19 insulation, 5/8" interior gypsum board and exterior fiber cement siding over 1" foam insulation
3. Clear span engineered steel roof trusses and 5/8" plywood roof sheathing with EPDM rubber roof, ¼" per linear foot minimum slope over R-38 insulation
4. Minimum 100 square foot offices with sound insulation and commercial grade carpet floor and pad
5. Minimum 60 square foot ADA accessible restrooms with commercial grade vinyl composite tile floor & floor drains
6. Minimum 130 square foot kitchen with vinyl composite tile floor, Corian counter tops (height per ADA), plastic

laminate cabinetry, and appliances, including stainless steel three-compartment sink, oven/stove with hood, and refrigerator with icemaker
7. Painted walls (low VOC) and rubber base
8. Suspended acoustical tile ceiling
9. Commercial grade vinyl composite floor tile at entrance/reception area
10. Commercial grade resilient rubber flooring in fitness area
11. ADA accessible 24 gauge steel exterior doors and hardware
12. Double-pane insulated low-E glazing windows and window blinds
13. Design, provide and install all building electrical panels, lighting, receptacles, mechanical wiring, etc. for a complete building
14. Design, provide and install a complete mechanical system. Heating and air-conditioning (SEER 14 minimum)
15. On demand water heaters in Restrooms and Kitchen
16. Fully automatic wet fire sprinkler system with exterior riser and fire alarm system
17. Stub outs for site utilities as needed (water, sewer, 3-phase electric, telephone, etc.) to connect to existing utilities
18. ADA accessible ramps to all exterior doors.

PRE-CONSTRUCTION PHASE SERVICES BY THE CONTRACTOR MAY INCLUDE, BUT IS NOT LIMITED TO:

1. Consult with the Tribe's representatives to define and clarify the Tribe's requirements for the project and available data.
2. Develop a cost estimate based on the available data, and advise the Tribe on the feasibility of the Tribe's Criteria in light of the available project budget. Consult Tribe to revise the Tribe's Criteria as necessary to meet the project budget.
3. Provide project planning and scheduling
4. Incorporate the comments and direction provided by the Tribe.
5. Address those requested changes or modifications which would make this project not feasible due to scheduling, budgetary constraints, or due to any conflicts with any rules, regulations, or requirements
6. Develop a Preliminary Design of the Project to include but not be limited to Preliminary Plans drawn to scale
7. Prepare and submit Design for Construction plans and specifications (sealed by a Registered Arizona Architect if designed by an architect). Obtain Approval for Construction from all permitting agencies and jurisdictions.
8. Address all federal and Tribal design permitting requirements and pay all associated fees.
9. Coordinate with various Tribal departments and other agencies, utility companies, etc.
10. Provide three (3) sets of plans and specifications to the Tribe with complete plans and specifications (sealed by architect if designed by an architect).

CONSTRUCTION PHASE SERVICES BY THE CONTRACTOR MAY INCLUDE, BUT NOT BE LIMITED TO:

1. Address all federal, state, and Tribal construction permitting requirements and pay all associated fees including TERO.
2. Arrange for procurement of all materials and equipment required
3. Provide services of an independent third-party special inspector and testing laboratory, as needed
4. Conduct weekly construction progress meetings and schedule and administer specially called meetings throughout the progress of the work. Provide conference quality phones for meeting participants not able to attend progress meetings in person
5. Coordinate with various Tribal departments and other agencies, utility companies, etc.
6. Provide on-site construction management to assure proper compliance with the Contract Documents
7. Obtain Approval of Construction for building structures, building systems, and all supporting site infrastructure from all permitting agencies and jurisdictions to include building Certificate of Occupancy.
8. Schedule and manage site operations
9. Provide quality controls

10. Respond to and resolve Tribal issues
11. Bond and insure the construction in accordance with Tribal regulations
12. Maintain a safe work site for all project participants
13. Provide a minimum of two (2) year warranty

COMPLETION REQUIREMENTS

1. As a condition precedent to receiving a Temporary Certificate of Occupancy, Contractor shall secure required certificates of inspection, testing and/or approval and deliver them to the Tribe.
2. As a condition precedent to receiving a Temporary Certificate of Occupancy, Contractor shall collect all equipment manuals and deliver them to the Tribe.
3. Contractor shall perform the checkout of utilities and operations of systems and equipment for readiness, perform their initial start-up and testing, and as a condition precedent to receiving a Temporary Certificate of Occupancy Completion, schedule and conduct a training program for Tribe personnel in their operation.
4. At the date of Final Completion, and as a condition precedent to receiving final payment, Contractor shall collect all written warranties and deliver them to the Tribe.

SELECTION PROCEEDURE

Selection of the Contractor is subject to a determination by the Tribe and IHS that the contractor is responsive, qualified, responsible, and eligible to contract for federally funded activities. In determining bidder(s) qualifications, the Tribe may require a meeting at its convenience within fourteen days of bid opening.

The Bid is subject to Indian Preference. If an Indian-owned firm's price is within 6% of the low bid, the contract will be awarded to that firm. However, proposals by qualified non-Indian firms are strongly encouraged. The Community reserves the right to reject any and all proposals.

ESTIMATED SELECTION PROCESS CALENDAR OF EVENTS

****The calendar of the various activities which make-up the Selection Process is as follows:**

IFB ACTIVITY	DATE	TIME
Advertise Request for Invitation for Bids (IFB)	**10/3/16**	
Invitation for Bids (IFB) Pre-submittal Conference	**10/17/16**	**2:00 PM**
Submittal of Bids	**11/2/16**	**2:00 PM**
Evaluation and selection of Contractor (week of)	**11/2/16**	
Award of Contract (Estimated Date)	**11/5/16**	
Notice to Proceed and Commence Work	**Date of Award + 15 Calendar Days**	
Submittal of Schedule of Payment Items	**Date of Award + 20 Calendar Days**	
Substantial Completion	**TBA**	
Final Completion	**TBA**	
Building Ready for Occupancy	**No later than four (4) months after NTP issued**	

All questions, whether they are of an administrative, contractual, or technical nature, shall be directed to the attention of **Kevin A. Davidson, Planning and Economic Development Director, (928) 769-1310, kdavidson@hualapai-nsn.gov**

TIME OF PERFORMANCE

The homes must be ready for occupancy no later than four (4) months after issuance of Notice to Proceed.

INSTRUCTIONS TO BIDDERS

1. **PRE-SUBMITTAL CONFERENCE:** The date and time of a pre-submittal conference, if applicable, is indicated on the cover page of this document. **While not mandatory, it is highly recommended that all interested Offerors attend this pre-submittal conference.** The purpose of this conference will be to clarify the contents of this solicitation in order to prevent any misunderstanding of the Tribe's position. Any doubt as to the requirements of this solicitation or any apparent omission or discrepancy should be presented to the Tribe at this conference. The Tribe will then determine the appropriate action necessary, if any, and may issue a written amendment to the solicitation. Oral statements or instructions will not constitute an amendment to this solicitation. Persons with a disability may request a reasonable accommodation by contacting **Kevin A. Davidson, (928) 769-1310**. Requests for accommodations must be made forty-eight (**48**) hours in advance of the event.

2. **SUBMITTAL FORMAT: Original and 2 copies (3 total) of each bid submittal** should be turned in to the Planning Department, on any required forms and in the format specified in the solicitation. The original copy of the submittal should be clearly labeled "Original". **The sections of the submittal shall be tabbed and clearly identifiable.** The Tribe will not provide any reimbursement for the cost of developing or presenting submittals in response to the selection process. Failure to include any requested information may have a negative impact on the evaluation and/or may result in the rejection of the offeror's submittal.

3. **INQUIRIES:** Any question related to this solicitation shall be directed to the Planning Director whose name appears on the front side of this document. Questions should be submitted in writing when time permits. The Planning Director may require any and all questions to be submitted in writing at their sole discretion. Any correspondence related to a solicitation should refer to the appropriate Solicitation number, page and paragraph number. However, the offeror must not place the number on the outside of an envelope containing questions since such an envelope may be identified as a sealed submittal and may not be opened until after the official submittal due time and date. Oral interpretations or clarifications will be without legal effect. Only questions answered by formal written solicitation amendment will be binding.

4. **FAMILIARIZATION OF SCOPE OF WORK:** Before signing a contract, each Offeror shall familiarize itself with the Scope of Work, laws, regulations and other factors affecting performance of work. It shall carefully correlate its observations with requirements of the solicitation and negotiated contract and otherwise satisfy itself as to the expense and difficulties attending the performance of the work. The signing of a Contract will constitute a representation of compliance by the Offeror. There will be no subsequent financial adjustment, other than that provided by the Contract, for lack of such familiarization.

5. **AMENDMENT OF SOLICITATION:** The bidder shall acknowledge receipt of a solicitation amendment by signing and returning the document by the specified due time and date.

6. **CONFIDENTIAL INFORMATION:** If an individual believes that any portion of a submittal, offer, specification, protest, or correspondence contains information that should be withheld, then the Procurement Manager should be so advised in writing. The Tribe shall review all requests for confidentiality and provide a written determination. If the confidential request is denied, such information shall be disclosed as public information, unless the person utilizes the "Protest" provision.

7. **VENDOR APPLICATION:** Prior to the award of a contract, the successful offeror shall have a completed vendor application on file with the Finance Department. Information may be obtained by contacting the Planning Department at **(928) 769-1310**.

8. **PREPARATION OF SUBMITTAL:**

A. **INSTRUCTIONS FOR SUBMITTAL:** All submittals shall include any and all forms provided in this

solicitation package. It is permissible to copy these forms as required. Facsimiles, telegraphic proposals, or mailgrams shall not be considered. The offer form shall be submitted with an original ink signature by the person authorized to sign the submittal. Erasures, interlineations, or other modifications in the submittal shall be initialed in original ink by the authorized person signing the Consultant offer. Periods of time, stated as a number of days, shall be in **consecutive calendar days**. It is the responsibility of all offerors to examine the entire IFB package, to seek clarification of any requirement that may not be clear, and to check all responses for accuracy before sending in a submittal.

1. BIDDING PROCEDURES

- A bid is invalid if it has not been deposited at the Hualapai Planning Office office prior to the time and date for receipt of bids indicated or prior to any extension thereof issued to the Bidders via written addenda.

- Bids must be prepared on the Bid Form (see attached) with every blank space filled, the signature in longhand. Amounts must be in words as well as in figures. Should differences between words and figures occur, the amount stated in words shall govern. The Form must be executed in either ink or typewritten. Where the Bidder is a corporation, the Bid Form must be signed by the legal name of the corporation followed by the name of state of incorporation, date of incorporation and the legal signature of an officer authorized to bind the corporation to a contract.

- Bids shall be addressed to the Owner, as shown on the Bid Form, and delivered to the Project Manager in an opaque, sealed package.

- Each original and copy of the bid shall contain all elements of the bid including all required attachments in the order listed on the Bid Form.

- Each package shall be marked as "IFB No.02-2016; Do Not Open Until November 2, 2016" and shall bear the name of the Bidder and the name of the project.

- No bid may be modified or withdrawn after the bid opening for a period of 30 days except where the Award of the Contract has been delayed for at least 31 days.

2. BID GUARANTEE

- Bidders shall include a bid guarantee to ensure the execution of the contract and the furnishing of performance and payment bond or bonds or other prescribed security by the successful bidder in the appropriate amount. The bid guarantee shall not be less than five percent (5%) of the amount of the base bid (not including alternates), and at the option of the bidder, may be a certified check, bank draft, irrevocable letter of credit, US Government bonds at par value, Tribe-approved negotiable securities, or a bid bond. Bid security documents shall substantially conform to all provisions of the Bid Bond or Bid Security (see attached). Any certified check, bank draft, or letter of credit must be payable to the order of the Hualapai Indian Tribe.

- A bid bond shall be issued by a surety insurance company that either: (1) Appears on the Treasury Department's most current Circular 570, as amended; or, (2) Is licensed to transact insurance in the state of Arizona, or otherwise permitted to transact insurance under stated exceptions in the Insurance Law of the states of Arizona. Bidders must also submit a Certificate of Authority from the Arizona Departments of Insurance certifying that the company issuing the bond is licensed to issue such bonds in Arizona. It is the responsibility of the bidder to demonstrate that his or her surety company meets one of the two qualifications.

- The successful bidder's security will be retained until he or she has signed the contract and provided the required performance and payment security. The Tribe reserves the right to retain the security of the next

lowest bidder until the low bidder enters into contract. Other bid security will be returned as soon as practicable.

- Failure to furnish a bid guarantee in the proper form and amount by the deadline set for receiving bids will be cause for rejection of the bid.

3. BIDDERS CERTIFICATION OF ELEGIBILITY

- Each person submitting a bid for any portion of the work contemplated by the bidding documents shall execute an affidavit, in the form provided by the owner (Bidder's Eligibility, see attached), to the effect that he or she is eligible to be awarded this contract under federal regulations. Such affidavit shall be attached to the bid.

4. NON-COLLUSIVE AFFIDAVIT

- Each person submitting a bid for any portion of the work contemplated by the bidding documents shall execute an affidavit, in the form provided by the Owner (Non-Collusive Affidavit, see attached), to the effect that he or she has not colluded with any other person, firm or corporation in regard to any bid submitted. Such affidavit shall be attached to the bid.

5. QUALIFICATIONS OF CONTRACTORS

- Bidders shall submit a properly executed Contractor's Qualification Statement, AIA Document A-305, in their Bid Package.

6. SUBCONTRACTOR LIST FORM

- The Form (Subcontractor List, see attached) shall be submitted with the Bid and shall include the names of all subcontractors and their location by City and State. All other information (street address, telephone number, etc.) may be left blank at the time of Bid.

- Following Bid Opening, the apparent Low Bidder will be required to submit the fully executed Form within two business days of such notification.

7. CONSTRUCTION SCHEDULE

- The bidder shall include a draft construction schedule for the project in the Bid Package, including key elements of construction and stages of completion. The construction schedule will be utilized to negotiate a binding completion date prior to the execution of contract.

8. INDIAN PREFERENCE

- Completion of this bid solicitation is open to all qualified bidders. However, if a bid is received from at least one qualified Indian organization or Indian-owned economic enterprise, and this bid is within nine percent (9%) of the bid of the lowest responsible bidder, the contract will be awarded to the Indian-owned economic enterprise, (provided this bid does not exceed budgeted funds).

- If claiming a 6% Indian Preference in bidding, the Bidder shall include documentation of the ownership and structure of the firm. A sample form appears in at the end of this solicitation. Such documentation shall include the nature and extent of Indian ownership, a complete schedule of participating entities, and a copy of the latest Arizona Corporation Commission filing or equivalent. In addition, the documentation shall include a copy of the registration or membership of the identified owner in a recognized Indian Tribe or Alaskan

Native Village. All submitted information shall be complete and verifiable through the applicable State corporation department, the Bureau of Indian Affairs, and/or the enrollment records of the applicable Indian Village, Tribe or Nation.

9. Contractor's License Law

- Contractor shall comply with, and require Subcontractors to comply with State Contractors License Law, and be duly registered and licensed thereunder. Provide photocopy of License attached to Bid Form.

10. SITE VISITATIONS

- Bidders are expected to fully inform themselves of the existing conditions. A registration list will be maintained at the conference to confirm attendance. Bidders may visit the site at other times; however, neither the Owner or the Project Manager will be available to accompany visits outside of the time set forth for the pre-bid conference. Bids submitted by a bidder whose name does not appear on the pre-bid conference registration list will be returned unopened.

11. BID DELIVERY

A sealed opaque package containing the required original and copies shall be delivered to the Hualapai Planning Department:

Hualapai Planning Department
P.O. Box 179 (USPS) or
887 Highway 66 ("drop off location", FedEx, UPS, etc.)
Peach Springs, AZ 86434

Or

Hualapai Administration Building
941 Hualapai Way ("drop off location")
Peach Springs, AZ 86434

The bid package shall include a label identifying the bidder and including the following:

IFB No. 02-2016
Fitness Center Annex
Do Not Open Until November 2, 2016

12. TIME FOR RECEIVING BIDS

- Bids shall be delivered prior to the date and time set for Receipt of Bids in the Calendar of Events, which is 2:00 PM, Arizona Time, November 2, 2016. The exact closing time for bids will be established by the Project Manager.

- Bids received prior to the bid deadline will be securely kept, unopened. The Project Manager will decide when the specified time has arrived and no bid received thereafter will be considered. No responsibility will attach to the Owner or Project Manager for the premature opening of a bid not properly addressed and identified.

- Delivery may be by mail, delivery service or in-person; however, the bid must be received prior to the stated deadline. Faxed or emailed Bids will not be accepted.

13. MODIFICATIONS OF BIDS

- Modifications of bids will be considered if delivered in the appropriate number of originals and copies matching the required bid submittal. Modifications delivered by telefax will not be accepted or considered.

- Modifications must be set over the signature of the Bidder and must clearly identify the original bid submittal and must clearly indicate the purpose and extent of modification.

- Modifications must be received by the Date set for Receipt of Bids (see above).

14. REJECTION OF BIDS

- The Bidder acknowledges the right of the Owner to reject any or all bids, to waive any informality or irregularity in any bid received, or to withhold the award for any reason determined to be in the Owner's best interests. In addition, the Bidder recognizes the right of the Owner to reject a bid if the Bidder failed to furnish required bid security, or to submit the data required by the bidding Documents, or if the bid is incomplete or irregular.

15. WITHDRAWAL OF BIDS

- Prior to the bid opening, bids may be withdrawn upon the Project Manager's receipt of a written request dispatched by the bidder.

- After the bid opening, bids may not be withdrawn for a period of 30 days without the consent of the Owner. Negligence on the part of the bidder in preparing his or her bid confers no right of withdrawal or modification of his or her bid after such bid has been opened.

16. OPENING OF BIDS

- Bids will be opened at the time and date set forth in the Calendar of Events.

- Bidders registering at the required pre-bid conference will be given directions to the Bid Opening location, which will be the Owner's Administrative Offices in Peach Springs, AZ.

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- Every bid received within the time set for receiving bids shall be opened and publicly read aloud, irrespective of any irregularities therein.

- The Bid Opening shall be public and Bidders, their representatives and other persons properly interested may be present.

17. CONFIRMATION OF BIDS AND AWARD OF CONTRACT

- The contract will be awarded to the responsive and responsible bidder submitting the lowest proposal complying with the conditions of the Invitation to Bid and Instructions to Bidders, provided the bid is reasonable and it is to the interest of the Owner to accept it.

- Selection of the successful bidder is also subject to compliance with applicable federal codes as being responsible and responsive.

- The Owner also reserves the right to reject the bid of any bidder who has previously failed to perform properly, or to complete on time, contracts of a similar nature; who is not in a position to perform the contract, or who has habitually and without just cause neglected the payment of bills or otherwise disregarded obligations to subcontractors, material suppliers, or employees.

- In determining bidder(s) qualifications, the Owner may require a meeting, at the Owner's convenience, within ten (10) business days of the bid opening.

- The bidder to whom the award is made will be notified at the earliest possible date, which is estimated in the Calendar of Events.

- Bidders are hereby notified that a single lump sum contract will be awarded for this work.

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18. EXECUTION OF CONTRACT; PERFORMANCE, PAYMENT SECURITY

- Subsequent to the award of the contract and within seven days after the prescribed forms are presented for signature, the successful bidder shall execute and deliver to the Tribe a standard AIA Contract Document (A105–2007) in such number of counterparts as the Tribe may require. Having satisfied all conditions of the award, as set forth elsewhere in these documents, the successful bidder shall, with the approval of the Tribe, present with the contract one of the following:

- Performance and Payment Bond (needed for purchase of modular building?)
  - The bond must be in a penal sum of at least the full amount of the contract as awarded, and secure the faithful performance of the contract and the payment of all persons, firms or corporations to whom the Contractor may become legally indebted for labor, materials, tools, equipment, or services, of any nature, employed or used by him or her in performing the work. Such bond shall bear the same date as, or a date subsequent to, the date of the contract.
  - On each bond, the rate of premium shall be stated, together with the total amount of the premium charge. The current power of attorney for the person who signs for any surety company shall be attached to such bond. The bond shall be in the form of a Performance & Payment Bond (see attached), or AIA Document A311, current edition.
  - Surety companies executing bonds must either: (1) Appear on the Treasury Department's most current list (Circular 570 as amended) and must be authorized to transact business in the state of Arizona; or, (2) Be approved by the Owner, and licensed to transact insurance in the state of Arizona, or otherwise permitted to transact insurance under stated exceptions in the Insurance Law of the state of Arizona.
  - Bidders must submit with bond(s) a Certificate of Authority from the Arizona Dept. of Insurance certifying that the company issuing the bond is licensed to issue such bonds in Arizona.

- Letter of Credit
  - The Contractor shall furnish (1) a Letter of Credit (LOC) for at least twenty-five percent (25%) of the total contract price, and (2) a Completion Assurance Agreement. The LOC shall read as Irrevocable Letter of Credit (see attached). The LOC shall be irrevocable and unconditional, and shall be payable to the Owner according to the LOC's provisions and the provisions of the Completion Assurance Agreement. The LOC shall be interpreted and used in conjunction with Completion Assurance Agreement (see attached). The LOC shall be on the financial institution's letterhead, and signed by an officer of the institution legally authorized to execute it. The Completion Assurance Agreement shall be signed by the Contractor and the Owner.

- Deposit of Cash or Securities
  - The Contractor shall establish in a bank or other financial institution acceptable to the Tribe an account in the name of the Tribe of not less than twenty percent (20%) of the contract amount. This account shall be in the form of Certificates of Deposit, other interest-bearing accounts, or Tribe-approved negotiable securities. The Contractor shall provide evidence of this account in the form of a letter from said institution to the Tribe agreeing to the terms of the procedure, along with such Certificates of Deposit or deposit acknowledgements as are applicable. This letter shall be on the institution's letterhead, and signed by an officer of the institution legally authorized to execute it. The letter shall read as Cash Deposit Agreement (see attached). The account will be administered in accordance with the terms of the letter evidencing it as a Cash Deposit Agreement (see attached).
- Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

SPECIAL TERMS AND CONDITIONS

1. INSURANCE REPRESENTATIONS AND REQUIREMENTS:

1.1 Without limiting any obligations or liabilities of the Contractor, the Contractor shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona with an AM Best, Inc. rating of FSC VIII A- or above with policies and forms satisfactory to the Tribe's Grants and Contracts Administrator. Failure to maintain insurance as specified herein may result in termination of this Contract at the Tribe's option.

1.2 By requiring insurance herein, the Tribe does not represent that coverage and limits will be adequate to protect the Contractor, his consultants or subcontractors. The Tribe reserves the right to review any and all of the insurance policies and/or endorsements cited in this Contract but the Tribe has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Contract or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Contract.

1.3 All coverage and self insured retention or deductible portions of insurance of Contractor, his consultants, and his subcontractors at any level, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name by written endorsement to the fullest extent permitted by law for claims arising out of the performance of the Work included in this Contract, the Tribe and its agents, representatives, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Contract. In addition, all coverage and self insured retention or deductible portions of insurance of Contractor shall name by written endorsement to the fullest extent permitted by law for claims arising out of the performance of the Work included in this Contract his consultants and his subcontractors at any level as Additional Insured as specified under the respective coverage sections of this Contract.

1.4 All insurance required herein shall be maintained in full force and effect until all Work or services required to be performed under the terms of this Contract is satisfactorily performed, completed and Final Payment has been made by Contractor. All insurance required herein shall be non-cancellable except by sixty (60) day written notice to the Tribe.

1.5 Contractor's, consultant's, and Subcontractor's insurance shall be primary insurance with respect to performance of the work included in this Contract and in the protection of the Tribe as Additional Insureds. The policies required by this Contract shall have attached an "Additional Insured Endorsement" form that includes the Tribe as well as its agents, representatives, officers, directors, officials, and employees as insured parties. The forms shall stipulate that the insurance afforded by the policies shall be by primary insurance and that any insurance, self-insured retention, deductibles, or risk retention programs maintained or participated in by the Tribe or its agents, representatives, officers, directors, officials and employees shall be excess and not contributory to insurance required herein.

1.6 In the event any insurance policies required to be furnished by Contractor for this Contract are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for five (5) years past completion and acceptance of the Work or services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and containing the provisions as required herein for the five-year period. The obligation of the Architect to supply the same coverage is contingent upon the coverage being reasonably available and affordable.

1.7 Each policy of Contractor, Contractor's consultants, and Subcontractors, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the Tribe and its agents, representatives, officers, directors, officials, and employees for any claims arising out of the work or services of Contractor, consultant, or Subcontractor. Contractor shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

1.8 The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the Tribe. Contractor shall be solely responsible for any such deductible or self-insured retention amount. The Tribe, at its option, may require Contractor to secure payment of such deductible or self-insured retention by a surety bond or irrevocable and unconditional letter of credit.

1.9 For any work under this Contract subcontracted in any way, Contractor shall execute written agreement with each consultant or Subcontractor containing the indemnification provisions set forth herein and insurance requirements set forth herein protecting the Tribe and Contractor. Contractor shall be responsible for executing the agreement with consultant or subcontractor and providing the Tribe's Grants and Contracts Administrator with certificates of insurance verifying the insurance requirements. Subject to the Tribe's prior written approval, which approval shall not be unreasonably withheld, Contractor may, at Contractor's option and at Contractor's sole risk, allow minor subcontractors to deviate from these insurance requirements, for insurance other than professional liability, due to insurance market availability or affordability issues. Issuance of any such prior written approval is at the sole discretion of the Tribe and shall in no way relieve Contractor of any of its responsibilities under this Contract, nor shall it constitute a waiver of any claims or damages otherwise available by law or contract to the Tribe.

1.10 Prior to commencing any work or services under this Contract, Contractor shall furnish Contract's Administrator with certificate(s) of insurance, or formal endorsements as required by this Contract, issued by the insurers of the Contractor, consultants, and Subcontractors as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverage, conditions and limits of coverage specified in this Contract and that such coverage and provisions are in full force and effect. If a certificate of insurance is submitted as verification of coverage, the Tribe will reasonably rely upon the certificate of insurance as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Contract. If any of the policies required herein expire during the life of this Contract, it shall be Contractor's responsibility to forward renewal certificates containing all insurance provisions required herein within Ten (10) Days after the renewal date. Additionally, certificates of insurance submitted without referencing the Project, the project number, and the contract number will be subject to rejection and returned or discarded. Certificates of insurance shall specifically include the following provisions:

a. The Tribe and its agents, representatives, officers, directors, officials and employees are Additional Insured as follows:
(i) Commercial General Liability - Under Insurance Services Office, Inc., ("ISO") current Form CG 20 10 or equivalent.
(ii) Auto Liability - Under current ISO Form CA 20 48 or equivalent.
(iii) Excess Liability - Follow Form to underlying insurance.

b. Contractor's, consultant's, and Subcontractor's insurance shall be primary insurance as respects performance of the Work included in this Contract.

c. All policies, including Workers' Compensation, waive rights of recovery (subrogation) against the Tribe and its agents, representatives, officers, directors, officials and

employees for any claims arising out of work or services performed by Contractor under this Contract.

d. A 60-day advance notice cancellation provision to be provided to the Tribe's Grants and Contracts Administrator. If ACORD certificate of insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

e. Certificates of Insurance and any notice of cancellation should be addressed as follows:

The Hualapai Tribe
P.O. Box 179
Peach Springs, AZ 86434

1.11 Contractor, his consultants, and subcontractors shall not fail to comply with the claim reporting provisions of the insurance policies required herein or cause a breach of any insurance policy warranty that would affect the coverage and protection of the Tribe provided by the policy.

1.12 <u>Required Insurance Coverage</u>

1.12.1 Contractor shall maintain "occurrence" form Commercial General Liability insurance with an unimpaired limit of not less than two million dollars ($2,000,000.00) for each occurrence. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, property damage, bodily injury, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO current policy Form CG 00 010 or equivalent thereof, including but not limited to, separation of insured's clause; and shall not contain a sunset provision or commutation clause, nor any provision which would serve to limit third party action over claims. Further, the policy shall include coverage for the hazards commonly referred to as X (explosion), C (collapse), U (underground). The products and completed operations coverage shall extend for ten (10) years past acceptance, cancellation or termination of the Work. Said policy shall contain a severability of interest provision. To the fullest extent allowed by law, for claims arising out of the performance of this Contract, the Tribe and its agents, representatives, directors, officers, officials and employees shall be cited as an Additional Insured under ISO current Commercial General Liability Additional Insured Endorsement Form CG 20 10, or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you." If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

1.12.2 Contractor shall maintain his own occurrence based Professional Liability insurance covering negligent errors and omissions arising out of the work or services performed by Contractor, or anyone employed by Contractor, or anyone for whose negligent acts, mistakes, errors and omissions Contractor is legally liable, of one million dollars ($1,000,000.00) each claim and two million dollars ($2,000,000.00) all claims. In the event the Professional Liability insurance policy is written on a "claims made" basis, coverage shall extend for five (5) years past completion and acceptance of the work or services, and Contractor shall be required to submit certificates of insurance evidencing proper coverage is in effect as required above.

1.12.3 Contractor shall ensure and evidence that Architect/Engineer maintains Professional Liability insurance covering errors and omissions arising out of the work or services performed by Architect, or anyone

employed by Architect, or anyone for whose acts, mistakes, errors and omissions Architect is legally liable, with a liability insurance limit of one million dollars ($1,000,000.00) each claim and two million dollars ($2,000,000.00) liability limit for all claims. In the event the Professional Liability insurance policy is written on a "claims made" basis, coverage shall extend for five (5) years past completion and acceptance of the work or services, and Architect shall be required to submit Certificates of Insurance evidencing proper coverage is in effect as required above. The obligation to keep this coverage in force is contingent upon the coverage being reasonably available. Architect shall require all his sub-consultants or subcontractors to maintain Professional Liability insurance with coverage in amounts appropriate to the portion of the work assigned to each sub-consultant or subcontractor.

1.12.4 Contractor, his consultants, and Subcontractors shall maintain Business Automobile Liability insurance with a limit of one million dollars ($1,000,000) each occurrence on Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor's work or services under this Contract. Coverage will be at least as broad as ISO coverage code "1" "any auto" current policy form CA 00 01 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Contract, the Tribe and its agents, representatives, officers, directors, officials and employees shall be cited as Additional Insureds under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope then underlying insurance.

1.12.5 Contractor, his consultants, and Subcontractors shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of work or services under this Contract and shall also maintain Employers Liability Insurance of not less than one million dollars ($1,000,000.00) for each accident, one million dollars ($1,000,000.00) disease for each employee and one million dollars ($1,000,000.00) disease policy limit.

1.12.6 Contractor shall be responsible for purchasing and maintaining Builder's Risk and Course of Construction insurance, including flood and earthquake insurance, to protect the Project from perils of physical loss, in an amount equal to the contract value. The insurance shall provide for all costs of replacement for the entire Project at the time of any loss. The insurance shall include as named insureds the Tribe, and its agents, representatives, officers, directors, officials, and employees, the Contractor, the Contractor's consultants and subcontractors and sub subcontractors and shall insure against loss from the perils of fire and all-risk coverage for physical loss or damage due to theft, lightning, vandalism, collapse, malicious mischief, riot, civil commotion, landslide, smoke, sprinkler leak, water damage, windstorm, hail, transit, flood, earthquake, testing, resulting loss arising from defective design, negligent workmanship or defective material during the Work until Final Payment. Contractor shall increase the coverage limits as necessary to reflect changes in the estimated replacement cost. Policy shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy by the Tribe.

1.13 <u>Certificates Of Insurance</u>

Prior to commencing the Work under this Contract, Contractor shall furnish the Tribe's Grants and Contracts Administrator with certificates of insurance, and formal endorsements as required by this Contract, issued by Contractor's, consultant's, and Subcontractor's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Contract are in full force and effect. Contractor may submit a written request to the Tribe to delay the purchase of certain of the policies required herein until Contractor mobilizes at the site. Unless otherwise specified in this Contract, in the event any insurance policy(ies) required by this Contract is(are) written on a "claims made" basis, coverage shall extend for five years past completion and acceptance of Contractor's work or services and as evidenced by annual certificates of insurance. If a policy does expire during the life

of the Contract, a renewal certificate must be sent to the Tribe thirty (30) Days prior to the expiration date. All certificates of insurance required by this Contract shall be identified by Project name. The Tribe reserves the right to request and receive, within ten working days, certified copies of any or all of the above insurance policies and/or endorsements. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Contract or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Contract. Contractor acknowledges that the Tribe's Grants and Contracts Administrator will review all required certificate(s) of insurance with endorsement(s) for verification of compliance with this Contract.

1.14 Cancellation And Expiration Notice

Insurance required herein shall not expire, be canceled, or materially changed without 60 days' prior written notice to the Tribe.

1.15 Failure Of Compliance

Should the Contractor fail to provide and maintain in force any and all insurance, or insurance coverage required by this Contract or by law, or should a dispute arise between the Tribe and any insurance company of Contractor over policy coverage or limits of liability as required herein, the Tribe will be entitled to recover from Contractor all amounts payable, as a matter of law, to the Tribe or any other parties, had the required insurance or insurance coverage been in force. Said recovery will include, but is not limited to, interest for the loss of use of such amounts of money, plus all attorneys' fees, costs, and expenses incurred in securing such determination and any other consequential damages arising out of the failure of Contractor or insurance company to comply with the provisions of this Contract, or any policy required hereby, or any other requirements regarding insurance imposed by law. Nothing herein shall limit any damages for which Contractor is responsible as a matter of law.

1.16 Indemnity

To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless the Tribe and its agents, representatives, officers, directors, officials, and employees of any of them from and against all claims, damages, losses and expenses (including but not limited to attorneys' fees, court costs and the cost of appellate proceedings) relating to, arising out of, or alleged to have resulted from either directly or indirectly the negligent acts, errors, mistakes, omissions, work or services of the Contractor, its employees, consultants, agents, or any tier of subcontractors in the performance of this Contract. Contractor's duty to defend, hold harmless and indemnify the Tribe and its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment or destruction of property, including loss of use resulting there from, caused by any negligent acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of Contractor or any tier of consultant or subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Contractor may be legally liable. The amount and type of insurance coverage requirements set forth herein are separate and independent from the indemnity provisions of this paragraph and will in no way be construed as limiting the scope and magnitude of the indemnity provisions of this paragraph.

2. **AMENDMENTS:** Amendments may be obtained from the Tribe's website at: **www.hualapai-nsn.gov.** It is the bidder's responsibility to obtain a copy of any amendment relevant to this solicitation. Internet access is available at all public libraries. Any interested offerors without internet access may obtain a copy of this solicitation by calling **(928) 769-1310**, or a copy may be picked up during regular business hours at the Planning Department, 887 W. Highway 66, Peach Springs, AZ 86434. The Tribe takes no responsibility for informing recipients of changes to the original solicitation document. Failure to submit signed amendments with the bid response may be grounds for deeming submittal non-responsive.

3. **CONFLICT OF INTEREST:** Sub consultants who design and/or develop specifications for materials for this project will be precluded from contract award for that item if a solicitation is issued for the item.

STANDARD TERMS AND CONDITIONS

1. DEFINITION OF KEY WORDS USED IN THIS SOLICITATION:

Shall, Will, Must: Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of submittal as non-responsive.
Should: Indicates something that is recommended but not mandatory. If the offeror fails to provide recommended information, the Tribe may, at its sole option, ask the offeror to provide the information or evaluate the submittal without the information.
May: Indicates something that is not mandatory but permissible.

For purposes of this solicitation, the following definitions shall apply:

A. **Hualapai Tribe –** The Tribe, Peach Springs, Arizona, 941 Hualapai Way, Peach Springs, AZ 86434

B. **Agency or User Department** – Used interchangeably to mean the Tribal department or division responsible for managing the project.

C. **Contractor or Firm** – Used interchangeably in referring to the person, firm or corporation with whom the Tribe has entered into the Contract.

D. **Joint Venture** – Two or more persons or entities combining their property, money, skills, and knowledge to form a distinct legal entity to carry out a single business enterprise for profit, pursuant to a written agreement.

E. **Contract -** The legal agreement executed between the Tribe and the Contractor.

F. **Tribe Project Manager -** The Tribal employee specifically designated as responsible for monitoring and overseeing the performance under this Contract, also referred to as the Tribe's Designated Contract Representative.

G. **Procurement Manager -** The contracting authority for the Tribe, Peach Springs, AZ.

2. CERTIFICATION: By signature in the offer section of the Bid Offer page, the Contractor certifies:

A. The submission of the offer did not involve collusion or other anti-competitive practices.
B. The Consultant shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246.
C. The Consultant has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.
D. The Consultant submitting the offer hereby certifies that the individual signing the offer is an authorized agent for the Consultant and has the authority to bind the Consultant to the Contract.

3. TERMINATION OF CONTRACT: This contract may be terminated at any time by mutual written consent, or by the Tribe, with or without cause, upon giving thirty (30) days written notice to you. The Tribe at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the Tribe shall be liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the Tribe before the effective date of termination.

The Tribe reserves the right to cancel the whole or any part of this contract due to failure of contractor to carry out any term, promise, or condition of the contract. The Tribe will issue a written ten (10) day notice of default to contractor for acting or

failing to act as in any of the following:

A. In the opinion of the Tribe, contractor provides personnel that do not meet the requirements of the contract;

B. In the opinion of the Tribe, contractor fails to perform adequately the stipulations, conditions or services/specifications required in this contract;

C. In the opinion of the Tribe, contractor attempts to impose on the Tribe personnel or materials, products or workmanship, which is of an unacceptable quality.

D. Contractor fails to furnish the required service and/or product within the time stipulated in the contract;

E. In the opinion of the Tribe, contractor fails to make progress in the performance of the requirements of the contract and/or give the Tribe a positive indication that contractor will not or cannot perform to the requirements of the contract.

Each payment obligation of the Tribe created hereby is conditioned upon the availability of Tribal, State and Federal funds which are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the Tribe and available for the continuance of service herein contemplated, the contract period for the service may be terminated by the Tribe at the end of the period for which funds are available. The Tribe shall notify contractor at the earliest possible time which service will or may be affected by a shortage of funds. No penalty shall accrue to the Tribe in the event this provision is exercised, and the Tribe shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

4. **RECORDS:** Internal control over all financial transactions related to this contract shall be in accordance with sound fiscal policies. The Tribe may, at reasonable times and places, audit the books and records of you or any and all of your subcontractors. Said audit shall be limited to this contract and its scope of services.

5. **INDEPENDENT CONTRACTOR:** It is clearly understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever.

Contractor shall not be entitled to compensation in the form of salaries, or to paid vacation or sick days by the Tribe, and that such days do not accumulate for the use of same at a later date.

The Tribe will not provide any insurance coverage to the Contractor, including Workmen's Compensation coverage. The Contractor is advised that taxes or social security payments shall not be withheld from a Tribe payment issued hereunder and that Contractor should make arrangements to directly pay such expenses, if any.

6. **INDIAN PREFERENCE:** The Contractor and each of its subcontractors shall give preference in all hiring to Indians as required by the Indian preference in accordance with 25 U.S.C. § 450e(b). Except as set forth in 25 U.S.C. § 450e(b), Contractor, its subcontractor(s) and supplier(s) agree to adhere to a policy of equal employment opportunity and demonstrate an affirmative effort to recruit, hire, promote and upgrade the position of employees regardless of race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status, or marital status and who agree and are responsive to the Tribe's goals.

7. **HUMAN RELATIONS:** Contractor agrees to abide by the provisions of the Tribe's Procurement Code relating to

provisions against discrimination required in all Tribe contracts.

8. **NON-EXCLUSIVE CONTRACT:** Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the Tribe. The Tribe reserves the right to obtain like goods or services from another source when necessary.

9. **AMERICANS WITH DISABILITIES ACT:** Except as set forth in 42 U.S.C. § 2000e-2(i), this Contract is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the Act.

10. **CONFIDENTIALITY OF RECORDS:** The Contractor shall establish and maintain procedures and controls that are acceptable to the Tribe for the purpose of assuring that no information contained in its records or obtained from the Tribe or from others in carrying out its functions under the contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the contract. Persons requesting such information should be referred to the Tribe. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of contractor as needed for the performance of duties under the contract, unless otherwise agreed to in writing by the Tribe.

11. **SHIPMENT UNDER RESERVATION PROHIBITED:** Contractor is not authorized to ship materials under reservation and no tender of a bill of lading shall operate as a tender of the materials. Non-compliance shall conform to the cancellation clause set forth within this document.

12. **GRATUITIES:** The Tribe may, by written notice to the Contractor, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the contractor or any agent or representative of the Contractor, to any officer or employee of the Tribe amending, or the making of any determinations with respect to the performing of such contract. In the event this contract is canceled by the Tribe pursuant to this provision, the Tribe shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

13. **APPLICABLE LAW:** This contract shall be governed by the laws of the Hualapai Tribe.

14. **CONTRACT:** The contract shall be based upon the Invitation for Bids issued by the Tribe and the offer submitted by the Contractor in response to the Invitation for Bids. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the Invitation for Bids. The Tribe reserves the right to clarify any contractual terms with the concurrence of the Contractor; however, any substantial non-conformity in the offer, as determined by the Tribe's Procurement Manager, shall be deemed non-responsive and the offer rejected. The contract shall contain the entire agreement between the Tribe and the Contractor relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.

15. **DISPUTE RESOLUTION:** All claims and controversies arising under this contract shall be resolved in the Hualapai Tribal Court.

16. **CONTRACT AMENDMENTS:** This contract shall be modified only by a written contract amendment signed by persons duly authorized to enter into contracts on behalf of the Contractor and the Tribe.

17. **PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

18. **SEVERABILITY:** The provisions of this contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the contract which may remain in effect without the valid provision

or application.

19. PROTECTION OF TRIBAL BUILDINGS: The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation (such as trees, shrubs, and grass) on Tribal property. If the Contractor fails to do so and damages such buildings, equipment and vegetation, the Contractor shall replace or repair the damage at no expense to the Tribe, as directed by the Procurement Manager. If the Contractor fails or refuses to make such repair or replacement, then the Contractor shall be liable for the cost thereof, which may be deducted from the contract price.

20. INTERPRETATION - PAROL EVIDENCE: This contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this contract. Acceptance or acquiescence in a course of performance rendered under this contract shall not be relevant to determine the meaning of this contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

21. ASSIGNMENT - DELEGATION: No right or interest in this contract shall be assigned by the contractor without prior written permission of the Tribe, and no delegation of any duty of Contractor shall be made without prior written permission of the Tribe's Procurement Manager. The Tribe shall not unreasonably withhold approval and shall notify the Contractor of the Tribe's position within fifteen (15) days of receipt of written notice by the Contractor.

22. SUBCONTRACTS: No subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein without the advance written approval of the Tribe's Procurement Manager. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used. The Tribe shall not unreasonably withhold approval and shall notify the Contractor of the Tribe's position within fifteen (15) days of receipt of written notice by the Contractor.

23. RIGHTS AND REMEDIES: No provision in this document or in the Contractor's proposal shall be construed, expressly or by implication as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim or default or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract or by law, and shall not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.

24. WARRANTIES: Contractor warrants that all material or service delivered under this contract shall conform to the specifications of this contract. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by the Tribe, shall not alter or affect the obligations of the Contractor or the rights of the Tribe under the foregoing warranties. Additional warranty requirements may be set forth in this document.

25. INDEMNIFICATION: To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless The Tribe, its Council members, officers, employees, agents and other officials (hereafter called "Tribe") from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, court costs or other alternative dispute resolution costs arising out of or resulting from Contractor's work or services; provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease, death, personal injury, or property damage, including the loss of use or diminution in value, resulting there from; but only to the extent caused in whole or in part by the actual or alleged negligent acts, errors or omissions of Contractor, or anyone for whose acts Contractor may be liable. Contractor shall not be obligated to indemnify, defend and hold harmless the Tribe for any claims to the extent that the injury or damage is attributable to or arose from the negligence or willful misconduct on the part of the Tribe, its agents or employees. The Tribe reserves the right, but not the obligation, to participate in defense without relieving the Contractor of any obligation hereunder. The amount and type of insurance coverage requirements set forth in this contract shall in no way be construed as limiting the scope of the indemnity

in this paragraph. The provisions of this Section shall survive the expiration or early termination of this Contract.

26. OVERCHARGES BY ANTITRUST VIOLATIONS: The Tribe maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the Tribe any and all claims for such overcharges as to the materials or services used to fulfill the contract.

27. RIGHT TO ASSURANCE: Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation with this contract.

28. ADVERTISING: Contractor shall not advertise or publish information concerning this contract without prior written consent of the Tribe.

29. RIGHT TO INSPECT: The Tribe may, at reasonable times, and at the Tribe's expense, inspect the place of a Contractor or subcontractor which is related to the performance of any contract as awarded or to be awarded.

30. FORCE MAJEURE:

A. Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this contract if and to the extent that such party's performance of this contract is prevented by reason of Force Majeure. The term "Force Majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force Majeure shall not include late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.

B. If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand-delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this contract.

31. INSPECTION: All material or service is subject to final inspection and acceptance by the Tribe. Material or service failing to conform to the specifications of this contract shall be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Noncompliance shall conform to the cancellation clause set forth in this document.

32. EXCLUSIVE POSSESSION: All services, information, computer program elements, reports, and other deliverables which may be created under this contract are the sole property of the Tribe and shall not be used or released by the Contractor or any other person except with prior written permission by the Tribe.

33. TITLE AND RISK OF LOSS: The title and risk of loss of material or service shall not pass to the Tribe until the Tribe actually receives the material or service at the point of delivery, unless otherwise provided within this contract.

34. NO REPLACEMENT OF DEFECTIVE TENDER: Every tender of materials must fully comply with all provisions of this contract. If a tender is made which does not fully conform, this shall conform to the cancellation clause set forth within this document.

35. DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH: Contractor shall deliver conforming

materials in each installment or lot of this contract and may not substitute nonconforming materials. Delivery of nonconforming materials or a default of any nature, at the option of the Tribe, shall constitute breach of the contract as a whole. Noncompliance shall conform to the cancellation clause set forth within this document.

36. **LIENS:** All materials, services, and other deliverables supplied to the Tribe under this contract shall be free of all liens other than the security interest held by the Contractor until payment in full is made by the Tribe. Upon request of the Tribe, the Contractor shall provide a formal release of all liens.

37. **PAYMENT:** A separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice. The Tribe shall make every effort to process payment for the purchase of materials or services within thirty (30) calendar days after receipt of materials or services and a correct invoice.

38. **LICENSES:** Contractor shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this contract.

39. **COST OF PROPOSAL PREPARATION:** The Tribe shall not reimburse the cost of developing, presenting, or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically providing adequate information in a straightforward and concise manner.

40. **PUBLIC RECORD:** All proposals submitted in response to this request shall become the property of the Tribe and shall become a matter of public record available for review subsequent to the award notification.

41. **SUBSEQUENT EMPLOYMENT:** The Tribe may cancel this contract without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract, on behalf of the Tribe is or becomes, at any time while the contract or any extension of the contract is in effect, an employee of, or a contractor to any other party to this contract with respect to the subject matter of the contract. Such cancellation shall be effective when written notice from the Procurement Manager is received by the parties to this contract, unless the notice specifies a later time.

42. **CLEAN UP:** The Contractor shall at all times keep the contract area, including storage areas used by the Contractor, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of the Tribe. Upon completion of the repair, the Contractor shall leave the work and premises in clean, neat and workmanlike condition.

43. **PROJECT COMPLIANCE:** At a minimum, the project shall be designed to comply with all applicable Federal, State and Local regulations and any amendments thereto which are adopted during the life of this Contract.

44. **TERRORISM COUNTRY DIVESTMENTS:** The successful Contractor shall at no time during the term of the contract be in violation of the U.S. Export Administration Act.

45. **INDIAN PREFERENCE:** The Contractor and each of its subcontractors shall give preference in all hiring to Indians as required by the Indian preference in accordance with 25 U.S.C. § 450e(b).

46. **TERO:** The Contractor and each of its subcontractors agree to comply with its obligations under the Tribe's TERO Ordinance. The dollar value of all contracts is subject to a one percent TERO tax payable to the Tribe prior to commencement of work.

BID OFFER PAGE

TO THE HUALAPAI TRIBE:

The Undersigned hereby offers and agrees to enter into negotiations with the Tribe to provide the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the solicitation.

For clarification of this offer, please contact:

_____ **Name:**_____
Company Name

_____ **Phone:** _____
Address

_____ **Fax:** _____
City State Zip

_____
Signature of Person Authorized to Sign

_____
Printed Name

_____
Title

ACCEPTANCE OF BID OFFER:
The offer is hereby accepted.

The Consultant is now bound to provide the materials or services listed in IFB #01-2016, including all terms, conditions, specifications, amendments, etc., and the Contractor's Bid Offer as accepted by Tribe/public entity.

The Consultant has been cautioned not to commence any billable work or to provide any material or service under this contract until Consultant receives this signed sheet, or written notice to proceed.

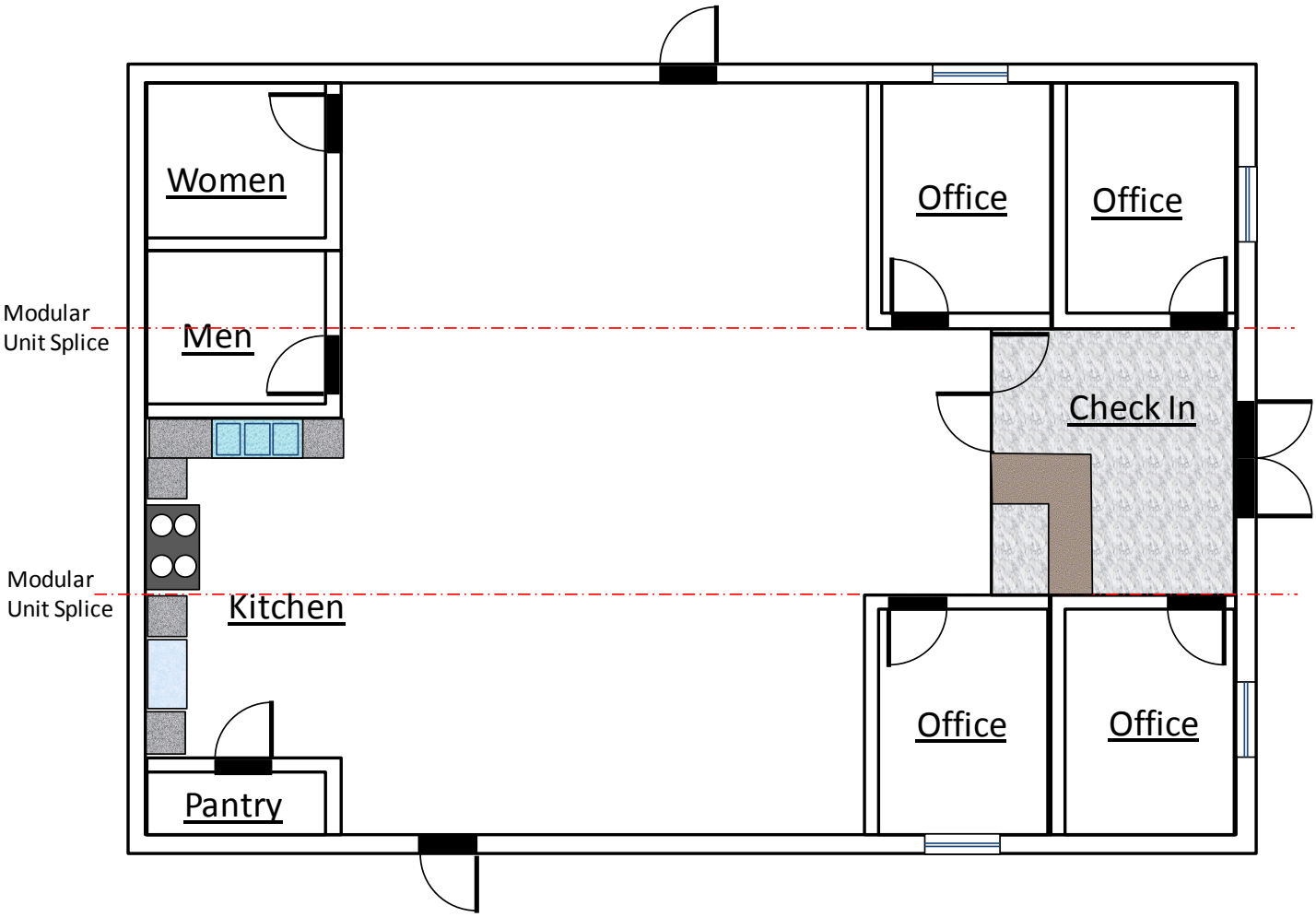
Awarded this____day of_____20_____

_____
Authorized signature / Chairman of the Hualapai Indian Tribe

Site along Rodeo Circle, south of Hualapai Tribal Court.

Site Photos.

Conceptual Floor Plan of a 42’ x 65’ modular office



Bid Form

RE: HUALALPAI FITNESS CENTER ANNEX
IFB No. 02-2016

TO: TRIBAL COUNCIL
HUALAPAI NATION
P.O. BOX 179
PEACH SPRINGS, AZ 86434

We, the undersigned, propose to do all the work and furnish all the labor, physical plant and materials necessary for the construction of the modular building located on Rodeo Circle, Peach Springs, AZ. We further declare that we have carefully read Invitation for Bid that we have made a personal examination of the site, that we understand the exact Scope of the Project, and by making the Bid, declare that we are in compliance with all requirements thereof. We acknowledge receipt of the following Addenda and have included their provisions in this Bid.

Addendum No._____ Dated _____ Addendum No. _____ Dated _____

In submitting this Bid, We agree:

1. To hold the Bid open until 30 days after date for receipt of bids.
2. To enter into and execute a Contract, and to furnish Performance and Payment Bonds and Insurance Certificates in accordance with the Contract Documents, within 24 hours after notice of award of contract.
3. To accomplish the work in accordance with the Contract Documents.
4. To provide substantial completion of the work by the date stated in the Calendar of Events and that failure to meet this provision will result in Owner applying provisions of liquidated damages of $250 per day.

Base Bid:
The undersigned agrees to perform the work as described in the Scope of Work, including allowances, for the following lump sum price:

_____
Dollars ($_____)

Concrete Foundation:

_____
Dollars ($_____)

ADA Parking Spaces:

_____
Dollars ($_____)

ADA Access Ramps to Entrances:

_____
Dollars ($_____)

Rights: In submitting this bid, it is understood that the right is reserved by the Tribe to reject any and all bids. If written notice of the acceptance bid is mailed, telegraphed or delivered to the undersigned within thirty days after the opening thereof, or at any time thereafter before this bid is withdrawn, the undersigned agrees to execute and deliver a contract in the prescribed form and furnish the required performance and payment security within ten (10) days after the contract is presented to him for a signature.

Bid Bond: Bid security in the sum of _____ dollars ($_____) in the form of _____ is submitted herewith in accordance with the Invitation for Bids.

Non-Collusion: Attached hereto is an affidavit in proof that the undersigned has not colluded with any person with respect to the proposal.

Required Attachments: We have enclosed the following required items:

1. Bid Bond
2. Bidder's Certification of Eligibility
3. Non-Collusive Affidavit
4. Contractors Qualifications (AIA Document A305)
5. Subcontractor List Form
6. Evidence of Performance & Payment Bond
7. Preliminary Construction Schedule
8. Indian Preference Documentation (if applicable; Form 01095 is optional)
9. Copy of Contractor's License(s)

Date _____

Contractor _____

By _____

Title _____

Address _____

Telephone _____

Surety _____

AZ License No. _____
(Seal if Corporation)

BIDDER'S CERTIFICATION OF ELIGIBILITY

By the submittal of this bid, the bidder certifies that to the best of its knowledge and belief, neither it, nor any person of firm that has an interest in the bidder's firm, nor any of the bidder's subcontractors, is ineligible to:

(1) Be awarded contracts by any agency of the United States Government
or,

(2) Participate in federal programs.

_____

Name of Bidder

_____

_____

_____

Address

By: _____

Title: _____

NOTE: This certification is a material representation of fact upon which reliance is placed when making award. If it is later determined that the bidder knowingly rendered an erroneous certification, the contract may be terminated for default, and the bidder may be debarred or suspended from participation in Federal programs.

BID BOND

KNOW ALL MEN AND WOMEN BY THESE PRESENTS THAT:
_____ (hereinafter "Principal"), as Principal, and _____ (hereinafter "Surety"), as Surety, are held and firmly bound unto the Hualapai Indian Tribe (hereinafter "Owner") in the sum of five percent (5%) of the amount of bid Principal, submitted by Principal to the Owner for the work described below, for the payment of which sum the Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

Whereas, the Principal has submitted a bid for construction of Elder Group Home on the Hualapai Indian Reservation in Peach Springs, Arizona.

NOW, THEREFORE, if the Owner shall accept the proposal of the Principal and the Principal shall enter into contract with the Owner in accordance with the terms of the Proposal and give the bonds and certificates of insurance as specified in the standard specifications or Contract documents with good and sufficient surety for the faithful performance of the contract and for the prompt payment of labor and materials furnished in the prosecution of the contract, or in the event of the failure of the Principal to enter into the contract and give the bonds and certificates of insurance, if the Principal pays to the Owner the difference not to exceed the penalty of the bond between the amount specified in the proposal and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by the proposal then this obligation is void; otherwise it shall remain in full force and effect.

IN WITNESS WHEREOF, the above-bound parties have executed this instrument this ____day of _____, 2016 the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to the authority of its governing body.

x_____ x_____
Principal Surety

_____ _____
Typed Name and Title Typed Name and Title

(Signatures must be notarized.)

(Power-of-Attorney for person signing for Surety Company must be attached to bond.)

sample
(On Bank Letterhead)

BID SECURITY
IRREVOCABLE LETTER OF CREDIT

Dear _____:

We hereby authorize you to draw on us to the aggregate amount of $_____ (five percent of the amount of the bid) in the event _____ withdraws its bid within the bid holding period, or upon being awarded a contract, fails to provide adequate performance and payment security as required by the Contract documents.

Such drafts must be accompanied by the following document

A written certification by you that the proceeds of any draft drawn on this Letter of Credit will be used solely to indemnify the Owner against loss or damage suffered by it resulting from any act or omission described in the above paragraph.

We warrant to you that all drafts drawn in compliance with the terms of this Letter of Credit will be unconditionally and duly honored upon delivery of the documentation specified and presented to this office.

This Letter of Credit is irrevocable and shall be in full force and effect until notification in writing is received from you that a contract for Project _____ has been awarded and executed, whereupon this Letter of Credit shall automatically be canceled.

This Letter of Credit shall not be modified or amended except upon the written agreement of this Bank and the Owner.

Sincerely yours,

President

AFFIDAVIT

State of _____

County of _____

_____, being first duly sworn, deposes and says:

That he/she is, _____ the party making the foregoing proposal for bid, that such proposal or bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham bid or to refrain from bidding, and has not, in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person to fix the bid price of affiant or of any other bidder, or to fix any overhead, profit or cost element of said bid price, or of that of any other bidder, or to secure any advantage against the Owner or any person interested in the proposed contract, and that all statements in said proposal for bid are true.

Invitation For Bid No. 01-2016

Location Peach Springs, Arizona

_____
Signature

_____
Name and Title

_____
Date
(Signature should be notarized.)

Project Name:_____

This supplement to the Bid Form is hereby submitted with the Bid Form.

GENERAL CONTRACTOR of MODULAR BUILDING (BIDDER):

Name:_____

Address: _____

Phone: _____ Contact: _____

The following subcontractors will work on the construction of the above named project if the bid is accepted by the Owner from the above named General Contractor. "General Contractor" is inserted for those categories for which no sub-contract will be let. "Not Applicable" is inserted for those categories which the General Contractor believes are not applicable to this project.

EARTHWORK
Name:_____
Address: _____
Phone: _____ Contact: _____
License No.: _____ Class: _____
Bonding Company: _____

SOIL TREATMENT
Name:_____
Address: _____
Phone: _____ Contact: _____
License No.: _____ Class: _____
Bonding Company: _____

ASPHALTIC CONCRETE PAVING
Name:_____
Address: _____
Phone: _____ Contact: _____
License No.: _____ Class: _____
Bonding Company: _____

CONCRETE FOUNDATION
Name:_____
Address: _____
Phone: _____ Contact: _____
License No.: _____ Class: _____
Bonding Company: _____

ADA RAMPS
Name:_____
Address: _____
Phone: _____ Contact: _____
License No.: _____ Class: _____
Bonding Company: _____

OTHER: _____
Name:_____
Address: _____
Phone: _____ Contact: _____
License No.: _____ Class: _____
Bonding Company: _____

SIGNED _____
(Contractor)

Performance and Payment Bond

KNOW ALL MEN BY THESE PRESENTS: THAT we, _____, as PRINCIPAL, and _____ as SURETY, are held firmly bound unto _____ hereinafter called the Owner, in the penal sum of _____ ($_____), for the payment of which sum we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally.

WHEREAS, Principal has entered into a certain Contract with the Owner, dated _____, a copy of which is hereto attached and made a part hereof.

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall in all respects fully perform the Contract and all duly authorized modifications thereof during its original term and any extensions thereof that may be granted and during any guaranty period for which the Contract provides, and if the Principal shall fully satisfy all claims arising out of the prosecution of the work under the Contract and shall fully indemnify the Owner for all expenses which it may incur by reason of such claims, including its attorney's fees and court costs, and if the Principal shall make full payment to all persons supplying labor, services, materials, or equipment in the prosecution of the work under the Contract, in default of which such persons shall have a direct right of action hereupon; and if the Principal shall pay or cause to be paid all sales and use taxes payable as a result of the performance of the Contract as well as payment of gasoline and special motor fuel taxes in the performance of the Contract and all motor vehicle fees required for commercial motor vehicles used in connection with the performance of the Contract, then this obligation shall be void; otherwise, it shall remain in full force and effect. No modification of the Contract or extension of the term thereof, nor any forbearance on the part of the Owner shall in any way release the Principal or the Surety from liability hereunder. Notice to the Surety of any such modification, extension, or forbearance is hereby waived.

IN WITNESS WHEREOF, the aforesaid Principal and Surety have executed this instrument and affixed their seals hereto, this _____ day of _____.

_____
Principal Surety

_____
Name and Title

(signatures must be notarized.)
(Power-of -Attorney for person signing for Surety Company must be attached to bond.)

The rate of premium on this bond is $_____ per thousand.
The total amount of premium charge $_____.

(The above is to be filled in by Surety Company.)

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the _____ Secretary of the corporation named as Principal in the foregoing bond; that _____ who signed the bond on behalf of the Principal, was then _____ of said corporation; that I know his/her signature thereto is genuine; and that said bond was fully signed, sealed and attested for and in behalf of said corporation by authority of its governing body.

DIRECTIONS FOR PREPARATION OF PERFORMANCE AND PAYMENT BOND

1. Individual sureties, partnerships or corporations not in the surety business are not acceptable.

2. The name of the Principal shall be shown exactly as it appears in the Contract.

3. The penal sum shall not be less than required by the Contract.

4. If the principals are partners or joint ventures, each member shall execute the bond as an individual and state his/her place of residence.

5. The official character and authority of the person(s) executing the bond for the Principal, if a corporation shall be certified by the Secretary of Assistant Secretary thereof under the corporate seal, or copies attached to such records of the corporation as will evidence the official character and authority of the officer signing, duly certified by the Secretary of Assistant Secretary, under the corporate seal, to be true copies.

6. The current power-of-attorney of the person signing for the surety company must be attached to the bond.

7. The date of the bond must not be prior to the date of the contract.

8. The following information must be placed on the bond by the surety company:
   A. The rate of premium in dollars per thousand; and
   B. The total dollar amount of premium charged.

9. Type or print the name underneath each signature appearing on the bond.

10. An executed copy of the bond must be attached to each copy of the Contract (original counterpart) intended for signing.

(On Bank letterhead)

IRREVOCABLE LETTER OF CREDIT

(Address to Owner)

Dear _____:

We hereby authorize you to draw on us to the aggregate amount of $_____in the event (name of contractor) defaults, or fails to complete construction and/or payments under that certain Construction Contract with you dated _____.

Such drafts must be accompanied by:

1. Completion Assurance Agreement dated _____ for the project known as Project Number _____.

2. Written certification by you that the proceeds of any draft drawn on this Letter of Credit will be used solely for the purposes and interests described in the Completion Assurance Agreement.

We warrant you that all drafts drawn in compliance with the terms of this Letter of Credit will be duly honored upon delivery of documentation specified and presented to this office until _____ or until fifteen months after the date of substantial completion of the Construction Contract dated between _____, the contractor, and _____, the Owner, as the said date of substantial completion is defined in said Construction Contract, whichever first occurs.

This Letter is irrevocable and shall be in full force and effect unless notification in writing is received by you canceling same.

This credit shall not be modified or amended except upon the written agreement of this Bank and the Owner.

Sincerely,

President

(cc: Contractor)

Completion Assurance Agreement

THIS AGREEMENT made this _____ day of_____ by and between the Hualapai Indian Tribe (Owner) and _____ (Contractor).

WITNESSETH

WHEREAS, the Contractor and the Owner have entered into a Construction Contract dated _____, providing for the construction of a project described in such Contract; and

WHEREAS, the Contractor desires to meet his obligations to supply 100 percent Performance and Payment Bonds with a substitution of another form of security; and

WHEREAS, the Owner has determined that a Letter of Credit arrangement would provide sufficient security in lieu of a performance and payment bond.

NOW THEREFORE, in consideration of the mutual promises and undertakings herein contained, and for the purpose of inducing the Owner to substitute a Letter of Credit arrangement for a Performance and Payment Bond, the parties hereto agree that:

1. The Contractor has provided the Owner with an unconditional, irrevocable, Letter of Credit (Fund), issued by a banking institution in the amount of $_____ to secure and indemnify the Owner for any expense, loss or damage suffered or sustained as a result of any default by the Contractor in the performance of its obligations under the Construction Contract. It is expressly understood and agreed that said Fund shall at all times be under the control of the Owner.

2. All disbursements from the Fund shall be authorized and made by the Owner.

3. The Fund shall be maintained as a separate trust account and may be drawn in increments up to its aggregate amount or the aggregate may be drawn. Any incremental draw will not impair or diminish the right of the Owner to make subsequent draws in any amount(s) up to the aggregate amount of the Fund. The proceeds of a draw may be disbursed as follows:

A. To the Contractor during the course of construction to promote the completion of the project, as may be deemed necessary by the Owner.

B. To the Owner the entire fund or balance remaining therein in the event of a default by the Contractor under the Construction Contract to be used by the Owner to indemnify it for any loss, damage or expense whatsoever which it may suffer by reason of the Contractor's failure to perform the Construction Contract.

C. To the Contractor the balance of such fund remaining after three months from the date that the work has been substantially completed in accordance with the Construction Contract (except for punch list items and items awaiting seasonal opportunity to complete) and accepted by the Contracting Officer, but only so long as the Project is free and clear of any liens, claims or encumbrances whatsoever. There shall be withheld from the payment of said balance an amount equal to 2½ percent of the total amount of the Construction Contract, which sum is to be retained in account for a period of fifteen months from the date of substantial completion or for

another period less than fifteen months if authorized by the Owner. Said sum shall be held as a Fund to guarantee against defects in construction due to faulty materials or workmanship or damage to the premises resulting from such defects, which defects or damage become apparent within one year from the date of substantial completion. Said sum may be used for the correction of defects or damage in the event the Contractor fails to make such corrections. The Contractor's liability for such corrections is not limited by the amount of such sum.

4. It is agreed the Contractor may provide a separate unconditional and irrevocable Letter of Credit to satisfy the requirement set forth in paragraph 3C above, that 2½ percent of the total Construction Contract amount, for latent defects, to be retained for fifteen months beyond the date of substantial completion. If such separate unconditional and irrevocable Letter of Credit is provided, it must be delivered to the Owner and made subject to this Completion Assurance Agreement before any balance remaining in the Fund is released to the Contractor or the Fund is canceled.

5. Any other provision of this Agreement notwithstanding, it is understood and agreed that no funds may be disbursed to the Contractor so long as there are any outstanding liens, claims or encumbrances against the project, written notice of which have been received by the Owner. If any such claims, liens and encumbrances have not been removed or resolved, and written notice of such removal or resolution received by the Owner by the date of substantial completion, the Owner may in its sole discretion exercise any of its rights under the Construction Contract General Conditions.

6. It is expressly understood by all parties hereto that in the event of a default by Contractor in any of its obligations under the Construction Contract, the entire Fund, any part thereof, or balance remaining therein may, at the option of the Owner, be paid to Owner together with an assignment of all rights granted to the Owner.

7. This agreement shall not alter or limit the obligations and liabilities of the Contractor under the Construction Contract, but shall be deemed to be additional security for the performance by the Contractor of its obligations thereunder.

8. It is understood and agreed in the event the fund is held by a depository, that the depository is not charged with any duty or responsibility to see to the performance of or compliance with any agreements between any of the parties hereto other than that of paying over the fund as directed in writing by the Owner, nor to see to the application of the Fund after making disbursements as so directed. It is expressly understood and agreed that any claim, controversy, dispute or disagreement which may exist between the Contractor and the owner shall have no effect whatsoever upon the obligation of the Depository to pay the Owner promptly upon receipt of a notice issued pursuant to the terms of the Fund and this Agreement.

9. Notwithstanding any other provision of the Construction Contract, it is agreed the fund will be administered pursuant to the terms of the Fund, this Agreement and any consistent provisions in the Construction Contract. Any inconsistent provisions in the Construction Contract shall be superseded and controlled by the Fund and this Agreement. It is expressly agreed that reference to this Agreement or collateral Construction Contract document does not make the issuance of the Fund conditional.

_____
Contractor

_____
Name and Title

_____
Owner

_____
Name and Title

Approved by Bank:

_____

_____
Name and Title

(Bank Letterhead)

CASH DEPOSIT LETTER

(Address to Owner)

Dear _____:

This will acknowledge that this Bank has established an account in the amount of $_____ with funds received from _____.

This account has been issued in the name of _____ and the original certificate manifesting the same is being handed to you herewith. It is our understanding that this account is being established in lieu of performance and payment bonds customarily furnished in construction projects. The account shall serve as the "Fund" referred to in the Completion Assurance Agreement, dated _____, by and between the Owner and the Contractor.

The Bank shall pay over all or part of the funds in the account together with interest herein to the Owner, or to another as the Owner may designate, upon written notification by the Owner to the Bank of a default by the Contractor under the Construction Contract, or of the Contractor's failure to perform the Construction Contract.

The Bank shall pay over all or part of the funds in the account upon proper notification by the Owner without regard to any objections, claims, defenses, assertions, or actions by the Contractor or any other person or entity acting on behalf of the Contractor. The Bank specifically recognizes that any controversy, dispute, claim or disagreement which may exist between the Contractor and the Owner have no effect whatsoever upon the obligation of the Bank to pay the Owner promptly upon receipt of the notice referred to above.

Sincerely,

President

Cash Deposit Agreement

THIS AGREEMENT made this _____ day of _____ by and between the Hualapai Indian Tribe (Owner) and _____(Contractor).

WITNESSETH

WHEREAS, the Contractor and the Owner have entered into a Construction Contract dated _____, providing for the construction of a project described in such Contract; and

WHEREAS, the Contractor desires to meet his/her obligations to supply 100 percent Performance and Payment Bonds with a substitution of another form of security; and

WHEREAS, the Owner has determined that a cash deposit arrangement would provide sufficient security in lieu of a Performance and Payment Bond.

NOW THEREFORE, in consideration of the mutual promises and undertakings herein contained, and for the purpose of inducing the Owner to substitute a cash deposit arrangement for a Performance and Payment Bond, the parties hereto agree that:

1. The Contractor has provided the Owner with a letter dated _____, from a banking institution evidencing the deposit of funds in an account (Fund) in the amount of $ _____. The Fund has been established in the name of the Owner to secure and indemnify it for any expense, loss or damage suffered or sustained as a result of any default by the Contractor in the performance of its obligations under the Construction Contract. It is expressly understood and agreed that said Fund shall at all times be under the control of the Owner.

2. All disbursements from the Funds shall be authorized arid made by the Owner.

3. The Fund shall be maintained as a separate trust account and may be drawn in increments up to its aggregate amount or the aggregate may be drawn. Any incremental draw will not impair or diminish the right of the Owner to make subsequent draws in any amount(s) up to the aggregate amount of the Fund. The proceeds of a draw may be disbursed as follows:

A. To the contractor during the course of construction to promote the completion of the project, as may be deemed necessary by the Owner.

B. To the Owner the entire Fund or balance remaining therein in the event of a default by the Contractor under the Construction Contract to be used by the Owner to indemnify it for any loss, damage or expense whatsoever which it may suffer by reason of Contractor' s failure to perform the construction contract.

C. To the Contractor the balance of such Fund remaining after three months from the date that the work has been substantially completed in accordance with the Construction Contract (except for punch list items and items awaiting seasonal opportunity to complete) and accepted by the Contracting Officer in accordance with Section 20 of the General Conditions, but only so long as the Project is free and clear of any liens, claims or encumbrances whatsoever. There shall be withheld from the payment of said balance an amount equal to 2½ percent of the total amount of the Construction Contract, which sum is to be retained in account for a period of 15 months from the date of substantial completion or for another period less than 15 months if authorized by the Owner. Said sum shall be held as a Fund to guarantee against defects in construction due to faulty materials or workmanship or damage to the premises resulting from such defects, which defects or damage become apparent within one year after date of substantial completion. Said sum may be used for the correction of defects or damage in the event the Contractor fails to make such corrections. The Contractor's liability for such corrections is not limited by the amount of such sun.

4. It is agreed that Contractor may provide a separate unconditional and irrevocable Letter of Credit to satisfy the requirement set forth in paragraph 3C above that 2½ percent of the total Construction Contract amount, for latent defects, to be retained for fifteen months beyond the date of substantial completion. If such separate unconditional and irrevocable Letter of Credit is provided, it must be delivered to the Owner and made subject to this Completion Assurance Agreement before any balance remaining in the fund is released to the Contractor or the Fund canceled.

5. Any other provision of this Agreement notwithstanding, it is understood and agreed that no funds may be disbursed to the Contractor so long as there are any outstanding liens, claims or encumbrances against the Project, written notice of which have been received by the Owner. If any such claims, liens and encumbrances have not been removed or resolved, and written notice of such removal or resolution receive by the Owner, by the date of substantial completion, the Owner may in its sole discretion exercise any of its rights under the General Conditions of the Construction Contract

6. It is expressly understood by all parties hereto that in the event of a default by the Contractor in any of its obligations under the Construction Contract, the entire Fund, any part thereof, or balance remaining, therein may, at the option of the Owner, be paid to the Owner together with an assignment of all rights granted to the Owner.

7. This Agreement shall not alter or limit the obligations and liabilities of Contractor under the Construction Contract, but shall be deemed to be additional security for the performance by the Contractor of its obligations thereunder.

8. It is understood and agreed that in the event the Fund is held by a depository, that the depository is not charged with any duty or responsibility to see to the performance of or compliance with any agreements between any of the parties hereto other than that of paying over the Fund as directed in writing by the Owner, nor to see to the application of the Fund after making disbursements as so directed. It is expressly understood and agreed that any claim, controversy, dispute or disagreement which may exist between the Contractor and the Owner shall have no effect whatsoever upon the obligation of the depository to pay the Owner promptly upon receipt of a notice issued pursuant to the terms of the Fund and this Agreement.

9. Notwithstanding any other provision of the Construction Contract, it is agreed the fund will be administered pursuant to the terms of the Fund, this Agreement and any consistent provisions in the Construction Contract. Any inconsistent provisions in the Construction Contract shall be superseded and controlled by the Fund and this Agreement. It is expressly agreed that reference to this Agreement or collateral Construction Contract document does not make the issuance of the Fund conditional.

_____	_____
Contractor	Owner
_____	_____
Name and Title	Name and Title

Approved by Bank:

_____

INDIAN ENTERPRISE QUALIFICATION STATEMENT

The Undersigned certifies under oath the truth and correctness of all answers to questions made hereinafter:

1. Applicant wishes to qualify as:

An "Economic Enterprise" as defined in Section 3(e) of the Indian Financing Act of 1974 (P.L. 93-262); that is "any Indian-Owned...commercial, industrial or business activity established or organized for the purpose of profit: Provided, that such Indian Ownership shall constitute not less than 51 percent of the enterprise:

--or--

A "Tribal Organization" as defined in Section 4(c) of the Indian Self-Determination and Education Assistance Act (P.L. 93-63 8); that is: "the recognized governing body of any Indian Tribe; any legally established organization of Indians which is controlled, sanctioned or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: Provided, that in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian Tribe, the approval of each such Indian Tribe shall be a prerequisite to the letting or making of such contract or grant..."

2. Name of Enterprise or Organization: _____

Address: _____

_____

Telephone No.: _____

3. Check One:

__ Corporation
__ Partnership
__ Sole Proprietorship
__ Joint Venture
__ Other:

4. Answer the following:

If a Corporation:

a. Date of incorporation: _____

b. State of incorporation: _____

c. Give the names and addresses of the officers of this Corporation and establish whether they are Indian (I) or Non-Indian (NI).

Name and I or % of Stock

Social Security No. NI Title Address Ownership

_____ ___ President _____ _____

_____ ___ Vice-President _____ _____

_____ ___ Secretary _____ _____ or Clerk

_____ ___ Treasurer _____ _____

_____ ___ _____ _____ _____

_____ ___ _____ _____ _____

_____ ___ _____ _____ _____

_____ ___ _____ _____ _____

d. Complete the following information on all stockholders who are not listed in c. above, owning 0% or more of the stock. Establish whether they are Indian (I) or Non-Indian (NI).

Name and I or % of Stock

Social Security No. NI Address Ownership
_____ ___ _____ _____

_____ ___ _____ _____

_____ ___ _____ _____

_____ ___ _____ _____

_____ ___ _____ _____

If a Sole Proprietorship or Partnership:

a. Date of Organization: _____

b. Give the following information on the individual or partners and establish whether they are Indian (I) or Non-Indian (NI).

Name and I or % of Stock

Social Security No. NI Address Ownership
_____ ___ _____ _____

_____ ___ _____ _____

_____ ___ _____ _____

_____ ___ _____ _____

_____ ___ _____ _____

_____ ___ _____ _____

If a Joint Venture:

a. Date of Joint Venture Agreement: _____

b. Attach the information for each member of the joint venture prepared in the appropriate format given above.

. Give the name, address, and telephone number of the principal spokesperson of your organization:
_____

. _____

. Has any officer or partner of your organization listed in #4 been an officer or partner of another organization that failed in the last ten years to complete a contract? _____

. If yes, state circumstances:

. Has this enterprise failed in the last ten years to complete any work awarded to it or to complete the work on time? ____

. If so, note when, where and why:

8. Will any officer or partner listed in #4 be engaged in out-side employment?
____ Yes ____ No

If Yes, complete:

Hours Per Week

Name/Title Outside the Enterprise
_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

9. If the enterprise or anyone listed in #4 above, currently subject to an administrative sanction issued by any department or agency of the Federal Government?

___Yes ___No

If Yes, complete:

Date of Type of Department

Name of person/business Action or Agency

_____ _____ _____ _____

_____ _____ _____ _____

10. Does this enterprise have any subsidiaries or affiliates or is it a subsidiary or affiliate of another concern?

___Yes ___No

If Yes, complete:

Name and address of subsidiary, Description

affiliate or other concern of Relationship

_____ _____

_____ _____

_____ _____

_____ _____

11. Does this enterprise or any person listed in #4 above have or intend to enter into any type of agreement with any other concern or person which relates to or affects the on-going administration, management or operations of this enterprise? These include but are not limited to management, and joint venture agreements and any arrangement or contract involving the provision of such compensated services as administrative assistance, data processing, management consulting of all types, marketing, purchasing, production and other types of compensated assistance.

___Yes ___No

If yes, attach a copy of any written agreement or an explanation of any oral or intended agreement.

12. Has this enterprise ever been subject to a judgment of any court or administrative sanction (Federal, State, or Tribal)?

___ Yes ___ No

Has any individual listed in #4 ever been subject to judgment of any court or administrative sanction (Federal, State, or Tribal)?

___Yes ___No

If the answer is Yes to either question, furnish details in a separate attachment.

13. Has any tax lien or other collection procedure been instituted against this enterprise or the individuals listed in #4 as a sole proprietor or partner in their capacities with this enterprise or other enterprise?

___Yes ___No
If yes, furnish details in a separate exhibit.

14. Has this enterprise or any person listed in #4 ever been involved in a bankruptcy or insolvency proceeding?

___Yes ___No

If yes, provide details in an attachment.

15. What dollar amount of Working Capital is available to your enterprise prior to the start of construction?

$_____

Explain the source of these funds:
_____

_____

Include a copy of the Company's most recent audited financial statement.

16. How will project development bookkeeping and payroll be maintained: (check one)

a. By contract with an outside professional accounting firm: ____

Name: _____ Address: _____

_____ Telephone: _____

b. Records are to be kept by enterprise personnel: _____

If "b" has been checked--state the qualifications of your personnel to perform this function:
_____

_____

_____

c. Other: _____

_____

_____

17. Trade References (include addresses and phone numbers):

18. Bank and credit references (including addresses and phone numbers):

_____

_____

_____

_____

_____

19. Indicate the core crew employees in your work force, their job titles, and whether they are Indian or Non-Indian. Core crew is defined as an individual who is either a current bonafide employee or who is not a current employee but who is regularly employed in a supervisory or other key skilled position when work is available.
_____

_____

_____

_____

_____

_____

b. Over the past three years, what has been the average number of employees:
_____

20. Attach certification by a tribe or other evidence of enrollment in a federally recognized tribe for each officer, partner or individual designated as an Indian in #4.

21. Attach a certified copy of the charter, article of incorporation, by-laws, partnership agreement, joint venture agreement and/or other pertinent organizational documentation..

22. Explain in narrative form the stock ownership, structure, management, control, financing, and salary or profit sharing arrangements of the enterprise, if not covered in answers to specific questions heretofore. Attach copies

of all shareholder agreements, including voting trust, employment contracts, agreements between owners and enterprise. Include information on salaries, fees, profit sharing, material purchases, and equipment lease or purchase arrangements.

23. Evidence relating to structure, management, control, and financing should be specifically included. Also, list the specific management responsibilities of each principal, sole proprietor, partner, or party to a joint venture (as appropriate) listed in response to #4.

24. Attach evidence that the enterprise (or an individual in it) is appropriately licensed for the type of work that is to be performed. Include Federal ID Number.

25. Attach a brief resume of the education, technical training, business, employment, design and/or construction experience for each officer, partner or sole proprietor listed in #4. Include references.

NOTES:

I. Omission of any information may be cause for this statement not receiving timely and complete consideration.

II. The persons signing below certify that all information in this INDIAN ENTERPRISE QUALIFICATION STATEMENT, including exhibits and attachments, is true and correct.

III. Print and type name below all signatures.

If applicant is Sole Proprietor, Sign Below:

_____ _____
Name Date

If applicant is in a Partnership or Joint Venture, all Partners must sign below:
_____ _____
Name Date

_____ _____
Name Date

If applicant is a corporation, affix corporate seal

_____
Corporate Seal

By: _____ _____
President's Signature Date

Attested by: _____ _____
Corporate Secretary's Signature Date

WARNING: U.S. Criminal Code, Section 1010, Title 18, U.S.C. provides in part:
"Whoever...makes, passes, utters, or publishes any statement, knowing the same to be false...shall be fined not more than $5,000 or imprisoned not more than two years, or both."