



Tule River Tribe Gaming Authority

Request for Proposal for Owner's Representative Services

RFP Number: TRTC-32-2024

Issue Date: May 29, 2024

Corina Harris
Procurement Director
Tule River Indian Tribe
681 S. Reservation Road
Porterville, CA 93257
Corina.Harris @tulerivertribe-nsn.gov

RFP Closing date and time:

One (1) complete hard copy and one (1) digital copy (USB drive) to be sent via U.S. Mail or hand delivered via courier to Ms. Corina Harris must be received by 5:00 pm Pacific Time on July 12, 2024.

THIS DOCUMENT IS TO BE TREATED AS STRICTLY CONFIDENTIAL

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1. Executive Summary

1.1. Summary of the Request

The Tule River Tribe Gaming Authority (the "**Gaming Authority**", referred to herein as the "**Owner**") is requesting proposals from consulting firms who specialize in construction management and development (with an emphasis on casinos, hotels, restaurants and event centers) for the Owner's proposed hotel, convention center, and casino expansion project ("**Project**"). The development elements for the Project are currently planned to include:

- A 184-key hotel (3½ star level), with a salon and fitness center, kids quest, and a roof-top restaurant, with necessary back-of-house/administrative space;
- A 2,000 concert seat ballroom (with breakout meeting space);
- A resort pool, with a kids splash pad, and lazy river feature;
- A 31,700 square foot warehouse to serve the Eagle Mountain Casino;
- Expansion of the north Casino entrance;
- Conversion of the existing event center to a non-smoking gaming area; and
- Associated surface parking and on-site and off-site infrastructure including but not limited to a connection to the City of Porterville's municipal water supply and wastewater facilities.

The Successful Respondent (defined below) will be responsible for management of their engineers and consultants. The Successful Respondent must consistently report progress to and obtain feedback from the Owner.

1.2. Overview of the Tribe and Site

The Tule River Indian Tribe (the "**Tribe**") is a federally recognized Indian tribe located within the County of Tulare, California. The Tribe, through the Gaming Authority, currently operates a Class III gaming facility, the Eagle Mountain Casino, on a 40-acre parcel held in trust for the benefit of the Tribe ("**Site**") located at 1850 West Street within the City of Porterville, California. In addition to the Eagle Mountain Casino and event center, the Site currently contains two office buildings, several storage containers, and a parking lot.

1.3. Project Background

The Project is a second phase of the Owner's Relocation Project. Additional information regarding the Owner's Relocation Project information is available at <https://tulerivertribe-nsn.gov/casinorelocation/>, and the Final Environmental Impact Statement, issued May 31, 2019, which contains additional Project information, including required mitigation requirements, is available upon request. The Project is in the schematic design phase, which is expected to be completed by September 2024.

2. Terminology and Administrative Requirements

2.1. Terminology

In this Request for Proposal (including the cover page), unless the context otherwise requires, the following words and terms shall have the meanings indicated herein and the grammatical variations of the words shall have the corresponding meanings. Submission of a proposal in response to this Request for Proposal indicates acceptance of the following terminology.

"Contract" means the written agreement resulting from this Request for Proposal executed by the Owner and the Successful Respondent.

"Must" or **"Mandatory"** means an essential prerequisite for a proposal to receive consideration.

"Preferred Respondent" means the Respondent selected by the Owner to proceed with the negotiation and execution of the Contract.

"Request for Proposal" or **"RFP"** means this invitation to prospective Respondents to submit a proposal to provide services consistent with the requirements specified herein.

"Respondent" means an organization that submits, or intends to submit, a proposal in response to this Request for Proposal.

"Should" means a requirement having a significant degree of importance to the objectives of the Request for Proposal.

"Successful Respondent" means the Respondent, if any, with whom the Owner executes the Contract.

3. Scope of Services

3.1. Development of Owner's Program

Owner's Representative shall assist Owner with the preparation and development of the Project requirements, including, without limitation, budgetary and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems and site requirements, and any other objectives, schedule information, constraints and criteria reasonably required by the Contractor to perform its obligations to Owner (the "**Owner's Program**").

3.2. Estimating and Budget Control Services

(a) Owner's Representative shall assist Owner and Contractor in achieving a mutually agreed upon Project budget; reviewing and evaluating design drawings and specifications prepared by the Design Team during development; selecting materials, building systems, equipment and methods of Project delivery; providing recommendations on relative feasibility of construction methods, availability of materials and labor, time requirements for procurement, installation and construction, and factors related to cost including, but not limited to, costs of alternative designs or materials, unit pricing, preliminary budgets and possible economies, and provide consultation during Project development by scheduling and attending regular meetings and/or telephone conference calls with Owner and other members of the Project Team.

(b) After the Design Team's completion of the design development documents and the Design Team's and/or Contractor's detailed itemized preliminary estimate of construction costs (the "**Preliminary Construction Estimate**"), Owner's Representative shall (i) evaluate the Preliminary Construction Estimate to determine variances with Owner's established budget; and (ii) assist Owner with a value engineering analysis for the Project to optimize and minimize the total cost of the Project, to be consistent with Owner's budget.

(c) Owner's Representative shall work with the Project Team to update and refine the Preliminary Project Budget for Owner's approval, incorporating all value engineering recommendations and decisions that have been approved by Owner such that the total construction cost is consistent with Owner's budget and schedule for construction.

(d) Owner's Representative shall analyze and advise Owner on the detailed and itemized estimate of construction cost prepared by the Contractor during the final preparation of the construction drawings and specifications (the "**Construction Estimate**"). The Construction Estimate shall be subject to the review and approval of Owner. The Construction Estimate shall be developed using estimating techniques which anticipate the various elements of the construction and shall be based upon a complete and detailed quantity survey of the drawings and specifications. Owner's Representative shall review the construction drawings and specifications for constructability and shall oversee the identification of alternative systems and/or materials and performance of value engineering studies by the Contractor, and take such other actions as are necessary or desirable to conform the budget and scope of the Project with Owner's total budget and schedule goals for construction.

(e) Owner's Representative shall prepare its own Construction Estimate based on the final construction drawings and specifications prepared by the Design Team, for Owner's review and approval.

(f) Owner's Representative shall prepare and advise Owner on the appropriate contingency to include in Owner's budget for construction.

(g) Owner's Representative shall research, develop and expand on the list of contractors and subcontractors qualified to submit bids for all or portions of the Project. As part of those efforts, Owner's Representative shall take all reasonable steps to develop interest in the Project and maximize the number of competitive bids received.

(h) Owner's Representative shall direct the Project Team to prepare and publish addenda as necessary to clarify the intent of the bid documents before the receipt of bids.

(i) Owner's Representative shall (i) create a bid sheet matrix to record bids received, (ii) assess the responsiveness and responsibility (qualifications) of bidders to participate in the Project, and (iii) make recommendations to Owner relative to the acceptance of bids.

(j) Owner's Representative shall negotiate pricing and make recommendations to Owner regarding proposed agreements (including, without limitation, the General Conditions and Special Conditions to any such agreements, Change Orders or RFIs) between Owner, Contractor, subcontractors, and other members of the Project Team, compatible with Project goals.

(k) When requested by Owner, Owner's Representative shall review and advise Owner on the following: cash flow projections; descriptions, quantities and costs of work, materials, labor and equipment; Contractor's general conditions costs and fee, if any; and Contractor's proposed subcontract costs.

(l) Owner's Representative shall advise Owner on updates to the Construction Estimate as required for Owner's approval, incorporating all value engineering recommendations and decisions approved by Owner and showing all variances between actual costs and budgeted or estimated costs.

3.3. Project Scheduling Services

Owner's Representative shall oversee the preparation, and periodic updating, by the Contractor, for Owner's review and approval, a comprehensive (i) critical path method or (ii) PERT schedule which is prepared for the Construction to ensure that such schedule properly integrates pre-construction, design and permitting activities, the contract negotiation process and procurement activities with the overall construction activities for the Project (the "Construction Schedule"). The Schedule shall contain projected commencement and completion dates for the Project, including all interim completion and milestone dates and the dates for specified deliverables, and shall be subject to the review and approval of Owner. Additionally, Owner's Representative shall prepare a Schedule integrating key construction milestones with all Owner direct activities, including permitting, low voltage FFE and OSE procurement and Owner fit up activities necessary to achieve complete Project fit up (the "**Project Schedule**"). Owner's Representative shall review and advise Owner with respect to any monthly updates of the Construction and Project Schedules. The Schedule shall be developed using precedent network techniques and a computerized scheduling software system acceptable to Owner.

3.4. Planning and Coordination Services

Owner's Representative shall communicate with Owner and other members of the Project Team regarding drawings and specifications as they are being prepared and recommend alternative solutions whenever design details adversely affect construction feasibility cost or the Schedule.

3.5. Construction Services – Administration of the Construction Contract

(a) Owner's Representative shall provide administration of all contracts for construction in accordance with the terms and conditions (including all general conditions) of those contracts and all plans, specifications, drawings, addenda, modifications and other documents identified in or incorporated by reference in such contracts (collectively, the "Contract Documents"). Owner's Representative shall organize the Contract Documents for distribution to the Project Team and to others who require such Contract Documents for the labor, materials, services or equipment to be furnished to the Project.

(b) Owner's Representative shall provide administrative, management and related services to coordinate with scheduled activities and responsibilities of the Contractor, subcontractors and other members of the Project Team to endeavor to manage the Project in accordance with the latest approved Construction Estimate, Schedule and Contract Documents.

(c) Owner's Representative shall oversee the receipt and review, by the Architect, for completeness and responsiveness the Contractor's submittals (including, without limitation, shop drawings, product data and samples) and coordinate the delivery of such submittals to Owner with Owner's Representative's comments and recommendations.

(d) Owner's Representative shall schedule and conduct regular meetings between and among Owner, Contractor and other members of the Project Team to discuss such matters as procedures, progress and scheduling. The Owner's Representative shall prepare and promptly distribute written minutes of all such meetings to Owner, Contractor and other members of the Project Team and shall develop and implement a follow-up system to support timely completion of action items discussed at the meetings.

(e) Utilizing the construction schedules provided by the Contractor, Owner's Representative shall update the Project Schedule incorporating the activities of all contractors and subcontractors and suppliers of any tier on the Project, including activity sequences and durations, allocation of labor and materials, and delivery of products requiring long lead time and procurement. The Project Schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. Owner's Representative shall update and reissue the Project Schedule as required to show current conditions. If an update indicates that the previously approved Project Schedule may not be met, Owner's Representative shall recommend corrective action to Owner and Contractor.

(f) Owner's Representative shall endeavor to obtain satisfactory performance from the Contractor and shall recommend courses of action to Owner when requirements of the Contract Documents are not being fulfilled.

(g) Owner's Representative shall monitor the approved Construction Estimate and shall develop cash flow reports and forecasts for the Project and advise Owner as to variances between actual and budgeted or estimated costs.

(h) Owner's Representative shall maintain accounting records on authorized work performed under unit costs, additional work performed on the basis of actual costs of labor and materials, and other work requiring accounting records. Owner's Representative shall review Owner's existing accounting system and provide recommendations to Owner to improve Owner's ability to record and monitor such items as Project accounts, budgets, payment schedules and contingencies.

(i) Owner's Representative shall develop and implement procedures for the review and processing of applications by Contractor and subcontractors for progress and final payments and for submittal of change orders. Owner's Representative shall determine the impact of any requested change

orders on the Project Budget and Schedule and shall present to the Owner for approval together with the Owner's Representative's independent cost estimate for work requested under the Change Order.

(j) Based on Owner's Representative's observations and evaluations of the Contractor's applications for payment, Owner's Representative shall review, revise as required and coordinate certification by the Architect, for the amounts due to the Contractor.

(k) Owner's Representative's review of, and Architect's certification, of payment application shall constitute a representation to Owner, based on Owner's Representative's determinations at the site and on the data comprising the Contractor's applications for payment, that, to the best of Owner's Representative's knowledge, information and belief, all work shown on, described in or reasonably inferable from the Contract Documents and needed to complete the Project (the "Work") has progressed to the point indicated and the quality of the Work is in accordance with the Contract Documents. The foregoing representations include an evaluation of the Work for conformance with the Contract Documents upon substantial completion. The issuance of such certificate for payment shall further constitute a representation that the Contractor is entitled to payment in the amount certified.

(l) Owner's Representative shall review and report to Owner on the safety programs developed by the Contractor. However, Owner's Representative's responsibilities for coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractor or their subcontractors, agents, or employees.

(m) Owner's Representative shall determine in general that the Work of each contractor and subcontractor and supplier of any tier is being performed in accordance with the requirements of the Contract Documents, endeavoring to guard Owner against defects and deficiencies in the Work. As appropriate, Owner's Representative shall have authority, upon written authorization from Owner, to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed.

(n) Owner's Representative shall advise Owner with respect to any testing or inspections necessary or desirable to ensure the completion of Work in compliance with the Contract Documents; shall coordinate with Contractor and the inspectors on all inspections and shall attend regular meetings with inspectors.

(o) Owner's Representative shall require that Contractor schedule and coordinate the sequence of construction in accordance with the Contract Documents and the latest approved Schedule (Means and Methods).

(p) Owner's Representative shall require that Architect receive and review requests for clarification and requests for information and provide recommendations to Owner within 48 hours of receipt, unless otherwise agreed by Owner.

(q) Owner's Representative shall receive and review requests for change orders within forty-eight (48) hours of receipt, and provide recommendations to Owner regarding such requests unless otherwise agreed by Owner. Owner's Representative shall assist in negotiating Contractor's and subcontractors' proposals and shall coordinate the preparation of change orders and construction change directives which incorporate the Owner's authorized modifications to the Contract Documents. Owner's Representative shall take all reasonable steps necessary to ensure that approved change order work is performed in accordance with the terms of the change order and in compliance with the Contract Documents.

(r) Owner's Representative shall assist Owner in the review, evaluation, negotiation and documentation of claims; shall make written recommendations to Owner regarding any such claims and shall attend and participate in all dispute resolution meetings and proceedings regarding such claims.

(s) Owner's Representative shall receive certificates of insurance from the Contractor and its subcontractors and suppliers of any tier, and forward them to Owner.

(t) Owner's Representative shall record the progress of the Project. Owner's Representative shall submit monthly written progress reports to Owner including information on the Project, showing percentages of completion of the Project. Owner's Representative shall keep a daily log containing a record of weather, the Work performed on the Project site, the number of workers, identification of equipment, Work accomplished, problems encountered, and other similar relevant data as Owner may require. Throughout the construction phase Owner's Representative shall monitor and make recommendations to Owner regarding the adequacy of Contractor's workforce and equipment to complete the Project in accordance with the Owner's schedule.

(u) Owner's Representative shall maintain at the Project site for Owner one record copy of all contracts, drawings, specifications, addenda, change orders and other modifications, in good order and marked currently to record changes and selections made during construction. Owner's Representative shall direct Contractor to maintain records, in duplicate, of principal building layout lines, elevations of the bottom of footings, floor levels and key site elevations certified by a qualified surveyor or a professional engineer. Upon completion of the Project, Owner's Representative shall deliver all such records to Owner.

(v) Owner's Representative shall arrange for the delivery, storage, protection and security of Owner-purchased materials, systems and equipment that are a part of the Project until such items are incorporated into the Project.

(w) With the Contractor's and Owner's maintenance personnel, Owner's Representative shall observe the Contractor's final testing and start-up of utilities, operational systems and equipment.

(x) When Owner's Representative considers the Contractor's Work or a designated portion thereof, substantially complete, Owner's Representative shall, jointly with Contractor and Architect, prepare a list of incomplete or unsatisfactory items and a schedule for their completion.

(y) Owner's Representative shall coordinate the correction and completion of all Work. Following the issuance of a certificate of substantial completion of the Work, or a designated portion thereof, Owner's Representative shall evaluate the completion of the Work and make recommendations to Owner when the Work is ready for final inspection. Owner's Representative shall participate in conducting the final inspection.

(z) Owner's Representative shall secure and transmit to Owner warranties and similar submittals required by the Contract Documents, and deliver all keys, manuals, record drawings and maintenance stacks to Owner. Owner's Representative shall forward to Owner a final project application for payment upon compliance with the requirements of the Contract Documents.

(aa) Owner's Representative shall communicate and take such other actions with Contractor and subcontractors as necessary to secure the completion or correction of any Work during any warranty periods applicable to such Work (which periods shall not be shorter than twelve (12) months after Substantial Completion of the Project).

3.6. General Services

(a) Owner's Representative shall advise and make recommendations to Owner with respect to the appropriate services to be provided for investigations, appraisals or evaluations of existing conditions, facilities or equipment, and shall review the existing drawings or other information furnished by Owner and other members of the Project Team as needed to advise Owner on the constructability of the Project. Any errors, inconsistencies or omissions discovered by Owner's Representative shall be reported promptly to Owner.

(b) Owner's Representative shall recommend and assist in the selection of Project consultants. Owner's Representative shall assist Owner in selecting, retaining and coordinating the professional services of surveyors, special consultants and testing laboratories required for the Project.

(c) Owner's Representative shall cooperate and coordinate its Services with the Work and services performed by other members of the Project Team and, when appropriate, attend Project coordination meetings.

(d) Owner's Representative shall review all designs to seek to verify that the designs are complete and conform with the Owner's Program and other Owner requirements. Owner's Representative shall promptly notify Owner of any incomplete or nonconforming designs which Owner's Representative discovers.

(e) Owner's Representative shall analyze proposals and advise Owner on acceptability of subcontractors and material suppliers.

(f) Owner's Representative shall assist Owner in identifying, applying/filing for and obtaining necessary governmental approvals and permits, including without limitation federal, state and local building permits and special permits for the construction of permanent improvements and associated activities; temporary and permanent certificates of occupancy, and any documents which must be filed for approvals by the Division of the State Architect.

(g) Owner's Representative shall research, develop and implement management and administrative systems, procedures and reports required for the completion of the Project in accordance with the Owner's budget and schedule, and shall provide Owner with on-site and off-site training relative to such systems, procedures and reports.

(h) Owner's Representative shall provide Owner with assistance in the proper performance of the Services described in this Agreement, and shall make recommendations to Owner with respect to the staffing and procedures that would be required by Owner to properly perform such Services with its own personnel.

(i) Owner's Representative shall provide Owner with the names and qualifications of Owner's Representative's representatives who are proposed by Owner's Representative to be assigned to the Project, as well as the specific responsibilities and Services to be performed by each. At least one (1) such person, to be approved by Owner, shall spend at least forty (40) hours per week at the Project site and shall devote all such time to the performance of the Services described in this Agreement. Once such persons are approved by Owner and assigned to the Project, they shall not be re-assigned or removed without Owner's written consent.

(j) Owner's Representative shall attend meetings as directed by Owner throughout the term of this Agreement, as necessary to provide updates and respond to questions regarding the status of the Project.

(k) Owner's Representative shall support compliance with all federal, state and local statutes, codes, ordinances and regulations applicable to the Project, including without limitation any pertaining to environmental requirements and storm water protection programs.

(l) Owner's Representative shall perform its Services under this Agreement in such a way as to minimize any adverse impact of such Services or of the construction on Owner's other operations or on the surrounding community.

4. Request for Proposal Process

4.1. Inquiries/Additional Information.

All inquiries related to this RFP are to be in writing via email directed only to the individual listed below. Information obtained from any other source is not official and should not be relied upon. Inquiries will be received until 5:00 pm Pacific Time on June 28, 2024. Responses will be recorded and answers may be distributed to all potential Respondents at the Owner's option.

Corina Harris
Procurement Director
Tule River Indian Tribe
681 S. Reservation Road
Porterville, CA 93257
Corina.Harris @tulerivertribe-nsn.gov

4.2. RFP Closing Date and Method of Submission.

Respondents must submit one (1) complete hard copy and one digital copy (USB drive) of its proposal via U.S. Mail or hand delivered or via courier (FedEx, UPS, etc.) to Ms. Corina Harris. All proposals must be received by 5:00 pm Pacific Time on July 12, 2024. All proposals must be delivered in a sealed envelope to the attention of Ms. Corina Harris, with "Proposal for Owner's Representative Services" clearly written in bold type. Proposal envelopes should be clearly marked with the name and address of the Respondent, the RFP number, and the RFP title.

If via U. S. Mail:

Attn: Corina Harris
Tule River Indian Tribe of California
P.O. Box 589
Porterville, CA 93258

Hand Delivered or via Courier:

Attn: Corina Harris
Tule River Indian Tribe of California
681 S. Reservation Road
Porterville, CA 93257

4.3. Late Proposals.

Late proposals will not be accepted.

4.4. Eligibility.

Proposals will not be evaluated if the Respondent's current or past corporate or other interests may, in the Owner's opinion, give rise to a conflict of interest.

4.5. Evaluation and Selection.

The Owner will review and evaluate proposals and may consider the recommendations of a selection committee. Selection of the Preferred Respondent will be based on a combination of Project understanding and approach, team experience with similar projects, proposed fee, and references. Proposals that do not meet all criteria will be disqualified without further consideration. The Owner intends to enter into a Contract with the Respondent whose proposal best aligns with the criteria. As part of the final selection process, the Owner reserves the right to:

- (a) Contact all references provided by the Respondent.

(b) Request an interview with the Respondent. Presenters must include key staff members for the proposed services. The Owner will determine the location, time and date of the interview, and the Respondent will be notified.

4.6. Clarifications to Proposals.

Owner reserves the right to request, and the Respondent agrees to furnish, any additional data required to support the information contained within their proposal.

4.7. Selection Process.

Owner will privately review all proposals and schedule interviews with those Respondents that demonstrate that they best meet the required services and the submission criteria.

(a) Owner makes no commitment to any firm that it will receive an award. Owner reserves the right to reject any or all proposals, to waive informalities and irregularities, and to accept any proposal considered advantageous to Owner. The selection will not be solely based on the lowest fee, but also on the Project schedule, the Owner's overall evaluation of the Respondent's experience, and references on projects of a similar nature.

(b) Owner may make an award without discussion of negotiations or proposals received; therefore, proposals should be submitted in the most favorable terms as possible in response to this RFP. The Owner, however, may initiate discussions with Respondents who submit responsive or potentially responsive proposals and reserves the right to negotiate separately with any source whatsoever, in any manner to best serve the interest of the Owner. Respondents shall not initiate discussions.

(c) Owner may award the contract to any firm, at any time, without previously notifying other Respondents. Owner has no obligation to disclose the results of the RFP process or to disclose why a particular firm was selected.

4.8. Amending, Canceling or Rejecting RFP.

Owner reserves the right to amend or cancel this RFP in whole, or in part, at any time, for any reason. Proposals are subject to rejection in whole, or in part, if they limit or modify any of the terms and/or specifications of this RFP.

4.9. Negotiation Delay.

If a written Contract cannot be negotiated within thirty (30) days of award notification sent to the Preferred Respondent, or such time as determined solely by the Owner, the Owner may, at its sole discretion, terminate negotiations and either negotiate a Contract with the next qualified Preferred Respondent or choose to terminate the RFP process and not enter into a Contract with any of the Respondents.

4.10. Debriefing.

At the conclusion of the RFP process, all Respondents will be notified of the outcome with respect to the Respondent's proposal.

4.11. Estimated Time-Frames.

The following timetable outlines the anticipated schedule for the RFP process. The timing and the sequence of events resulting from this RFP may vary and shall be ultimately determined by the Owner.

Event	Anticipate Date
Request for Proposal is issued	May 29, 2024
Deadline for Submitting Inquires/Questions	June 28, 2024
Closing Date to Submit a Proposal	July 12, 2024
Interview Date (estimated)	July 22, 2024
Proposal evaluation and interview process completed and Preferred Respondent Notified (estimated)	August 12, 2024

5. Proposal Preparation

5.1. Signed Proposals.

All proposals must be signed by an authorized person/designee to sign on behalf of the Respondent and to bind the Respondent to statements made in response to this RFP. The Respondent should ensure its proposal includes a cover letter or statement(s).

5.2. Irrevocability of Proposals.

By submitting a clear and detailed written notice, the Respondent may amend or withdraw its proposal prior to the closing date and time. Upon closing, all proposals become irrevocable for ninety (90) days after the closing date as defined in **Section 4.2**. A Respondent who has withdrawn a proposal may submit a new proposal prior to the RFP closing date, provided that such proposal is done in accordance with the terms and conditions of this RFP.

5.3. Acceptance of Terms.

Unless specifically excluded in writing, all the terms and conditions of this RFP are accepted by the Respondent and incorporated in its proposal.

5.4. Respondents' Expenses.

Respondents are responsible for their own expenses in preparing and submitting a proposal, and for subsequent negotiations with the Owner, if any. The Owner will not be liable for Respondent claims, whether for costs or damages incurred by the Respondent in preparing and submitting the proposal, loss of anticipated profit in connection with any final Contract, or any other matter whatsoever.

5.5. Completeness of Proposal.

By submission of a proposal, the Respondent warrants that if this RFP requires a Respondent to design, create or provide a system or a process or manage a program, all components required for the system, process or management of the program have been identified in the proposal or will be provided by the Successful Respondent at no charge. For purposes of this **Section 5.5**, "all components" refers to any management tools or additional resources (including sub-consultants or vendors) necessary to meet the requirement of the RFP. The Respondent must identify any outside resource, consultant, or vendor; within its proposal, or it will be assumed the Respondent is providing all services as an in-house resource. Respondent will not be allowed to submit any "excluded" component(s) as an add service(s) after selection as an amendment to their Proposal or the Contract. Exclusion of any of the required components by the Respondent will deem their submitted proposal as non-responsive.

6. Additional Terms

6.1. Acceptance of Proposals.

(a) This RFP should not be construed as an agreement by the Owner to procure goods or services. The Owner is not bound to enter into a Contract with the Respondent who submits the lowest priced proposal or with any Respondent. Proposals will be reviewed based on the evaluation criteria. The Owner will be under no obligation to receive further information, whether written or oral, from any Respondent.

(b) Neither acceptance of a proposal nor execution of a Contract will constitute authorization of any activity or development contemplated in any proposal that requires any approval, permit or license pursuant to any federal, state, tribal, regional district or municipal statute, regulation or by-law.

6.2. Liability for Errors.

While the Owner has used considerable efforts to ensure an accurate representation of information in this RFP, the information contained herein is supplied solely as a guideline for Respondents. The information is not guaranteed or warranted to be accurate by the Owner, nor is it necessarily comprehensive or exhaustive. Nothing in this RFP is intended to relieve Respondents from forming their own opinions and conclusions with respect to the matters addressed in this RFP.

6.3. Modification of Terms.

The Owner reserves the right to modify the terms of this RFP at any time in its sole discretion. This includes the right to cancel this RFP at any time for any reason whatsoever prior to entering into a Contract with the Preferred Respondent.

6.4. Ownership of Proposals.

All documents, including proposals, submitted by Respondents in response to this RFP shall become the property of the Owner. Such documents, including proposals, will be received and held in confidence to the extent allowable by law. Respondents agree to indemnify and hold the Owner and the Owner's instrumentalities harmless from any claims based on the use of such documents, including proposals, submitted by Respondents in response to this RFP.

6.5. Use of Request for Proposal.

This RFP, or any portion thereof, may not be used for any purpose other than the submission of proposals.

6.6. Confidentiality of Information.

Information pertaining to the Owner obtained by the Respondent as a result of participation in this RFP process and Project is confidential and must not be disclosed without written authorization from the Owner. This RFP is confidential and for the sole use of Respondent's preparation of a proposal. By the Respondent's acceptance hereof, Respondent agrees:

(a) Not to disclose, copy or distribute this RFP in whole or in part to persons other than its employees and agents who are authorized by nature of their duties to receive such information.

(b) To return any confidential or proprietary materials upon the Owner's request.

(c) Not to use any information in this RFP or any other materials related to the business affairs or procedures of the Owner, and/or any affiliates of Owner, for Respondent's advantage or any other purpose, other than in the performance of this RFP.

(d) To recognize and acknowledge that Owner operates in a competitive and sensitive gaming business environment and, for that reason, both parties expect this RFP to be treated as confidential.

6.7. Information from Other Sources.

The Owner reserves the right to obtain and consider information from other sources concerning the Respondent, such as the Respondent's capability and performance under other contracts, the qualifications of any subcontractor of consultants identified in the Proposal, the Respondent's financial stability, past or pending litigation, and other publicly available information.

6.8. Non-material Variances.

The Owner, in its sole discretion, may waive or permit the cure of non-material variances in the Proposal. Non-material variances include but are not limited to failures to comply that: (i) do not affect overall responsiveness, (ii) are merely a matter of form or format, (iii) do not change the relative standing, or otherwise prejudice other Respondents, (iv) do not change the meaning or scope of the RFP, or (v) do not reflect a material change in the requirements of the RFP.

6.9. Criminal History and Background Investigation.

The Respondent hereby explicitly authorizes the Owner, in the Owner's sole discretion, to conduct criminal history and/or other background investigation(s) of the Respondent, its officers, directors, shareholders, partners and supervisory personnel who will be involved in the performance of the Contract. This authorized investigation(s) shall include, but is not limited, to Tule River Gaming Agency licensing and background requirements.

6.10. Native Preference.

Firms seeking consideration of priority based on Native Preference must provide proof of tribal ownership.

6.11. Sovereign Immunity.

Nothing contained in this RFP shall be construed as a waiver of rights, privileges, and sovereign immunity of the Owner, the Tribe, or any of the entity of Tribe, or any of their respective officers, directors, agents, or employees.

6.12. Insurance.

The Successful Respondent shall provide and maintain insurance during the term of the proposed services with minimum limits identified below.

(a) Commercial General Liability Insurance with limits not less than One Million Dollars (\$1,000,000.00) per occurrence, and Two Million Dollars (\$2,000,000.00) in the aggregate, written on an occurrence basis.

(b) Automobile Liability insurance with limits not less than One Million Dollars (\$1,000,000.00) per occurrence.

(c) Workers' Compensation Insurance that satisfies the limits, coverages and other requirements of the state of California.

(d) Professional Liability Insurance with limits not less than Two Million Dollars (\$2,000,00.00) per occurrence and in the aggregate.

The Successful Respondent's Commercial General Liability and Automobile Liability insurance policy shall (i) by endorsement CG 2010 07 04 and CG 2037 07 04, or equivalent acceptable to Owner, name, by endorsement, as additional insureds, Owner, the Owner's Board of Directors, the Tribe, the Tribe's Tribal Council, the agents, officers, directors and employees of each of them, and such other individuals or entities as Owner may designate, and (ii) state, by endorsement, that the Successful Respondent's insurance is primary insurance and any insurance carried by Owner and any individual or entity Owner may designate is excess and non-contributory to such primary insurance.

The workers' compensation/employer's liability policy shall, by endorsement, include a waiver of subrogation as to Owner and provide that such waiver shall not invalidate or prejudice the coverage available to the Successful Respondent or Owner. The commercial general liability and auto liability policies shall provide for severability of interests (separation of insureds) such that Owner's rights under the policy are separate from and independent of Successful Respondent's and such policies shall contain no insured versus insured exclusion.

The foregoing insurance shall be written with insurance carriers duly licensed to do business in the state of California, and have a Best's insurance guide rating of A, with financial size category of at least VII or better.

6.13. Dispute Resolution

The Owner's preferred form of dispute resolution provision is provided in subsection (a) and (b) below. Unless specifically rejected in the Respondent's proposal, by submission of its proposal, Respondent specially agrees that the dispute resolution provision below will be included in the Contract.

(a) The Owner grants to Owner's Representative a limited waiver of the Owner's sovereign immunity, solely for actions brought by Owner's Representative, in accordance with Section (b) below; provided, however, that any award shall be limited to actual damages and shall specifically exclude punitive, consequential, incidental, expectancy and all other special damages. This limited waiver of sovereign immunity does not extend to any action or proceeding brought against any Board Member of Owner, Tribal employee, Tribal agent, Tribal member, or any other individual acting on behalf of the Owner. The Tribe does not waive, limit or modify its sovereign immunity. Nothing herein shall be construed to constitute a waiver of the sovereign immunity of the Tribe or Owner with respect to any third party.

(b) Any controversy(ies) or claim(s) arising out of or relating to this Agreement, shall be exclusively resolved in the Tule River Tribal Court and Owner's Representative hereby consents to the sole and exclusive jurisdiction of the Tule River Tribal Court. This Agreement shall be construed in accordance with applicable Tribal law, federal law, to the extent there is no applicable tribal or federal law, California law.

7. Respondent's Response

7.1. Mandatory Criteria.

Proposals must address the following:

(a) Team Members. Describe roles, responsibilities, and relevant experience for the team members proposed for this assignment, including identifying principals. Provide examples (including reference contact information) of similar projects completed by the project team. Attach resumes for committed personnel.

(b) Scope of Work. Respondent should describe Respondent's approach to providing the basic scope of services to be provided by the Respondent. The scope of services to be performed under the Owner's Representative services shall be inclusive of, but not limited to the scope of services identified in **Section 3**.

(c) Project Approach. Clearly identify the team's approach and philosophy for the desired outcome of the Project.

(d) Construction Team Profile. Provide a listing of the construction team (by firm) and their consultants, detailing the following:

- (i) Their scope of services to be provided for the Project.
- (ii) Offices in which the work of this engagement will be performed.
- (iii) Size of the firm.
- (iv) The number and type of the staff to be committed to the Project.
- (v) Detailed list of any prior, current, and/or pending claims or litigation involving professional errors and omissions that have been asserted or filed against the firm during the past ten (10) years, including the current status of each pending claim, and the outcome of any resolved claims.

(e) Key Personnel. Provide a listing of individuals that would be assigned to the Project, with their role, professional qualifications, experience, and any other information pertaining to their ability to perform the duties on the Project. The Owner is particularly interested in the following roles:

- (i) Project Director/Principal-in-Charge.
- (ii) Project Manager(s) – The person who will coordinate with other consultants and the Owner.
- (iii) Provide an organizational chart graphically illustrating the structure and staffing, including key design/engineering consultants.

(f) Qualifications.

(i) Possess a minimum of seven (7) years of experience acting as an owner's representative for projects similar to the scope of the Project which include the following program elements:

- A. Casinos
- B. Resort Hotels
- C. Restaurants and Food & Beverage Venues
- D. Conference Centers
- E. Event Centers
- F. Parking Garages

- (ii) Be able to prepare budgets and projections.
- (iii) Be able to read and interpret income statements and budgets.

(iv) Possess a minimum of seven (7) years of experience in business management, including understanding of Generally Accepted Accounting Principles (“GAAP”).

(v) Be able to work well with diverse interests, i.e. Tribal Council, Board of Directors, tribal personnel, community members, vendors and the Project team.

(vi) Have knowledge and understanding of tribal governments and tribal enterprises.

(vii) Have knowledge and understanding of hotel, tribal casino, and restaurant design and layout.

(g) Experience.

(i) State a minimum of three (3) tribal clients for whom owner’s representation services have been provided.

(ii) State extent of experience with related infrastructure requirements for tribal casino projects.

(iii) Demonstrate your track record for delivering project completion on time and under budget.

(iv) Demonstrate familiarity with all classes of gaming, operations, and related gaming equipment.

(v) Demonstrate your experience providing value engineering options on projects.

(vi) Describe your experience of working with the requirements and covenants of financial institutions.

(h) References. Proposals must include three (3) client references including contact name, position and telephone number.

(i) Project Schedule. Proposals must demonstrate Respondent’s ability to provide the services in accordance with the current Project schedule, to be provided to Potential Respondents upon request, and/or identify any potential impacts to the Project schedule.

(j) Fee Proposal. Provide information on your preliminary fee structure based on the scope indicated above, including anticipated reimbursable costs. Include fees for each line item in **Exhibit 1**.

(i) Submit a schedule of hourly rates by employee classification, including terms and rates of overtime for additional work if requested.

(ii) The fee shall be inclusive of any and all specialty consultants. Provide line itemization of anticipated specialty consultants, their scope, and associated fees.

(k) Insurance. Provide proof of insurance for Respondent, including the ability to meet the insurance requirements outlined in this RFP.

(l) Litigation Statement. Provide any relevant information concerning any pending or active litigation within the last five (5) years.

(m) Certification regarding Debarment, Suspension and other Responsibility Matters. Provide an executed copy of the Tule River Tribal Council Certification regarding Debarment, Suspension and other Responsibility Matters attached to this RFP as Exhibit 2.

7.2. Addendum or Supplements to RFP.

In the event it becomes necessary to revise any part of this RFP, an addendum which outlines any changes or modifications to the original RFP will be provided to each Respondent that received the original RFP. All proposals must contain acknowledgement of any and all addenda.

8. Proposal Format

The following format and sequence should be followed in order to provide consistency in proposals and ensure each proposal receives full consideration. All pages should be consecutively numbered.

- (a) The proposal cover letter, signed according to **Section 5.1**.
- (b) The title page including the name and number of the Request for Proposal, the closing date and time, and the Respondent's name, address, and primary contact person.
- (c) Table of contents, including page numbers.
- (d) A short (one or two-page) summary of the key features of the proposal.
- (e) The Respondent's proposal detailing the Respondent's responses to **Section 7** of this RFP.
- (f) A list and description of all current, applicable professional licenses.
- (g) A list of contact names and their telephone numbers in case further clarification is required.
- (h) Appendices, including documents and information that the Respondent wishes to submit as part of its proposal.

9. RFP Exhibits

Exhibit 1: Form of Fee Proposal

Exhibit 2: Tule River Tribal Council Certification regarding Debarment, Suspension and other Responsibility Matters

Exhibit 1

Form of Fee Proposal

All fee proposals must be provided in the format below. Please use additional pages to provide any narrative support for the cost items.

Deliverable	Fee (US Dollars)
Development of Owner's Program	
Estimating and Budget Control Services	
Project Scheduling Services	
Construction Services	
Travel & Other Reimbursable Expenses	
Other	
TOTAL FEE PROPOSAL	

Exhibit 2

Tule River Tribal Council
Certification regarding Debarment, Suspension and other Responsibility Matters

[see attached]



TULE RIVER TRIBAL COUNCIL

TULE RIVER INDIAN RESERVATION

TULE RIVER TRIBAL COUNCIL CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 U.S.C. Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Name of Firm Submitting Bid

Signature and Title of Authorized Official

Date

I am unable to certify to the above statements. Attached is my explanation.

Prime or Subcontractor's Name: _____

Telephone Number: _____

Submit to:

**Phone (559) 781-4271 Fax (559) 781-4610
P.O. Box 589 Porterville, California 93258**