



CHEROKEE NATION BUSINESSES, L.L.C.

REQUEST FOR PROPOSAL (“RFP”)

PROJECT NAME: RFP for Commissioning Services

RFP NUMBER: 150039

DATED: 5/27/2022

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SECTION I

SOLICITATION TO BID CHEROKEE NATION BUSINESSES, L.L.C. PROJECT NAME: **RFP for Commissioning Services**

Bids are being solicited by Cherokee Nation Businesses, L.L.C. or the Cherokee Nation Businesses, L.L.C. wholly-owned entity identified in the attached Statement of Work (“Company”) to secure commissioning authority (CxA) services for the **New Hastings Hospital Project**. The owner is committed to commissioning this facility to systematically optimize the building and ancillary systems so that they operate efficiently and effectively in accordance with the Owners Project Requirements.

Due to COVID-19 all bids shall be submitted by email using the following email address Cherokee.10n7epq8wk1eq8nz@u.box.com **We are not accepting bids in person or by mail.** All proposals shall be submitted to this email address only, please **do not copy the buyer on submittal.** If you copy the buyer on submittal, **it can be grounds for disqualification.** **Bids will be due June 17th, 2022 by 5pm.**

If you have any questions submit those in writing to the buyer, Amy Eubanks, via email. Amy.eubanks@cnent.com All questions should be submitted by June 7th, 2022 by 5pm. A Q&A will be posted to the website on June 9th, 2022.

The bidder must supply all the information required by the RFP Documents, hereinafter defined.

SECTION II

INSTRUCTIONS TO BIDDER

1.00 DEFINITIONS

- 1.01 The “RFP Documents” shall mean and shall include the Solicitation to Bid; Instructions to Bidder; Bid Schedule; Statement of Work; Drawings and Specifications, and all other attachments, exhibits and other documents attached hereto and/or incorporated by reference herein.
- 1.02 “Company” refers to Cherokee Nation Businesses, L.L.C. or the Cherokee Nation Businesses, L.L.C. wholly-owned entity soliciting bids and/or proposals for the Work described in the Statement of Work.
- 1.03 “Company Representative” refers to the Company personnel who has been designated as the Project Manager as identified in Section I, Solicitation to Bid, or other authorized representative of Company as may be designated in writing.

- 1.04 “Contractor” refers to the party acting directly or through agents, subcontractors, or employees and is currently under contract with the Company or upon the award of the bid will enter into a contract directly with the Company.
- 1.05 “Subcontractor” refers to the party contracting with the Contractor for any part of the Work as defined in the Statement of Work.
- 1.06 “Work” includes all services to be performed or things to be furnished by the Contractor, or both services and things, as the context reasonably requires, including all supervision, labor, materials, supplies, tools, equipment, light, water, fuel, power, heat, transportation, or other facilities necessary for the discharge of all of Contractor’s obligations as described in the Statement of Work.

2.00 DESCRIPTION OF WORK

- 2.01 The Work to be performed is described in Section III, Statement of Work and Specifications, of the enclosed RFP Documents.

3.00 FAMILIARITY WITH RFP DOCUMENTS AND PROPOSED WORK

- 3.01 The bidder has the responsibility for examination of all RFP Documents, inspection of all work sites, and familiarization with all conditions concerning the Work. Failure or neglect of the bidder to discharge this responsibility will not excuse nonperformance.
- 3.02 The bidder has the responsibility to estimate the time and quantities of work required to complete the Work. Failure or neglect of the bidder to discharge its responsibility will not excuse nonperformance.
- 3.03 Company may require prospective bidders to complete a Non-Disclosure Agreement prior to providing the Statement of Work to a prospective bidder.

4.00 BIDDING INSTRUCTIONS

- 4.01 The bidder shall make its bid by inserting the bidder's figure in the applicable blanks of the Bid Response provided in the Statement of Work, by initialing those inserted figures, by completing any forms, and by returning the completed Bid Schedule to the Company.
- 4.02 The bidder must furnish with its bid, a completed, signed and notarized Business Relationship Affidavit, a copy of which is included in the RFP Documents as Section IV.
- 4.03 The bidder must furnish with its bid, a completed, signed and notarized Non-Collusion Affidavit, a copy of which is included in the RFP Documents as Section V.
- 4.04 This procurement may be subject to Cherokee Nation Gaming Commission (“CNGC”) policies and procedures. In the event CNGC licensing is applicable, the successful

vendor(s) shall be responsible for obtaining all licenses required by CNGC. CNGC licensing requirements may include licensing fees as well as security and background checks of vendor(s) employees. Current policies and procedures can be found on the Cherokee Nation website or by contacting the CNGC office at 918-431-4116.

- 4.05 This procurement is subject to Cherokee Nation Tribal Employment Rights Office (“TERO”) regulations that include a fee of ½ of 1% of total contract award and, if applicable, the completion of a TERO Labor Agreement and payment of associated fees. The successful bidder’s award will be published on the Cherokee Nation’s procurement website and their performance will also be measured, recorded, and reported to the Cherokee Nation. The complete Act is available by contacting the TERO OFFICE at Tahlequah 918-453-5000. TERO bidders are required to provide a copy, front and back, of their TERO certificate with return bid(s) and failure to do so will result in such bidders not receiving the TERO preferences afforded TERO bidders under the CNB procurement and contracting policies and procedures.
- 4.06 The bidder must furnish, with its bid, a subcontractor plan indicating what amount of the Contract, either in dollar estimate or percentage of work estimate, will be subcontracted, and the Indian-owned status, if any, of those subcontractors, including tribal identification.
- 4.07 All names on the Bid Schedule must be typed or printed below the signature.
- 4.08 The Bid Schedule must be completed in ink or by printer. The Bid Price on the Bid Schedule must be stated in words and figures, in case of a conflict words will take precedence. No alterations, additions or erasures shall be made on the Bid Schedule. Erroneous entries shall be lined out, initialed by the bidder and the correct entry inserted.
- 4.09 All names on the Bid Schedule must be typed or printed below the signature.
- 4.10 The Bid Schedule shall contain an acknowledgment of receipt of all Addenda (the numbers of which shall be filled in on the Bid Schedule).
- 4.11 The address to which communications regarding the Bid Schedule are to be directed must be shown.
- 4.12 Bids shall be submitted at the time and place indicated in the Solicitation to Bid., marked with the Project Title, Bid Number, Name and Address of the bidder, and accompanied by the other required documents.

5.00 QUALIFICATION OF BIDDERS

- 5.01 No bid will be accepted unless the bidder can, if requested, show to the satisfaction of the Company evidence of its experience and familiarity with work of the character specified. This may include, at the Company's option, evidence of similar work by its firm (or

principal employees) that has been performed satisfactorily and completed during the past five (5) years.

- 5.02 No bid will be accepted unless the bidder can show to the satisfaction of the Company evidence of its financial ability to perform the Work successfully and properly, to completion.
- 5.03 If bidder has a parent company or relies on a parent company to obtain or fulfill any of the Work to be contracted, then Company has the right to required bidder's parent company to provide guarantee of bidder's proposal and the performance of any obligations arising under a Contract Agreement if bidder has been awarded the bid.
- 5.04 If awarded the bid, bidder and any subcontractors of bidder in the performance of the Work shall, to the greatest extent feasible, give preference to Indian organizations, Indian-owned enterprises and individuals as certified by TERO. First preference shall be given to members of the Cherokee Nation and their businesses. Second preference shall be given to members of all other federally recognized tribes.

6.00 INTERPRETATIONS

- 6.01 All questions about the meaning or intent of the RFP Documents shall be submitted to the Company Representative in writing. Replies will be issued by Addenda mailed to, delivered or sent by facsimile to all parties recorded by Company as having received the RFP Documents. Questions received less than two days prior to the date for opening of bids will not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

7.00 CONTRACT TIME

- 7.01 If applicable as required in the Statement of Work, the number of days within which the Work is to be completed, or the date by which, the Work is to be completed shall be provided as set forth in the Bid Schedule and will be included in the Contract Agreement.
- 7.02 If a Project Schedule is required or a Date of Substantial Completion is defined per the Statement of Work, then the Contract Time for the work to be performed shall be considered a material consideration in the award of the bid.

8.00 LIQUIDATED DAMAGES

- 8.01 Provisions for liquidated damages, if any, will be specified in the Statement of Work and/or as set forth in the Contract Agreement.

9.00 SUBSTITUTE MATERIAL AND EQUIPMENT

- 9.01 If material and equipment as described in the Statement of Work are a basis for award, then the Contract, if awarded, will be on the basis of material and equipment described in

the Statement of Work and Specifications without consideration of possible substitute or “or-equal” items. Whenever it is indicated in the Statement of Work and Specifications that a substitute or “equal” item of material or equipment may be furnished or used by a Contractor if acceptable to Company, application for such acceptance will not be considered by Company until after the effective date of the Contract Agreement.

10.00 REJECTION OF BIDS

- 10.01 Bids received more than ninety-six (96) hours, excluding Saturdays, Sundays and holidays, before the time set for opening of bids, as well as bids received after the time set for opening of bids, will not be considered and will be returned unopened.
- 10.02 Company reserves the right to reject any and all bids when such rejection is in the best interest of Company. All bids are received subject to this stipulation and Company reserves the right to decide which bid shall be deemed lowest and best. A violation of any of the following provisions by the bidder shall be sufficient reason for rejecting his bid, or shall make any Contract between Company and the Contractor that is based on his bid; (i) null and void; divulging the information in said sealed bid to any person, other than those having a financial interest with him in said bid, until after bids have been opened; (ii) submission of a bid which is incomplete, unbalanced, obscure, incorrect, or which has conditional clauses, additions, or irregularities of any kind not in the original Bid Schedule, or which is not in compliance with the Instructions to Bidder and Solicitation to Bid, or which is made in collusion with another bidder. The foregoing list is non-exhaustive and Company reserves the right to reject a bid or nullify any Contract between Company and the Contractor that is based on his bid for any other reason it deems is in the best interest of the Company.

11.00 BIDS TO REMAIN OPEN

All bids and pricing submitted under this RFP shall remain valid and open for **sixty (60)** days after the day of the bid opening, but Company may, in its sole discretion, release any bid prior to that date.

12.00 AWARD OF CONTRACT

- 12.01 Company reserves the right to reject any and all bids, to waive any and all bid document requirements and to negotiate Contract terms with the successful bidder, and the right to disregard all nonconforming, nonresponsive or conditional bids. Discrepancies between words and figures will be resolved in favor of words. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
- 12.02 Company reserves the right to issue one award, multiple awards, or reject all bids. All quotes are subject to negotiation prior to award. Awards may be issued without discussion of quote received, and quotes should initially be submitted on the most favorable terms from a price and technical standpoint.

- 12.03 In evaluating bids, Company shall consider the qualifications of the bidders and whether or not the bids comply with the prescribed requirements.
- 12.04 Company may consider the qualifications and experience of subcontractors and other persons and organizations (including those who are to furnish the principal items of material or equipment) proposed for those portions of the Work as to which the identity of subcontractors and other persons and organizations must be submitted. Operating costs, maintenance considerations, performance data and guarantees of materials and equipment may also be considered by Company.
- 12.05 Company may conduct such investigations as it deems necessary to assist in the evaluation of any bid and to establish the responsibility, qualifications and financial ability of the bidders, proposed subcontractors and other persons and organizations to perform the Work in accordance with the terms of a Contract Agreement and to Company's satisfaction within the prescribed time.
- 12.06 Company reserves the right to reject the bid of any bidder who does not pass any such evaluation to Company's satisfaction.
- 12.07 A Contract Agreement along with the terms and conditions of such agreement will be negotiated upon award. Company may rescind the award of a bid for failure to agree upon the terms of the Contract Agreement within a reasonable period of time or for bidder's failure to negotiate in good faith or timely respond to requests or inquiries of Company. Prior to the execution of a Contract Agreement by an authorized representative(s) of each party, the successful bidder shall not perform any services, conduct any business on Company property or acquire or procure any supplies, materials or equipment on behalf of Company to be used in performing the Work as bid, unless specifically requested by an authorized Company Representative in writing. Company will notify the successful bidder in the Statement of Work or Notice of Award that additional executive or board of directors' approval will be required prior to negotiating the terms of a Contract Agreement. In the performance of the Work awarded, Company, Contractor and its subcontractor(s) shall, to the greatest extent feasible, give preference to Indian organizations, Indian owned enterprises and individuals. First preference shall be given to members of the Cherokee Nation. Second preference shall be given to members of all other federally recognized tribes.
- 12.08 The successful bidder shall execute and deliver the Contractor's Payment and Performance Bond (if required per the Statement of Work or Contract Agreement) and the required certificate(s) of insurance evidencing the limits and endorsements as required by the terms and conditions of the Contract Agreement within five (5) calendar days of receipt of the Notice of Award. If the successful bidder fails to execute and deliver Contractor's Payment and Performance Bond and the required certificates of insurance(s) within five (5) calendar days of the Notice of Award, Company may annul the Notice of Award.

13.00 BEGINNING WORK

The Work shall be commenced as agreed upon by the parties. However, Work shall not be commenced until Contractor has provided the requisite bonds and proofs of insurance required by the Contract Agreement.

15.00 RETURNING OF RFP DOCUMENTS

15.01 Whether a bid is submitted or not, this collection of RFP Documents and any accompanying documents are to be returned intact.

15.02 The successful bidder will be furnished necessary copies of this book and documents, conforming to the bid accepted by the Company.

16.00 INVOICING REQUIREMENTS

All invoices for the Work submitted by the successful bidder must be coded in accordance with Company policies. The successful bidder will be responsible for meeting with a representative of Company's Accounting Department regarding necessary coding requirements and complying therewith.

SECTION III

STATEMENT OF WORK CHEROKEE NATION BUSINESSES, LLC Bid – RFP Commissioning Services

Bids are being solicited by Cherokee Nation Businesses, L.L.C. or the Cherokee Nation Businesses, L.L.C. wholly-owned entity identified in the attached Statement of Work (“Company”) to secure commissioning authority (CxA) services for the **New Hastings Hospital Project**. The owner is committed to commissioning this facility to systematically optimize the building and ancillary systems so that they operate efficiently and effectively in accordance with the Owners Project Requirements.

Due to COVID-19 all bids shall be submitted by email using the following email address Cherokee.10n7epq8wk1eq8nz@u.box.com . We are not accepting bids in person or by mail in. All proposals shall be submitted to this email address.

RFP for Commissioning Services

Direct 2 Completion (Owner’s Representative) on behalf of **The Cherokee Nation** (Owner) requests written proposals to secure commissioning authority (CxA) services for the **New Hastings Hospital Project**. The owner is committed to commissioning this facility to systematically optimize the building and ancillary systems so that they operate efficiently and effectively in accordance with the Owners Project Requirements, and that the facility staff has adequate system documentation and training. It is the intent of the owner to ensure that the fundamental systems are calibrated and operating as required to deliver functional and efficient performance.

The project is 400,778 gross sqft., 6 story, Class Group I-2 Occupancy – Health Care [type] IA Construction building in Tahlequah, Oklahoma with a construction budget of \$225 million. The facility is expected to be comprised of 6 story hospital which will include the following departments (Emergency, Imaging, Dietary, Surgery, ICU, Lab, Pharmacy, Hospice LDR, NICU, 2 floors of Acute Care, Administration, and hospital support services). The project also includes a central energy plant and a pedestrian bridge to the existing outpatient health center. In addition, a helipad will be located on top of the patient tower that will have direct access to the emergency department. The project is currently in the Design Development phase. The expected schedule is to finish the design by Q2 of 2023, start construction by Q3 of 2022, and occupy by Q3 of 2025. Schematic Design documents are included in this RFP.

The owner’s representative on-site will be **Direct 2 Completion (D2C)**. The commissioning authority will report directly to the owner’s representative. The CxA will plan, manage, perform, and report on the commissioning activities, utilizing the reporting formats and standardized forms provided by the CxA **whenever** required. The CxA will submit a deliverable report to

D2C according to a project schedule set by CxA and agreed upon by **The Cherokee Nation and D2C**. It is extremely important that all commissioning tasks be conducted in a transparent manner and involve the building engineer and operations staff to the greatest degree possible.

The management structure is **Construction Manager at Risk (CMAR)** with full design documents and specifications developed by an architectural/engineering firm.

This project is anticipated to achieve LEED Silver (V4.0) with Enhanced and Monitoring-based Commissioning (Option 1, Path 2) and Building Enclosure Commissioning (Option 2) for a total of 6 points. The Commissioning Authority will be required to fulfill all processes and documentation required by the LEED program to attain these points. The commissioning process should be based upon and follow the ASHRAE Guideline-0 and ASHRAE Guideline-1.1 documents.

Systems to be commissioned

1. HVAC System
2. Refrigeration systems
3. Smoke control systems
4. Building Automation System
5. Plumbing water systems
6. Medical gas systems
7. Life safety system including fire alarm system, fire command center, standpipe and sprinkler systems, fire pump and controller, and all piping and ancillary hardware.
8. Electrical systems consisting of substation transformers, switchboards, motor control centers, power & lighting panelboards, lighting fixtures, lighting controls, and connections to equipment.
9. Emergency power supply systems
10. Security systems consisting of access control and alarm monitoring.
11. Nurse Call system
12. Indoor air quality
13. LEED (Leadership in Energy and Environmental Design) certification
14. Building Enclosure

Scope of Work

Commissioning is required to ensure that the design, construction, and operation of this building meet the original intent of the owner's design and LEED requirements. Following is a summary of the commissioning process and scope of work the owner requests for this project. **The proposer is free to make recommendations for changes and improvements to this process and scope of work.**

Commissioning Process During Design

The activities to be completed by the commissioning authority during the design phase include:

1. Development of the Owners Project Requirements documentation for clarity and completeness, including language on the following features: mechanical, electrical, plumbing, architectural, building enclosure, structural, lighting, energy consumption, commissioning, indoor environmental quality, environmental sustainability, and functionality for tenants. This will be accomplished by the commissioning authority by using concepts from the owner's existing programming report and conducting meetings with the Cherokee Nation, D2C, and design team.
2. Develop the initial commissioning plan encompassing the Design, Construction, Occupancy, and Operations Phases.
3. Establish Commissioning Software, templates, and reporting tools including but not limited to:
 - a Design Review Log
 - b Master Issues Log
 - c Pre-Functional Checklists
 - d Functional Performance Testing Requirements
 - e LEED Requirements
 - f Commissioning Responsibility Matrix
4. Work with the design professionals in documenting the Basis of Design.
5. Verify the Basis of Design in regard to the Owner's Project Requirements.
6. Be involved in design workshops, design reviews, and value engineering discussions.
7. Participate in discussions relating to new technologies being evaluated to meet LEED certification requirements.
8. Complete a thorough review of the drawings and specifications at the end of the Design Development phase, and at 65%, 95%, and 100% of the Construction Documents phase. Comments will be submitted in writing to D2C, the owner, the A/E team, and the LEED consultant.
9. Determine the commissioning requirements and activities to include in the construction documents, with review by the design team. Develop full commissioning specifications for all commissioned equipment. Coordinate this with the architect and engineers and integrate the commissioning specifications into the overall project specification package. The commissioning specification will include a detailed description of the responsibilities of all parties, details of the commissioning process; reporting and documentation requirements (including formats), alerts to coordination issues, deficiency resolution, construction checklist and startup requirements, the functional testing process, and specific functional test requirements including testing conditions and acceptance criteria for each piece of equipment being commissioned.

Commissioning Process During the Construction Phase

The activities to be completed by the commissioning authority during the construction phase include:

1. Organize the commissioning process components and conduct a pre-bid and pre-construction meeting where the commissioning process requirements are reviewed with the commissioning team.
2. Coordinate and direct commissioning activities in a logical, sequential, and efficient manner using consistent protocols, clear and regular communications and consultations with all necessary parties, frequently updated timelines, schedules, and technical expertise.
3. Provide factory witness testing for applicable equipment.
4. Perform site visits, as necessary, to observe component and system installations. Accomplish a statistical review of construction focusing on the owner's design intent and the quality process. Attend selected planning and job-site meetings to obtain information on construction progress. Review construction meeting minutes for revisions/substitutions relating to the owner's design intent. Assist in resolving any discrepancies.
5. Review and provide comments on RFIs that pertain to commissioned systems.
6. With necessary assistance and review from the installing contractors, develop and write pre-functional checklists. Submit to D2C, the owner, and the construction manager for approval. Work with contractors in completing construction checklists and tracking checklist completion.
7. Organize and conduct periodic commissioning team meetings necessary to plan, develop the scope, coordinate, schedule activities, and resolve problems.
8. Review all commissioned systems submittals concurrent with the design professional's review.
9. Approve systems startup by reviewing start-up reports and by selected site observation.
10. With necessary assistance and review from installing contractors, write the functional performance test procedures. Submit to D2C, the owner, and the A/E team for review and approval. Assist the construction manager in direction of the contractor to execute the tests.
11. Coordinate, witness, and recommend approval of test procedures performed by installing contractors. Coordinate retesting as necessary until satisfactory performance is achieved.
12. Recommend approval of air and water systems balancing through a statistical sampling of the report and separate field verification.
13. Maintain a master issues log and a separate testing record. Provide written progress reports and test results with recommended actions to D2C, the owner, and the construction manager.
14. Document the correction and retesting of non-compliance items by the contractor.
15. Reviews the systems manual for achieving the owner's project requirements.
16. Review, verify and document the training provided by the contractors for all commissioned systems.

Commissioning Process During the Occupancy and Operations Phase

The activities to be completed by the commissioning authority during the occupancy and operations phase include:

1. Schedule and verify deferred and seasonal testing by the contractor.
2. Verify continuing training.
3. Attend a lessons-learned workshop. The workshop is facilitated by Direct 2 Completion.
4. Complete and submit the final Commissioning Report with all documentation organized in a neat manner (O&M Manuals, PFCs, FPTs, etc).
5. Assist in the development of a preventative maintenance plan and detailed operating plan.
6. Return to the site **10 months into the 12-month warranty period**. Review with facility staff the current building operation and the condition of outstanding issues related to the original and seasonal commissioning. Interview facility staff and identify problems or concerns they have with operating the building as originally intended. Make suggestions for improvements and for recording these changes in the O&M manuals. Identify areas that may come under warranty or under the original construction contract. Assist facility staff in developing reports and documents and requests for services to remedy outstanding problems.
7. Develop and facilitate the LEED monitoring-based commissioning plan.

Building Enclosure Scope and Services

1. Include all general activities in Design, Construction, and Occupancy phases above.
2. Include all activities to attain the LEED Building Enclosure Commissioning credit.
3. Complete a thorough review of the drawings and specifications at the end of the Design Development phase, and at 65%, 95%, and 100% of the Construction Documents phase. Review to include but not be limited to:
 - a) Architect's details and specifications related to the building enclosure, exterior façade design, analyzing details for continuity, performance, compatibility, and other factors including R and U values and condensation analysis.
 - b) Evaluate material selections.
 - c) Evaluate code considerations for building envelope components/details.
4. Provide a review of all envelope-related submittals including but not limited to exterior wall assemblies, roofing, waterproofing, joint sealants, storefront/curtain wall. Review and provide comments and recommendations on all envelope material submittals including product data, technical data, and shop drawings.
5. Attend preinstallation meetings for each scope of work prior to starting.
6. Plan and facilitate field testing of enclosure components and assemblies.
7. Evaluate and provide comments and recommendations regarding envelope maintenance.

Commissioning Authority Responsibilities

In addition to the duties described above, the commissioning authority (CxA) will have the following responsibilities and authority:

1. Develop the commissioning specifications for this project and submit to the architect for incorporation into the overall project documents.
2. Issue deficiency notices and verify that they have been corrected. An Issues Log will be maintained and reviewed at the commissioning meetings.

The commissioning authority (CxA) is not required to:

1. Establish design concept, design criteria, compliance with codes, design or general construction scheduling, cost estimating, or construction management. The CxA may assist with problem-solving or resolving non-conformance or deficiencies, but ultimately that responsibility resides with the construction manager and the design team. The CxA will report to D2C and the owner any deficiencies or discrepancies.
2. Issue change orders: the CxA will review change orders that affect commissioned systems for compliance with the construction documents. Noncompliance will be reported to D2C and the owner.

Selection Process

D2C and the owner's staff shall review all proposals and select and rank the three (3) most qualified consultants. The selection and ranking shall be based on the following criteria (not necessarily listed in order of importance):

Key individual experience	20 points
Experience in performing similar projects	20 points
Expertise of the team in performing the services required by the project	15 points
Management approach	20 points
Staff experience	15 points
Work examples	10 points

The owner will negotiate/interview with the highest-ranked consultant on the tasks, staffing, schedule, and fee proposal. Negotiations may be formally terminated if they fail to result in a contract within a reasonable time period. Negotiations will then ensue with the second-ranked consultant, and if necessary, the third-ranked consultant.

Proposal

Proposals need not be voluminous but shall provide sufficient information to allow the owner to evaluate the consultant's approach, experience, staff, and availability. The proposer shall:

1. Have the proposal signed by an officer of the proposing firm with the authority to commit the firm.
2. Fill out the attached Commissioning Firm Experience form (*Exhibit 1*) for each firm on the team.
3. List the individual(s) who will serve as the lead CxA for the design, construction, and occupancy phases of the contract.
4. Provide resumes for key staff and sub-consultants. The resumes shall include education, experience, licenses, certifications, and specific information about expertise in commissioning tasks, (e.g. design reviews, specification writing, commissioning management, troubleshooting, test writing, test execution, energy management, sustainable design, etc.).
5. Describe your proposed approach to managing the project expertly and efficiently, including distribution of tasks, travel, and duration of which staff will be on-site during what periods of time, etc. Describe how you intend to determine the appropriate level of commissioning effort for the various systems and equipment. Identify proposed sampling rates for testing various equipment and assemblies (VAVs, Fans, etc). Include the proposed number of trips for each phase of construction and team members making the trip.
 - a. Describe your plan and approach to the LEED Monitoring-based Commissioning.
 - b. Describe your plan and approach to the Building Enclosure Commissioning, including proposed field testing.
6. Briefly describe “relevant” experience of the proposer’s team in the following areas. List involvement of key team members.
 - a. projects similar to this one
 - b. O&M experience
 - c. energy-efficient equipment design and control strategy optimization
 - d. system design (specify)
 - e. LEED experience
 - f. Building Enclosure Commissioning experience
7. Include the current backlog that the proposed staff is assigned to with project dates and the percentage of time each member is assigned.
8. As an attachment, provide the following work products that members of the proposer’s team developed. List the team member who created the document and the projects on which they were used. Work from the designated CxA is preferred.
 - a. Commissioning plan that was executed
 - b. A pre-functional checklist and functional test procedure form that was executed
9. Provide a statement of the proposer’s liability insurance coverage (type, and dollar amount of coverage). Proof of this insurance will be required prior to the award of this contract to the winning proposal.
10. Provide a separate fixed, lump-sum total cost (*Exhibit 2*) to accomplish the scope of work for Enhanced Commissioning, Monitoring-Based Commissioning, and Building Enclosure Commissioning.

Desired Qualifications

It is the owner's desire for the person(s) designated as the site commissioning authority (CxA) to satisfy as many of the following requirements as possible:

- Acted as the principal commissioning authority for at least three projects of comparable size, type, and scope.
- Extensive experience in the operation and troubleshooting of HVAC systems and energy management control systems.
- Extensive field experience. A minimum of five full years in this type of work is required.
- Knowledgeable in building operation and maintenance and O&M training.
- Knowledgeable in national building & fire codes as well as water-based fire extinguishing systems, detection systems, and alarms systems.
- Knowledgeable in building enclosure design and commissioning.
- Knowledgeable in test and balance of both air and water systems.
- Experienced in energy-efficient equipment design and control strategy optimization.
- Demonstrated experience with total building commissioning approach including building envelope, data and communication systems, and other specialty systems.
- Direct experience in monitoring and analyzing system operation using energy management control system trending and stand-alone data logging equipment.
- Excellent verbal and writing communication skills. Highly organized and able to work with both management and trade contractors.
- Experienced in writing commissioning specifications.
- A bachelor's degree in mechanical or electrical engineering is strongly preferred, and a P.E. license is desired. However, other technical training, past commissioning, and field experience will be considered as a substitute.
- Membership and certification as a Certified Commissioning Professional with a professionally recognized association is desired but not required.

The required expertise for this project will be based on the skill and experience set of the full team making the proposal. A member of the prime firm will be the designated commissioning authority who is the member of the team that will coordinate the commissioning activities from the technical perspective. This party may not necessarily be the team's overall project or contract manager. The commissioning authority must have significant in-building commissioning experience, including technical and management expertise on projects of similar scope. If the commissioning authority or prime firm does not have sufficient skills to commission a specific system, the prime firm shall subcontract with a qualified party to do so. Subcontractor qualifications shall be included and clearly designated in the response to this scope of work.

Exhibit 1: Commissioning Firm Experience
FILL OUT A SEPARATE FORM FOR EACH FIRM ON THE TEAM

Company Name	Contact Person	Title
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Address	City	State	Zip/Postal Code
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Telephone	Fax	E-Mail
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Description of Business

Commissioning Activities

Percentage of overall business devoted to commissioning services

How long has the firm offered commissioning services

The average number of commissioning projects performed each year: _____

**The number of registered engineers on staff who have experience commissioning projects.
List competent areas of practice (Mechanical, Electrical, etc)**

Exhibit 2: Bid Form

Provide a separate fixed, lump-sum total cost to accomplish the scope of work for Enhanced Commissioning, Monitoring-Based Commissioning, and Building Enclosure Commissioning. Include associated meetings, progress reports, and direct costs (travel, mileage, per diem, communications, etc.). **Provide an hourly rate sheet and lump-sum trip charge for each team member for work that may exceed the scope.**

Enhanced Commissioning	\$ _____
Monitoring-Based Commissioning	\$ _____
Building Enclosure Commissioning	\$ _____

SECTION IV

CONFIDENTIALITY AND BUSINESS RELATIONSHIP/NON-COLLUSION REPRESENTATIONS

In connection with discussions and/or negotiations between the responding entity ("Bidder") and the applicable Cherokee Nation entity ("Company") (individually "Party" or collectively "Parties") regarding

PROJECT NAME: RFP Commissioning Services

RFP NUMBER:

Each Party agrees that any written information, drawings or data disclosed by the other Party as well as all information becoming known to either Party concerning the other Party's inventions, discoveries, improvements, methods, business plans, ventures, practices, enterprises, or operation, or any other information affecting the business operations of the other Party shall be deemed to be confidential and proprietary information owned by such Party, and shall be protected by the receiving Party in the same manner and with the same degree of care the receiving Party treats its own confidential or proprietary information ("Confidential Information"). The receiving Party agrees to and shall be fully responsible for all Confidential Information of the disclosing Party in the receiving Party's possession and the receiving Party shall promptly upon demand, return all such Confidential Information and reproductions therefrom to the disclosing Party or destroy the Confidential Information and certify such destruction to the disclosing Party. If either Party loses or makes an unauthorized disclosure of the other Party's Confidential Information, it shall notify such other Party immediately and use reasonable efforts to retrieve the lost or wrongfully disclosed Confidential Information.

Confidential Information shall not be disclosed, except to the extent required by law, to any third person or entity without the prior written consent of the disclosing Party other than to those directors, officers, employees, affiliates, agents or consultants with a need to know the Confidential Information in connection with the project referenced above. Except as permitted in the previous sentence, prior to disclosure to any such third person or entity, such third person or entity must have agreed in writing to treat the Confidential Information as confidential in the same manner as required of the receiving Party. The Parties shall use the Confidential Information only in connection with continuing discussions by the Parties concerning the Project, except as may otherwise be mutually agreed upon in writing.

Confidential Information shall be treated in the manner specified above until such time as such Confidential Information: (i) is otherwise available in the public domain; (ii) is established to have been lawfully known by the receiving Party prior to receipt of such Confidential Information from the disclosing Party or becomes known by the receiving Party through a third party not subject to the non-disclosure requirements of this Agreement; (iii) is developed by or on behalf of the receiving Party independent of any Confidential Information furnished by the disclosing Party under this Agreement or (iv) is required to be released by a valid law, regulation or court order, and sufficient notice is given by the receiving Party to the disclosing Party of any such requirement or request to permit the disclosing Party to seek an appropriate protective order or exemption from such requirement or request.

The receiving Party acknowledges that in the event of an unauthorized disclosure, the damages incurred by the disclosing Party may be difficult if not impossible to ascertain, and that the Disclosing Party may seek injunctive relief as well as monetary damages from the receiving Party. Neither the disclosure of Confidential Information, nor the ongoing discussions and correspondence between the receiving Party and the disclosing Party, shall constitute or imply a commitment or binding obligation between the parties or their respective affiliated companies.

Neither Party shall be: (a) responsible or liable for any business decisions made or inferences drawn by the other Party in reliance on this Agreement or in reliance on actions taken or disclosures made pursuant to this Agreement; or (b) liable to or through the other Party for amounts representing loss of profits, loss of business, or special, indirect, consequential, or punitive damages.

This Agreement shall be binding upon Company with regard to the Project as if executed by Company and shall become effective upon signature by Bidder ("Effective Date"). The Agreement shall continue in force until terminated by either Party, notice is provided by Company that Bidder was not the winning bidder, or until superseded by a subsequent non-disclosure or definitive agreement containing confidentiality

provisions. The obligations of the parties shall survive and continue beyond the expiration or termination of the Agreement for a period of two (2) years with regard to Confidential Information.

NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY OR PRESENTED IN THE BID PROPOSAL DOCUMENTATION, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY NATURE WHATSOEVER WITH RESPECT TO ANY INFORMATION DISCLOSED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR AGAINST INFRINGEMENT.

The Parties acknowledge that this Agreement does not restrict the ability either to engage in their respective businesses, nor does it limit either Party's use or application of any information or knowledge acquired independently of the other without a breach of this Agreement in the course of such Party's business.

The Parties agree that this document may be electronically signed and that signatures appearing on this document are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

SIGNED: _____

TITLE: _____

DATE: _____

**CONFIDENTIALITY AND BUSINESS RELATIONSHIP/NON-COLLUSION
REPRESENTATIONS**

_____, on behalf of _____ (Bidder name) represents and warrants that the nature of any partnership, joint venture, or other business relationship presently in effect or which existed within one (1) year prior to the date of this statement with Company or other party to the services provided under the Agreement is as follows:

_____, on behalf of _____ (Bidder name) represents and warrants that any such business relationship presently in effect or which existed within one (1) year prior to the date of this statement between any officer or director of Consultant and any officer, director, manager or member of the Board of Directors of Company or other party to the project is as follows:

_____, on behalf of _____ (Bidder name) represents and warrants that the names of all persons having any such business relationships and the positions they hold with their respective companies or firms are as follows:

_____, on behalf of _____ (Bidder name) represents and warrants that any family/relative relationships present between any officer, director or agent of Bidder and any officer, director, manager or member of the Board of Directors of Company other party to the Agreement is as follows:

_____, on behalf of _____ (Bidder name) represents and warrants states that the names of all persons having any such family/relative relationships and the positions they hold with their respective companies or firms are as follows:

If none of the business relationships hereinabove mentioned exist, Representative should so state below

SIGNED: _____

TITLE: _____

DATE: _____

**CONFIDENTIALITY AND BUSINESS RELATIONSHIP/NON-COLLUSION
REPRESENTATIONS**

_____, on behalf of _____ (Bidder name) represents and warrants that (s)he is the agent authorized by the bidder to submit the attached bid. Representative further states that the bidder has not been a party to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding; or with any employee of Company or any affiliate or wholly-owned entity of Company as to quantity, quality or price in the prospective definitive Agreement, or any other terms of said prospective definitive Agreement; or in any discussions between bidders and any official of Company or any affiliate or wholly-owned entity of Company concerning exchange of money or other thing of value for special consideration in the letting of a definitive Agreement.

SIGNED: _____
TITLE: _____
DATE: _____

SECTION V

INSURANCE REQUIREMENTS

Minimum Insurance for Bidding: Bidder shall provide with its bid, certificates of insurance on an ACORD 25 or 25S form evidencing all available coverages, however, to be considered an acceptable bid the following minimum coverages and limits and any additional insurance requirements specified in the Statement of Work must be evidence on the submitted certificates of insurance. The limits set forth below are minimum limits. Additional limits or policies may be required per the terms and conditions of the Contract Agreement.

(A) Worker's Compensation insurance complying with the laws of the State or States having jurisdiction over each employee, whether or not Contractor is required by such laws to maintain such insurance, and Employer's Liability with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 disease policy limit.

(B) Commercial or Comprehensive General Liability insurance on an occurrence form with a combined single limit of \$1,000,000 each occurrence, and annual aggregates of \$2,000,000, for bodily injury and property damage, including coverage for blanket contractual liability, broad form property damage, personal injury liability, independent contractors, products/completed operations, and when applicable the explosion, collapse and underground exclusion will be deleted.

(C) Automobile Liability insurance with a combined single limit of \$1,000,000 each occurrence for bodily injury and property damage to include coverage for all owned, non-owned, and hired vehicles. In each of the above described policies, Contractor agrees to waive and will require its insurers to waive any rights of subrogation or recovery they may have against Company its parent, subsidiary, or affiliated companies.

(D) Pollution Liability insurance in the amount of \$1,000,000 each incident and annual aggregate of \$2,000,000 (only applicable for bidding if required per the Statement of Work). Upon award of the bid Company may require this coverage per the Contract Agreement if such coverage is merited per the scope of the Work to be performed and the minimum limits quoted may be adjusted accordingly.

(E) Professional Liability insurance with limits of not less than \$2,000,000 for each claim and an annual aggregate of not less than \$2,000,000 (only applicable for bidding if required per the Statement of Work). Upon award of the bid Company may require this coverage per the applicable Contract Agreement or Service Agreement if such coverage is merited per the scope of the Work to be performed. The limits for professional liability insurance may be adjusted depending on complexity and size of the project and the scope of services to be provided. Any adjustments to these limits will be identified in the applicable terms and conditions of the Contract Agreement or Service Agreement.

Additional Insurance Requirements upon Award of Bid:

- (A) At a minimum the following will be required for Commercial or Comprehensive General Liability and Automobile Liability policies (Company may identify additional policies that are subject to this requirement and such additional policies and requirements will be made a part of the terms and conditions of the Contract Agreement):
- Company its parent, subsidiary and affiliated companies will be named as additional insured.
 - The policies shall include the following “other insurance” amendment: “This insurance is primary insurance with respect to Company its parent, subsidiary and affiliated companies, and any other insurance maintained by Company its parent, subsidiary or affiliated companies is excess and not contributory with this insurance.”

Waiver of Subrogation: In each of the policies required per the Contract Agreement, bidder agrees to waive and will require its insurers to waive any rights of subrogation or recovery they may have against Company, its parent, subsidiary, or affiliated companies.

At least five (5) days prior to the commencement of the Work, Contractor shall deliver to Company certificates of insurance on an ACORD 25 or 25S form evidencing the existence of the insurance coverage required per the Contract Agreement. In the event coverage is denied or reimbursement of a properly presented claim is disputed by the carrier for insurance provided in subsections (A) through (E) above, Contractor shall, upon written request, provide Company with a certified copy of the involved insurance policy or policies within ten (10) business days of receipt of such request.