



# REQUEST FOR PROPOSALS

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**CHEROKEE INDIAN HOUSING DIVISION  
(CIHD)**

**REGARDING:**

*RFP NAME: DIGITIZATION SERVICES*

*RFP NUMBER: CIHD-2026-01-D*

**PROPOSALS DUE: JUNE 19, 2026 - NO LATER  
THAN 4:00 PM EST**

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## **1.0 INTRODUCTION – SUMMARY OF THE INTENDED PROCUREMENT**

### **1.1 Issuing Body and Coordinate Procurement**

The Cherokee Indian Housing Division, a department of the Eastern Band of Cherokee Indians (EBCI). Qualla Housing Services (QHS) is the department primarily funded by federal HUD funds to aid in performing its duties.

In order to gain economies of scale, to standardize terms and conditions for similar goods throughout the EBCI, the CIHD solicits tribal-wide Procurement Agreements for the benefit of EBCI entities. This Request for Proposal (“RFP”) is being issued for QHS.

## 1.2 RFP Layout and Sections

This RFP is laid out in sections as follows:

1. Introduction – Summary of the Intended Procurement
2. Procurement and Evaluation Process
3. Proposal Format and Content
4. Specifications
5. Attachments

## 1.3 Project Overview

The CIHD is requesting proposals from highly qualified proposers with expertise in one primary area: document scanning on high-quality Scanners at 200 dpi resolution in Bitonal or Color, depending on the document requirements. Proposers may elect to team with distributors or other proposers to meet the requirements of this RFP.

The CIHD intends to award one or more procurement Agreement(s). The CIHD reserves the right to make only one award, or multiple awards to a single proposer or proposers capable of providing service tribal-wide, or to reject any or all proposals submitted in response to this RFP in whole or in part. The CIHD further reserves the right to make no award and to modify or cancel, in whole or in part, this RFP.

QHS may elect, but is not required, to purchase digitization services from any Procurement Agreement(s) that result from this RFP.

## 2.0 PROCUREMENT AND EVALUATION PROCESS

### 2.1 Procurement Schedule and General Instructions

The CIHD has developed the following list of key events from RFP issuance through notice of contract award. All deadlines are subject to change at the CIHD’s discretion.

	<u>KEY EVENTS</u>	<u>KEY DATES</u>
1	RFP issued	June 1, 2026
2	Proposal due date and time	June 19, 2026, No Later Than 4:00 PM EST
3	Opening of proposals (estimated)	June 22, 2026

4	Notice of Intent to Award (estimated)	June 23, 2026
5	Negotiations and execution of contract (estimated)	July 3, 2026
6	Contract Start Date (estimated)	July 7, 2026
7	Contract End Date (estimated)	September 30, 2026

### 2.1.1 Contact Information

Submittal Contact: Kaneesha Jackson, RFP #CIHD-2026-01-D  
Qualla Housing Services  
Cherokee Indian Housing Division  
PO Box 1749, 687 Acquoni Road  
Cherokee, NC 28719

### 2.1.2 Disposition of Material and Confidential or Proprietary Information

All materials submitted in response to this RFP will become the property of the CIHD. One copy of a submitted proposal will be retained for official files and become a public record. **Any material that a proposer considers as confidential but does not meet the disclosure exemption requirements of the EBCI should not be included in the proposer's proposal as it may be made available to the public.**

If a proposer's proposal contains material noted or marked as confidential and/or proprietary that, in the CIHD's sole opinion, meets the disclosure exemption requirements of the EBCI, then that information will not be disclosed pursuant to a written request for public documents. If the CIHD does not consider such material to be exempt from disclosure under the EBCI, the material may be made available to the public, regardless of the notation or markings. If a proposer is unsure if its confidential and/or proprietary material meets the disclosure exemption requirements of the PRA, then it should not include such information in its proposal because such information may be disclosed to the public.

### 2.1.3 Proposal Preparation and Product Demonstration Costs

Proposers submitting proposals do so entirely at their expense. There is no express or implied obligation by the CIHD to reimburse a proposer for any costs incurred in preparing or submitting proposals, providing additional information when requested by the CIHD, participating in any selection interviews or product demonstrations, or participating in this Procurement.

## 2.2 Pre-Submittal Process

### 2.2.1 Contact with QHS

Proposers are specifically directed NOT to contact any QHS for meetings, conferences, or discussions that are specifically related to this RFP at any time prior to any award of a contract. The CIHD's intent for this solicitation is to ensure that all proposers have the same information when creating their proposals. Unauthorized contact with any QHS may be cause for rejection of the proposer's response.

## 2.3 Submission of Proposals

### 2.3.1 Proposal Delivery

The following must be received no later than the Proposal Due Date and Time specified in Section 2.1 (the “Proposal Closing Time”) at the address listed in Section 2.1.1 for the Submittal Contact:

a. Hardcopies:

(i) One unbound original of the pricing proposal. The original must be signed by an authorized representative of the Proposer. One unbound original of the technical proposal. The original must be signed by an authorized representative of the Proposer.

(ii) Five (5) bound copies of the pricing proposal. The original must be signed by an authorized representative of the Proposer. Five (5) bound copies of the technical proposal. The original must be signed by an authorized representative of the Proposer.

b. Electronic Formatted Copies:

(i) One electronically formatted copy with the pricing proposal, including Attachment D (Pricing Sheets) in Excel format. One electronically formatted copy with the technical proposal in Word format.

All proposals (hardcopy and electronic) must be submitted with: (1) the pricing proposal in one sealed envelope marked with “Pricing Proposal”; and (2) the technical proposal placed in a separate sealed envelope marked with “Technical Proposal.” Each envelope must also be marked with the proposer’s name. The two envelopes should then be placed in a single outside envelope. The outside envelope must be sealed and clearly marked with the RFP Number, Project Title, the Proposal Due Date, and the proposer’s name.

**The hard copies and electronic copies of the technical proposal must not include any pricing information.** Proposals received prior to the Proposal Closing Time that are marked properly will be securely kept, unopened until the Proposal Closing Time. Late proposals will not be considered.

All proposals must be delivered via U.S. Mail, express mail carrier, or hand delivery only. A receipt should be requested for hand-delivered material.

The proposer is solely responsible for ensuring that the full proposal is received by the CIHD in accordance with the solicitation requirements, prior to the date and time specified in the solicitation, and at the place specified. The CIHD shall not be responsible for any delays in mail or by express mail carriers or by transmission errors or delays or missed delivery.

### 2.3.2 Amendment or Withdrawal of Proposals

A proposer may amend its proposal prior to the Proposal Closing Time. All amendments must be in writing and received by the CIHD prior to the Proposal Closing Time.

A proposer may withdraw its proposal at any time prior to the Proposal Closing Time by notifying the Submittal Contact listed in Section 2.1.1 in writing of its withdrawal. Amendments or withdrawals offered in any other manner, oral or written, will not be considered. Proposals cannot be amended or withdrawn after the Proposal Closing Time.

### **2.3.3 Mistake in Proposal**

If prior to a contract award, a proposer discovers a mistake in their proposal that renders the proposer unwilling to perform under any resulting contract, the proposer must immediately notify the Submittal Contact listed in Section 2.1.1 in writing and request to withdraw the proposal. It shall be solely within the CIHD's discretion as to whether withdrawal will be permitted. If the solicitation contemplated evaluation and award of "all or none" of the items, then any withdrawal must be for the entire proposal. If the solicitation provided for evaluation and award on a line item or combination of items basis, the CIHD may consider permitting withdrawal of specific line item(s) or combination of items.

### **2.3.4 Error in Submitted Proposals**

If an error is discovered in a proposer's proposal, the CIHD may at its sole option retain the proposal and allow the proposer to submit certain arithmetic corrections. The CIHD may, at its sole option, allow the proposer to correct obvious clerical errors. In determining if a correction will be allowed, the CIHD will consider the conformance of the proposal to the format and content required by the solicitation, the significance and magnitude of the correction, and any unusual complexity of the format and content required by the solicitation.

If the proposer's intent is clearly established based on review of the complete proposal submitted, the CIHD may, at its sole option, allow the proposer to correct an error based on that established intent.

The total price of unit-price items or individual line items will be the product of the unit or line-item price and the quantity. If the unit or line-item price is ambiguous, unintelligible or uncertain for any cause, or is omitted, the unit or line item price shall be the amount obtained by dividing the "extension" price by the item quantity.

### **2.3.5 Proposer Information, Authorized Signatures, Validity Period of Proposals**

Proposals must include the proposer's name, address, telephone numbers, and federal tax identification number. The proposal must be signed by a duly authorized officer or employee of the proposer and include the name, title, address, and telephone number of the individual who is the proposer's designated representative.

Proposals will be valid for ninety (90) days after the Proposal Due Date specified in Section 2.1 ("Proposal Validity Date"). In the event a final Procurement Agreement has not been awarded by the date specified in Section 2.1, the CIHD reserves the right to negotiate extensions to the Proposal Validity Date.

### **2.3.6 Knowledge of Requirements**

The proposer shall carefully review all documents referenced and made a part of the solicitation document to ensure that all information required to properly respond has been

submitted or made available and all requirements are priced in the proposal. Failure to examine any document, drawing, specification, or instruction will be at the proposer's sole risk.

Proposers shall be responsible for knowledge of all items and conditions contained in their proposals and in this RFP, including any CIHD issued clarifications, modifications, amendments, or addenda.

### **2.3.7 Independence of Proposal and Joint Proposals**

Unless a proposer is submitting a joint proposal, the proposer represents and warrants that by submitting its proposal it did not conspire with any other proposer to set prices in violation of anti-trust laws.

A proposal submitted by two or more proposers participating jointly in one proposal may be submitted, but one proposer must be identified as the prime proposer and the other as the subcontractor. The CIHD assumes no responsibility or obligation for the division of orders or purchases among joint proposers.

### **2.3.8 Covenant Against Gratuities**

Proposer warrants by signing its proposal that no gratuities, in the form of entertainment, gifts, or otherwise, were offered by the proposer or any agent, director, or representative of the proposer, to any officer, official, agent, or employee of any EBCI department and CIHD with a view toward securing award of or securing favorable treatment with respect to any determinations concerning the performance of any resulting Procurement Agreement. For breach or violation of this warranty, the CIHD will have the right to terminate any resulting Procurement Agreement in whole or in part. The rights and remedies of the CIHD provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under the resulting contract.

## **2.4 Overview of Evaluation Process**

### **2.4.1 Evaluation Committee**

The CIHD will conduct a comprehensive, fair, and impartial evaluation of proposals received in response to this RFP. All proposals received from proposers will be reviewed and evaluated by a committee of qualified personnel ("Evaluation Committee"). The name, units, or experience of the individual members will not be made available to any proposer. The Evaluation Committee will first review and screen all proposals submitted, except for the pricing proposals, according to the minimum qualifications set forth in Section 2.6.

Proposers satisfying the minimum qualifications will then be evaluated in accordance with the evaluation criteria set forth in Section 2.7. The Evaluation Committee will first review and complete the evaluation of the technical proposals, without the pricing proposal. Thereafter, the pricing proposals will be opened, reviewed, and evaluated to determine an overall evaluation score.

### **2.4.2 Reservation of Rights**

The CIHD, in its complete discretion, may eliminate proposals that have not met the minimum qualifications of Section 2.6, or have not scored adequately in relation to other

proposals to warrant further consideration. The CIHD reserves the right to reject any or all proposals, in whole or in part, and may or may not waive any immaterial deviation or defect in a proposal.

The CIHD's waiver of an immaterial deviation or defect shall in no way modify the solicitation document or excuse a proposer from full compliance with solicitation document specifications.

If a proposal fails to meet a material solicitation document requirement, the proposal will be rejected. A deviation is material to the extent that a response is not in substantial accord with the requirements of the solicitation document. Material deviations cannot be waived.

Unless otherwise specified in the solicitation, the CIHD may accept any item or combination of items as specified in the solicitation, of any proposal unless the proposer expressly restricts an item or combination of items in its proposal and conditions its response on receiving all items for which it provided a proposal. In the event that the proposer so restricts its proposal, the CIHD may consider the proposer's restriction and evaluate whether the award on such basis will result in the best value to the CIHD or may determine in its sole discretion that such restriction is non-responsive and renders the proposer ineligible for further evaluation.

The CIHD reserves the right to negotiate with proposers who have presented, in the opinion of the Evaluation Committee, the best proposal in an attempt to reach a Procurement Agreement. If no Procurement Agreement is reached, the CIHD can negotiate with other proposers. At any time, the Evaluation Committee can reject all proposals and make no award under this RFP. Moreover, the CIHD reserves the right to reconsider any proposal submitted at any phase of the Procurement prior to a Procurement Agreement being issued. The CIHD also reserves the right to meet with proposers to gather additional information.

Proposals that contain false or misleading statements may be rejected if in the CIHD's opinion the information was intended to mislead the CIHD regarding a requirement of the solicitation document.

### **2.4.3 Evaluation of Pricing Sheets**

Pricing sheets will be reviewed only if a proposal is determined to be otherwise qualified. All figures entered on the pricing sheets must be clearly legible and must be type written. No erasures are permitted. Errors may be crossed out and corrections typewritten adjacent and must be initialed in ink by the person signing the proposal. If the solicitation requires the proposer to provide an electronic copy of the pricing sheets and there is a discrepancy in the printed pricing sheets and the electronic copy, the pricing on the printed pricing sheets will be evaluated.

Where more than one line item is specified in the solicitation, the CIHD reserves the right to determine the highest evaluated proposer, either on the basis of individual items, combination of items as specified in the solicitation, or on the basis of all items included in the solicitation, unless otherwise expressly provided.

**2.4.4 Requests for Additional Information and Product Demonstration**

The CIHD reserves the right to seek clarification or additional information from any proposer throughout the solicitation process, including a demonstration of the equipment proposed. The CIHD may require a proposer’s representative to answer questions during the evaluation process with regard to the proposer’s proposal. Failure of a proposer to demonstrate that the claims made in its proposal are in fact true may be sufficient cause for deeming a proposal non-responsive.

If the Evaluation Committee requests a demonstration of the proposed equipment, the demonstration will be arranged by the proposer at a site that is agreeable to the CIHD. The demonstration may include a demonstration of the equipment at a customer site (proposer’s customer).

**2.5 Minimum Qualifications**

To be considered for full evaluation and possible award, proposers must first meet the threshold minimum qualification requirements listed in the following table. Minimum requirements can be met by combining experience, expertise and resources of proposer and any proposed subcontractors.

<b>Minimum Qualifications</b>	
1	5 or more years of experience working with and supplying equipment and services similar to that specified in this RFP to public sector customers.
2	Neither proposer nor any of its proposed subcontractors are currently under suspension or debarment by any state or federal government agency and neither proposer nor any of its proposed subcontractors are tax delinquent with the State of North Carolina or Federal Government (reference <u>Attachment C</u> , Proposer Certification Form).
3	Acceptance of the Terms and Conditions and responsiveness to the RFP requirements (e.g. the inclusion of all indicated Attachments). <b>A material exception to a Minimum Term will render a proposal non-responsive.</b>

The proposer must state specifically in its Executive Summary how it complies with each minimum qualification specified above. Subject to the CIHD’s right in its complete discretion to waive minor deviations or defects, only those proposals that meet all of the foregoing minimum qualifications shall be considered for a full evaluation and a possible contract award.

**2.6 Evaluation Criteria**

Proposals will be evaluated to determine the proposal(s) that offer the best value to the CIHD and QHS. The evaluation will be based upon the following criteria:

Points	Criteria
10	Maintenance services: including response times to QHS facilities; ability to perform maintenance services at any QHS facility and at multiple facilities simultaneously, if applicable.
50	Cost/pricing factors of design, project management, installation services, training annual project maintenance cost as well as time

	and material service options. Include details of how shipping is calculated, if applicable.
5	Project management details and pricing formula.
10	Installation warranty terms and conditions.
5	Product availability
5	Training services
10	Inventory management of spare and replacement parts and loaner equipment, if applicable.
5	Adherence to CIHD’s Procurement Agreement Terms and Conditions. A material exception to the Terms and Conditions will render a bid non-responsive.

The cost portion of proposals will be publicly opened at 687 Acquoni Rd., Cherokee, NC 28719.

The CIHD will evaluate the proposals on a 100-point scale using the criteria set forth in the table above. Award, if made, will be to the highest-scored proposal.

**2.7 Interviews, Product Demonstrations and Negotiations**

**2.7.1 Interviews and Product Demonstrations**

Following the initial screening of proposals, the CIHD reserves the right to require, and each proposer must be prepared to conduct, product demonstrations, oral presentations and other discussions (written or verbal) on the content of its proposal. If the CIHD determines that product demonstrations, interviews or presentations are required, selected proposers will be notified in writing of the date, place, time and format of the product demonstration, interview or presentation. Proposers will be responsible for all costs related to the product demonstration, interview or presentation, which, at the CIHD’s sole discretion, may be in-person and/or by teleconference. Failure to participate in such product demonstration, interviews or presentations or within the timeframe requested by the CIHD may result in a proposer’s disqualification from further consideration.

**2.7.2 Negotiations**

If the CIHD desires to enter into negotiations, they will do so with one or more proposers, at their discretion. If the CIHD enters into negotiations and no Procurement Agreement is reached, the CIHD can negotiate with the other proposers or make no award under this RFP. The CIHD reserves the right to award a Procurement Agreement, if any, without negotiations.

**2.7.3 Payment**

Payment terms will be in accordance with the payment provisions of Attachment A, Procurement Agreement Terms and Conditions. **NEITHER THE CIHD NOR QHS MAKE ANY ADVANCE PAYMENTS FOR GOODS OR SERVICES, EXCEPT FOR ANNUAL MAINTENANCE AGREEMENTS.**

#### **2.7.4 News Releases**

News releases pertaining to the award of any Procurement Agreement(s) resulting from this solicitation may not be made by a proposer without the prior written approval of the CIHD's Secretary of Housing.

#### **2.8 Award of Procurement Agreement**

The Evaluation Committee will make a final recommendation for award of the Procurement Agreement(s). Upon award, the successful proposer(s) will be required to execute a Purchasing Agreement(s) in accordance with the Specifications in Section 4 and the Procurement Agreement in Attachment A, and provide a certificate of insurance in conformance with the requirements set forth in the Procurement Agreement within thirty (30) business days of award. The period for execution of the Procurement Agreement(s) may be changed by mutual contract of the parties. Procurement Agreement(s) are not effective until signed by both parties.

### **3.0 PROPOSAL FORMAT AND CONTENT**

Responsive proposals should provide straightforward, concise information that satisfies the requirements of this solicitation. Proposals should clearly cover all requested information. Links to websites are not acceptable. Expensive bindings, color displays, and the like are not necessary or desired. Emphasis should be placed on conformity to the CIHD's instructions, requirements of this solicitation and the completeness and clarity of content. The proposal should include an Executive Summary that demonstrates the proposers' understanding of the requirements and provides a "high-level" general overview of how the proposer proposes to provide the products and services of this RFP, including a statement regarding minimum qualifications as required in Section 2.6.

#### **3.1 Pricing (Price Proposal)**

##### **3.1.1 Government Rates**

It is expected that all proposers responding to this solicitation will offer the proposers' government or comparable favorite rates or the best government pricing that is available.

##### **3.1.2 Pricing and Price Adjustments**

Proposer must submit pricing as required by Attachment D (Pricing Sheets). Pricing shall include all anticipated charges, including, but not limited to cost of materials and product, installation, training, all applicable taxes, overhead, profit, and cost of providing insurance as required in Attachment A (Procurement Agreement). Proposer must indicate if proposer requires reimbursement for travel expenses associated with installation and maintenance services. If such reimbursement is required, proposer will be reimbursed for its actual cost pursuant to Attachment A (Procurement Agreement).

QHS is exempt from federal excise taxes and no payment will be made for any taxes levied on the proposer's or any subcontractor employee's wages. QHS will pay for any applicable State of North Carolina or local sales or use taxes on the products provided or the services rendered. Proposer must indicate if it collects State of North Carolina taxes on the products provided or the services rendered. All tax must be included as a separate line item on proposer's invoice.

The prices proposed in the proposer's response will be valid for a minimum of two (2) years with the potential of three (3) one (1) year options to extend end dates after the Procurement Agreement(s) are signed. If the CIHD elects to extend the term of this Agreement, the proposer may negotiate price adjustments applicable during the option period(s) and any agreed-upon price adjustments will be set forth in a written amendment to this Procurement Agreement.

## **3.2 Technical Proposal**

### **3.2.1 Product Quality**

The CIHD may evaluate the quality of a proposer's products submitted in its proposal through a demonstration of all products that meet the specifications described in Section 4 of this RFP, as determined by the CIHD.

### **3.2.2 Warranty Policy and Duration**

- a. If applicable, the Proposer shall describe in detail the manufacturer's warranties for all installed equipment to include duration and conditions. Proposer shall describe its full-service warranty on all installations, repairs, the duration and costs for all services to include repairs under the manufacturer's warranty.

### **3.2.3 Product Availability**

The proposer shall describe its access to products and ability to fill a large number of orders, including installation services.

### **3.2.4 Installation Services**

The proposer shall include a description of its installation process and qualifications of available personnel, including factory authorized certifications, to perform installation services, including functionality testing. As required in Section 4.1.5.

### **3.2.5 Training Services**

The proposer shall describe what services it provides to train QHS staff on the safe and effective operation of all equipment ordered under a Procurement Agreement that may result from this RFP as well as the qualifications of available proposer personnel who will perform the training services. The proposer shall also indicate when training typically occurs after installation of ordered equipment.

## **3.3 Company Information**

The following information will also be submitted:

- a. A short narrative description of the proposer's organization, including organization charts and indication of company officers where applicable.
- b. Total number of years in business.
- c. Number of years providing products and services similar in size and scope to those requested in this RFP

- d. Annual contract value of the proposer's three (3) largest contracts for similar products and services in the past three (3) years. Percent of turnover of service staff for each of the last three (3) years in the proposer's organization that will be responsible for providing products and services described in this RFP (e.g., Account Manager, Installation, Maintenance, and Customer Service personnel, etc.).
- e. If subcontractors are proposed for this RFP, describe the products or services provided by the subcontractor(s) and the proposer's contract management process for subcontractors included in the proposer's proposal.
- f. Significant transactional events in the past five (5) years such as: bankruptcies, mergers, acquisitions and initial public offerings (IPO's).
- g. A completed Attachment F, Proposer Data Record.
- h. Proposer must include the following certification in its proposal:
  - Proposer has no interest that would constitute a conflict of interest under Tribal law.

### 3.4 Methodology

#### 3.4.1 Program Implementation

Proposer shall provide a project plan that describes how the proposer intends to implement the program. Specifically, the proposer shall provide the following information regarding methodologies and organization:

- a. Account Team structure and role;
- b. Program Evaluation (on-time performance, customer satisfaction, and issue resolution).
- c. Transition Plan.

#### 3.4.2 Ordering Process

Describe the process to establish an account for the CIHD to purchase goods or services on behalf of QHS under any Procurement Agreement that may result from this RFP and QHS that may elect to purchase goods or services directly from proposer.

Describe the ordering process and the various options available (e.g., Internet access, telephonic, facsimile, etc.), including the ordering and acknowledgement requirements (as required in Section 4.1.3).

#### 3.4.3 Customer Service

Describe the level of customer service that will be provided, including hours of operation, procedures that will ensure consistency, and problem escalation and resolution. The description should include, but is not limited to:

- a. Telephone customer service and onsite service organizational structure;
- b. Contact process (phone, email, fax, etc.);
- c. Follow up process;
- d. Internal procedures to track customer service contact and resolution;
- e. Escalation process to resolve outstanding customer service and maintenance issues; and
- f. Remedies for not meeting the committed response time for a member of QHS.

#### **3.4.4 Reports**

Proposer shall describe its capabilities to provide quarterly reports, including manufacturer discontinued reports, as required in Section 4.1.6.

### **3.5 Procurement Agreement Terms and Conditions**

#### **3.5.1 Acceptance of Procurement Agreement Terms and Conditions.**

The proposal must state that proposer accepts the attached Procurement Agreement Terms and Conditions in Attachment A or identify any exceptions to those terms. For any exceptions proposer must submit a “redlined” version of the terms or conditions, showing all suggested modifications and explaining the request. The proposer’s acceptance of the terms and conditions, will be an affirmative factor in the evaluation of the proposer’s proposal. Absent exceptions, the proposer is presumed to have accepted all Procurement Agreement terms and conditions

#### **3.5.2 Supplemental and Alternate Terms and Conditions**

Proposer must submit any supplemental or alternate terms and conditions that may be applicable. Although the CIHD will consider supplemental or alternate language proposed by a proposer, the CIHD will not be bound by contract language received as part of a prospective proposer’s response. If the proposer requires that the CIHD be bound by some or all of the proposer’s proposed contract language, the proposal will be considered non-responsive and will be rejected.

### **3.6 Proposal Submittal Requirements**

The proposer must complete and submit to the CIHD all of the following proposal documents, with each page numbered, and in the **exact** following order. Failure to submit all of the following documents may result in rejection of the proposal.

#### **3.6.1 Technical Proposal**

- a. Executive Summary;
- b. Table of Contents – itemizing sections of the proposer’s response, including required proposal documents and their respective page numbers;
- c. Response to Sections 3.2 through 3.4.4, including submittal of terms and conditions for maintenance services, as required in Section 3.2.3;
- d. Indication of Acceptance of Terms and Conditions and submittal of Supplemental Terms and Conditions, as required in Section 3.5.1 and Section 3.5.2;
- e. Proposer Certification Form – Attachment C; and
- f. Payee Data Form - Attachment E

#### **3.6.2 Pricing Proposal**

- a. Pricing Proposal – (in accordance with Section 3.1)

## 4.0. SPECIFICATIONS

### 4.1 Description of Products and Services to be Provided

#### 4.1.1 General Description

QHS may order the digitization of approximately 1,402,200 documents, which will be scanned on high-quality scanners at 200 dpi resolution in Bitonal or Color, depending on the document requirements. Contractor will scan duplex capture every side of each page, if applicable, and delete blank backs. During scanning all pages will be reviewed for quality. Poor quality documents will be rescanned.

#### 4.1.2 Specifications

##### 4.1.2.1 General Requirements

###### 4.1.2.1.1 Digitized Documents

Digitized Documents may include, but are not limited to, the following:

Approximately 1,402,200 digitized documents at 200 dpi resolution in Bitonal or Color.

Capture every side of each page, delete blank backs.

All pages will be reviewed for quality; poor-quality documents will be rescanned.

All documents will be stored in a portable storage device, organized by file name or document name.

##### 4.1.2.2 Certifications and Verifications

All products offered for sale by the proposer to QHS under any resulting Procurement Agreement resulting from this RFP must be compliant with all standards and regulations as set forth by all federal agencies and state and local governmental entities. All installations and materials shall meet state and local building codes, as well as Tribal fire and safety codes.

##### 4.1.2.3 Guarantee

All equipment shall be guaranteed to be new and to perform to the manufacturer's specifications and the proposer shall warrant the equipment against defects in installation, materials, and workmanship.

#### 4.1.3 Ordering Process

Proposer will establish a customer account with the CIHD for placing orders on behalf of QHS under any Procurement Agreement that may result from this RFP.

Proposers will provide the CIHD with the total cost and lead time required for the product(s) and services ordered, including maintenance and repairs on existing systems. The total cost will itemize the cost of the products and installation. Proposer will coordinate the installation dates with the CIHD prior to finalizing the order. Proposer will provide the CIHD with an immediate acknowledgement of the order. The acknowledgement will be submitted by email, regardless of what method is used to place the order, and will include: the products and services ordered, installation dates, and contact information. If QHS is ordering directly from the proposer, the proposer will provide the same information to QHS and use the same ordering process.

Proposer is required to maintain a toll-free number for ordering, inquiries, and customer service, including requests for maintenance service.

#### **4.1.4 Customer Service**

The proposer's customer service process shall ensure that all customer service issues are addressed in a consistent and expeditious manner, including problem escalation and resolution of maintenance and service issues. The customer service process includes, but is not limited to:

- a. Customer service organizational structure.
- b. Contact process and contact person identified by position in the company (phone, email, etc.).
- c. Follow-up process.
- d. Internal procedures to track customer service contact and resolution.
- e. Escalation process to resolve outstanding customer service issues.

#### **4.1.5 Installation**

All products ordered under any resulting Procurement Agreement from this RFP shall be completely installed and tested for functionality by the proposer. The proposer shall provide all materials, equipment, parts and labor necessary for the installation of the ordered products. The proposer shall be responsible to transport all ordered products to QHS's facility prior to installation. QHS will not be responsible for risk of loss for any materials delivered to its facility prior to the proposer completing installation of the product.

Proposer is responsible for system integration and software validation. In engineering, system integration is the bringing together of the component subsystems into one system and ensuring that the subsystems function together as a system. In information technology, systems integration is the process of linking together different computing systems and software applications physically or functionally, to act as a coordinated whole. The system integrator brings together discrete systems utilizing a variety of techniques such as computer networking, enterprise application integration, business process management or manual programming.

#### **4.1.6 Reports**

The CIHD requires quarterly program reports that include a list of all products that are manufacturer discontinued within the current quarter or are scheduled to be manufacturer discontinued within the next twelve-month period. The report shall include a proposed replacement product for any product that is manufacturer discontinued. Additionally, the quarterly report shall provide a summary of the equipment and services ordered, including the

location where the equipment was installed, and the total value ordered during the quarter reported. Quarterly reports must be provided to the designated CIHD staff member no later than thirty (30) days after the end of each quarter and shall include purchases that are invoiced.

#### **4.1.7 Rejection of Goods or Acceptance of Service**

If QHS requests maintenance service, a designated QHS representative (“Representative”) will review any completed repairs and approve by signing the proposer’s service report. The designated representative must then be given a copy of this approved proposer service report. For time and materials repairs, the proposer’s invoice will not be paid unless the proposer’s service report is approved by the representative.

#### **4.1.8 Inventory**

QHS has an ongoing requirement for the products indicated in this RFP. The proposer awarded a Procurement Agreement, if any, shall maintain access to a reasonable stock of such products on hand for the term of the Procurement Agreement. Failure to maintain access to a reasonable stock may result in termination for default of the Procurement Agreement.

#### **4.2 Estimated Volumes**

No minimum ordering estimate is stated in this RFP. The CIHD and QHS will not be required to use any Procurement Agreement that may result from this RFP. The CIHD and QHS will make their purchasing decision based on what is in the best interest of the CIHD and QHS.

#### **4.3 Procurement Process – Use of Procurement Agreement**

After award of Procurement Agreement(s), requests for goods and services as specified in the Procurement Agreement will be made by the CIHD and QHS through the issuance of a Work Order. The Work Order will reference the Procurement Agreement number and will list and describe all of the requested goods and services. The terms and conditions of the Procurement Agreement shall take precedence over the terms and conditions of any Work Order, contract, or terms and conditions included on an invoice or like document unless changes are made by reference to specific provisions of the Procurement Agreement.

**5.0 ATTACHMENTS**



Attachment A	Procurement Agreement Terms and Conditions
Attachment B	Purchasing Group Address List
Attachment C	Proposer Certification Form (Proposer must fill out and submit with his/her proposal).
Attachment D	Pricing Sheets (Proposer must provide pricing in this Attachment and submit with his/her proposal).
Attachment E	Payee Data Form (Proposer must fill out and submit with his/her proposal)
Attachment F	Procurement Agreement Exception Form (Proposer must fill out and submit with his/her proposal)
Attachment G	Certification Regarding Debarment and Suspension (Proposer must fill out and submit with his/her proposal)
Attachment H	EBCI Independent Contractor Agreement

CHEROKEE INDIAN HOUSING DIVISION  
**STANDARD PROCUREMENT AGREEMENT COVERSHEET**  
**DIGITATION SERVICES**

**Attachment A**

AGREEMENT NUMBER <b>[Agreement Number]</b>
FEDERAL EMPLOYER ID NUMBER <b>[Fed. Employer ID Number]</b>

- In this agreement (the “Procurement Agreement”), the term “Contractor” refers to **[Contractor name]**, and the term “CIHD” refers to the Cherokee Indian Housing Division.
- This Agreement becomes effective as of **[Date]** (the “Effective Date”) and expires on **[Date]**.
- The title of this Procurement Agreement is: **DIGITATION SERVICES**  
[The title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of the Agreement.]
- The parties agree to the terms and conditions of this Purchasing Agreement and acknowledge that this Agreement (made up of this coversheet, the following exhibits, and any attachments) contains the parties’ entire understanding related to the subject matter of this Agreement.

CIHD’S SIGNATURE	CONTRACTOR’S SIGNATURE
<b>Cherokee Indian Housing Division</b>	CONTRACTOR’S NAME <i>(if Contractor is not an individual person, state whether Contractor is a corporation, partnership, etc.)</i> <b>[Contractor name]</b>
BY <i>(Authorized Signature)</i> 	BY <i>(Authorized Signature)</i>  <b>DO NOT SIGN</b>
PRINTED NAME AND TITLE OF PERSON SIGNING <b>[Name and title]</b>	PRINTED NAME AND TITLE OF PERSON SIGNING <b>[Name and title]</b>
ADDRESS <b>Attn: Qualla Housing Services</b> <b>687 Acquoni Rd.</b> <b>Cherokee, NC 28719</b>	ADDRESS <b>[Contractor Address; include addressee]</b>

## **PROCUREMENT AGREEMENT TERMS AND CONDITIONS**

This Procurement Agreement for DIGITATION SERVICES including Schedule 1 - Description of Products and Services, Schedule 2 - Supplemental Terms and Conditions, Schedule 3 – Work Order Form, and Schedule 4 – Acceptance and Signoff Form, collectively referred to as “(“Purchasing Agreement”)", is entered into effective as of \_\_\_\_\_ (“Effective Date”) between \_\_\_\_\_ (“Contractor”) and the Cherokee Indian Housing Division, the agency to the Eastern Band of the Cherokee Indian (“EBCI”) for the benefit of Qualla Housing Services (“QHS”).

In consideration of the mutual promises, covenants, terms and conditions set forth below, the parties hereby agree as follows:

1. **OBLIGATION:** This Procurement Agreement does not obligate the CIHD or QHS to place any orders under this Procurement Agreement and it does not guarantee Contractor a specific volume of orders under this Procurement Agreement. Contractor is obligated to furnish DIGITATION SERVICES to the CIHD and QHS at prices that are at least as low as those charged by Contractor for substantially comparable goods under its contracts with other customers that are governmental entities or agencies, whether local, state or federal (“Government Contracts”). If Contractor enters into a Government Contract to supply DIGITATION SERVICES that are substantially comparable to the DIGITATION SERVICES under this Procurement Agreement and the prices charged under such Government Contract are lower than those charged under this Procurement Agreement, Contractor must immediately (a) provide written notice to the CIHD of such lower pricing, and (b) offer to the CIHD and the QHS such lower pricing. At the request of the CIHD, and no more often than once in a 12-month period, an officer of Contractor must certify in writing and warrant to the CIHD that the prices paid by QHS under this Procurement Agreement are the same or lower than prices paid under other Government Contracts for substantially comparable goods. Any price adjustment will be set forth in a written amendment to this Procurement Agreement.

2. **RELATIONSHIP OF PARTIES:** The CIHD has the authority to enter into Procurement agreements for goods and services on behalf of the QHS and to purchase goods and services on behalf of any QHS under any Procurement agreement that may result from the RFP.

Contractor has the authority to enter into and perform its obligations under this Procurement Agreement. Contractor is qualified to do business and is in good standing in the State of North Carolina and the EBCI.

Contractor warrants that the Goods and Services are and shall be compliant with Section 508 of the Rehabilitation Act of 1973 as amended.

3. **SCOPE OF SERVICE AND PRICE:**

(a) Contractor shall provide DIGITATION SERVICES to the CIHD and QHS pursuant to the terms and conditions of this Procurement Agreement. The description and price for the DIGITATION SERVICES are set forth in Schedule 1 – Description of Products and Services.

(b) Contractor’s prices set forth in Schedule 1 – Description of Products and Services, include all anticipated charges, including but not limited to, cost of materials and product, overhead, profits, and other costs or expenses incidental to the Contractor’s performance under this Procurement Agreement.

(c) If the Contractor requires reimbursement for travel expenses associated with installation and maintenance services, reimbursement will be in accordance with the Travel Rate

Guidelines, attached hereto and made a part hereof. All travel that is to be reimbursed must be pre-approved and authorized in writing. If QHS has requested installation or maintenance services, the travel must be pre-approved and authorized by QHS's designated representative ("Representative"). If the CIHD has requested installation or maintenance services, on behalf of QHS, the travel must be pre-approved and authorized by the CIHD Project Manager ("Project Manager"). Contractor must provide copies of receipts and invoices for reimbursement of such travel expenses. Contractor will not be reimbursed for travel expenses that have not been authorized in writing.

4. **INSTALLATION SERVICES:** All products ordered by QHS or the CIHD on behalf of QHS that require installation shall be completely installed and tested for functionality by Contractor. Installation and testing shall be completed as set forth in the ordering document. All costs and expenses for installation and testing shall be included in the prices set forth in Schedule 1 – Description of Products and Services. Contractor shall provide all materials, equipment, parts and labor necessary for the installation of the ordered products. Contractor shall transport all ordered products to the end user's facility prior to installation. The CIHD and QHS will not be responsible for any materials delivered to its facility prior to the contractor completing installation of the product.
5. **MAINTENANCE SERVICES:** If the CIHD or QHS orders maintenance services, such service shall be provided pursuant to the terms and conditions set forth in Schedule 2 - Supplemental Terms and Conditions.
6. **DISPUTE RESOLUTION**

All parties will attempt, in good faith, to resolve any disputes informally. The Contractor will meet with the CIHD Project Manager, or other designated representative, and/or QHS's representative to discuss the matter and any actions necessary to resolve a dispute.

(a) Escalation:

1. If a dispute remains unresolved following written notice by either party, each party's Chief Executive Officer ("CEO") or designated representative will meet to exchange information and attempt resolution within fifteen (15) days of the effective date of such notice.

2. If the matter is not resolved as set forth in paragraph 11.a.1, the aggrieved party will submit a second written notice which will: (i) provide detailed factual information; (ii) identify the specific provisions in the Procurement Agreement on which any demand is based; (iii) advise if the demand involves a cost adjustment and, if so, provide the exact amount, accompanied by all supporting records; and (iv) attach a declaration that the demand is made in good faith, the supporting data are accurate and complete, and the amount requested properly reflects the necessary adjustment. The notice will be signed by an authorized representative of the aggrieved party.

3. Each party will comply with reasonable requests for additional information. Any additional information will be provided within fifteen (15) days after receipt of a written request, unless otherwise agreed.

(b) Confidentiality During Dispute Resolution: All dispute resolution negotiations are considered confidential.

(c) Performance During Dispute Resolution: Pending final resolution of any dispute, Contractor agrees to proceed diligently with the performance of the work, including work associated with the dispute, unless otherwise directed. Contractor's failure to diligently proceed in accordance with the CIHD's instructions will be considered a material breach of the Procurement Agreement.

**7. SCOPE OF WORK; ACCEPTANCE**

(a) Scope of Work: Contractor will perform and complete all Work described in Schedule 1 – Description of Products and Services in compliance with the requirements of this Procurement Agreement, and to the satisfaction of the CIHD and QHS.

(b) Acceptance.

1. All work provided by Contractor under this Procurement Agreement is subject to written acknowledgement and acceptance by the CIHD or QHS Project Manager or a representative of the CIHD or QHS placing the order (“Representative”). The CIHD or QHS Project Manager or, as appropriate, Representative will apply the acceptance criteria set forth in Schedule 4 – Acceptance and Signoff Form, (including timeliness, completeness, technical accuracy and conformance to statistical, industry or marketplace standards) to determine acceptance or non-acceptance of the work.

2. The CIHD or QHS Project Manager or, as appropriate, Representative shall use Schedule 4 -Acceptance and Signoff Form to notify Contractor of acceptance or non-acceptance.

3. If the work is not acceptable, the CIHD or QHS Project Manager or, as appropriate, Representative shall detail why the work does not meet the acceptance criteria. Contractor shall have ten (10) business days from receipt of notice to correct the failure(s) and conform the work to the acceptance criteria. Contractor will redo or resubmit the work and the CIHD or QHS Project Manager or, as appropriate, Representative will re-apply the acceptance criteria to determine the work’s acceptance or non-acceptance. Thereafter, the parties shall repeat the process set forth in this paragraph 17 until Contractor’s receipt of written acceptance of such corrected work; provided, however, that if the work is rejected on at least two (2) occasions, the CIHD or QHS Project Manager, or as appropriate, Representative may terminate that portion of the applicable Work Order or this Procurement Agreement which relates to the rejected Work at no expense to the CIHD or QHS.

(c) Prior Work: Prior work, performed by Contractor pursuant to CIHD’s authorization, but before execution of this Procurement Agreement, will be considered as having been performed subject to the provisions of this Procurement Agreement.

(d) Non-Exclusivity: This is a non-exclusive agreement. The CIHD reserves the right to perform, or have others perform the work of this Procurement Agreement. The CIHD reserves the right to bid the work to others or procure the work by other means.

**8. INVOICES, PAYMENT AND SETOFF:** Neither the CIHD nor QHS shall have an obligation to pay for any item or work until acceptance of the work and receipt of one original correct invoice for the item or work. The invoice must be sent to the address shown on the Work Order. Payment is due 45 days after receipt of the invoice, unless otherwise indicated on the Work Order. Each invoice shall be printed on Contractor’s standard printed bill form, and shall include at a minimum (a) the Work Order number, (b) Contractor’s name and address, (c) the nature of the invoiced charge, (d) the description and quantity of goods or work provided, (e) the per unit amount charged, (f) the extended price, with taxes itemized separately and (g) each item on the invoice designated as taxable or nontaxable amounts owed to the CIHD or QHS due to rejection of goods or services or discrepancies in said invoices will be, at the CIHD’s or, as appropriate, QHS’s option, fully credited against future invoices payable by the party, or paid by Contractor within thirty (30) days from Contractor’s receipt of a debit memo or other written request for payment. The CIHD or, as appropriate, QHS shall have the right at any time to set off any amount owing from Contractor to the party against any amount payable by the party pursuant to any Work Order or any other transaction or occurrence.

9. **AUDIT RIGHTS:** Contractor agrees to maintain records relating to performance and billing by Contractor under this Procurement Agreement for a period of four (4) years after final payment of any Work Order issued under this Procurement Agreement. During the period of time that the Contractor is required to retain such records, the CIHD or its representative may, during normal business hours, inspect and make extracts or copies of such records and other materials for purposes of confirming the accuracy of invoices submitted hereunder.

10. **FEDERALLY-FUNDED ORDERS**

If any ordering document under the Procurement Agreement is funded in whole or in part by the federal government, then:

- It is mutually understood between the parties that the Procurement Agreement may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if the Procurement Agreement was executed after that determination was made;
- The Procurement Agreement is valid and enforceable for the CIHD and QHS only if sufficient funds are made available to the CIHD and QHS by the United State Government for the fiscal year in which they are due and consistent with any stated programmatic purpose. In addition, the Procurement Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of an ordering document under the Procurement Agreement in any manner;
- The parties mutually agree that if the Congress does not appropriate sufficient funds for any program under which an ordering document under the Procurement Agreement is intended to be paid, the Procurement Agreement shall be deemed amended for the CIHD and QHS without any further action of the parties to reflect any reduction in funds.
- Exemptions from the above requirements may be granted if the CIHD and QHS can certify in writing that federal funds are available for the acquisition during the term of any ordering document under the Procurement Agreement.

11. **AGREEMENT ADMINISTRATION/COMMUNICATION**

(a) Under this Procurement Agreement, the CIHD Project Manager shall monitor and evaluate the Contractor's performance. Notice to the CIHD must be in writing and shall be delivered to the appropriate following address by depositing in the U.S. Mail or commercial express mail, first-class and pre-paid with return receipt requested:

CIHD Project Manager  
Cherokee Indian Housing Division  
687 Acquoni Rd.  
Cherokee, NC 28719

(b) The CIHD Project Manager's will be the contact for each Work Order issued by the CIHD. Contractor shall contact the CIHD Project Manager regarding questions on the Work Order or payment status for Work Orders issued by the CIHD.

(c) The QHS placing an order with Contractor will designate a QHS representative to be the contact for each Work Order issued. Contractor shall contact the designated QHS representative regarding questions on the Work Order or payment status for any Work Orders issued by the QHS.

(c) Notice to Contractor must be in writing and shall be delivered to the following address by depositing in the U.S. Mail or commercial express mail, first-class and pre-paid with return receipt requested:

***[insert Contractor address below]***

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(d) Notice is effective on receipt; however, any correctly addressed written notice that is refused, unclaimed, or undeliverable because of an act or omission of the party notified will be deemed effective as of the first date that the notice was refused, unclaimed or deemed undeliverable.

12. **GOVERNING LAW, VENUE:** The formation, interpretation and performance of this Procurement Agreement shall be governed by the laws of the State of North Carolina and EBCI without regard to its conflict of laws provision. Venue for all litigation relative to the formation, interpretation and performance of this Procurement Agreement shall be in the City and Counties of the EBCI.
13. **SURVIVAL:** Terms which shall survive any termination or expiration of this Procurement Agreement include, but are not limited to, Indemnity, Warranties, Infringement Indemnity, Audit Rights, and Assignment.
14. **SIGNATURE AUTHORITY:** The parties signing this Procurement Agreement certify that they have proper authorization to do so.

**SCHEDULE 1 – DESCRIPTION OF PRODUCTS AND SERVICES**

[Schedule 1 is part of the Procurement Agreement and will be developed based on Proposer’s proposal.]

**SCHEDULE 2 – SUPPLEMENTAL TERMS AND CONDITIONS**

[Schedule 2 includes negotiated terms and conditions applicable to Proposer’s maintenance services and will be included in the final Procurement Agreement. The RFP requires the proposer to submit their terms and conditions applicable to their maintenance services.]

**SCHEDULE 3 – WORK ORDER FORM**

[Schedule 3 will be provided by Contractor and included in the Procurement Agreement upon review and approval of the CIHD.]

**SCHEDULE 4 - ACCEPTANCE AND SIGNOFF FORM**

Description of Work provided by Contractor:

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Date submitted: \_\_\_\_\_

Work is:

1) Submitted on time:  yes  no. If no, please note length of delay and reasons.

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2) Complete:  yes  no. If no, please identify incomplete aspects of the Work.

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3) Technically accurate:  yes  no. If no, please note corrections required.

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Please note level of satisfaction:

Poor  Fair  Good  Very Good  Excellent

Comments, if any:

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Acceptance status:

- Unacceptable, as noted above.
- Substantial Completion is granted; issues to be addressed in Punch List.
- Acceptance is granted.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT B  
PURCHASING GROUP ADDRESS LIST**

**(See separate PDF file for RFP posted on CIHD website)**

**ATTACHMENT C  
PROPOSER CERTIFICATION FORM**

I certify that neither \_\_\_\_\_ (Proposer) nor any of its proposed subcontractors are currently under suspension or debarment by any state or federal government agency, and that neither Proposer nor any of its proposed subcontractors are tax delinquent with the State of North Carolina. I have listed all contracts with government or commercial customers during the five years preceding submission of this proposal.

I acknowledge that if Proposer or any of its subcontractors subsequently are placed under suspension or debarment by a local, state or federal government entity, or if Proposer or any of its subcontractors subsequently become delinquent in North Carolina taxes, our proposal may be disqualified.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**PROPOSER CERTIFICATION FORM (CONTINUED)**

**List of all Contracts with Government or Commercial Customers  
during the Five Years preceding Submission of this Proposal**

**ATTACHMENT D  
 PRICING SHEETS**

Requirement	Description Of Proposed DIGITATION SERVICES	DIGITATION SERVICES Pricing (LESS TAX)
<p><b><u>DIGITATION SERVICES</u></b>, as described in <b><u>Section 4.1.2.1.1</u></b> of this RFP.</p>		<p><b>Price:</b> \$</p> <p><b>Indicate if reimbursable expenses are applicable.</b></p>
		<p><b>Training price (if applicable):</b> \$</p>
		<p><b>Other applicable items and pricing:</b> \$</p>
		<p><b>Hourly labor rate for time and materials repairs:</b> \$</p> <p><b>Indicate if reimbursable expenses are applicable.</b></p>

**ATTACHMENT E**  
**PAYEE DATA FORM**

<b>For Legal Use Only:</b>  <b>Contract No.:</b>
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**INDEPENDENT CONTRACTOR AGREEMENT**  
**Part 1 of 2**

**1. PARTIES.** This is an Agreement between the **Eastern Band of Cherokee Indians** (“Tribe”), a federally recognized Indian Tribe and \_\_\_\_\_ (“Contractor”).

**2. TAXPAYER NUMBER.** Contractor must submit with this Agreement a completed and signed [IRS Form W-9](#) indicating Contractor’s federal Taxpayer’s Identification Number (TIN), personal Social Security Number (SSN) or Employer Identification Number (EIN), whichever is appropriate according to the official instructions to IRS Form W-9, even if Contractor has submitted to the Tribe an IRS Form W-9 previously. Contractor’s TIN, SSN, or EIN is \_\_\_\_\_. The address associated with this TIN is:

**3. CONTACT PERSONS.** Communications and notices regarding this Agreement must be given to the persons named in this paragraph to be effective.

For Contractor:	Name and Title:	
	Address:	
	City/State/Zip:	
	Telephone:	
	Facsimile:	
	Email:	
For Tribe:	Name and Title:	
	Division/Program:	
	Address:	
	Telephone:	
	Facsimile:	
	Copy To:	
	Email:	

**4. SUMMARY OF PURPOSE OF AGREEMENT.**

**5. TIME OF PERFORMANCE.**

Contractor shall begin Work on \_\_\_\_\_ and continue until \_\_\_\_\_. The end date expressed herein may be changed mutual agreement of the parties.

**6. SCOPE OF WORK.**

Contractor shall furnish all services, personnel, labor, goods, equipment, tools, materials, supplies, transportation, tests and supervision required to complete the Work described in this paragraph or on attached page if more space is needed. **See attached Scope of Work.**

**7. CONTRACT PRICE.**

The total contract price shall not exceed

**8. PAYMENT.**

The Tribe shall pay Contractor according to the payment option chosen in this paragraph. Contractor must submit documentation supporting its entitlement to payment as required by the Tribe. The Tribe will not pay any amount greater than the contract price unless it has agreed to in a properly executed written amendment to this Agreement. If applicable, ten percent (10%) of the contract price will be retained by the Tribe until final inspection and acceptance of Work by the Tribe.

Choose payment method:

<b>Payment by schedule</b>	<b><u>OR</u></b>	<b>Payment on other basis*</b>
<b>Payment 1 (date):</b>		<b>(*hourly rate, lump sum, time &amp; materials, etc.)</b>
<b>Payment 2 (date):</b>		<b>Basis of payment: invoice</b>
<b>Payment 3 (date):</b>		<b>Date of Payment:</b>
<b>10% retained:</b>		<b>10% retained:</b>
<b>Total Contract Price NTE:</b>		<b>Total Contract Price NTE:</b>

**9. LIQUIDATED DAMAGES.**

If Contractor fails to complete its Work on time, subject to changes in the time of performance as provided in this Agreement, Contractor shall pay to the Tribe, as liquidated damages, the sum of \$ \_\_\_\_\_ for each consecutive calendar day that terms of this Agreement remain unfulfilled. This sum is agreed to be a reasonable and proper measure of damages which the Tribe will sustain per day if Contractor fails to complete its Work within the stipulated time. In no way shall costs for liquidated damages be construed as a penalty on the Contractor.

<b>10. OTHER TERMS AND CONDITIONS.</b>	
If the Contractor is supplying deliverables such as documents, drawings, designs, environmental assessments, master plans, maps, and other similar items, the Contractor shall supply the deliverables in hardcopy and in the digital / electronic format specified by the Tribe.	
<b>11. LIST OF AGREEMENT DOCUMENTS.</b>	
This Agreement incorporates by reference the documents described in this paragraph. Attach the following documents:	
<ul style="list-style-type: none"> <li>(a) Parts 1 and 2 of this Independent Contractor Agreement</li> <li>(b) Scope of Work (and contract budget details, if applicable)</li> <li>(c) Any amendments to (a) and (b)</li> <li>(d) Proof of insurance</li> <li>(e) Other attachments (if any, list here):</li> </ul>	
This Agreement is executed by the following authorized persons on the dates indicated below.	
<b>CONTRACTOR:</b>	<b>EASTERN BAND OF CHEROKEE INDIANS</b>
Authorized Signator: <del>DO NOT SIGN</del>	Signed: <del></del>
Print Name:	Print Name: Michell Hicks
Title:	Title: Principal Chief
Date:	Date:

Approved as to form: \_\_\_\_\_  
*Attorney for Tribe*

Date: \_\_\_\_\_

### INDEPENDENT CONTRACTOR AGREEMENT Part 2 of 2

**1. Independent Contractor.** Contractor is an independent contractor under this Agreement. Contractor is not the Tribe's employee, agent, partner or joint-venturer for any purpose, including the accrual of employee benefits. Contractor may not represent or bind the Tribe in any dealings between Contractor and third parties. Employees furnished by Contractor are Contractor's employees exclusively.

**2. Warranty.** Contractor warrants that information, documents and other deliverables it provides to the Tribe are complete, accurate, timely and responsive to the requests of the Tribe, that professional services meet or exceed applicable standards of care and professional conduct, that goods are new and of good quality and are fit for the particular purpose for which they are provided, and that labor is performed in a good and Workmanlike manner. At the request of the Tribe and at Contractor's expense, Contractor shall promptly correct, replace or repair any defective or deficient deliverables, goods, services or labor for a period of one year after completion of Work under this Agreement. This paragraph does not diminish the Tribe's rights against Contractor with respect to the time within which the Tribe may commence proceedings to establish Contractor's liability with respect to Contractor's obligations other than specifically to correct, repair or replace Work.

**3. Indian Preference.** If Contractor finds it necessary to hire additional goods or services, or to subcontract on the Qualla Boundary, to perform the Work described in this Agreement, Contractor shall comply with Tribe's laws providing employment and subcontracting preference for *Independent Contractor's Agreement 10-16-2023*

qualified enrolled members of the Tribe and other Indian tribes. Contractor shall contact the Tribal Employment Rights Office (TERO) to obtain contracting and hiring requirements and a list of certified businesses to which preference shall be given. Contractor shall also comply with applicable federal requirements concerning Indian preference in contracting and employment.

**4. Insurance.** Before commencing Work, Contractor shall furnish to the Tribe certificates of insurance showing:

- (a) Commercial general liability insurance with limits of not less than \$1,000,000 per occurrence and in the aggregate, and naming Tribe as an additional insured;
- (b) Automobile liability insurance with coverage for owned, hired, and non-owned automobiles, with limits of not less than \$1,000,000;
- (c) Worker's compensation insurance as required by North Carolina statute (i.e., Contractor has 3 or more regular employees), and including employer's liability coverage;
- (d) If applicable, errors and omissions insurance; and
- (e) If applicable, professional malpractice insurance.

Contractor shall continuously maintain required insurance during this Agreement. Having adequate insurance coverage is a material obligation of this Agreement.

If there is a lapse of any of Contractor's required coverages, the Tribe may order cessation of Contractor's work, order Contractor and all his equipment off Tribal property, and shall stop payments to Contractor reflecting work done from the date of lapse, until a current Certificate of Insurance showing resumption of coverages adequate to the Tribe (which may exceed those listed in this Agreement if the lapse has created a change in risk to the Tribe) is provided to the Tribe's Contact Person shown in this Agreement. Additionally, the Tribe may void this Agreement or impose additional reasonable conditions upon Contractor, such as obtaining a satisfactory result from inspection of Contractor's work to date, before allowing Contractor to resume work.

All insurance must satisfy the laws of North Carolina and shall be obtained from companies authorized to provide such coverage and authorized by the North Carolina Commissioner of Insurance to do business in North Carolina. Limits of coverage do not limit the Contractor's liability or obligations under this Agreement.

In all agreements with Subcontractors, Contractor must impose all conditions in this paragraph upon Subcontractor.

**5. Amendments.** This Agreement may not be amended orally or by performance. Any amendment must be made in a writing properly executed by both parties. Amendments that increase the Contract Price or the Tribe's agency budget must be signed by the Principal Chief to be effective.

**6. Time is of the Essence.** Contractor shall diligently and in good faith prosecute the Work describe in this Agreement. Contractor understands that delays in performance may cause substantial economic damages to the Tribe.

**7. Termination by Mutual Consent.** This Agreement may be terminated at any time by mutual written consent of the parties.

**8. Termination for Convenience.** The Tribe or the Contractor may terminate this Agreement at any time by providing thirty (30) calendar days written notice to Contractor. Such termination is effective in the manner specified in the written notice. Upon such termination, the Tribe shall pay Contractor for Work performed to the date of termination. Contractor shall accept the payment as full and final payment and shall make no claim of any kind against the Tribe, including any claim for additional payment.

**9. Termination for Default.** If Contractor fails or refuses to supply sufficient and properly skilled labor or sufficient and appropriate goods, equipment or material, or fails to diligently prosecute Work, or is in default or breach of any provision of this Agreement, the Tribe may terminate this Agreement upon three (3) calendar days written notice. Upon termination, Contractor shall immediately stop Work and remove its employees, if any, from the Tribe's property. If applicable, the Tribe may complete the Work in whatever way it determines best, and at completion of the Work shall pay Contractor for the value of the Work performed by Contractor (excluding profit) but unpaid prior to the termination, less any costs incurred by the Tribe to correct any deficiencies or defects attributable to Contractor's Work.

**10. Tribe May Void Agreement if Debt is Owed.** Tribe may declare this Agreement void if it determines at any time before the date scheduled for beginning performance or before performance actually begins, whichever is later, that according to records maintained by the Budget and Finance Division, Contractor is past due on any personal or business debt owed to Tribe.

**11. Assignment.** Contractor may not assign any interest in this Agreement without the Tribe's prior written consent.

**12. Contractor Must Keep Records; Access and Right to Audit.** Contractor shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles, and shall maintain any other records pertinent to this Agreement in a manner so as to clearly document Contractor's performance. The Tribe shall have a

right to access the fiscal and other records of Contractor that are pertinent to this Agreement to perform examinations and audits. Contractor shall retain and keep accessible all the fiscal and other records for a minimum of three (3) years following final payment and termination of this Agreement, or until the conclusion of any audit or controversy related to this Agreement, whichever is later.

**13. Subcontracts.** Contractor shall not subcontract any work without the Tribe's prior written consent. Subcontracts must state that the subcontractor is bound by this Agreement as if the subcontractor were the Contractor. The Tribe's consent to a subcontract does not relieve Contractor of its duties or obligations under this Agreement. Retainage should not be released to contractor until sub-contractors are paid.

**14. Return of Tribe's Records.** Upon termination or completion of this Agreement, Contractor shall return to the Tribe all materials, records, equipment and supplies in Contractor's possession or control that are the Tribe's property or relate to the Tribe's business, unless released to Contractor in writing by Tribe.

**15. Confidentiality.** Contractor may have access to confidential information regarding the Tribe, its employees, its members and its future plans. This information is valuable to the Tribe, is the sole property of the Tribe and is acquired by Contractor in confidence. Unless otherwise provided herein, Contractor shall not provide or disclose to a third party any information acquired during this Agreement if that information is treated as confidential by the Tribe, and is not otherwise known in the public domain by proper means.

**16. Conflicts Of Interest.** During this Agreement, Contractor, its employees and agents shall not to enter into any activity, employment or business arrangement that conflicts with the Tribe's interests. Contractor shall advise the Tribe immediately of any activity, employment, or business arrangement contemplated by Contractor that may be a conflict.

**17. Work Product Is Property Of Tribe.** Any Work product that results from this Agreement is the exclusive property of the Tribe and may be used fully and freely by the Tribe.

**18. Indemnity and Hold Harmless.** Contractor shall indemnify and hold harmless the Tribe from and against all liabilities (including, but not limited to, all claims, demands, suits, losses, costs, damages, settlements, fines, fees, penalties and other expenses, including attorney's fees), for injury or death of any person, or damage or destruction of property, caused by any act or omission by Contractor, its officers, employees, agents, subcontractors, or independent contractors, arising out of or resulting from the performance of work.

**19. Attorneys fees and other charges.** Contractor shall pay reasonable attorneys fees and other costs incurred by the Tribe to enforce this Agreement upon Contractor's breach or default.

**20. Sovereign Immunity.** Nothing in this Agreement constitutes a waiver of the Tribe's sovereign immunity.

**21. Governing Law.** This Agreement shall be governed by and construed in accordance with the law of the Tribe or, in the absence of Tribal law, federal or North Carolina law. In all circumstances this Agreement shall be subject to recognition of the sovereign rights, powers, authorities, and immunities of the Tribe as a federally recognized Indian Tribe under Federal and Tribal law.

**22. Personal Jurisdiction and Venue.** Contractor consents to the personal jurisdiction of the Cherokee Court. Legal actions shall be adjudicated in Cherokee Court.

**23. No Arbitration or Mandatory Mediation.** The parties agree that any provisions allowing or requiring arbitration or mandating mediation of disputes in any of the documents associated with this Independent Contractor Agreement shall not apply. This shall not prevent the parties from resolving any disputes through voluntary mediation.

**24. Compliance with Laws, Rules and Polices.** Contractor shall comply with all federal, state, and Tribal laws, rules and regulations applicable to Work, including but not limited to: Davis-Bacon Act, Buy America Requirements 49 U.S.C. 5323(j), Lobbying Requirements 31 U.S.C. 1352, Debarment and Suspension Requirements 49 CFR Part 29, and Disadvantaged Business Enterprise Requirements 49 CFR Part 26.

**25. Permits and Licenses.** Contractor shall obtain, continuously maintain during this Agreement, and pay for all licenses and permits required to perform this Agreement.

**26. Taxes.** Contractor shall pay all taxes, fees, assessments and premiums of any kind payable on its employees and operations. On the Tribe's demand, Contractor shall substantiate that all taxes and other charges have been paid.

**27. Safety.** Contractor shall establish and enforce safe Working procedures during its performance of this Agreement in accordance with all federal, state, and Tribal laws.

**28. Age Limits.** Contractor shall not allow any person under 18 years-of-age to participate in the performance of Work on property owned or leased by Tribe.

**29. Cleanup.** Contractor shall keep its Work areas clean of debris and excess materials. If Contractor fails to clean up as required, the Tribe may clean up and deduct the cost from payments due to Contractor.

**30. Hazardous Materials.** Contractor shall handle and dispose of hazardous materials in compliance with applicable federal, state and Tribe laws.

**31. Force Majeure.** Neither the Tribe nor Contractor are responsible for delay or default caused by fire, riot, acts of God, war or other causes beyond the reasonable control of the Tribe or Contractor, respectively.

Contractor shall, however, make all reasonable efforts to remove or eliminate the cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

**32. Singular, Plural, etc.** Whenever context requires, the singular includes the plural number and vice versa, and any reference to gender includes the masculine, feminine or neuter.

**33. Captions.** Captions in this Agreement are for convenience only and do not define or limit this Agreement.

**34. No Waiver.** If the Tribe does not insist upon strict compliance with any provision of this Agreement, or does not exercise options provided herein, that action or inaction is not a waiver of the Tribe's right to require strict compliance or exercise its options.

**35. Effective Date.** This Agreement is effective when executed by both parties, evidenced by the signatures of both parties on the signature page. If the parties sign the Agreement on different dates, the date the last party signed is the date of execution.

**36. Entire Agreement.** This Agreement is the entire Agreement of the parties. It supersedes all prior undertakings or Agreements, written and oral, between the Tribe and Contractor. It may be modified only in writing as provided herein.

**37. Severability.** If any provision of this Agreement or its application to any person or circumstance is held invalid, it is to that extent deemed omitted, and the balance of the Agreement shall remain enforceable.

**38. Conflict.** If a conflict is found to exist between the express terms of this Independent Contractor Agreement and any document associated with this Independent Contractor Agreement, then the terms of this Independent Contractor Agreement shall prevail.