

INFORMATION HANDOUT

**For Contract No. 09-350604
At Iny-168-16.8/17.5**

**Identified by
Project ID 0912000002**

AGREEMENTS

Summary

Bishop Paiute Tribe Memorandum of Understanding

Bishop Paiute Tribe Tribal Employment Rights Ordinance

Bishop Paiute Tribe Compliance Plan Agreement

MATERIALS

Water source information

AGREEMENTS

Summary

1. Contractor enters into a separate agreement (Compliance Plan Agreement) with the Bishop Paiute Tribe.
2. Caltrans pays the TERO/Employment Administrative Fee.
3. The Bishop Paiute Tribe will provide an employment skills bank.
4. The Bishop Paiute Tribe has set a hiring goal for this project at 50%. The actual goal will be dependent upon the employment skills bank at the time of project advertisement.
5. Hiring preference will be applicable for all available positions.
6. -Project award is not contingent upon having a signed TERO Compliance Plan Agreement.

Bishop Paiute Tribe Memorandum of Understanding

**MEMORANDUM OF UNDERSTANDING
in accordance with Bishop Paiute Tribe's
Tribal Employment Rights Ordinance**

Caltrans Project ID: 09-1200-0002

168 Sidewalks

Inyo - SR 168 – PM 16.8/17.5

TERO MOU 13-1

The Bishop Paiute Tribe (**Tribe**) and the State of California Department of Transportation (**Caltrans**), in order to coordinate and carry out their respective functions and duties regarding Indian Employment Preference on State highway construction projects on lands within the Bishop Paiute reservation or lands held in trust for the Bishop Paiute Tribe by the BIA (**Tribal Lands**), do hereby enter into this Memorandum of Understanding (**MOU**).

This **MOU** constitutes a guide to the respective intentions, obligations, and policies of the **Tribe** and **Caltrans** in entering into this agreement. It is not intended to be used as a sole basis for authorizing funding, nor is it a legally binding contract upon either party.

This project proposes to construct curb, gutter, and sidewalk along the north shoulder of State Route 168 from the intersection of Barlow Lane (PM 16.8) to the City of Bishop's western city limit (PM 17.5).

| Contract No. Project ID | Project County-Route-Postmile | Work Description | (Tribe) Tribal Lands | (Tribe) IRR Inventory |
|----------------------------|-------------------------------|------------------------|----------------------|-----------------------|
| 09-350604 | Inyo 168 | Construct new sidewalk | Inyo 168 | Inyo 168 |
| 0912000002 | 16.8/17.5 | | 16.3/17.5 | 0.0/18.3 |

I. INDIAN EMPLOYMENT PREFERENCE AND TERO FEE

A. Recitals

1. Section 122 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, Pub. L. 100-17, 23 USC ss. 140(d), recognizes the establishment of Indian Employment Preferences in the Federal Aid Highway Program.
2. The **Tribe** has enacted certain tribal employment rights policies included within the Bishop Paiute Tribe **Tribal Employment Rights Ordinance** establishing a tribal employment rights function and mandating Indian Employment Preferences on State construction projects and in other forms of employment on **Tribal Lands**.

MEMORANDUM OF UNDERSTANDING
in accordance with Bishop Paiute Tribe's
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Caltrans Project ID: 09-1200-0002

168 Sidewalks

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3. The parties hereto recognize that Caltrans shall employ the services of one or more independent contractors in order to accomplish all or some of the activities necessary for State highway construction on **Tribal Lands**.
4. **Caltrans** and the **Tribe** desire to promote Indian employment by
 - a) applying Indian Employment Preferences to the State's contractors for highway work conducted on **Tribal Lands** for this project, and
 - b) establishing a mechanism to ensure that the **Tribe** receives **(4)%** TERO/Employment Administrative Fees for the portion of the project that is on **Tribal Lands**. This fee will be paid by the State, not the contractor, once an invoice is received from the Tribe and the Compliance Plan Agreement is signed by both the Tribe and contractor.
5. The parties desire to clarify the rights and obligations of the **Tribe, Caltrans,** and prospective bidders and contractors who may perform work on **Tribal Lands** for State highway construction contracts.

B. Statement Of Intent

1. **Caltrans** shall inform prospective bidders of the Tribal, State, and Federal laws with respect to Indian Employment Preferences by inserting provisions (Attachment A) in its information to prospective bidders. These provisions shall become part of the State highway construction contract. The provisions shall require:
 - a) the contractor to contact TERO office within 5 days after contract approval.
 - b) Submittal of TERO Compliance Plan Agreement (CPA) to Tribe within 10 days after Contract Approval. The prime contractor and each sub-contractor shall submit an individual CPA to the Tribe's TERO office.
 - c) a 45-day delayed start to allow for Contractor submittals to and from Tribe and Contractor submittal of completed CPA to Engineer.
2. **Caltrans** shall not allow the contractor to begin work until the contractor has obtained, from the **Tribe's TERO Office**, a TERO Compliance Plan Agreement (Attachment B) from The TERO officer of the **Tribe**.

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in accordance with Bishop Paiute Tribe's
Tribal Employment Rights Ordinance**

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3. The TERO Officer of the **Tribe** shall work with Caltrans and Caltrans' contractor to process the CPA in a timely manner and ensure that there is no delay in either beginning work or in providing qualified candidates to meet the contractor's personnel needs. The Tribe shall return the completed CPA to the contractor within 30 days of receiving the application.
4. Immediately after Contract Approval, **Caltrans** shall provide the TERO officer of the Tribe with all documentation necessary for the Tribe to properly invoice Caltrans for the TERO/Employment Administrative Fee. The **Tribe** shall invoice **Caltrans** directly, not it's contractor(s) or subcontractor(s), for the TERO/Employment Administrative Fee, (4)% of the total bid amount within 15 days after issuing the CPA. Upon receipt of an invoice for the TERO/Employment Administrative Fee, Caltrans shall forward the invoice to Accounting within 7 days and make prompt payment of the TERO/Employment Administrative Fee to the Tribe.
5. **Caltrans** and the **Tribe** shall make a reasonable effort to conduct joint investigations and share information. Nothing in this **MOU** shall be construed to restrict the authority of the **Tribe**, including waiving of sovereign immunity and restricting the authority of the Tribal Council.

II. TERO PROVISIONS – Not Pertaining to Contracted State Highway Work

Listed below are the provisions from the Bishop Paiute Tribe TERO that do not pertain to State Highway work.

- 3.14 (C)
- 3.16
- 3.20
- 3.28
- 5.2 (B)
- 5.5 (D), (E), (F), and (J)
- 5.6
- 6.1
- 6.2 “. . .or otherwise employ. . .” and “. . .or they qualify under Section 6.1(2), of this Ordinance.”
- 6.3 (B) “. . .recognized or utilized by an employer/contractor. . .”

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in accordance with Bishop Paiute Tribe's
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TERO MOU 13-1

- 6.11
- 6.12
- 6.14
- 6.15
- 7.0
- 12.3
- 17.1
- 17.2

This MOU may be amended by written agreement of the parties, or termination by either party upon reasonable written notice. In the event of termination, unless otherwise mutually agreed by parties, the provisions of this MOU will remain in force with respect to any contract covered hereunder which has already been awarded or for which contractor performance has already commenced.

The parties hereto have agreed to the objectives, principles, and recitations cited in this document and have further approved this MOU for signature by their duly authorized representatives.

For the Bishop Paiute Tribe

For the California Department of Transportation



Tribal Chairman



Acting District 9 Director

1/30/15

Date

1/30/2015

Date

ATTACHMENT A

Project-Specific Special Provisions For Bishop Paiute Tribe TERO MOU 13-1 M

SPECIAL NOTICE:

- This project includes Tribal Employment Rights Ordinance (TERO) requirements. See section 5-1.20E and 8-1.04C for TERO submittal requirements.

SSP 2-1.06B SUPPLEMENTAL PROJECT INFORMATION

The Department makes the following supplemental project information available:

Supplemental Project Information

| Means | Description |
|--|---|
| Included in <i>Information Handout</i> | Bishop Paiute Tribe Memorandum of Understanding (MOU), Bishop Paiute Tribe Employment Rights Ordinance Bishop Paiute Tribe Compliance Plan Agreement (CPA). |

INFORMATION HANDOUT:

Bishop Paiute Tribe TERO Requirements Information Handout contains:

1. Signed one-time MOU between the Bishop Paiute Tribe and the Department.
2. Attachment A project-specific TERO special provisions.
3. Attachment B TERO Compliance Plan Agreement (CPA).

SSP 5-1.20D Tribal Employment Rights Ordinance Requirements:

Complete the Bishop Paiute Tribe TERO Compliance Plan Agreement (CPA) Application included in the *Information Handout*. Within 5 days after Contract approval, submit the completed application to the tribe and a copy of the submitted application to the Engineer.

Submit the executed CPA to the Engineer within 10 days after you receive it from the tribe.

SSP 8-1.04C:

Use a minimum 45-day delayed start after contract approval.

Do not start job site activities until the Department authorizes or accepts your submittal for:

Signed Bishop Paiute Tribe TERO Compliance Plan Agreement (CPA)

Do not start other job site activities until all the submittals from the above list are authorized or accepted and the following information is received by the Engineer:

Copy of the Bishop Paiute Tribe TERO Compliance Plan Agreement (CPA) Application submitted to the tribe.

Bishop Paiute Tribe Tribal Employment Rights Ordinance

**Tribal Employment Rights Ordinance
Of the
Bishop Paiute Tribe**



As Amended and Approved

By the

Bishop Paiute Tribal Council

June 28, 2012



Tribal Employment Rights Ordinance Of the Bishop Paiute Tribe As Amended on June 28, 2012

| | |
|----------------------|--|
| Section 1.0 | Name |
| Section 2.0 | Purpose |
| Section 3.0 | Definitions |
| Section 4.0 | Establishment and purpose of the Tribal Employment Rights Commission..... |
| Section 5.0 | General and Specific Powers of the Commission |
| Section 6.0 | Tribal Indian Employment Preference Policy and Procedures |
| Section 7.0 | Compliance by Unions |
| Section 8.0 | Complaints |
| Section 9.0 | Hearings |
| Section 10.0 | Penalties for Violations |
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| Section 13.0 | Compliance Plan Agreement..... |
| Section 14.0 | Reporting and On-Site Inspections |
| Section 15.0 | Rules and Regulations |
| Section 16.0 | Commission Funds |
| Section 17.0 | Employment Administration Fee |
| Section 18.0 | Retaliation and Reprisal |
| Section 19.0 | Principles of Construction |
| Section 20.0 | Severability |
| Section 21.0 | Sovereign Immunity Preserved |
| Section 22.0 | Amendments |
| Section 23.0 | Effective Date |
| Resolution T-1992-01 | Establishment of the Tribal Employment Rights Ordinance |
| Resolution T-2008-14 | to Approve the Amended and Updated TERO Ordinance |
| Resolution T-2012-15 | to Approve the Amended and Updated TERO Ordinance |

TRIBAL EMPLOYMENT RIGHTS ORDINANCE OF THE BISHOP PAIUTE TRIBE

SECTION 1.0 NAME

This Ordinance shall be known as the "Bishop Tribal Employment Rights Ordinance". The short name shall be the "Tribal Employment Rights Ordinance", or "TERO".

SECTION 2.0 PURPOSE

The Purpose of this Ordinance is to:

- a) Assist in employment on or near the Bishop Paiute Reservation
- b) Prevent discrimination against Indians in the employment practices of Reservation employers
- c) Ensure fair employment practices
- d) Require Indian Preference in employment
- e) Provide training for Tribal members to help them receive skills needed for employment or advancement

SECTION 3.0 DEFINITIONS

- 3.1 "Chairman" means the Chairman of the Tribal Employment Rights Commission.
- 3.2 "Commission" means the Tribal Employment Rights Commission.
- 3.3 "Contractor" means any person, independent contractor, prime/general contractor or sub-contractor engaging in one or more construction trades or employment activities located on or near the Bishop Paiute Reservation.
- 3.4 "Direct federal contract" means a contract in which the federal agency leads directly to a prime contract.
- 3.5 "Discrimination" shall mean any act, policy or practice by any person or employer which makes or has the effect of making a distinction against the

training, hiring or retention of employees in the work place. Discrimination shall also be any violation of Indian Preference laws or any violation of this TERO Ordinance.

- 3.6 "Domestic Partner" Is a legal or personal relationship between two individuals, living together, sharing a common domestic life (one year minimum), who are not married, providing for children of a Bishop Paiute Tribal Member.
- 3.7 "EEOC" means the Equal Employment Opportunity Commission of the United States.
- 3.8 "Employee" means any person employed for monetary payment.
- 3.9 "Employer" means any person, company, business, contractor, sub-contractor, or entity engaging in commercial or employment activity located on or near the Bishop Paiute Reservation.
- 3.10 "Entity" means any person, partnership, corporation, joint venture, government, governmental enterprise, or any other natural or artificial organization, agency or department. The term "entity" is intended to be as broad and encompassing as possible to ensure the Ordinance's coverage over all employment and contract activities within the Tribe's jurisdiction and the term shall be so interpreted by the Tribal Employment Rights Commission and the Bishop Tribal Council.
- 3.11 "Fair Employment Practices" means practices, policies or procedures that are identified and followed by employers and used equally in the job creation, job description, development, recruitment, interview process, hiring or retaining employees including disciplinary actions, until an employee's separation from employment
- 3.12 "Federally-funded contract" means a contract in which the federal government has contracted or granted funds to an entity which, in turn, leads the prime contract.
- 3.13 "General Council" means the entirety of Tribal enrolled members of the Bishop Tribe who are eligible to vote in a regular or specially called meeting or election.
- 3.14 "Indian" means any person who meets any of the following criteria:
- a) Is a member of the Bishop Paiute Tribe;
 - b) Is a member of a federally recognized tribe;
 - c) Is a member of a non-federally recognized tribe or is a lineal descendant of someone listed on the California judgment rolls.

- 3.15 "Indian Contractor" means a contractor that is 51% or more Indian –owned, managed, and controlled. The Tribal Employment Rights Commission reserves the right to require such proof as it deems necessary to substantiate that a firm qualifies as an Indian contractor.
- 3.16 "Indian-Owned Business" means a business entity in which at fifty-one percent (51%) or more of the ownership is held by and fifty-one percent (51%) of the actual management and control is exercised by an Indian or Indians which percentages shall be certified by the TERO Commission.
- 3.17 "Indian Preference" is mandated by:
- a) Section 7(b) of the Indian Self-Determination Act, Public Law 93-638, 1975, and
 - b) Title VII, Section 703(l) of the 1964 Civil Rights Act, Equal Employment Opportunities Commission, (EEOC), and
 - c) Executive Order 11246, Office of Federal Contract Compliance Programs, (OFCCP), 1977.
- 3.18 "Key Personnel" means any regular, permanent employee of an employer, who has been on the annual payroll of that employer for a period of at least six months continuously, and/or who provides a specialized service to that employer. Key personnel shall include, but shall not be limited to, administrative or program directors, superintendents, foremen, other employees in similar positions, and licensed professional employees.
- 3.19 "Minimum Threshold" means a minimum level above which Indian preference will be required as established by the requesting employer with review by TERO and defined by experience, education or both as it pertains to the job qualifications for each individual job announcement, RFP, RFQ or contract.
- 3.20 "Near the Reservation" means within a reasonable day's commute (60 miles) of the Bishop Paiute Reservation.
- 3.21 "OFCCP" means the Office of Federal Contract Compliance Programs of the United States.
- 3.22 "Prime Contractor" means the prime construction contractor the entity responsible for the construction of the project in its entirety.
- 3.23 "Reservation" means the Bishop Paiute Reservation.
- 3.24 "Reservation Employer" means a business that resides on the Bishop Paiute Reservation with at least one employee.

- 3.25 "Subcontractor" means any contract led by a prime contract or its subcontracts for supplies or work on prime contracts.
- 3.26 "TERO Manager" means the Manager of the Tribal Employment Rights Commission.
- 3.27 "Tribal Council" means the elected governing body of the Bishop Paiute Tribe elected by the General Council.
- 3.28 "Tribal Preference" means Bishop Paiute Tribal Members have priority in hiring or contracting.
- 3.29 "Tribe" means the Bishop Paiute Tribe.

SECTION 4.0 ESTABLISHMENT AND PURPOSE OF THE TRIBAL EMPLOYMENT RIGHTS COMMISSION

4.1 THE PURPOSE OF THE TERO COMMISSION

There is hereby established the Bishop Tribal Employment Rights Commission for the purpose of:

- (A) The Bishop Paiute TERO department will enforce Indian Preference, subject to the Indian Preference Act. Contract and employment decisions will be based on the TERO Ordinance, and the needs of the Tribal Council. Tribal Indian Preference applies pursuant to:
- Section 7 (b) of the Indian Self-Determination Act, Public Law 93-638, 1975, and
 - Title VII, Section 703 (l) of the 1964 Civil Rights Act, Equal Employment Opportunities Commission, (EEOC), and
 - Executive Order 11246, Office of Federal Contract Compliance Programs, (OFCCP), 1977.
- (B) Ensure independent investigation and administrative review of all employment related-policies, procedures, fair employment practices, activities and actions of all employers, contractors, and sub-contractors covered by this Ordinance, including all programs Tribal entities and projects on Bishop Tribal land.
- (C) Adjudicate complaints or grievances of all employment-related matters under its authority.

- (D) Regulate employment practices of reservation employers to insure fair employment practices.
- (E) Prevent discrimination in employment.
- (F) Ensure Indian preference in employment, training, contracting, and subcontracting activities on the Bishop Paiute Reservation.

SECTION 5.0 GENERAL AND SPECIFIC POWERS OF THE COMMISSION

5.1 ORGANIZATIONAL AUTHORITY

The Commission may hire staff, within the Personnel Policies of the Bishop Paiute Tribe, obligate funds appropriated by the Tribal Council, and secure and use funding from Federal, State or other sources to carry out its duties and functions under this Ordinance, as approved by the annual budget adopted by the Tribal Council. The Commission is further authorized and directed to adopt such organizational by-laws as are necessary to enable it to carry out its duties and functions, once reviewed and approved by the Tribal Council. The Commission shall report directly to the Tribal Council no less than on a quarterly basis.

5.2 REGULATORY AUTHORITY

- (A) The Commission is authorized to issue all necessary rules, regulations, guidelines and interpretations of law for Indian preference, fair employment practices and other employment issues to implement this Ordinance. Such rules shall become effective upon written approval of the Tribal Council. TERO shall take reasonable steps to ensure that the general Reservation community is on notice of all Indian preference and employment-related laws.
Indian Self-Determination and Education Assistance Act (24 U.S.C. 450, et seq.) 25 CFR 271.44 and other relevant laws.
- (B) The Commission is authorized to certify an Indian-owned business for purposes of determining Indian preference in contracting and subcontracting in accordance with Federal Regulations.
- (C) The Commission is authorized to approve Indian Preference Plans as required by this Ordinance.

5.3 ADJUDICATIVE AUTHORITY

The Commission can hold hearings related to complaints including but not limited to complaints and/or alleged violations, including, but not limited to:

- All phases and aspects of Employment
- Hiring
- Terminations
- Layoffs
- Promotions
- Wages
- On the job training(OJT)
- Discrimination
- Disciplinary Action
- Any other Fair Employment related practices

5.4 CO-OPERATIVE AGREEMENTS WITH OTHER GOVERNMENTS AND ENTITIES

- A) The Tribal Council on behalf of TERO will enter into co-operative agreements with agencies of the State and Federal governments in order to implement the intent of this Ordinance and eliminate unlawful discrimination against Indians.
- B) The Tribal Council on behalf of TERO may authorize qualified Indian entities to perform specific duties or functions of the Commission for and on behalf of TERO, which the Commission deems necessary and appropriate. However, the Commission may not delegate its power or duty to:
 - 1) Adopt, amend, or rescind rules, regulations, orders, decisions, or awards of the Commission.
 - 2) Conduct formal hearings or impose penalties.

5.5 SPECIFIC POWERS OF THE COMMISSION

- A) To employ and terminate employees within the personnel policies of TERO, and to pay salaries pursuant to a salary schedule established by the Tribal Council in the annual budget.
- B) To ensure numerical hiring goals and timetables specifying the minimum number of Indians an employer/contractor must hire by craft or skill level.

- C) To prohibit employers/contractors from using job qualifications criteria or personnel requirements that may bar Indians from employment unless such criteria or requirements are consistent with Bona-fide Occupations Qualification (BFOQ) criteria as defined by the EEOC. Commission regulations may adopt EEOC guidelines or similar guidelines or may adopt additional requirements to eliminate employment barriers unique to Indians and the Reservation.
- D) To require employers/contractors to give preference to Tribally-owned and Indian-owned businesses in the award of contracts and sub-contracts in accordance with Federal Regulations.
- E) To require employers/contractors to establish or participate in job training programs, if employers/contractors have not met the minimum number of Indian employees in their profession, as the Commission deems when necessary to increase the pool of Indians eligible for employment on the Reservation.
- F) To ensure procedures are developed for counseling programs which may be necessary to assist Indians in obtaining and retaining employment.
- G) To ensure the administration of a Tribal Skills Bank and require employers/contractors to use the Skills Bank, when qualified Indian employees are available in the employers/contractors profession.
- H) To require employers/contractors to submit reports and to ensure that safe and fair employment practices are followed.
- I) To enter into agreement with Unions to insure Union compliance with this Ordinance, with prior review and approval of such agreement by the Tribal Council.
- J) To establish good working relationships with federal employment rights agencies, such as the EEOC and OFCCP, to eliminate discrimination against Indians, both on and off the Reservation.
- K) To issue notices of non-compliance, administer oaths or affirmations, subpoena witnesses, take evidence and require by subpoena the production of books, papers, contracts, agreements, or other documents, records, or information which it deems relevant or material to properly carry out the duties and functions of the Commission.
- L) To delegate such inspections or investigations within the exterior boundaries of the Reservation necessary to carry out the duties and functions of the Commission.

- M) To impose penalties against employers/contractors or entities as the Commission deems necessary for non-compliance in accordance with this Ordinance.
- N) To take other such action as is necessary to achieve the purpose and objectives of this Ordinance and to carry out the duties and functions of the Commission.
- O) To ensure fair employment practices of all Indian people are adhered to by all employers on the Bishop Paiute Reservation.
- P) To ensure policies and procedures of all employers are followed to provide fair treatment and fair employment practices for all people.
- Q) To provide independent investigation and administrative review of all employment related policies, procedures, activities, actions and issues of all Tribal entities, and any other tribal enactments regulating employment practices of the Tribe, its entities, other employers and contractors within the Bishop Paiute Reservation.

5.6 COMPOSITION OF THE COMMISSION

- A) The Commission shall be composed of five (5) enrolled Tribal members, as appointed by the Tribal Council. Commission members shall hold office for a term of two (2) years, these terms will commence in a staggered format, so that each commissioner serves their term with an oncoming Commissioner. Any Commissioner may be removed by the Tribal Council at any time for breach of duty, misconduct, or other act of malfeasance as determined by the Tribal Council.
- B) Commission members shall always display high moral character.
- C) Decisions of the Commission will be made by majority vote. A quorum shall consist of three (3) Commission members. No decisions may be made if a quorum is not established.
- D) The TERO Commission Chairman shall be elected by vote of the Commission subject to ratification by the Tribal Council.

5.7 CONFLICT OF INTEREST

Members of the TERO office or Commission will not use the office for purposes which are, or give the appearance of being motivated by personal gain by the individual. For purposes of this policy, "immediate relatives" is defined as a spouse, child, parent,

sibling, grand parent, grandchild, aunt, uncle, first cousin, corresponding in-law, or any member of the employee's household. To eliminate the perceived conflict, the Commission member should remove themselves in the following;

1. If a Commission Member or an immediate family member is a party to a hearing, grievance or dispute, or has an interest in any outcome that arise from a decision.
2. If a Commission member sits on a board with a grievant or a complainant, or has a financial interest in any of the parties involved in the hearing.
3. Is a member of the entity or organization against whom a complaint is filed.

5.8 DUTIES OF THE TERO MANAGER

The TERO Manager shall have those duties delegated by the Commission, as it deems necessary to properly carry out the duties and functions of the Commission. The TERO Manager shall be responsible for the investigating, researching, reporting, and documenting of any information required by the Commission, whenever warranted.

SECTION 6.0 TRIBAL INDIAN EMPLOYMENT PREFERENCE POLICY AND PROCEDURES

6.1 TRIBAL INDIAN PREFERENCE TIER

All employers/contractors are required to follow Tribal Indian Preference, as provided herein, in all aspects of employment, including but not limited to recruitment, hiring, promotion, lateral transfers, retention, training, and contracting/sub-contracting to the greatest extent feasible.

Tribal Indian Preference:

1. Bishop Paiute Tribal members
2. Spouse or domestic partner of a Bishop Paiute Tribal Member.
3. Indian from a Federally recognized Tribe,
4. Indian from a Non-Federally recognized organized Tribe, or lineal descendant of someone listed on the California Judgment Rolls.
5. All others

6.2 COVERAGE

No employer/contractor may recruit, hire or otherwise employ any non-Indian for any employment position covered by this Ordinance unless the TERO Manager has issued written notice to said employer/contractor that no qualified Indians are available for such position, or they qualify under 6.1(2) of this Ordinance.

6.3 APPLICABILITY

- (A) Unless clearly and expressly prohibited by federal law, this Ordinance shall apply to all employers/contractors, including but not limited to private employers, independent contractors and sub-contractors, those performing work for the Tribe or its entities (including entities chartered by the Tribe), public utility companies, the State of California, or the United States.
- (B) The Indian preference requirements contained in this Ordinance shall apply to each and every job classification, skilled area, or craft recognized or utilized by an employer/contractor, including administrative, supervisory, and professional classification. However, the Commission or the TERO Manager may grant exceptions to this requirement on a case-by-case basis for key personnel of an employer/contractor.
- (C) Land assignment holder's private residential improvement projects are exempted from this Ordinance.

6.4 CONTRACTOR/S AND SUBCONTRACTOR/S

Indian preference requirements and fair employment practices contained in this Ordinance shall be binding on all employers, contractors/sub-contractors, regardless of tier, and shall be deemed part of all contract and subcontract specifications. The employer/contractor may be subject to penalties provided herein for violation of this Ordinance if the employer or contractor/sub-contractor fails to comply.

6.5 JOB QUALIFICATION AND JOB PERSONNEL

An Indian shall be qualified for employment in a position if they meet the minimum threshold requirements for such position, and such Indian shall be accorded the preference to which they are entitled under this Ordinance.

No employer/contractor may utilize any employment criteria that are not a Bona-Fide Occupational Qualification (BFOQ) reasonably necessary for the normal operation of the business enterprise.

6.6 MINIMUM NUMERICAL GOALS AND TIMETABLES FOR INDIAN EMPLOYMENT

- (A) The Commission may, upon consultation with the employer/contractor, establish the minimum number of Indians each employer/contractor must employ on his workforce during any job that the employer/contractor or any of his employees are engaged in work on the Reservation. Numerical goals

will be set for each craft, skill, job classification, etc. used by the employer/contractor and shall include, but not be limited to administrative, supervisory and professional categories. The goals may be expressed in terms of man-hours of Indian employment as a percentage of the total man-hours worked by the employer/contractor's work force in the job classification involved.

- (B) For both new and existing employers/contractors, the goals shall be reviewed by the Commission at least annually and shall be revised as necessary to reflect changes in employer/ contractor hiring plans. Each employer/contractor shall submit a quarterly report to the Commission indicating the number of Indians in his workforce, how close the employer/contractor is to meeting minimum numerical goals, statistics of all persons hired or fired each month, the job positions involved, and any other information required by the Commission. An employer/contractor who fails to submit quarterly reports may be subject to penalties provided under this Ordinance.

6.7 TRIBAL SKILLS BANK

The Commission shall establish and maintain a Tribal Skills Bank to assist the Commission and employers/contractors in placing Indians in job positions. This Skills Bank will be updated on a regular basis, but in no case less than once every six months.

6.8 TEMPORARY JOB REFERRALS

When seeking to fill any temporary job position, every employer/contractor shall give notice to the TERO Manager and allow the TERO Manager a reasonable time to locate and refer a qualified Indian to said employer/contractor. For the purpose of this section, "reasonable time" shall be defined as follows:

For all jobs, the TERO Manager shall have forty-eight (48) hours to locate and refer a qualified Indian. The TERO Manager shall consider waivers of these time periods upon a showing by the employer/ contractor that an emergency exists or that such time periods impose an undue burden on the employer/contractor.

After 180 days all entities must advertise all temporary employee/contractor positions. All entities must request a waiver for an extension

6.9 TRAINING

TERO may require upon consultation with the employer/ contractor programs to assist Indians to become qualified in the various job classifications used by the employer/contractor. The ratio of Indian trainees to fully qualified workers shall be set by TERO after consultation with the employer/contractor.

6.10 COUNSELING AND SUPPORT PROGRAMS

TERO may refer clients to counseling and other support programs (such as alcohol and drug testing, treatment, and other mental health counseling as deemed necessary) to assist Indians to obtain and retain employment. Every employer/contractor shall be required to cooperate with TERO regarding such counseling and support programs, should employer/contractor not have such support programs established within their organization.

6.11 PREFERENCE IN CONTRACTING AND SUBCONTRACTING

Employers shall give preference in the award of all contracts to Tribally owned and Indian owned businesses.

The Commission shall maintain a list of Tribally-owned and Indian-owned businesses, which shall be supplied to employers/ contractors for their use. The list of tribally owned and Indian-owned businesses will be updated at least once every six (6) months.

Each entity, including the Tribal Council and its entities, Indian Organizations, the State of California, private corporations, associations, partnerships, and individuals, on the Reservation shall comply with these requirements when awarding prime contract(s) and/or subcontract(s).

1. If the entity asking for bids has reason to believe that two or more qualified Indian firms will bid, then the Invitation to Bids shall be restricted to qualified Indian owned enterprises and Indian Organizations.
2. If there are less than two Indian bidders, the Invitation for Bids shall open competition to Indian and non-Indian firms alike.

In the case of #1 above, a Tribal Indian Preference bidder that is highest on the Tribal Indian Preference tier shall be awarded the contract and/or subcontract. In the case #2 above, the bidder who is highest on the Tribal Indian Preference tier, shall be awarded the contract and/or subcontract, if:

- A. The lowest responsive Tribal Indian preference bidder is within budgetary limits established for the specific project and/or component of the project; and,
- B. The lowest responsive Tribal Indian Preference bidder is not more than a fixed percentage higher than the total bid price of the lowest responsive bid from any qualified bidder.
- C. The responsive Tribal Indian Preference bidder is in good standing. The fixed percentage is determined as follows:

When the lowest responsive bid is:

| <u>At least</u> | <u>But less than</u> | <u>Bid Percent or Amount</u> |
|-----------------|----------------------------|------------------------------|
| \$ 1.00 | \$ 100,000 | 10% or \$ 9,000 |
| \$ 100,000 | \$ 200,000 | 9% or \$16,000 |
| \$ 200,000 | \$ 300,000 | 8% or \$ 21,000 |
| \$ 300,000 | \$ 400,000 | 7% or \$ 24,000 |
| \$ 400,000 | \$ 500,000 | 6% or \$ 25,000 |
| \$ 500,000 | \$1,000,000 | 5% or \$ 40,000 |
| \$ 1,000,000 | \$ 2,000,000 | 4% or \$ 60,000 |
| \$ 2,000,000 | \$3,000,000 | 3% or \$ 80,000 |
| \$ 4,000,000 | \$7,000,000 | 2% or \$ 105,000 |
| \$ 7,000,000 | and over (No dollar limit) | 1% of lowest responsive bid, |

These rules and regulations apply to all contracts and subcontracts involving construction that will take place on or near the Bishop Paiute Reservation. A contract or subcontract taking place "on or near the Bishop Paiute Reservation" means fifty percent (50%) or more of the work under contract or subcontract is to be performed within Reservation boundaries.

Indian contract preference requirements set out in Section 6.0 of this section shall apply to:

1. All contracts and subcontracts which are not direct federal or federally-funded contracts.

2. All contracts and sub contracts which are federally-funded.
3. All subcontracts or direct federal contracts which are for the benefit of Indians which therefore are covered by section 7(b) of the Indian Self Determination Act (P.L. 93-638, 25 U.S.C. 450 e (b)).

6.12 LAY-OFFS

No lay off will be made without following the Tribal Preference tier (section 6.1), or as long as the person lower on the tier remains employed in the same job classification. However, the TERO Manager may grant exemptions to this requirement on a case-by-case basis for key personnel of an employer/contractor.

6.13 BURDEN OF PROOF

In any hearing before the Commission where the issue is compliance by an employer/contractor in any of the requirements and provisions of the foregoing subsections of Section 6, the burden of proof of compliance shall be on the employer rather than on the employee or other complainant.

6.14 SUMMER STUDENTS/INTERNS

Employers/contractors shall give Indian students preferential consideration for summer and student employment. The employer/contractor shall make every effort to encourage and promote internships, after-school summer, and vacation employment opportunities for Indian students.

6.15 PROMOTIONS/LATERAL TRANSFERS

Every employer/contractor shall give Indians preferential consideration for all promotion or lateral advancement opportunities and shall encourage Indians to seek such opportunities for employment when available.

SECTION 7.0 COMPLIANCE BY UNIONS

Every union with a collective bargaining agreement with an employer/contractor must file a written agreement stating the union will comply with this Ordinance and the rules, regulations and orders of the Commission. Until such agreement is filed with the Commission, union contractors and employers may not commence work on the Reservation until a mutual agreement is reached between union and the Commission.

7.1 RECOGNITION OF UNIONS

Nothing herein or any activity by the Commission authorized hereby shall constitute official Tribal recognition of any union or Tribal endorsement of any union activities on the Reservation.

SECTION 8.0 COMPLAINTS

8.1 COMMISSION COMPLAINT PROCEDURE

TERO may only begin an investigation upon discovery of an alleged infraction of an employer/contractor within the last 180 days, or 180 days from the date of an alleged incident, if there is cause to believe that an employer or contractor has failed to comply with this Ordinance. Upon receipt of the complaint, a TERO representative will hand deliver a Notice of Complaint to the employer/contractor. The employer/contractor will be asked to respond to this complaint within five (5) working days. Upon receiving a response, the TERO manager may set up an informal hearing within five (5) working days to attempt achievement of an informal settlement. If an informal settlement cannot be reached, the TERO manager shall review the complaint and decide if there is sufficient evidence to proceed. TERO will have fifteen (15) days to set up a formal hearing, if findings make it necessary to proceed. After the formal hearing, the TERO Commission shall issue a written decision that will contain the reasons supporting the decision.

8.2 INDIVIDUAL COMPLAINT PROCEDURE

An individual must exhaust all internal/department grievance procedures prior to filing a TERO complaint. If an individual believes an employer has violated this Ordinance, they may file a complaint with TERO. Upon receipt of the complaint, a TERO representative will hand deliver a Notice of Complaint to the employer/contractor. The employer/contractor will be asked to respond to this complaint within five (5) working days. Upon receiving a response, the TERO manager may set up an informal hearing within five (5) working days to attempt achievement of an informal settlement. If an informal settlement cannot be achieved, the TERO manager will notify the complainant. The complainant will have the option to move forward to a formal hearing. If a formal hearing is requested, the TERO manager will have fifteen (15) working days to set up a formal hearing. After the formal hearing, the TERO Commission shall issue a written decision which will contain the reasons supporting the decision.

8.3 EMPLOYER AND CONTRACTOR COMPLAINT PROCEDURE

If an employer or contractor believes that any provision of this Ordinance is illegal, erroneous, or unfairly applied, they may file a complaint. Upon receipt of the complaint,

the TERO manager will set up an informal hearing within five (5) working days to attempt achievement of an informal settlement. If an informal settlement cannot be achieved, the TERO manager will have fifteen (15) working days to set up a formal hearing. After the formal hearing, the TERO Commission shall issue a written decision, which shall contain the reasons supporting the decision.

8.4 TIME PERIOD FOR FILING A COMPLAINT

Any written complaint must be filed with TERO within thirty (30) calendar days of the incident, and/or 30 days from the time the grievance process has been exhausted. The complaint shall include the date, place, and circumstances of the alleged violation.

SECTION 9.0 HEARINGS

- 9.1 If a hearing is requested by the TERO Manager, an individual or employer pursuant to Section 8.0, the TERO Manager shall provide all concerned parties with written notice within ten (10) business days stating the nature of the hearing and the evidence to be presented.
- 9.2 Hearings shall follow these rules of procedure:
- (A) All parties may present testimony of witnesses and other evidence and may be represented by counsel at their own expense.
 - (B) The Commission may at the hearing have the advice and assistance of counsel provided by the Tribe.
 - (C) The Chairman of the Commission or the Vice- Chairman shall preside and the Commission shall proceed to ascertain the facts in a reasonable and orderly fashion.
 - (D) The hearing may be adjourned, postponed, or continued at the discretion of the Commission.
 - (E) At the close of the hearing, the Commission may take immediate action or take the matter under advisement.
 - (F) The Commission shall notify all parties of its final decision in the case within 15 days after the hearing.
- 9.3 The Commission shall not be bound by technical rules of evidence in the conduct of hearings and no formality in any proceeding, as in the matter of taking testimony, shall invalidate any decision, rule, regulation or order made, approved or confirmed by the Commission.

SECTION 10.0 PENALTIES FOR VIOLATIONS

- 10.1 Any employer, contractor or subcontractor who violates this Ordinance *may* be subject to penalties for such violation, including but not limited to the following:
- (A) Imposition of monetary penalties.
 - (B) Payment of back pay and damages to compensate any party harmed as a result of non-compliance with or violation of this Ordinance.
 - (C) An order to summarily remove employees hired in violation of this Ordinance.
 - (D) An order requiring changes in employer policies and procedures necessary to eliminate the violation.
 - (E) An order requiring employment, reinstatement, promotion, or training of Indians injured by the violation.
 - (F) Denial of right to commence or continue business on the Reservation.
 - (G) Suspension of operations on the Reservation.
 - (H) Prohibition from engaging in future operations on the Reservation.
 - (I) An order making any other provision deemed necessary by the Commission to alleviate, eliminate, or compensate for any violation.
- 10.2 The maximum monetary penalty, which may be imposed, is \$1000.00 per business day for each violation.

SECTION 11.0 APPEALS

- 11.1 Any party to a hearing shall have the right to appeal to the Tribal Council any decision by the TERO Commission within five (5) working days of receiving that decision. Any Tribal Council review will be final. The Tribal Council shall review appeals within ten (10) business days or as defined in the Tribal Council's Policy and Procedures.

SECTION 12.0 PUBLICATION OF ORDINANCE

- 12.1 Notification will be sent to all employers and prospective contractors of this Ordinance and their obligation to comply, prior to the commencement to any project to the greatest extent feasible.
- 12.2 All bid announcements, Request for Proposals (RFP), Request for Quotes (RFQ), etc. issued by any tribal, federal, or other private or public entity shall contain a statement that the successful bidder will be obligated to comply with this TERO Ordinance, as well as with all rules and regulations, and orders of the Commission.
- 12.3 All Tribal agencies responsible for issuing business permits for Reservation activities or otherwise engaged in activities involving contact with prospective employers and contractors on the Reservation shall be responsible for advising such prospective employers and contractors of their obligations under this Ordinance and all rules, regulations and orders of the Commission.
- 12.4 A copy of the TERO Ordinance shall be available upon request for public view.
- 12.5 In order to qualify to do business on the reservation all employers must attend a TERO orientation once a year.

SECTION 13.0 COMPLIANCE PLAN AGREEMENT

- 13.1 Every employer or contractor shall be required to submit a Compliance Plan to the TERO manager for approval. The Compliance Plan shall set forth how the employer/contractor intends to meet their obligations under this Ordinance. ***No employer/contractor may commence work on the Reservation until said Compliance Plan is approved by the TERO Manager.***

SECTION 14.0 REPORTING AND ON-SITE INSPECTIONS

- 14.1 Employers/contractors shall submit reports and other information requested by the Commission. The TERO Manager shall have the right to make on-site inspections during working hours in order to monitor any employer/contractor's compliance with this Ordinance, its rules and regulations, and any orders of the Commission. The TERO manager shall have the right to inspect any employer, contractor or sub-contractor, and shall have the right to speak to workers and conduct investigations on job sites.

SECTION 15.0 RULES AND REGULATIONS

15.1 This Ordinance shall establish the Commission and general requirements, policies and procedures to govern it and its work. When the Commission is appointed and organized, it shall with all reasonable speed adopt as necessary, and with the final approval of the Tribal Council, more detailed rules, regulations, policies, and procedures to fully implement this Ordinance and achieve the purpose and responsibilities of the Commission.

SECTION 16.0 COMMISSION FUNDS

16.1 All funds from contractor fees and other sources collected by TERO shall be regularly reviewed by the TERO Commission. A quarterly copy of the TERO statements shall be given to the TERO Office.

SECTION 17.0 EMPLOYMENT ADMINISTRATIVE FEE

TERO shall assess all employers/contractors an Employment Administrative Fee, according to the fee schedule, in order to provide revenue for:

- The operation of the TERO Office
- The operation of the TERO Commission
- Fund training and education programs for Tribal Members.

All of the Employment Administrative Fees are paid to the Fiscal Office of the Bishop Paiute Tribe. Contractors or employers who fail to pay the required Employment Administrative Fee shall be subject to the penalties provided in Section 10.0 of this Ordinance.

17.1 CONTRACTORS and SUB-CONTRACTORS

Every contractor and sub-contractor conducting business on the Reservation and with a contract of \$1,000.00 or more shall pay a one-time Employment Administrative Fee of four percent (4%) of the total amount of the contract, per each contract. Said fee shall be paid prior to commencing work on the Reservation. However, where good cause is shown, the fee may be paid in installments over the length of the contract, if approved in advance by the TERO Manager.

17.2 OTHER EMPLOYERS

Every employer, other than a contractor or sub-contractor with two (2) or more employees on the Reservation, or with gross sales/income of \$100,000 or more,

regardless of source, shall pay a quarterly Employment Administrative Fee of three percent (3%) of the quarterly gross payroll of employees of that employer on the Reservation.

17.3 TERO WAIVER

An application for waiver of TERO fees must first be made to the TERO Office. Waiver of fees may be made on a case-by-case basis by the TERO Office, TERO Commission or Bishop Tribal Council. Both, the TERO Commission and the Bishop Tribal Council must approve all waivers over \$10,000 per contractual agreement.

SECTION 18.0 RETALIATION AND REPRISAL

Any harassment, adverse action, discrimination or threat against any person because they, or the company, filed a complaint with the Commission, opposed any unlawful employment practice, or testified, assisted or participated in any manner in an investigation, proceeding or hearing involving any unlawful employment practice is in itself a violation of this Ordinance. Any person or entity causing such retaliation or reprisal shall be subject to the penalties outlined in Section 10.0 of this Ordinance.

SECTION 19.0 PRINCIPLES OF CONSTRUCTION

This Ordinance is remedial legislation intended to rectify the long-standing problem of severe under-employment of the Bishop Paiute Tribal members and other Indians living on and near the Reservation. Accordingly, it is to be construed liberally to achieve its purposes. Doubtful issues are to be resolved in favor of a right to file a grievance and to obtain judicial review.

SECTION 20.0 SEVERABILITY

If any provision of this Ordinance, or its application to any person or circumstance is held invalid, the remainder of the Ordinance, or the application of the provision to other persons or circumstances, is not affected.

SECTION 21.0 SOVEREIGN IMMUNITY PRESERVED

Except as expressly provided herein, nothing in this Ordinance is to be construed as a waiver of the Tribe's sovereign immunity from un-consented lawsuit, nor as consent by the Tribe to bring an action against the Tribe, its officers, representatives, departments or entities. The sovereign immunity of the Bishop Paiute Tribe is hereby expressly affirmed.

SECTION 22.0 AMENDMENTS

This Tribal Employment Rights Ordinance and the procedures promulgated hereunder may be amended or rescinded by the Tribal Council at a duly called regular or specially called meeting.

SECTION 23.0 EFFECTIVE DATE

This Ordinance shall be effective from the date of its approval by the Tribal Council.

CERTIFICATION

We, the undersigned, as duly elected officers of the Bishop Indian Tribal Council, Bishop Indian Reservation, do hereby certify that the foregoing Tribal Employment Rights Ordinance was enacted by the qualified members of the Tribal Council at a duly called Regular Meeting at which a quorum voted, on the 28 day of JUNE, 2012, by a vote of 4 For, 0 Against, and 0 Abstaining, and that this Ordinance has not been rescinded or amended in any way.



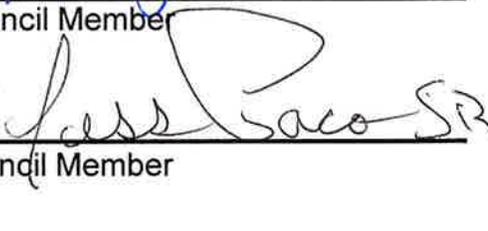
Chairman

M. Bengochia

Council Member



Vice-Chairman



Council Member

Sam Johnson

Secretary

RESOLUTION #T92-01

OF THE

BISHOP INDIAN TRIBE

SUBJECT: Establishment of the Bishop Tribal Employment Rights Ordinance #1992-01 and the Tribal Employment Rights Commission.

WHEREAS: The Bishop Indian Tribe, as a sovereign government, has the inherent power and authority to regulate commerce within the exterior boundaries of the Reservation, and

WHEREAS: To provide for the socioeconomic welfare of all tribal members and other Indians, it is necessary for the Bishop Indian Tribe to regulate employment practices of Reservation employers to insure fair employment of Indian people and prevent discrimination of Indian people in employment, and

WHEREAS: It is permissible under federal law and is the responsibility of the Tribe to provide for Indian preference in employment, training, contracting, and subcontracting activities on the Reservation, and

WHEREAS: Indian preference in employment is a political preference not a racial preference and is based on the government to government relationship between Indian tribes and the United States Government as evidenced by Federal Government Indian Preference Laws and Regulations which provide for Indian preference under:

- (a) Section 7(b) of the Indian Self-Determination Act, Public Law 93-638, 1975, and
- (b) Title VII, Section 703(l) of the 1964 Civil Rights Act, Equal Employment Opportunities Commission, (EEOC), and
- (c) Executive Order 11246, Office of Federal Contract Compliance Programs, (OFCCP), 1977, and

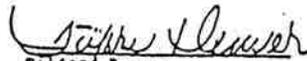
WHEREAS: The Bishop Indian Tribe believes it is necessary to establish an Employment Rights program in order to use the aforementioned laws, as well as tribal laws to maximize the participation of Indian people in employment, training and contracting,

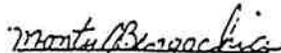
NOW THEREFORE, BE IT RESOLVED THAT, the Bishop Indian Tribe does hereby adopt the Bishop Tribal Employment Rights Ordinance #1992-01 in order to assist and require the fair employment of Indians on or near the Bishop Indian Reservation, prevent discrimination against Indians in the employment practices of Reservation employers, and set forth Indian Preference requirements for all Reservation employers, contractors and subcontractors.

BE IT FURTHER RESOLVED THAT, in order to implement and enforce the Tribal Employment Rights Ordinance, there is hereby established the Bishop Tribal Employment Rights Commission, as an agency of the Tribe, reporting directly to the Bishop Tribal Council.

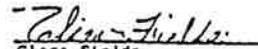
CERTIFICATION

The foregoing resolution was adopted at a duly held meeting of the Bishop Tribal Council on the 9th day of January, 1992, by a vote of 4 FOR, 0 AGAINST, AND 0 ABSTAINING. This resolution has not been rescinded or amended in any way.


Tilford Denver
Chairman


Monty Bahgochid
Vice-Chairperson


Allen Sumner
Council Member


Clara Fields
Council Member


Pat Howard
Council Member

January 9, 1992
Date



BISHOP TRIBAL COUNCIL

TRIBAL COUNCIL RESOLUTION T 2008 - 14

**A RESOLUTION TO APPROVE THE AMENDED AND UPDATED TERO
ORDINANCE AND TO INCREASE TERO ADMINISTRATIVE FEES**

- WHEREAS: In 1992, the Bishop Paiute Tribal Council enacted the Tribal Employment Rights Ordinance per Resolution No. 1992-01, which provided for the TERO program and for the fees necessary to run it; and,
- WHEREAS: The Bishop Indian Tribal Council (hereinafter, Tribal Council), as the governing body of the Bishop Paiute Indian Tribe, has the authority under Section 23.0 of the Bishop Tribal Employment Rights Ordinance (TERO) to make amendments to said ordinance in accordance with established amendment procedure; and
- WHEREAS: The continuation of the TERO program is vital to the social and economic welfare of Bishop Indian Tribal Members and other local Indians; and the Tribal Council and the entire tribal community remain committed to the goals and ideals of the TERO program; and,
- WHEREAS: In this past year, the Tribal Council, in conjunction with the Acting TERO Manager, the TERO Commissioners and Tribal staff have undertaken a thorough review and update of the 1992 TERO Ordinance so as to update and modernize the Ordinance where necessary; and,
- WHEREAS: As part of this review, the Tribal Council finds that the TERO administrative fee has not been increased in many years, and this Council has determined that there is a need to increase the TERO Fee in order to meet the escalating cost of living and to provide base level funding for continued TERO employment services to Tribal members and other local Indians.

NOW THEREFORE IN CONSIDERATION OF THESE MATTERS, THE COUNCIL
VOTES AS FOLLOWS:

TERO ORDINANCE RESOLUTION

page 2

BE IT RESOLVED THAT: The Tribal Council hereby approves the amended and updated TERO ORDINANCE as contained in the April, 2008, copy thereof, and that all prior versions of the said ordinance are hereby revoked and annulled.

BE IT FURTHER RESOLVED THAT: The increase in the TERO administrative fees as contained in the updated and amended April, 2008, Ordinance are hereby approved by this Council.

CERTIFICATION

We, the undersigned, as the Chairman and Secretary of the Bishop Paiute Tribal Council, hereby certify that the Bishop Paiute Tribal Council, at a duly called and noticed meeting thereof, with a quorum present, which was convened and held on April 10, 2008, at the Tribal Offices located on the Reservation of the Bishop Paiute Indian Nation, State of California, approved the foregoing Resolution, voting: 4 in support thereof; 0 in opposition; 0 abstaining; and 0 absent; and that this resolution has not been rescinded or amended in any way.


TILFORD P. DENVER
Chairman
BISHOP PAIUTE TRIBAL COUNCIL


WILLIAM VEGA
Secretary/Treasurer
BISHOP PAIUTE TRIBAL COUNCIL



BISHOP TRIBAL COUNCIL

RESOLUTION T2012 - 15

SUBJECT: Adoption and approval of amended and updated Tribal Employee Rights Ordinance (TERO)

WHEREAS: In 1992, the Bishop Paiute Tribal Council enacted the Tribal Employment Rights Ordinance per Resolution No. 1992-01 which provided for the TERO program and the fees necessary to run it; and

WHEREAS: The Bishop Indian Tribal Council (hereafter, Tribal Council), as the governing body of the Bishop Paiute Indian Tribe, has the authority under Section 22.0 of the Bishop Tribal Employment Rights Ordinance (TERO) to make amendments to said ordinance in accordance with established amendment procedure; and

WHEREAS: The TERO program is vital to the social and economic welfare of Bishop Indian Tribal Members and other local Indians; and the Tribal Council and the entire tribal community remain committed to the goals and ideals of the TERO program; and;

WHEREAS: In this past year, the Tribal Council, in conjunction with the TERO Manager, the TERO Commissioners and Tribal staff have undertaken a thorough re-view and update of the existing TERO Ordinance so as to update and modernize the Ordinance where necessary; and,

WHEREAS: The Tribal Council finds that the TERO Ordinance has not included a Tribal Indian Preference Tier, an adequate Fair Employment Ordinance, therefore, the Council has determined that there is a need to thoroughly review and amend the entire TERO Ordinance in order to meet the needs of the Bishop Paiute Tribe in order to continue appropriate TERO employment services and to ensure Indian Preference and Fair Employment is practiced within the exterior boundaries of the Bishop Reservation by all employers and contractors.

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS: That the Bishop Tribal Council hereby approves and adopts Tribal Employment Rights Ordinance as contained in the June 28, 2012, copy thereof, and hereby rescinds Resolution T2008 – 14 and all prior versions of the said ordinance.

TERO Resolution T2012 – 15

BE IT FURTHER RESOLVED THAT: The TERO Ordinance is amended and updated, including the addition of the TERO Tribal Indian Preference Tier, language concerning the handling of the Tribe's Fair Employment by TERO, are contained in the updated and amended Ordinance are hereby approved by this Council.

CERTIFICATION

We, the undersigned, as the Chairman and Secretary of the Bishop Paiute Tribal Council, hereby certify that the Bishop Paiute Tribal Council, at a duly called meeting which was convened and held on the 26 day of July, 2012 at the Tribal offices in the State of California approved the fore going resolution, at which a quorum was present voting 4 FOR 0 OPPOSED and 0 ABSTAINING, with the Tribal Chairman not voting, and that this resolution has not been rescinded or amended in anyway.

ATTEST:



Dale Delgado Jr., Tribal Chairman

Date: 7/27/12



Earleen Williams, Tribal Secretary

Date: 7-27-12

Bishop Paiute Tribe Compliance Plan Agreement

CPA No. : _____

Project: _____

Contractor: _____



BISHOP TRIBAL EMPLOYMENT RIGHTS COMMISSION

50 TU SU LANE ■ BISHOP, CA 93514 ■ PHONE 760-873-7893 ■ FAX 760-873-3982

COMPLIANCE PLAN AGREEMENT

The Tribal Employment Rights Ordinance (TERO), under Section 13.0, Compliance Plan states:

Every employer and contractor shall be required to submit to the Bishop TERO Commission for its approval a Compliance Plan setting forth how the employer or contractor intends to meet obligations under this Ordinance. No employer or contractor shall commence work on the Bishop Paiute Reservation (Reservation) until the Compliance Plan is approved by the Commission.

The employer/contractor further agrees to:

1. Provide **prior** notification to any contractor or subcontractor being considered as a service provider to the employer/contractor of their obligation to comply with the TERO Ordinance and contract with the TERO Office.
2. Provide Workers Compensation Insurance for all direct employees of said employer/contractor and will provide the Commission with a copy of the Certificate of Insurance or proof of insurance upon request.
3. Provide to the Commission with a monthly payroll report which includes the number of man hours worked, detailing hours for Indians and non-Indians, a list of total work force and Indians employed, and a list of any termination/s with justification.
4. Pay to the Bishop Paiute Tribal Office/TERO an Employment Administrative Fee as required by the TERO Ordinance.
5. Submit any reports requested by the Commission in a timely manner.
6. Submit a report stating any termination being done and reason/s for such termination while on this project. Reports must be submitted within twenty-four (24) hours.

Approved by: _____
TERO Representative

Date: _____

PLEASE FILL OUT THIS FORM COMPLETELY. INCOMPLETE INFORMATION MAY DELAY YOUR COMPANY WORKING ON THE RESERVATION.

I. GENERAL INFORMATION

A. Name of Business or Contractor: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____

Email: _____

B. Name and Title of Authorized Contract Representative:

C. Description of work or activity to be conducted on the Reservation:

D. Operating as: Contractor Subcontractor

1. Must provide list of Subcontractors

2. Name of primary contractor for whom you subcontract:

II. EMPLOYMENT INFORMATION

A. Specify the number of employees to be used on the job/project, including occupational positions and wage scales:

| NO. EMPLOYEES | OCCUPATIONAL POSITION | WAGE SCALE |
|---------------|-----------------------|------------|
|---------------|-----------------------|------------|

| | | |
|-------|-------|-------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

(Use additional sheets as needed)

B. Pursuant to Section 6.0, subsection 6.7 of the TERO Ordinance, the employer agrees to notify the Commission or its representative for referrals for any employment positions which may occur on this job/project, whether or not such positions are presently included in this Compliance Plan.

III. EMPLOYMENT ADMINISTRATION FEE-

The TERO Ordinance, under Section 17.0, subsections 17.1 states:

Every employer or contractor conducting business on the Reservation and with a contract of \$1000.00 or more shall pay a one-time Employment Administrative Fee of four percent (4%) of the total amount of the contract per each contract. Said fee shall be paid **prior** to commencing work on the Reservation. However, where good cause is shown the fee may be paid in installments over the length of the contract, if approved by the Commission.

(Name of Contractor/Subcontractor)

is conducting business on the Reservation under Project/Contract No: _____

The Total Contract Amount: \$ _____

Total 4% Employment Administrative Fee: \$ TERO Fee will be paid by Caltrans

| |
|---|
| TERO Fee Waiver: Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, then please explain: _____ _____ Tribal Authorized Signature _____ Date _____ |
|---|

Method of Payment: Total Sum Installments

Reason for Installments: _____

Installment Decisions: Approved Disapproved

Decision for Installment by TERO Commissioner/Representative _____ Date _____

IV. EFFECTIVE DATE

This Compliance Plan Agreement is in full force and effect beginning _____, 20____, and for the duration of the job/project, or until both parties mutually agree to renegotiate any negotiable item.

Employer/Contractor _____ Date _____

TERO Commission/Representative _____ Date _____

V. TEMPORARY TERO EXEMPTION (Non-Tribal Members of Bishop Paiute Tribe)

In accordance with the TERO Ordinance, Section 6.0, Tribal Indian Employment Preference Policy and Procedures,

(Name of Employer, Contractor or Subcontractor)

hereby requests the following individual be granted a temporary exemption from the Indian preference hiring requirements of said Ordinance to perform work on the Reservation.

Name: _____

Position: _____

Project/Contract No. _____

Basis for exemption: Key Personnel
 Qualified Indian Unavailable

Employer, Contractor, Subcontractor Representative

Date

.....
Temporary exemption is hereby: Granted Denied

Basis for action: Key Personnel Qualified Indian/s Available
 Qualified Indian Unavailable

Exemption shall be granted until: Completion of job
 Completion of contract
 Other _____

Special conditions: _____

TERO Commission Representative

Date

Note: The Commission reserves the right to revoke any and all exemptions.

MAKE ADDITIONAL COPIES IF NEEDED

MATERIALS

Water Source Information

Bishop Paiute Tribe
Public Works Department
Barrett Cox - Public Works Director
(760) 873-6638