

FEMA Hazardous Material Mitigation Grant Project

Project Name: FEMA Mitigation Grant Management
Project Location: Pendleton and Adams, Oregon

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On behalf of:
Confederated Tribes of the Umatilla Indian Reservation

PBS Project No. 67796.001

May 3, 2021



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1.01 PURPOSE

- A. The purpose of this provision is to outline the Tribal Employment Rights Office (TERO) requirements and procedures to be followed all “Employers” (i.e. – Contractors or subcontractors) engaged in “Covered Activities” that are located on TERO Jurisdiction lands.

1.02 HIRING GOAL

- A. **The overall Hiring goal is 25% for this project.** This means that the Prime contractor is responsible for ensuring that they and all their subcontractors allow for TERO workers to complete at a minimum, 25% of the total hours worked on the project.
- B. Each contractor will enter into a compliance agreement with TERO and each will have their own hiring goal specific to their trade. Goals will apply to total project work hours. Goals do not apply to number of persons employed at any given period of time. The hiring goals are for the Contractor’s work forced who are other than core crew members.
- C. A Contractor’s core crew is composed of full-time employed individuals necessary to satisfy his/her reasonable needs for supervisory or special experienced personnel to assure an efficient execution of the contract work. Indian employees of the Contractor may be included in the core crew, regardless of job function, to avoid the unintended results of having a Contractor lay-off or terminate an Indian employee to hire another under this provision.
- D. The Contractor shall give full consideration to all qualified job applicants referred by the Tribes.

1.03 FRINGE BENEFITS

- A. All fringe benefits for workers referred by the Tribal Employment Rights Office shall be paid in cash. Indian workers who are union members will have the option of fringe benefits in cash or paid into a bonafide plan or program. However, this does not change any agreements between Indian union members and their respective unions.

1.04 PRECONSTRUCTION CONFERENCE

- A. The preconstruction conference will be the forum for finalizing all compliance agreements and requirements between TERO and the Contractor and subcontractor(s) and to answer any questions regarding Indian Preference and applicable special provisions.

1.05 COMPLIANCE FEE

- A. The Prime/General Contractor shall pay the compliance fee directly to the TERO before beginning work.

1.06 MINIMUM WAGE

- A. The minimum wage a TERO worker shall be paid is set at \$20 per hour.

1.07 REPORTING

- A. The Prime/General Contractor will be required to provide weekly reporting demonstrating the TERO labor percentage as a percentage of overall labor for the project.

SECTION 00 2013
TRIBAL EMPLOYMENT RIGHTS OFFICE CODE (TERO)

00 2013-2

END OF SECTION

TRIBAL EMPLOYMENT RIGHTS OFFICE
CODE

CONFEDERATED TRIBES
OF THE
UMATILLA INDIAN RESERVATION

STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-053 (July 17, 2017)

TRIBAL EMPLOYMENT RIGHTS CODE

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TRIBAL EMPLOYMENT RIGHTS OFFICE CODE

CHAPTER 1. GENERAL PROVISIONS

SECTION 1.01. TITLE

This Code shall be known as the Tribal Employment Rights Office Code.

SECTION 1.02. PURPOSE

The purposes of this Code are:

- A. To prevent employment related discrimination against American Indians;
- B. To ensure compliance with this Code that is intended to give preference in employment, contracting and sub-contracting, and training to American Indians;
- C. To maximize utilization of Indian workers in all employment opportunities on and near TERO jurisdiction lands; and
- D. To ensure the Indian workforce on TERO jurisdiction lands are trained and equipped to enter the workforce and maintain employment of their choosing.

SECTION 1.03. FINDINGS

The Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation find that:

- A. Jobs in the private employment sector on and near TERO jurisdiction lands are an important resource for Indians residing on and near TERO jurisdiction lands.
- B. In order to attract private employers to locate on TERO jurisdiction lands, Indians residing on or near TERO jurisdiction lands need to have the training and skills those employers require.
- C. This Code is consistent and supplemental to existing federal and tribal law prohibiting employment discrimination against Indians and providing employment and contract preference to individual Indians and Indian-owned enterprises.
- D. Indian employment on TERO jurisdiction lands continues to be a concern of sufficient magnitude to warrant the enactment and implementation of this Code which is designed to improve training and employment opportunities for Indians living on and near TERO jurisdiction lands.
- E. Many unemployed Indians on TERO jurisdiction lands may have social barriers to employment such as poor education, substance abuse, the lack of vocational training or the lack of tools and other equipment needed by their preferred vocation that need to be addressed.

SECTION 1.04. JURISDICTION

- A. This Code shall apply to all Employers on all TERO jurisdiction lands as set forth in this Code and as permitted by applicable law.
- B. This Code shall not apply to any direct employment by the Tribe, its enterprises or tribally owned corporations, or by federal, state or other governments; however, contractors and subcontractors of these governmental entities shall be subject to the Code.

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- C. This Code shall not apply to or be enforced against Tribal enterprises including, but not limited to, Wildhorse Resort and Casino, the Tamástslikt Cultural Institute, Arrowhead Travel Plaza and Mission Market, Cayuse Technologies and other enterprises established and owned by the Tribe. This Code is not intended to preempt or interfere with the rights or obligations set forth in the Tribes' Personnel Policies Manual, the Yellowhawk Personnel Manual, the Umatilla Tribal Police Department Manual, or the personnel manuals of Tribal enterprises including Wildhorse Resort and Casino, Tamástslikt Cultural Institute, Cayuse Technologies, Arrowhead Travel Plaza and Mission Market and other Tribal enterprises now or later established. The employees of the Tribe and Tribal enterprises shall be limited to the rights and remedies provided in the duly adopted manuals or procedures enacted by the Tribe for those employees.
- D. Contract disputes between contractors and their subcontractors or their non-Indian employees are outside the scope or jurisdiction of this Code and are not subject to enforcement, compliance or the issuance of a citation under this Code. Contract disputes shall be resolved through specified contract procedures for such disputes or through a court of competent jurisdiction.

SECTION 1.05. DEFINITIONS

- A. BOARD OF TRUSTEES – shall mean the governing body of the Confederated Tribes of the Umatilla Indian Reservation.
- B. COMMISSION – shall mean the Tribal Employment Rights Commission of the Confederated Tribes of the Umatilla Indian Reservation.
- C. COMMISSIONER – shall mean a member of the Tribal Employment Rights Commission of the Confederated Tribes of the Umatilla Indian Reservation.
- D. COMPLIANCE AGREEMENT – shall mean an agreement between an Employer and the Tribal Employment Rights Office (TERO) setting forth how the Employer will meet Indian preference hiring and subcontracting goals and that they will comply with this Code. The Compliance Agreement must be executed prior to commencement of any portion of a project within TERO jurisdiction lands.
- E. CORE CREW – shall mean the essential, permanent employees of an Employer who have been regular employees of the Employer for at least six months prior to the start of the project.
- F. COVERED ACTIVITIES – The following activities shall be subject to the provisions of this Code when the project costs equal \$25,000 or more:
 - 1. Construction, repair, installation or maintenance of buildings, structures, improvements, bridges, roads, utility service lines, pipelines, electrical transmission lines, fiber optic and communication systems, railroads, or machinery and equipment that is affixed or erected upon real property and is not readily movable or is attached to other machinery and equipment such as conveyers, pipes or wiring or merely rest in place by virtue of its weight;
 - 2. Vegetation clearing, digging, soil preparing, logging or tree-thinning, reforestation and revegetation activities, environmental and habitat restoration, mitigation activities; or
 - 3. Excavating or mining.
 - 4. Excluded Activities. Farming and ranching activities involving planting, harvesting, weed control and soil preparation are specifically excluded from this provision of the TERO Code.

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- G. EMPLOYER – shall mean any person, company, contractor, subcontractor or entity located or engaged in business activities on TERO jurisdiction lands when conducting work with non-regular employees. This includes, but is not limited to, contractors, and subcontractors of federal, state, county and other local governments and government-owned enterprises, doing work on TERO jurisdiction lands. The term does not include the Tribe, federal, state or local governments or their entities when they are employers. Also excluded are owners of single-family residences when is, or will be post-construction, occupied by the owner as well as owner-operated farm: buildings, structures, storage facilitates and irrigation systems.
- H. ENGAGED IN WORK ON TERO JURISDICTION LANDS – shall mean any portion of a business enterprise or project performed on TERO jurisdiction lands.
- I. INDIAN – shall mean any person enrolled in a federally recognized tribe.
- J. INDIAN OWNED BUSINESS – shall mean a business certified by the TERO Program to be at least 60% owned, operated and controlled by an Indian.
- K. INDIAN PREFERENCE – shall mean a preference for enrolled Indians in all aspects of employment, including but not limited to, hiring, training, promotions, layoffs, contracting and subcontracting for work on TERO jurisdiction lands.
- L. MEMORANDUM OF UNDERSTANDING – shall mean the agreement between the Tribe and other parties outlining the requirements and responsibilities of Employers on TERO jurisdiction lands.
- M. PROGRAM MANAGER – shall mean the Program Manager of the Umatilla Tribal Employment Rights Office.
- N. PROJECT COSTS – shall mean all costs that are incurred, including installation, supplies and materials, labor, repair, installation and maintenance. Tangible personal property is excluded including all chattels and movables, such as: boats, vessels and forklifts; merchandise and stock and trade held for resale; computers and computer equipment; office equipment; sales registers; store fixtures and displays; furniture and personal effects; goods; livestock; vehicles; farming implements; moveable machinery; movable equipment; and movable tools. Engineering, design, freight and permitting costs are also excluded.
- O. TERO – shall mean the Tribal Employment Rights Office of the Confederated Tribes of the Umatilla Indian Reservation.
- P. TERO JURISDICTION LANDS – shall mean:
1. All lands within the Confederated Tribes of the Umatilla Indian Reservation;
 2. All Indian Country as defined by 18 U.S.C. 1151 which the Confederated Tribes of the Umatilla Indian Reservation has an interest in or authority over;
 3. All lands the Confederated Tribes of Umatilla Indian Reservation has an ownership interest in outside the exterior boundaries of the Umatilla Indian Reservation; and
 4. All lands covered by a Memorandum of Understanding (MOU).
- Q. TERO WORKER – shall mean any Indian referred through the TERO Program.
- R. TRIBE or TRIBAL – shall mean the Confederated Tribes of the Umatilla Indian Reservation.

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- S. TRIBAL COURT – shall mean the Umatilla Tribal Court of the Confederated Tribes of the Umatilla Indian Reservation.

CHAPTER 2. TRIBAL EMPLOYMENT RIGHTS OFFICE

SECTION 2.01. TERO PROGRAM MANAGER

The Program Manager of the Tribal Employment Rights Office shall be responsible for administering the provisions of this Code and provide direction, leadership and oversight to the TERO Program staff. “TERO Program Manager” shall include his/her designees when used in this Code.

SECTION 2.02. TERO PROGRAM MANAGER AUTHORITIES

- A. The Program Manager shall have the authority to maintain daily operations of the TERO Program, to obtain and expend funds from tribal, federal, state or other sources, to carry out the purposes of this Code in accordance with the Fiscal Management Policy, to establish Employer record-keeping requirements, to consult with the TERO Commission on policy issues related to the implementation of this Code and to take such other actions as are necessary for the fair and vigorous enforcement of this Code.
- B. The Program Manager shall have the authority to:
1. Negotiate, monitor and enforce Compliance Agreements with Employers;
 2. Investigate violations and impose penalties on Employers who violate the provisions of the Code;
 3. Develop and promulgate regulations necessary to implement the provisions of this Code;
 4. Ensure compliance with all Equal Employment Opportunity Commission grants, contracts or agreements;
 5. For purposes of Compliance Agreements, develop and impose numerical hiring goals and contracting goals that reflect the available Indian labor pool and Indian Owned Businesses;
 6. Establish and maintain a tribal hiring hall that maintains a record of qualified, employable Indians to be used by employers to fill vacancies;
 7. Prohibit any Employer from imposing employment qualification criteria that serve as barriers to Indian employment unless it can be demonstrated that such criteria are required by business necessity;
 8. Revoke, or refuse to enter into, a Compliance Agreement with an Employer that has operated an unsafe work environment as outlined in Chapter 7;
 9. Negotiate cooperative agreements with federal, state, tribal and local governments and businesses to minimize employment discrimination against Indians on TERO jurisdiction lands, to promote Indian Preference in hiring, training, and contracting and to otherwise ensure compliance with this Code;
 10. Audit certified payroll reports, from Employers, monitor wage scale and salaries to ensure equitable compensation of Indian workers;
 11. Collect a TERO compliance tax on Employers; and

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12. Advertise, collect data, investigate, communicate and process applications or re-certifications for entrance onto the Indian Owned Business Directory.

SECTION 2.03. TRIBAL MINIMUM OR PREVAILING WAGE

- A. With approval of the Board of Trustees, the Program Manager may promulgate a Tribal Minimum Wage or Prevailing Wage as provided in this Section. Such Tribal Minimum or Prevailing Wage shall only apply to Employers subject to this Code. A Tribal Minimum or Prevailing Wage established under this subsection may be included in a Compliance Agreement pursuant to Section 6.01 of this Code.
- B. Definitions. For purposes of this Section, the terms “Minimum Wage” and “Prevailing Wage” are defined as follows:
 1. Minimum Wage – shall mean the lowest wage that the Employer can pay any employee. The Minimum Wage shall not be less than the federal minimum wage.
 2. Prevailing Wage – shall mean the lowest wage that an Employer can pay any employee by trade or craft. A Prevailing Wage need not limit or put a cap on all employees in a particular craft or trade.
- C. If the Program Manager elects to promulgate a proposed Minimum Wage or Prevailing Wage, the following factors may be taken into consideration:
 1. The prevailing wage for each job classification in the Oregon or Washington wage classifications;
 2. The prevailing wages established by other Northwest Indian tribe;
 3. The number of Indian persons living on or near TERO jurisdiction lands with the particular craft or trade skills;
 4. The unemployment rate of Indians living on or near TERO jurisdiction lands – especially the unemployment rate for the particular craft or trade;
 5. Local labor and market conditions;
 6. The potential impact of the Prevailing Wage to attract businesses or Construction Employers to do business on TERO jurisdiction lands; and
 7. The potential impact of the Prevailing Wage in raising the costs of Tribal projects.
- D. The draft Minimum or Prevailing Wage shall be published in the CUJ with notice of the comment opportunity and comment deadline date and distributed to all Tribal governmental departments, enterprises and to persons or entities that may be impacted by such a proposal for review and comment. The record shall be kept open for at least thirty days to permit comments to be submitted.

CHAPTER 3. TRIBAL EMPLOYMENT RIGHTS OFFICE COMMISSION

SECTION 3.01. ESTABLISHMENT, COMPOSITION AND BYLAWS

- A. There is hereby created the Tribal Employment Rights Office (TERO) Commission.
- B. Membership. The Commission shall be comprised of five members appointed by the Board of Trustees.

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- C. Selection of Commission Officers. The Commission shall elect annually a Chair, Vice Chair and Secretary from its membership.
- D. Duties of the Chairperson. The Chairperson shall preside at all meetings of the Commission and, along with at least one other Commission member, shall be authorized to sign required documents in accordance with the powers of the Commission. The Commission Chair will establish meeting dates and times in coordination with the TERO program staff.
- E. Duties of the Vice-Chairperson. The Vice-Chairperson shall assist the Chairperson when called upon to do so. In the absence of the Chairperson, the Vice-Chairperson shall preside over Commission meetings and when so presiding, shall have all the rights and duties of the Chairperson.
- F. Duties of the Secretary-Treasurer. The Secretary-Treasurer shall be responsible for assuring the timely and proper production, distribution and storage of all written records of the Commission, including administrative and financial documents. The Secretary-Treasurer shall keep informed about the Commission's expenditures and remaining budget. The Secretary-Treasurer shall assure that all Commission minutes, executive summaries and purchase requisitions shall be distributed to appropriate Tribal offices. At each regularly scheduled Commission meeting, the Secretary-Treasurer shall submit the official Commission minutes from the prior Commission meeting for the Commission's review and approval, and shall also provide a brief report on the state of the Commission's budget. With the assistance of TERO staff, the Secretary-Treasurer shall ensure that new Commission members are provided with orientation materials, if any exist.

SECTION 3.02. RULES GOVERNING MEMBERSHIP ON THE TERO COMMISSION

- A. Members of the TERO Commission shall possess and demonstrate as minimum qualifications:
 - 1. Enrolled member of the Confederated Tribes of the Umatilla Indian Reservation;
 - 2. Eighteen years of age or older;
 - 3. Having no Gross Conflicts of Interest, as defined below;
 - 4. Willingness and ability to comply with the Ethical Duties of Commission Members, as defined below;
 - 5. Willingness and ability to perform the Commission's duties in compliance with the Confederated Tribes' Treaty, Constitution and statutes; and
 - 6. Knowledge and familiarity of the TERO Code.
- B. Terms. Appointments to the Commission shall be for a period of two years. There is no limitation on the number of terms a Commissioner may serve.
- C. Gross Conflicts of Interest.
 - 1. No person may be appointed to the TERO Commission who:
 - a. Is employed in the TERO program of the Confederated Tribes;
 - b. Is engaged in litigation against the Confederated Tribes in a matter related to the subject matter of the Commission; or

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- c. Has a similar interest that would necessarily grossly conflict with the impartial performance of a Commissioner's duties.
2. The Board of Trustees' determination whether an applicant is barred from appointment by a gross conflict of interest (or must be removed from the Commission due to a gross conflict of interest) is final.
- D. Oath of Office. Each appointee to the TERO Commission shall take an oath of office prior to assuming the duties of Commission membership. The oath shall be administered by an officer of the Umatilla Tribal Court.
- E. Ethical Duties of Commissioners. TERO Commissioners are expected to comply with the following ethical requirements. Violations of these ethical duties may be considered neglect of duty or gross misconduct, requiring the removal of a Commissioner, depending on the severity and/or frequency of the violation.
 1. Commissioners shall comply with their oath of office and shall generally avoid the appearance of impropriety.
 2. Commissioners shall not attempt to exceed the authority granted to Commissioners by this Code.
 3. Commissioners shall recognize that the authority delegated by this Code is to the Commission as a whole, not to individual Commissioners. As a result, the powers of the Commission may only be exercised by the Commission, acting through the procedures established by this Code.
 4. Commission members shall not involve the Commission in any controversy outside the Commission's duties.
 5. Commissioners shall hold all information revealed during the course of Commission business in strict confidence, including information about the Tribe, the Tribe's partners, appealing parties, records from appeals, employees, community members and Commission deliberations. Commissioners may only discuss or disclose such information to persons who are entitled to the information, and only for the purpose of conducting official Commission business.
 6. Commission members are expected to behave in a professional manner and treat each other with courtesy.
 7. Conflict of Interest.
 - a. When a matter before the Commission directly and specifically affects a Commissioner's own interests, or the interests of his or her immediate family, that member has a "conflict of interest." Immediate family includes parents, children, spouse or domestic partner, siblings, grandparents, grandchildren, stepparent, stepsibling, stepchildren or any other person residing in the Commissioner's household. Except as described below, a Commissioner shall not act in an official capacity when he or she has a conflict of interest.
 - b. A Commissioner must inform the Commission of any conflict of interest immediately upon becoming aware of the conflict.
 - c. In all other cases, immediately after disclosing the conflict, a Commission member shall recuse himself or herself from discussion of, and voting on, any matter concerning the conflict. Commissioners shall not discuss or

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vote on the matter in the presence of a Commissioner who has a conflict of interest.

- d. It is not a violation of this provision for a Commissioner to disclose a conflict about an issue, suggest that the Commission take action on the issue, and then recuse himself or herself from the Commission discussion and voting on the issue.
- e. If an apparent conflict of interest exists, but the Commissioner with the conflict refuses to comply with these procedures, then the Commission shall table the matter until such time as the Commissioner leaves or the dispute is otherwise resolved. A Commissioner's refusal to comply with these procedures shall constitute neglect of duty and/or gross misconduct, justifying removal from the Commission.

F. **Revocation of Appointment.** TERO Commission members serve at the pleasure of the Board of Trustees. Appointment to the TERO Commission confers no liberty or property rights upon the appointee. The Board of Trustees may revoke a person's appointment to the TERO Commission at any time, regardless of the length of time remaining in the person's appointment. It is not required that the Board state a reason for revoking the appointment or provide the person an opportunity to appear before the Board. A majority vote by the Board is sufficient to revoke any appointment. Revocation decisions by the Board are not subject to review or appeal to any administrative or judicial forum.

G. **Removal by Commission Motion.** Whenever it comes to the attention of the TERO Commission that one of its members may: (1) fail to meet the minimum qualifications for membership, (2) have a gross conflict of interest, or (3) have committed neglect of duty or gross misconduct, the Commission by motion, may decide to hold a hearing inquiring into the matter.

- 1. At least five business days before the hearing is scheduled, the Chairperson shall provide notice of the hearing to the Commission member whose conduct is the subject of the hearing. The notice of the hearing shall include a written statement of the charges against the Commission member.
- 2. At the hearing, the Commission member shall have an opportunity to appear before the Commission and answer all charges against him or her before the Commission votes. The Commission member shall represent his or her self, and shall not be represented by an attorney. If the Commission concludes by majority vote that the Commission member fails to meet minimum qualifications for membership, has a gross conflict of interest, or has committed neglect of duty or gross misconduct, the Chairperson shall promptly notify the Commission member and the Secretary of the Board of Trustees that the Commission member has been removed from the Commission.
- 3. The decision of the Commission shall be final, except the Board of Trustees may review the decision on the Board's own motion, and may impose a different decision than the one ordered by the Commission. If the Board does this, it will immediately convey its decision in writing to the Chairperson of the Commission.

H. **Resignation by Letter.** Any Commission member who wishes to resign from the TERO Commission shall submit his or her written resignation to the Chairperson.

I. **Resignation by Default.** If any Commission member is absent from three consecutive meetings of the committee without excuse or misses more than 50% of the regular meetings during a year, that Commission member shall be considered to have resigned without providing notice to the Chairperson.

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SECTION 3.03. DUTIES, POWERS AND LIMITATIONS

- A. Duties. The TERO Commission shall carry out its duties under this Code consistent with the Confederated Tribes Constitution and Bylaws. In exercise of its duties, the Commission shall:
1. Review on-the-job training hours as recorded by TERO staff for Tribal Apprenticeship Programs;
 2. Review recommendations for Code amendments;
 3. Review regulations developed by the TERO Program Manager; and
 4. Hear appeals under Chapter 9.
- B. Limitations.
1. The Commission is prohibited from inquiring into, participating in, or attempting to influence managerial decisions concerning the Human Resources Department, the TERO Program or TERO staff.
 2. Except when authorized by the Commission, no individual Commissioner may take action or make any commitment on behalf of the Commission or TERO Program. The TERO Commission does not represent the TERO Program or staff.
 3. The TERO Commission has no authority to waive the sovereign immunity of the Tribe, its agents or entities.
- C. Meetings.
1. Meetings of the TERO Commission shall be held at regularly scheduled times each month.
 2. Special meetings shall be called only upon the written authorization of the Commission Chairperson and, except when of an emergency nature, shall be posted at least five days in advance.
 3. Regular meetings shall be open to the public. Whenever necessary, in the judgment of the committee Chairperson, to protect the confidentiality of sensitive information, the committee shall hold private deliberations. A committee Chairperson may temporarily recess a regular or special meeting in order to conduct private deliberations. Members of the public, including members of the General Council, are prohibited from attending private deliberations. Staff may only attend private deliberations if as a consequence of their job duties they have specialized information or responsibilities concerning the matter being discussed, and the committee Chairperson allows them to attend. Board of Trustees members and senior staff (or the senior staffs' designees) are entitled to attend any private deliberations of a committee so long as the person attending does not have a conflict of interest concerning the matter being discussed. Because private deliberations take place while the committee is in recess, no taking of minutes or recording of the deliberations shall take place. No notice of private deliberations is required. If a closed session occurs in the absence of a committee member who does not have a conflict of interest concerning the subject matter being discussed, the absent committee member may request an oral report on the subject matter discussed by the committee members who were present for the closed session.
- D. Quorum. Commission business may only take place when two or more voting members are present in addition to the presiding Chairperson. Voting by proxy shall not be

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allowed. A Commission meeting shall not be cancelled if a quorum is present, except by consensus of the Commission's members.

- E. Meeting Business. The Commission shall attempt whenever possible to execute its powers by consensus. If a consensus cannot be achieved, the affirmative vote of a majority of the Commissioners shall be required to take Commission action. The Chairperson shall vote only in the event of a tie. All documents requiring Commission signature, shall bear the signature of the Chairperson and at least one other Commissioner.

SECTION 3.04 COMMISSION TRAINING

The Commission will be afforded annual training on hearing procedures and decision-making techniques.

CHAPTER 4. TERO WORKFORCE

SECTION 4.01. INDIAN PREFERENCE

- A. Scope. Indian Preference shall be applied in all aspects of employment on employment projects under this Code.
- B. Layoffs. In all layoffs and reductions in force, no Indian worker shall be terminated if a non-Indian worker in the same job classification is still employed. The non-Indian shall be terminated first if the Indian possesses threshold qualifications for the job classification. If an Employer lays off workers by crews, all qualified Indian workers shall be transferred to crews to be retained so long as non-Indians in the same job classification are employed elsewhere on the job site, except for non-Indians hired as Core Crew pursuant to negotiated Compliance Agreements.
- C. Promotions. Each Employer shall give Indians preferential consideration for all promotion opportunities and shall encourage Indians to seek such opportunities. For each promotion or supervisory position filled by a non-Indian, the Employer shall file a report with the TERO Program Manager stating what efforts were made to inform Indian workers about the position, what Indians, if any, applied for the position and if an Indian was not chosen, the reasons an Indian was not selected.
- D. Core Crew. Core Crew requests must be submitted to the TERO staff in writing, showing that each Core Crew member meets these criteria before the start of any project work. Approval of Core Crew members does not exempt any Employer from TERO hiring goals or other compliance agreement terms.
- E. Indian Core Crew members may count toward the hiring goal.
 - 1. The Indian Core Crew members must be registered with the TERO Program.
 - 2. The Indian Core Crew members must be identified prior to signing the Compliance Agreement.

SECTION 4.02. TRIBAL HIRING HALL

- A. The Program Manager shall establish and maintain a hiring hall to assist Employers doing business on TERO jurisdiction lands in placing qualified Indians in job positions.
- B. An Employer shall not hire a non-Indian in violation of the Compliance Agreement until the Program Manager has certified within a reasonable time that no qualified Indian is available to fill the vacancy. For purposes of this section, "reasonable time" for

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construction jobs shall mean that the Program Manager shall have 48 hours from time of notice of manpower needs to locate and refer a qualified Indian.

- C. The Program Manager may waive the 48-hour time period upon a showing by the Employer that such time period imposes an undue burden upon the Employer, the business or the construction project in question.

SECTION 4.03. UNIONS

Employers with collective bargaining agreements with a union are responsible for informing such unions of this Code, its rules and regulations, applicable Memorandums of Understanding and their Compliance Agreement. Unions will give absolute preference to Indians in job referrals regardless of which referral list they are on. Temporary work permits will be granted to Indians who do not wish to join a union. Nothing herein shall constitute official tribal recognition of any union or tribal endorsement of any union activities on TERO jurisdiction lands.

Any existing or prospective labor organizations on the CTUIR are required to comply with the registration and operation procedures outlined in the CTUIR Right to Work Code.

CHAPTER 5. CERTIFIED INDIAN OWNED BUSINESSES

SECTION 5.01. SCOPE

Employers shall give preference to Indian Owned Businesses in the award of contracts or subcontracts to the extent permitted by applicable law. Indian Owned Businesses must be certified by the TERO Program Manager to be included on TERO's Indian Owned Business Directory and to obtain Indian Preference under this Code in contract bids on TERO jurisdiction lands.

SECTION 5.02. CERTIFIED INDIAN OWNED BUSINESS DIRECTORY

The Program Manager shall maintain an updated list of certified Indian Owned Businesses.

SECTION 5.03. CERTIFICATION OF INDIAN OWNED BUSINESSES

- A. All applicants seeking to be certified as a TERO certified Indian Owned Business, at a minimum, along with a complete certification application, shall provide the following documentation to the TERO office to prove the business is at least 60% owned, operated and controlled by an Indian:
1. Proof of enrollment/membership with a federally recognized tribe, nation or band, including Alaskan Native villages, communities and corporations;
 2. Proof of ownership of the business with at least 60% Indian ownership and proof that the Indian owner exercises majority control of the business and is substantially involved in the day-to-day management and operations;
 3. The Indian owner(s) must establish that they provide real value for their stated ownership interests by providing legal documents such as stock ownership, capital, assets, structure, management, control, financing and salary commensurate with the value of their ownership share;
 4. The Indian owner(s) will receive a percentage of all profits equal to their ownership interest. Any provision that give a non-Indian owner a greater share of the profits, such as but not limited to: management fees, equipment rental fees or bonuses will result in decertification;

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5. Business license certifications, business structure documents (sole proprietor, partnerships, incorporations, LLC), insurance and bonding capabilities;
 6. Business Plan that includes proof of the experience and staff expertise in the specific field, projected financials and references;
 7. Portfolio that includes proof of the experience and staff expertise in the specific field listed, resume of jobs completed and references;
 8. Any additional licensing documentation specific for the service provided;
 9. When applicable, proof of certification as an Indian Owned Business by another entity or organization along with a signed release of information to access records and the review process; and
 10. Any other documentation or pertinent information required by TERO. Applicants missing documents from this subsection shall submit written justification for those missing items.
- B. TERO shall have sole discretion in determining the legitimacy of submitted documentation. TERO reserves the right to exempt any documentation requirement if deemed not necessary for the type of service provided.
- C. The TERO staff, along with the Office of Legal Counsel and the Tax Administrator, as appropriate, shall review completed applications and all supporting documentation.

SECTION 5.04. RECERTIFICATION

Certified Indian Owned Business must be recertified every two years. Businesses wishing to maintain their status as a Certified Indian Owned Business will need to submit all the documentation as required in Section 5.03 at least ninety days prior to their two-year anniversary to allow adequate time for the recertification review and prevent a lapse in status.

SECTION 5.05. DECERTIFICATION

- A. Certified Indian Owned Business may be de-certified at any time for any one or more of the following:
1. Failure to meet the requirements of Section 5.03 of this Code;
 2. Failure to notify TERO in writing of changes in ownership, operation and/or control status within thirty days after the change(s) have occurred;
 3. Participation in illegal or prohibited activities; or
 4. Subject to disciplinary action in another jurisdiction.
- B. A business de-certified by TERO is banned from reapplying for Indian Owned Business certification for two years if it was banned for any reason except failure to recertify in time.

SECTION 5.06. SOLICITATION PROCESS

- A. Indian Owned Businesses shall be given preference as provided in this Section 5.06 in any procurement process permitted under Fiscal Management Policies applicable to an Employer adopted by the Board of Trustees and, for all other Employers, by any other competitive solicitation or bid process that the Employer may use. An Employer shall be authorized to use standard evaluation tools to determine if an IOB has the experience,

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expertise, personnel and resources to provide the goods or services on the schedule needed by that Employer. If an IOB is qualified and timely submits a responsive bid, that IOB shall receive the preference set forth in Section 5.06.B.

- B. Any responsive and qualified Indian Owned Business that timely bids on a project and is not the lowest responsive and qualified bid will be awarded the contract if their bid is within the applicable percentages of the lowest non-Indian bidder. In the event of multiple responsive and qualified Indian Owned Business bids, the lowest and most qualified will be awarded the contract. Applicable percentages are as follows:

<u>Contract Price</u>	<u>Added Bidding Value</u>
Less than \$100,000	10% of the lowest bid or a maximum of \$9,000
At least \$100,000 but less than \$250,000	8% of the lowest bid or a maximum of \$20,000
At least \$250,000 but less than \$500,000	6% of the lowest bid or a maximum of \$30,000
At least \$500,000 but less than \$1 million	5% of the lowest bid or a maximum of \$45,000
At least \$1 million but less than \$5 million	3% of the lowest bid or a maximum of \$150,000
At least \$5 million but less than \$10 million	2% of the lowest bid or a maximum of \$200,000
\$10 million or more	1% of the lowest bid, with no dollar limit

- C. The Indian Owned Businesses preference does not prevent an Employer from rejecting a sole responsive bidder or rejecting all bids.
- D. Employers are responsible for enforcing the solicitation process.

SECTION 5.07. APPEALS

Businesses denied certification, recertification, solicitation preference or who are decertified may appeal within ten business days of denial per the Appeal process in Chapter 9.

CHAPTER 6. EMPLOYER REQUIREMENTS

SECTION 6.01. SCOPE

All Employers performing work on TERO jurisdiction lands, at a minimum, shall:

- A. Give preference to Indians in hiring, promotion, training and all other aspects of employment.
- B. Comply with the terms of this Code and its implementing regulations.
- C. Ensure a safe working environment as defined by applicable law and industry standards.
- D. Comply with all Compliance Agreements executed under this Code.

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SECTION 6.02. COMPLIANCE AGREEMENT

- A. Each Employer shall be required to coordinate with the TERO Program to negotiate and execute a Compliance Agreement which sets forth:
1. **Hiring Goals.** The minimum number of Indians that shall be hired for any particular project while the Employer is located or engaged in work on TERO jurisdiction lands. This includes numerical goals and timetables for each craft, skill area, job classification, etc., as a percentage of total hours worked on the project, used by the Employer including, but not limited to: general labor, skilled, administrative, supervisory, and professional categories;
 2. **Wage Rates.** Applicable wage scale provisions, prevailing wage standards and salary compensation terms that may be applicable to a project or contract under applicable federal or state law, or tribal law, if a Tribal minimum or prevailing wage has been promulgated as provided in Section 2.03 of this Code;
 3. **Reporting Requirements.** Periodic reporting requirements to the TERO Program on the number of Indians employed; a record of persons hired, fired or promoted during the reporting period; and a statement regarding compliance with the hiring goals set forth in the Compliance Agreement;
 4. **Compliance Tax Rate.** See Section 6.03 for additional information; and
 5. **Business Directory.** All Employers are required to work with TERO and the Indian Owned Business Directory to solicit Indian Owned Businesses on projects within TERO jurisdiction lands. Due diligence to provide economic opportunities must be a goal of each project.
 6. **Indian sub-contracting hiring goals.**
 7. **On-the-job training hours, if applicable.**
- B. The numerical goals set forth in the Compliance Agreement shall be based upon the available and qualified Indian work force, contractor availability and projected employment opportunities on TERO jurisdiction lands.
- C. Compliance Agreements shall be reviewed periodically and revised as necessary to reflect changes in the number of Indians available or changes in Employer hiring needs.
- D. No Employer shall commence work or site mobilization until a Compliance Agreement has been negotiated and executed.
- E. Employers must make every reasonable effort to achieve the hiring goals outlined in the Compliance Agreement.
- F. Any violation of an executed Compliance Agreement shall be subject to citation and penalty per Chapters 7 and 8 of this Code.
- G. Employers shall inform the TERO Program before any TERO worker is terminated to allow for counseling, when possible.
- H. When a TERO worker is terminated or unable to continue working, the Employer shall immediately notify the TERO office which may provide a substitute referral within three business days or notify the Employer that it has no referrals for the position, after which time the Employer will be authorized to hire a permanent replacement. The Employer may submit a written request and justification for a shorter rehire period.

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SECTION 6.03. COMPLIANCE TAXES

The Program Manager shall assess and collect a compliance tax after a review of the entire eligible project costs.

A. The tax rates for projects costs are as follows:

\$0 – \$24,999	n/a
\$25,000 – \$99,999	4%
\$100,000 – \$999,999	3%
\$1,000,000 – \$9,999,999	2%
\$10,000,000 +	1%

B. The maximum tax amount shall be capped at \$500,000.

C. Compliance taxes must be paid by the Employer prior to commencing work on TERO jurisdiction lands.

D. The Program Manager has the authority to negotiate alternative compliance taxes for projects that partially overlap TERO jurisdiction lands per a memorandum of understanding. All MOU's are subject to Board approval.

E. Compliance taxes shall be used by the TERO Program per the TERO Tax Guidelines.

SECTION 6.04. EMPLOYER AS GENERAL CONTRACTOR

Where the Employer is a general contractor on a project under this Code, that general contractor shall ensure that it and all its subcontractors, also employers, comply with this Code. The general contractor may be held liable for violations of this Code by its subcontractors.

SECTION 6.05. JOB QUALIFICATIONS AND PERSONNEL REQUIREMENTS

An Employer shall not use qualification criteria or other personnel requirements that serve as barriers to Indian employment unless the Employer is able to demonstrate that such criteria or requirements are required by business necessity.

SECTION 6.06. INSPECTIONS

A. The Program Manager and any authorized TERO staff shall have the authority to make on-site inspections during regular working hours in order to monitor compliance with this Code and the applicable Compliance Agreement by an Employer.

B. The Program Manager and any authorized TERO staff shall have the right to inspect and copy all relevant records of an Employer, of any signatory union or subcontractor of an Employer, and shall have the right to speak to workers and to conduct an investigation on the job site.

C. All information collected by the Program Manager and/or TERO staff during inspection shall be kept confidential unless disclosure is necessary or ordered as part of any federal or tribal judicial or administrative proceeding.

CHAPTER 7. VIOLATION PROCEDURES

SECTION 7.01. INVESTIGATION BY THE PROGRAM MANAGER

Whenever a violation of this Code or a Compliance Agreement has been alleged and is brought to the attention of the Program Manager, the Program Manager shall ensure a prompt and

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thorough investigation of the alleged violation. The Program Manager shall seek to achieve an informal settlement of the alleged violation, with a written report of findings provided to the Commission.

SECTION 7.02. ISSUANCE OF CITATION

- A. If the Program Manager determines that a violation of the Code or a Compliance Agreement occurred, and an informal settlement cannot be achieved, the Program Manager shall issue a warning to the Employer. This warning shall specify the nature of the violation and direct that the violation be corrected within three business days or sooner where warranted.
- B. If the violation is not corrected within the time specified, the Program Manager shall issue a citation to the Employer which shall:
 - 1. Be in writing and in the name of the Confederated Tribes;
 - 2. State the name of the violator;
 - 3. Bear the signature of the Program Manager or the authorized representative;
 - 4. State the name and section number of the Code provision or Compliance Agreement violated;
 - 5. State a brief summary of the facts constituting the violation; and
 - 6. State a time and place the Employer must appear to answer to the violation at a Program Manager review.

SECTION 7.03. PROGRAM MANAGER REVIEW

An Employer who receives a citation, or has revoked or is refused a Compliance Agreement, shall be entitled to a review with the Program Manager no later than ten business days after receipt of a citation or Compliance Agreement revocation or refusal.

- A. **Program Manager Review.** Program Manager review meeting procedures shall comply with the requirements of due process, but will not be bound by the formal rules of evidence. The evidence against the Employer will be shared by the Program Manager. The Employer shall be entitled to present evidence and to call witnesses to demonstrate that it has complied with the requirements of this Code or Compliance Agreement or that it made its best effort to do so, or did not operate an unsafe work environment as defined by applicable law and industry standards, and therefore should not be subject to sanctions, or revocation or refusal of a Compliance Agreement.
- B. **Program Manager Decision and Sanctions.** On the basis of evidence presented at the review, and the information collected by the Office, the Program Manager shall determine whether or not the Employer complied with this Code or Compliance Agreement. If the Program Manager determines that the Employer, by clear and convincing evidence, is out of compliance and has not made a best effort to comply, the Program Manager shall impose one or more of the sanctions provided for in this Code, as appropriate, and shall order the Employer to take such corrective action as is necessary to remedy any harm done to the Tribe or individual Indians caused by the non-compliance. If the Program Manager determines that an Employer has, by clear and convincing evidence, operated an unsafe work environment, he or she shall continue the revocation or refusal of a Compliance Agreement. The Program Manager shall send written notice to all parties within ten business days after the review meeting is completed.

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SECTION 7.04. EMERGENCY CITATION AND SANCTIONS

When the Program Manager determines that a violation has occurred that is of a critical nature requiring immediate action, the Program Manager may issue a citation without delay, stating sanctions to be placed on the offending Employer. The Employer shall have the right to appeal the citation and any imposition of emergency sanctions to the TERO Commission. The TERO Commission shall schedule a hearing on any appeal of a decision by the Program Manager granting emergency action pursuant to this subsection to be held within seven business days.

SECTION 7.05. INDIVIDUAL COMPLAINT PROCEDURE

- A. Any Indian employee who believes that an Employer has failed to comply with this Code or applicable Compliance Agreement, or who believes that he/she has been discriminated against in violation of tribal law because they are Indian, may file a complaint with the TERO Program. The complainant shall be responsible for providing the TERO Program with evidence of the discriminatory practices.
- B. Upon receipt of a complaint supported by sufficient evidence of discrimination against an Indian employee, the TERO Program Manager or designated staff shall conduct an investigation of the allegation(s), which shall include interviews of the project manager for the Employer and any person(s) allegedly responsible for the discriminatory conduct, and shall attempt to achieve an informal settlement of the matter. If voluntary conciliation cannot be achieved, the Program Manager shall hold a review on the matter, shall make a determination on the validity of the allegation, and shall order such relief as is necessary to make whole any Indian who is harmed by the Employer's non-compliance or discriminatory behavior. The decision shall be in writing and shall be sent to all parties within seven business days after the review meeting is completed.
- C. In conducting the review, the Program Manager shall have the same powers, and shall be bound by the same review requirements as provided in Sections 7.03 and 7.04 of this Chapter.

CHAPTER 8. PENALTIES

SECTION 8.01. PENALTIES FOR VIOLATION

An Employer who violates this Code or a Compliance Agreement shall be subject to penalties including, but not limited to:

- A. Denial of the right to commence or continue business on TERO jurisdiction lands;
- B. Suspension of operations on TERO jurisdiction lands;
- C. Payment of back pay and/or damages to compensate any injured party;
- D. An order to summarily remove employees hired in violation of this Code or a Compliance Agreement;
- E. Imposition of monetary civil penalties pursuant to applicable sections of this Code. Consideration will be given to the severity of the violation, whether any other penalty pursuant to this section was imposed and whether the person or entity that is subject to the fine has any prior history of violating this Code; or
- F. An order specifying requirements for employment, promotion, and training Indians injured by the violation.

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SECTION 8.02. MONETARY FINES

The maximum monetary penalty that may be imposed for a violation is one thousand dollars (\$1,000) per violation per day. For purposes of the imposition of penalties determined by the Court or sanction by the Program Manager, each day during which a violation exists shall constitute a separate violation.

SECTION 8.03. ENFORCEMENT

- A. The Program Manager shall be entitled to pursue the enforcement of any order of the TERO Commission or the Umatilla Tribal Court when necessary to ensure compliance with the terms and conditions of the order.
- B. Any cost associated with the enforcement of such order issued pursuant to this Code shall be assessed against the Employer who is out of compliance. These may include, but not be limited to: document reproduction costs, filing fees, attorney fees and costs incurred by the Tribe or the Office related to securing enforcement of the order.
- C. Employers who do not comply with the provisions of this Code, and leave TERO jurisdiction lands before enforcement penalties are imposed and collected or an enforcement order is issued by the TERO Commission or the Umatilla Tribal Court, shall be denied the privilege of contracting or doing further business on TERO jurisdiction lands.

CHAPTER 9. APPEALS AND HEARINGS

SECTION 9.01. APPEALS AND DECISIONS THAT CAN BE APPEALED

The following may be appealed:

- A. Appeal of decision on citation issued to Employer by Program Manager;
- B. Appeal of Program Manager's written decision on an individual's complaint under Section 7.05;
- C. Appeal of Program Manager's written decision to grant emergency action against an Employer;
- D. Appeal of a Program Manager's written revocation or refusal of a Compliance Agreement; and
- E. Appeal of Program Manager's written decision regarding certification, recertification or decertification of Indian Owned Business status.
- F. Appeal of the use of Indian Preference for an Indian Owned Business in the solicitation process.

SECTION 9.02. CONTENT OF APPEAL

To initiate an appeal, the appealing employee or Employer shall file a written statement of appeal with the TERO Commission Chairperson, with a copy to the Program Manager, within seven business days of the receipt of the Program Manager's decision. The appeal shall describe the nature of the Program Manager's action or decision being appealed, a summary of the factual and legal basis for the appeal and the relief requested. Incomplete appeal statements will not be accepted.

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SECTION 9.03. SCHEDULING APPEAL HEARING

Upon receipt of an appeal that has been timely filed, the TERO Commission has three business days to issue a written notice to the appealing party and the Program Manager designating a schedule hearing date, time and place. The hearing shall occur within ten business days of the filing of the appeal. A hearing on an appeal of a grant of emergency action pursuant to Section 7.04 of this Code shall be scheduled within seven business days of the filing of the appeal.

SECTION 9.04. REQUEST TO RESCHEDULE APPEAL HEARING

The Program Manager or the appealing party may make written requests to reschedule appeal hearings. The TERO Commission shall promptly rule on such requests and immediately notify the parties of its decision. Reasonable requests to reschedule will be granted.

SECTION 9.05. APPEAL HEARING PARTICIPANTS

Appeal hearings are not open to the public. Only the party filing the appeal, TERO staff, legal advisors and each party's witnesses may attend the hearing. Both the appealing party and the Program Manager may be represented by counsel at the hearing.

SECTION 9.06. HEARING PROCEDURE

- A. All appeal hearings will be recorded.
- B. Each party shall be responsible for ensuring that their witnesses attend the hearing.
- C. Both parties will be afforded the opportunity to present opening statements with respect to what they intend to present to the TERO Commission. Following opening statements, first the appellant and then the Program Manager may present witnesses and evidence in support of their position on the issues being appealed.
- D. The TERO Commission Chairperson will preside over the hearing and will take whatever action is necessary to ensure an equitable and expeditious hearing. Parties will abide by the TERO Commission Chairperson's rulings. The TERO Commission Chairperson may limit the number of witnesses when testimony would be unduly repetitious, and exclude any person from the hearing for contemptuous or inappropriate misbehavior that obstructs the hearing. TERO Commission hearings are not subject to the Rules of Evidence.

SECTION 9.07. TERO COMMISSION DECISION

The TERO Commission shall use a clear and convincing evidence standard of review. The TERO Commission will render a decision within ten business days from the date of the hearing. The parties will be notified in writing of the TERO Commission's decision.

CHAPTER 10. TRIBAL COURT ENFORCEMENT AND JUDICIAL REVIEW

SECTION 10.01. JUDICIAL REVIEW OF TERO COMMISSION DECISIONS

- A. Filing for Judicial Review. Any party to an appeal to the TERO Commission pursuant to Section 9.01 of this Code who is dissatisfied with the TERO Commission's decision or if the TERO Commission fails to timely schedule, hold or decide an appeal may appeal to the Umatilla Tribal Court. Such appeal shall be in writing and shall be filed with the Tribal Court within thirty days of the date of the TERO Commission's decision and shall set forth the factual and legal issues on appeal and a brief statement of the factual and legal arguments supporting the appealing party's position. The appeal shall also state the relief requested from the Tribal Court. The appeal shall include a copy of the TERO Commission's final decision. Failure to timely file an appeal containing the required

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information constitutes a waiver of the right to do so and acceptance of the TERO Commission's decision. The party filing the appeal shall pay any court or filing fees imposed by the Tribal Court.

The TERO Commission shall be responsible for providing the hearing recording and exhibits to the Tribal Court once an appeal has been filed.

- B. Court Process. The Tribal Court shall promptly schedule a conference call between the parties to develop a briefing schedule and dates for oral argument or trial, if applicable. Oral arguments shall only be scheduled at the request of either part and if approved by the Tribal Court.
- C. Scope of the Appeal. Tribal Court appeals shall be limited to the factual record and legal arguments presented in the TERO Commission appeal hearing.
- D. Burden of Proof. The Petitioner shall carry the burden of proof that the TERO Commission decision was based on findings of fact that were not supported by the record or on legal conclusions that are in error.
- E. Standard of Review. The Tribal Court shall defer to the factual findings made by the TERO Commission provided that such findings are supported by clear and convincing evidence in the record developed by the TERO Commission. The Tribal Court shall conduct a de novo review of the application of applicable law by the TERO Commission.
- F. Decision of Tribal Court. The Tribal Court shall issue its decision in writing following the submission of briefs and oral argument, if oral argument is scheduled. The decision of the Tribal Court is final.
- G. Stay Pending Appeal. The TERO Commission's decision shall be stayed during the appeal unless the Tribal Court orders it remain in effect.

**SECTION 10.02. TRIBAL COURT ENFORCEMENT OF TERO COMMISSION AND
PROGRAM MANAGER DECISIONS**

- A. The Tribal Court shall have the authority to issue any order or take any action necessary to enforce any Program Manager or TERO Commission decision following an appeal to the TERO Commission, provided that such order or decision is final and has not been appealed as permitted by this Code. To request such a Tribal Court order, the Program Manager shall file a petition with the Tribal Court containing the following information: a copy of the decision sought to be enforced, a brief summary of the proceedings leading to the decision and a statement about the finality of that decision (i.e. the appeal deadline has lapsed), the identity of the person or entity subject to the decision and facts to show how the decision is not being complied with.
- B. The Program Manager shall ensure service to all named parties.
- C. Upon receipt of the petition, the Tribal Court shall schedule a hearing and subpoena all necessary parties. The hearing shall be held within ten business days from the date the petition is filed.
- D. The Program Manager shall have the burden of proving to the Tribal Court that either the Program Manager or TERO Commission decision has not been complied with. The parties to the hearing on the petition may produce oral testimony or written documentation to support their case.
- E. The Tribal Court shall render a decision on the petition filed by the Program Manager within fourteen business days and enter whatever order is necessary or appropriate. The decision of the Tribal Court shall be final and binding.

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SECTION 10.03. COURT RULES

The Court shall be responsible for establishing rules and procedures necessary to hear and adjudicate actions brought hereunder.

SECTION 10.04. REMEDIES

Ruling on matters arising under this Code, the Tribal Court shall have the authority to assess and collect civil penalties, to enjoin or mandate actions to enforce the provisions of this Code, and to provide any other relief the Tribal Court deems lawful and equitable; provided that nothing in this Code shall be construed as a waiver of the sovereign immunity of the Confederated Tribes. Accordingly, nothing in this Code shall be construed as any authority for a claim for money damages against the Tribe, the Office or Tribal officials and employees acting pursuant to their authority under this Code.

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APPENDIX A

TRIBAL EMPLOYMENT RIGHTS OFFICE CODE

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

The Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation enacted the Tribal Employment Rights Office Ordinance in Resolution 78-53 (August 7, 1978).

The Board enacted a revised Tribal Employment Rights Office (TERO) Ordinance in Resolution 82-64 (September 20, 1982). The revised ordinance included a new, 14 page TERO Guidelines document. The revised Tribal Employment Rights Ordinance was amended three times, as follows: Resolution 84-21 (February 15, 1984), Resolution 88-07 (November 5, 1987), and Resolution 89-32 (April 5, 1989).

The Board enacted the second revised Tribal Employment Rights Office Ordinance in Resolution 90-51 (September 19, 1990). In enacting the second revised Tribal Employment Rights Office Ordinance, the Board explicitly repealed all prior resolutions concerning the TERO, with the sole exception of Resolution 89-17. As the second revised Tribal Employment Rights Office Ordinance did not contain the TERO Guidelines, these were repealed by Resolution 90-51.

The Board enacted the third revised Tribal Employment Rights Office Ordinance in Resolution 96-67 (July 31, 1996). It has not been amended.

In Resolution 83-78 (September 7, 1983), the Board approved an agreement between the Confederated Tribes and the Four Basic Trade Unions on compliance with the Tribal Employment Rights Ordinance and Guidelines. This agreement reportedly terminated at the end of five years and was not renewed.

In Resolution 89-17 (January 25, 1989), the Board approved a Memorandum of Understanding with the State of Oregon Department of Transportation that ensured compliance with the Tribal Employment Rights Ordinance whenever the Department of Transportation contracted to perform highway construction activities on the Umatilla Indian Reservation. In Resolution 94-13 (February 22, 1994), the Board approved a new Memorandum of Understanding with the State of Oregon Department of Transportation which superseded the 1989 Memorandum of Understanding. This Memorandum of Understanding ensures compliance with the Tribal Employment Rights Ordinance whenever the Department of Transportation contracts to perform highway construction activities on the Umatilla Indian Reservation or within 60 miles of the Reservation.

A fourth revision of this code has been proposed but has not yet been enacted by the Board of Trustees. If it is enacted, it will be included in the next edition of *Statutes of the Confederated Tribes of the Umatilla Indian Reservation*.

During preparation of this compilation, the following editorial changes were made to this code:

1. The name was changed from "Tribal Employment Rights Office Ordinance" to "Tribal Employment Rights Office Code;" and
2. The Code was put into the uniform code format used in the *Statutes of the Confederated Tribes of the Umatilla Indian Reservation*.

The Approval of Public Law 102-477 was adopted by the Board of Trustees through Resolution 08-063 on June 30, 2008.

On July 17, 2017, the Board of Trustees adopted the revised TERO Code via Resolution No 17-053. The amendments expand the types of work and costs subject TERO, expand TERO jurisdiction lands, transfer TERO fees into TERO taxes, institute new tax brackets, impose a preference system for

***STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-053 (July 17, 2017)***

contractor selection, outline the Indian Owned Business certification process, transfer appeal hearings to a Hearings Officer and create the TERO Committee as an advisory body.

PART 1 GENERAL

1.01 DESCRIPTION

- A. Pursuant to the policies of the CTUIR, and provisions of Section 106 of the National Historic Preservation Act, the National Environmental Policy Act, the Archaeological Resources "Protection Act and Executive Order 11593, cultural resource investigations may be conducted for the subject property.
- B. The Contractor shall notify the Tribal Historic Preservation Office at a minimum of 72 hours prior to excavation to make certain that a cultural resource monitor is available to be on site during ground disturbing activities. To ensure that section 106 of the National Historic Preservation Act is complied with, as well as tribal cultural resource management concerns, a monitor must be present for any ground disturbing work greater than 12 inches in depth. If the Contractor does not follow this procedure, all ground-disturbing activities will be shut down until the CTUIR can evaluate the situation.
- C. The CTUIR's Department of Natural Resources (DNR) Cultural Resources Protection Program needs to be contacted prior to ground disturbing activities to contract for a cultural resource monitor (541-276-3447).
- D. If cultural material is unearthed during ground disturbing activities, work must immediately stop at that specific location until the DNR Cultural Resources Protection Program Manager has an opportunity to assess the find. A plan to avoid or mitigate any adverse impacts will need to be developed if the find is considered to be significant.
- E. Under state (SB 61), federal (ARPA and NAGPRA), and CTUIR laws, it is illegal to knowingly adversely impact or destroy significant cultural material.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

Not used

END OF SECTION

**SECTION 01 10 00
SUMMARY OF WORK**

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. General Provisions of the Contract, including General and Special Conditions and Division-1 Specification sections, apply to work of this section.

1.2 SCOPE

- A. Demolish and appropriately dispose of all man-made improvements on the properties included in the scope of work; including but not limited to structures, pavement, and utilities.
- B. Remove hazardous materials from structures prior to demolition as identified in these specifications and the Hazards Materials Survey Report prepared by PBS Engineering and Environmental.
- C. Remove and properly dispose of asbestos-containing materials (ACMs) as identified by the Contract Documents prior to building demolition.
- D. Perform activities impacting lead-containing paint (LCP) in accordance with the Contract Documents, as necessary to accommodate the Work.
- E. Perform activities impacting polychlorinated biphenyl (PCB)-containing ballasts in accordance with the Contract Documents.
- F. Perform activities impacting mercury-containing fluorescent lamps in accordance with the Contract Documents.
- G. Dispose of all stored chemicals, fuel containers, refrigerants, vehicles and other materials requiring special handling or disposal in accordance with applicable regulations.
- H. Presence of Hazardous Materials: Asbestos-containing materials, lead-containing paints, mercury-containing light tubes, and PCB-containing materials and equipment have been identified in the structures included in the scope of work. See paragraphs 1.4 and 1.5. The contractor shall refer to paragraph 1.04B for identification and quantities of asbestos-containing materials.

1.3 RELATED WORK

- A. Work performed under this specification section is governed by related specification sections, including, but not limited to, the following:
 - 1. Division 0: Bidding and Contract Requirements;
 - 2. Division 1: General Requirements;
 - 3. Division 2: Existing Conditions:
 - a) Section 02 41 17, Demolition and Deconstruction;
 - b) Section 02 82 13, Asbestos Abatement;
 - c) Section 31 10 00, Site Clearing;
 - d) Section 31 20 00, Earth Moving;

1.4 ASBESTOS-CONTAINING MATERIALS

- A. Removal and other impact of asbestos-containing materials as identified in the Hazardous Materials Survey Report is the responsibility of the Contractor. The Contractor shall be responsible for compliance monitoring and removal and disposal of these items in accordance with Section 02 82 13.
- B. The Contractor shall refer to the attached Hazardous Materials Survey Report, which lists suspect-ACMs sampled at the buildings included in the project scope and analyzed for asbestos content. The Contractor shall ensure that a copy of this report is made available to and retained on the project site.
- C. The Contractor shall be aware that suspect ACMs may exist in inaccessible locations. The Contractor shall proceed with caution during all phases of the Work. Should any suspect ACMs not indicated in the Hazardous Materials Survey Report be encountered, the Contractor shall immediately notify the Environmental Consultant. Concealed asbestos-containing materials are presumed to exist.
- D. The disturbance or impact of ACMs may cause asbestos fibers to be released into the building's atmosphere, thereby creating a potential health hazard to building occupants. Contractor is to apprise all workers, supervisory personnel, subcontractors and consultants

who will be at the job-site of the seriousness of this potential hazard and of proper Work procedures that must be followed, in the event of a release.

- E. Where in the performance of the Work, workers, supervisory personnel, subcontractors, or consultants may encounter, disturb, or otherwise function in the immediate vicinity of any identified ACMs, Contractor shall take appropriate continuous measures, as necessary, to protect all building occupants from the potential hazard of exposure to airborne asbestos. Such measures shall include the procedures and methods described herein, and compliance with applicable local, state and federal regulations.

1.5 LEAD-RELATED ACTIVITIES

- A. Lead-Containing Paint: The Owner has conducted a lead-containing paint survey of the buildings to be impacted by the Work. Survey samples and results are included in the attached Hazardous Materials Survey Report.
- B. Consider all painted components to be coated with lead-containing paint.
- C. Contractor is responsible for TCLP sampling, if required, to determine disposal requirements.

1.6 MERCURY-CONTAINING MATERIALS

- A. Fluorescent light tubes containing mercury exist in various locations throughout the buildings. Recycle fluorescent light tubes in accordance with applicable local, state and federal regulations. Refer to the Hazardous Materials Survey Report for additional information.

1.7 PCB-CONTAINING MATERIALS

- A. PCB-containing light ballasts may exist in various locations throughout the buildings included in the scope of work. Dispose of ballasts in accordance with applicable local, state and federal regulations.

1.8 HANDLING OF STORED CONTAINERS AND OTHER ITEMS

- A. Dispose of all stored chemicals, fuel containers, refrigerants, vehicles and other materials requiring special handling or disposal in accordance with applicable regulations.

1.9 WORK COVERED BY CONTRACT DOCUMENTS

- A. Abatement scope of work, schedule, work plan, inspections and necessary permits will be discussed with the Environmental Consultant at the pre-construction meeting.
- B. Contractor shall furnish all labor, materials, equipment, permits, services and insurance (specifically covering the handling and transportation of asbestos-containing materials) that is specified, shown, or reasonably implied for the removal and/or impact of asbestos-containing materials as necessary to accomplish the Work and as defined by these Specifications and Contract.

1.10 EXISTING CONDITIONS

- A. The Environmental Consultant and Owner make no representation, warranty or guarantee that the conditions indicated by the test reports or inspection summary are representative of those conditions existing throughout the area, or that unforeseen developments may not occur, or that materials other than, or in proportions different from those indicated, may not exist.
- B. Contractor is advised that the locations of all ACMs may not be clearly known and that care should be taken to prevent impact of ACMs located in concealed and inaccessible locations.
- C. Contractor is advised to coordinate the Work to facilitate access, as necessary, to areas where damaged ACMs may exist. These areas include, but are not limited, to the mechanical chases, crawl spaces and ceiling/wall spaces.
- D. Contractor is advised to become familiar with access and space restrictions in areas affected by the Work and to account for such limitations in schedule and production expectations.

1.11 WORK NOT COVERED BY CONTRACT DOCUMENTS

- A. Area and post-abatement air monitoring will be performed by the Environmental Consultant. Contractor shall perform air monitoring that is described in Sections 02 82 13, Asbestos Abatement related to employee exposure.

END OF SECTION

SECTION 01 4510

SAFETY

PART 1 – GENERAL

1.01 CONTRACT CONDITIONS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section.

1.02 PRELIMINARY WORK

- A. Prior to the start of and during the course of the Work (above and below ground) the Contractor shall make a thorough survey of the entire work site to determine all potential hazards. Workmen shall be made aware of those hazards and shall be instructed in procedures and the use of equipment for their protection. The Contractor shall verify the location and condition ("live" or "dead") of all utilities on and near the work site and take precautions to protect his employees, the general public, and the property.

1.03 IMMINENT DANGER

- A. The Contractor shall be wholly responsible for any accidents (including death) occurring at any time during the progress of the work and until the final acceptance of the work by the Owner which may happen to any of his workmen or those of any Subcontractor employed on the building or the Owner, Architect and their representatives, or for any damage or injuries (including death) which his work and operations may cause to the work being constructed, or to existing buildings, or to any tenants and occupants of the property, or of the adjoining properties, or to the public or to any public or private property.

1.04 SAFETY

- A. The Contractor shall ensure that all employees, visitors, subcontractor's employees, and suppliers' employees, while on the work site, comply with the requirements of OSHA, these requirements and the safety precautions contained in the several Specifications Sections. The Contractor shall promptly and fully comply with, execute and, without separate charge thereof to the Owner, shall enforce compliance with the Occupational Safety and Health Act requirements.
- B. The Contractor shall immediately advise the Owner of inspections conducted by OSHA, at the work site, and shall transmit copies of citations and violations to the Owner and Architect.

1.05 SAFETY RESPONSIBILITIES

- A. Contractor shall be responsible to:
 - 1. Ensure compliance with these requirements, OSHA requirements, and other safety requirements.
 - 2. Authorize immediate action to correct substandard safety conditions.
 - 3. Review and act to ensure compliance with safety procedures with his supervisors, subcontractors, and suppliers.
 - 4. Make through daily safety inspections of the work site and immediately act to eliminate unsafe acts and unsafe conditions.
 - 5. Investigate work-site accidents and recommend immediate corrective action.
 - 6. Assist in the preparation of accident investigation and reporting procedures.
 - 7. Be responsible for the control, availability, and use of safety equipment, including employee personal protective equipment.

1.06 REQUEST FOR VARIANCES

- A. Requests for variances to deviate from OSHA requirements must follow the current established procedures by that Agency.

1.07 FAILURE TO COMPLY

- A. If the project is shut down due to the Contractor's failure to comply with the requirements of OSHA or other applicable safety requirements, no part of the time loss due to any such suspension of operations or stop orders shall be made the subject of a claim for extension of time or for increased cost or damage by the Contractor.

**01 4510
SAFETY**

**PART 2 – PRODUCTS - NOT USED
PART 3 – EXECUTION - NOT USED**

END OF SECTION

SECTION 01 5000
TEMPORARY FACILITIES AND CONTROLS

PART 1 GENERAL

1.01 CONTRACT CONDITIONS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section.

1.02 SECTION INCLUDES

- A. Temporary telecommunications services.
- B. Temporary sanitary facilities.
- C. Temporary Controls: Barriers, enclosures, and fencing.
- D. Waste removal facilities and services.

1.03 TELECOMMUNICATIONS SERVICES

- A. Provide, maintain, and pay for telecommunications services to field office at time of project mobilization.
- B. Telecommunications services shall include:
 - 1. Windows-based personal computer dedicated to project telecommunications, with necessary software and laser printer.
 - 2. Internet Connections: Minimum of one; Cable modem or faster.
 - 3. Project web site.

1.04 TEMPORARY SANITARY FACILITIES

- A. Provide and maintain required facilities and enclosures. Provide at time of project mobilization.
- B. Use of existing facilities is not permitted.
- C. New permanent facilities may not be used during construction operations.
- D. Maintain daily in clean and sanitary condition.
- E. At end of construction, return facilities to same or better condition as originally found.

1.05 BARRIERS

- A. Provide barriers to prevent unauthorized entry to construction areas, to prevent access to areas that could be hazardous to workers or the public, to allow for owner's use of site and to protect existing facilities and adjacent properties from damage from construction operations and demolition.
- B. Provide barricades and covered walkways required by governing authorities for public rights-of-way and for public access to existing building.
- C. Provide protection for plants designated to remain. Replace damaged plants.
- D. Protect non-owned vehicular traffic, stored materials, site, and structures from damage.

1.06 FENCING

- A. Provide 6 foot high fence around construction site; equip with vehicular and pedestrian gates with locks.

1.07 EXTERIOR ENCLOSURES

- A. Provide temporary weather tight closure of exterior openings to accommodate acceptable working conditions and protection for Products, to allow for temporary heating and maintenance of required ambient temperatures identified in individual specification sections, and to prevent entry of unauthorized persons. Provide access doors with self-closing hardware and locks.

1.08 WASTE REMOVAL

- A. Provide waste removal facilities and services as required to maintain the site in clean and orderly condition.

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TEMPORARY FACILITIES AND CONTROLS

- B. Provide containers with lids. Remove trash from site periodically.
- C. If materials to be recycled or re-used on the project must be stored on-site, provide suitable non-combustible containers; locate containers holding flammable material outside the structure unless otherwise approved by the authorities having jurisdiction.
- D. Open free-fall chutes are not permitted. Terminate closed chutes into appropriate containers with lids.

1.09 REMOVAL OF UTILITIES, FACILITIES, AND CONTROLS

- A. Remove temporary utilities, equipment, facilities, materials, prior to Date of Substantial Completion inspection.
- B. Remove underground installations to a minimum depth of 2 feet. Grade site as indicated.
- C. Clean and repair damage caused by installation or use of temporary work.
- D. Restore existing facilities used during construction to original condition.
- E. Restore new permanent facilities used during construction to specified condition.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION

SECTION 01 5100
TEMPORARY UTILITIES

PART 1 GENERAL

1.01 CONTRACT CONDITIONS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section.

1.02 SECTION INCLUDES

- A. Temporary Utilities: Electricity, lighting, heat, ventilation, and water.

1.03 RELATED REQUIREMENTS

- A. Section 01 5000 - Temporary Facilities and Controls:
 - 1. Temporary telecommunications services for administrative purposes.
 - 2. Temporary sanitary facilities required by law.

1.04 TEMPORARY ELECTRICITY

- A. Cost: By Contractor.
- B. Provide power service required from utility source.
- C. Power Service Characteristics: provide as required for project.
- D. Provide power outlets for construction operations, with branch wiring and distribution boxes located at each floor. Provide flexible power cords as required.
- E. Provide main service disconnect and over-current protection at convenient location and meter.
- F. Permanent convenience receptacles may be utilized during construction with GFCI connector.
- G. Provide adequate distribution equipment, wiring, and outlets to provide single phase branch circuits for power and lighting.

1.05 TEMPORARY LIGHTING FOR CONSTRUCTION PURPOSES

- A. Provide and maintain incandescent lighting for construction operations .
- B. Provide branch wiring from power source to distribution boxes with lighting conductors, pigtails, and lamps as required.
- C. Maintain lighting and provide routine repairs.

1.06 TEMPORARY HEATING

- A. Cost of Energy: By Contractor.
- B. Provide heating devices and heat as needed to maintain specified conditions for construction operations.
- C. Maintain minimum ambient temperature of 50 degrees F in areas where construction is in progress, unless indicated otherwise in specifications. Verify with stage of construction for particular items if higher temperature is required.
- D. Existing facilities shall not be used.
- E. Prior to operation of permanent equipment for temporary heating purposes, verify that installation is approved for operation, equipment is lubricated and filters are in place. Provide and pay for operation, maintenance, and regular replacement of filters and worn or consumed parts.
- F. Use of temporary individual propane style heaters are not allowed to dry out or heat the building.

1.07 TEMPORARY COOLING

- A. Provide cooling devices and cooling as needed to maintain specified conditions for construction operations.
- B. Maintain maximum ambient temperature of 80 degrees F in areas where construction is in progress, unless indicated otherwise in specifications.

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TEMPORARY UTILITIES

1.08 TEMPORARY VENTILATION

- A. Existing ventilation equipment may not be used.

1.09 TEMPORARY WATER SERVICE

- A. Cost of Water Used: By Contractor.
- B. Provide and maintain suitable quality water service for construction operations at time of project mobilization.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION

**SECTION 02 41 17
DEMOLITION AND DECONSTRUCTION**

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. General Provisions of the Contract, including General and Special Conditions and Division-1 Specification sections, apply to work of this section.

1.2 DESCRIPTION

- A. The structures and other site improvements as detailed in the contract documents shall be removed unless specifically noted. The intention of the demolition is to remove all buildings and improvements to surface grade, including basements, foundations, ramps, etc. Note limitations of asphalt removal.
- B. Disconnect utilities in a manner that minimizes excavation and disturbance of any subsurface areas outside demolition work area noted.
- C. Note that the structures included in the Work are generally empty but some materials require disposal. All stored materials, equipment, casework, fixtures, etc are to be removed and disposed. These materials are to be removed and placed into containers. No such materials shall be staged outside the building prior to disposal.
- D. The work includes, but is not limited to the following:
 - 1. The demolition of the building and site features as indicated on the Contract Drawings and as specified.
 - 2. Perform all demolition and salvage work in accordance with applicable rules, regulations codes and ordinances of local, state and federal authorities having jurisdiction, and in accordance with the requirements of the public utility corporations having jurisdiction over the work.
 - 3. Hauling of waste and recycled materials.
 - 4. Confirmation of utility shut-off and disconnection.
 - 5. Protect adjacent structures, improvements and utilities to remain.
 - 6. Materials or structures called out by word description or in the specifications shall be included as work items.

1.3 RELATED SECTIONS

Section 01 10 00, Summary of Work
Section 02 82 13, Asbestos Abatement
Section 31 10 00, Site Clearing
Section 31 20 00, Earth Moving

1.4 REFERENCES

- A. Requirements of Regulatory Agencies: Meet requirements of applicable provisions and recommendations of following:
 - 1. Occupational Safety and Health Administration (OSHA)
 - 2. American National Standards Institute (ANSI)
 - 3. Associated General Contractors of America (AGC): Manual of Accident Prevention in Construction
 - 4. Oregon Department of Environmental Quality (DEQ)
- B. Perform deconstruction, recycle and disposal work in accordance with applicable rules, regulations, codes and ordinances of local, state and federal authorities having jurisdiction, and in accordance with requirements of public utility corporations having jurisdiction over work.
- C. All stored and demolished materials are the property of the Contractor and shall be removed from the site and disposed of in a legal manner at the Contractor's expense.

1.5 SUBMITTALS

- A. Submit under provisions of various sections.
- B. Permits, Notices, Certificates:

1. The Contractor will confirm all necessary permits with Owner (CTUIR). Contractor shall coordinate with Owner to obtain all necessary permits and notices. Contractor will pay all permit fees unless permit fees are waived by the Owner.
 2. Evidence of disconnection for all utility services.
 - C. Demolition procedures: Submit a detailed work plan describing the sequence of site protection/security, demolition, recycle, utility disconnection, fire suppression and site restoration activities which ensures how work is to be performed in a safe manner. Include methods for dust suppression, designate sorting and material handling areas, haul routes, etc.
 - D. Contractor Compliance Certification: Provide written statement certifying Contractor meets qualifications listed in Quality Assurance Paragraph 1.6 below.
- 1.6 QUALITY ASSURANCE**
- A. Contractor Qualifications: Minimum five years documented experience in abatement, demolition, salvage and preservation, deconstruction, or structure moving, of comparable structures.
 - B. Salvage and Deconstruction Qualifications: Contractor shall have qualified and legitimate market source for distribution of building materials and products removed from site. On-site public sales of materials and products not allowed.
 - C. No explosives permitted.
 - D. Deconstruction/Demolition procedures and temporary bracing details are responsibility of Contractor.
- 1.7 PROJECT CONDITIONS**
- A. Existing Conditions:
 1. Verify existing conditions prior to start of work.
 2. Before start of demolition, deconstruction, determine location of existing utilities and building areas to remain, and protect such utilities during demolition and construction.
 3. Cost of repair of damage to utilities through negligence or carelessness of Contractor shall be borne by Contractor.
 4. Coordinate all utility capping and disconnection with utility company.
 5. Cost of repair of damage to existing and remaining construction occurring through negligence or carelessness of Contractor shall be borne by Contractor.
 - B. Protection: Erect barriers, temporary fences, guard rails, enclosures, chutes and shoring as necessary to protect personnel, structures and utilities intended to remain intact. Protect existing adjacent buildings and improvements.
 - C. Maintaining Traffic:
 1. Ensure protection of roads, streets, driveways, sidewalks and adjacent facilities from any dust or flying debris of any kind. Any damaged paths, roads, etc. will be required to be restored to their original condition.
 2. Do not close or obstruct streets, sidewalks, alleys, or passageways without authorization from agencies with jurisdiction.
 3. If required by governing authorities, provide alternate routes around closed or obstructed traffic ways.
 - D. Coordinate scheduling of demolition work with Environmental Consultant and Owner's Representative.
- 1.8 WASTE MANAGEMENT PLAN**
- A. The Contractor is encouraged to salvage, reuse, or recycle debris generated as a result of work performed on the project when practicable and cost effective.
- 1.9 HAZARDOUS MATERIALS PROCEDURES**
- A. Abatement of asbestos, PCBs, and mercury is included as part of this contract. Lead paint exists in structures to be demolished. If additional suspect materials are encountered during demolition, proceed as follows:
 1. Immediately upon discovery of previously unidentified ACM or other hazardous materials, stop work and do not carry on any activity in that area which could disturb the suspected ACM or other hazardous materials.

2. Whenever previously unidentified suspect ACM or other hazardous materials are encountered in area of work, notify the Owner immediately. In such event, Owner's Agent specializing in asbestos or other hazardous material abatement will evaluate circumstances and instruct Contractor on how and when to proceed.
3. Instruct workers at site to be alert for materials that may contain asbestos fibers or other hazardous materials, and not to disturb or attempt to remove such materials. Take precautions to prevent spread of asbestos fibers or other hazardous materials throughout project. Do not break up or attempt to remove or actually remove from site any materials suspected of containing asbestos fibers or other hazardous materials.

PART 2 - PRODUCTS

Not Used

PART 3 - EXECUTION

3.1 PREPARATION

- A. Verify that the building is unoccupied.
- B. Verify that all utility lines in demolition areas are shut off.
- C. Provide shoring, bracing, barriers as necessary and all such work required for safe execution of demolition work.
 1. Brace structure and preserve safe exits, as necessary, to protect workers and adjacent properties.
 2. Advise Owner of all unsafe conditions resulting from demolition and remedy such conditions as soon as possible.

3.2 DEMOLITION

- A. Demolish and remove:
 1. Existing buildings and improvements as noted on demolition drawing.
- B. Provide continuous water spray during building demolition to limit dust to lowest practical level.
- C. Do not flood the site. Capture and treat contaminated run-off as needed.
- D. Dispose of waste material off Owner property at facilities licensed and permitted to accept corresponding waste material according to all applicable local, state and federal regulations.
- E. Restrict temporary storage of waste materials and materials to be recycled.
- F. Arrange and pay for removing and disposing of all waste material encountered in the work.
 1. Contractor shall obtain and pay for all waste disposal and any applicable waste disposal license and fees when required.
- G. Exercise care in controlling air borne dust, dirt and debris near all roadway traffic areas. The Contractor shall be responsible for keeping adjacent roadways, sidewalks, and properties free from mud, gravel, dust, and other debris associated with the demolition process.
 1. Vehicles shall be properly equipped and in good state of condition so as to prevent spillage of material during hauling.
- H. Waste debris resulting from demolition of buildings shall be immediately removed from Owner property. Salvaged items shall not be stored in areas accessible to the public.
- I. Environmental Requirements: Protect adjacent properties and water resources from erosion and sediment damage throughout work.

3.3 SITE WORK

- A. Demolish, remove, and dispose of all buildings, improvements within the footprint of the existing buildings.
- B. Do not demolish, remove, or damage public walkways, or protected fencing (as indicated in Drawing Sheets 1 through 6), roads or surface treatments in areas adjacent to demolition area.
- C. Remove fencing not noted as protected on Drawing Sheets.
- D. Do not demolish curbs and sidewalks along existing streets and right-of-ways.

- E. Provide continuous water spray during building demolition to limit dust to lowest practical level.
- F. Do not flood the site. Capture and treat contaminated run-off as needed.
- G. Contractor shall remove all trash, debris and foreign material on ALL of the property lots. Site is to be free of all unnatural material inside boundary line.

3.4 UTILITY DISCONNECTION/CAPPING

- A. The Contractor is responsible for coordinating with the Owner's engineer to facilitate disconnection of site utilities. The Owner's engineer has initiated coordination with the utility purveyors and the Owner will pay for disconnection fees, however all other coordination and communication required to ensure timely utility disconnection is the responsibility of the Contractor.
- B. Cap utilities: For all demolished structures, cap water and building sanitary service at locations indicated on the plans. The water main shall be shut off at the meter and capped with a blind flange with a mechanical restraint.

3.5 DISPOSAL AND CLEAN-UP

- A. Remove demolition debris daily, as soon as practical as it accumulates.
- B. Do not store, sell or burn materials on site.
- C. Remove and transport demolition debris to acceptable, licensed landfill area as soon as practical.

END OF SECTION

SECTION 02 82 13
ASBESTOS ABATEMENT

PART 1 GENERAL

1.1. RELATED DOCUMENTS

- A. General Provisions of the Contract, including General and Special Conditions and Division-1 Specification sections, apply to work of this section.

1.2. SCOPE

- A. Contractor shall provide all labor, materials, equipment, services, permits, and insurance required to complete asbestos abatement procedures as indicated in these Specifications and in accordance with Federal, State and Local regulations.
- B. Removal of asbestos-containing materials (ACM) as identified in the Hazardous Materials Survey Report is the responsibility of the Contractor.
- C. The quantities and locations of ACM indicated the referend report are only best estimates limited by the physical constraints of exiting condition at the time of the survey. Accordingly, minor variations of plus or minus 10% of the estimated quantities of ACM within the limits of containment for each abatement stage are considered as having no impact on contract price and time of this contract. Locations of ACM different than indicated in the report but within the limits of the containment and general area, are considered as having no impact on contract price and time of this contract.

1.3. DEFINITIONS

- A. Abatement: Procedures to control fiber release from asbestos-containing building materials, which include encapsulation, enclosure, removal, repair, and related activities.
- B. Aggressive Sampling: Air sampling method that assures that asbestos fibers remain airborne during sampling. All surfaces inside the work area will be agitated by the liberal use of compressed air. Fans will then be run throughout the sampling period to keep all suspended fibers airborne.
- C. AHERA: Asbestos Hazard Emergency Response Act, 40 CFR Part 763.
- D. Air Lock: A system for permitting ingress or egress without permitting air movement between a contaminated area and an uncontaminated area, typically consisting of two curtained doorways at least three feet apart.
- E. Air Monitoring: The process of measuring the asbestos fiber content of a specific volume of air in a stated period of time.
- F. Amended Water: Water containing a surfactant additive.
- G. Asbestos-containing Material (ACM): Any material containing more than 1% asbestos as defined under NESHAPS CFR 40, Part 61, OAR Chapter 340, Division 248, OR-OSHA 437, 1926.1101, and OSHA 29 CFR Part 1926.1101.
- H. Authorized Visitor: The owner or designated representative, or a representative of any regulatory or other agency having jurisdiction over the project, and having required training, medical, fit test, etc.
- I. Certified Industrial Hygienist (CIH): An industrial hygienist certified in comprehensive practice by the American Board of Industrial Hygiene.
- J. Construction, Manager/General Contractor (CMGC): A construction delivery method in which the construction manager acts as the general contractor with schedule and cost risk. The CMGC provides design phase assistance in evaluating costs, schedule, and implications of systems and materials during design.
- K. Class I Asbestos Work: Activities involving the removal of TSI and surfacing ACM and PACM.
- L. Class II Asbestos Work: Activities involving the removal of ACM, which is not thermal system insulation or surfacing material. This includes, but is not limited to, the removal of asbestos-containing wallboard, floor tile and sheeting, roofing and siding shingles, and mastics.
- M. Clean Room: An uncontaminated area or room that is part of the worker decontamination enclosure system, with provisions for storing workers' street clothes and clean protective equipment.
- N. Critical Barrier: Solid barrier constructed from minimum of 2- by 4-inch studs, 16-inch o.c.; ½-inch plywood or drywall sealed airtight and covered on both sides (where applicable) with two layers of 6-mil plastic.

- O. Curtained Doorway: A device to allow ingress or egress from one room to another while permitting minimal air movement between the rooms, typically constructed by placing three overlapping sheets of plastic over an existing or temporarily-framed doorway, securing each along the top of the doorway in a pleated fashion and securing one vertical side of each sheet on alternating sides of consecutive sheets. Two curtained doorways spaced a minimum of three feet apart to form an air lock.
- P. Disposal: Procedures necessary to transport and deposit the asbestos-contaminated material in an approved waste disposal site in compliance with Environmental Protection Agency (EPA) and other applicable regulations.
- Q. Enclosure: Procedures necessary to completely seal all asbestos-containing material behind airtight, impermeable, permanent barriers, including PVC jackets.
- R. Encapsulant (Sealant): A liquid material that can be applied to asbestos-containing material and that controls the possible release of asbestos fibers from the material either by creating a membrane over the surface (bridging encapsulant), or by penetrating into the material and binding its components together (penetrating encapsulant).
- S. Environmental Consultant: Environmental consultant specializing in asbestos abatement—PBS Engineering and Environmental Inc., or any subcontractor designated by PBS.
- T. Equipment Room: A contaminated area or room, which is part of the worker decontamination enclosure system, with provisions for storage of contaminated clothing and equipment.
- U. Fitting: With regard to pipe insulation, a fitting is any elbow, offset, reducer, tee, etc.
- V. Fixed Object: Fixtures that are attached to the building or too heavy or bulky to remove from the work area.
- W. Glovebag: A manufactured device consisting of a transparent plastic bag with inward projecting sleeves, an internal tool pouch, provisions for fastening and sealing at the top and sides, and a receptacle in the bottom to hold asbestos waste. The glovebag is installed to surround the material to be removed and contain all fibers released during the process. Glovebags are used to remove insulation from small sections of pipe and fittings.
- X. High Efficiency Particulate Air (HEPA) Filter: A HEPA (absolute) filter capable of trapping and retaining 99.97% of asbestos fibers greater than 0.3 microns in length.
- Y. HEPA Vacuum Equipment: HEPA (absolute) filtered vacuuming equipment with a filter system capable of collecting and retaining asbestos fibers. Filters of 99.97% efficiency for retaining fibers of 0.3 microns in length or larger shall be installed for filtering discharge air.
- Z. Independent Testing Laboratory: A laboratory financially independent from and hired by the owner, architect, or contractor that is either AIHA-accredited for asbestos with demonstrated proficiency via the AIHA PAT program or has analysts proficient in the AIHA AAR program for air sample analysis.
- AA. Industrial Hygienist: An employee of the Independent Testing Laboratory who is experienced and trained in asbestos sampling and analysis as specified.
- BB. Isolated Work Area: A totally contained area of the facility where abatement activities are performed.
- CC. Movable Object: Furnishings not attached to the building structure that can be removed from the work area.
- DD. Negative-air Glovebag: A manufactured device consisting of a transparent plastic bag with inward projecting sleeves, an internal tool pouch, provisions for fastening and sealing it at the top and sides, and a receptacle in the bottom to hold asbestos waste. The glovebag is installed to surround the material to be removed and contain all fibers released through the process, with provisions for allowing continuous airflow through the bag while maintaining negative pressure inside.
- EE. Owner Representative: Designated by the Owner, and/or designated employee(s) of the Owner Representative – Wenaha Group.
- FF. PACM: Presumed asbestos-containing materials.
- GG. Pressure Differential Fan System: An air-purifying fan system located inside or outside the isolated work area that draws air out of the work area through a HEPA filter, keeping static air pressure in the work area lower than in adjacent areas, and preventing escape of contaminated air from work area to adjacent areas.
- HH. Public Area: Any area outside the isolated work area. When work area isolation measures are removed, the work area becomes a public area.

- II. Removal: All operations where ACM and/or PACM are taken out or stripped from structures or substrates and include demolition activities.
- JJ. Shower Room: A room between the clean room and the equipment room in the worker decontamination enclosure system that is equipped with soap, shampoo, and hot and cold running water controllable at the faucet, and suitably arranged for complete showering during decontamination. The shower room must be separated from the clean room and equipment room by air locks.
- KK. Special Fitting: With regard to pipe insulation, a special fitting is any valve, union, strainer, thermometer, flange, etc.
- LL. Surfactant: A chemical wetting agent added to water to improve penetration, thus reducing the quantity of water required for a given operation or area.
- MM. Tack Coat: A coat of penetrating encapsulant applied to all surfaces from which asbestos-containing materials have been removed.
- NN. Thermal System Insulation (TSI): ACM applied to pipes, fittings, boilers, breeching, tanks, ducts, or other structural components to prevent heat loss or gain.
- OO. Vacuum Loader Removal: Wetting and pneumatic conveying of loose material through a vacuum hose to a sealed collection tank specially equipped to prevent escape of fibers.
- PP. Wet Cleaning: The process of eliminating asbestos from building surfaces and objects by using cloths, mops, or other cleaning tools that have been dampened with water.
- QQ. Worker Decontamination Enclosure System: A showering facility for workers, typically consisting of a clean room, a shower room, and an equipment room. Each of these rooms is separated from the others by air locks. The equipment room is separated from the work area by a curtained doorway. The clean room is separated from the public area by a curtained doorway.
- RR. Worksite Entry Logbook: A logbook kept in the clean room that must be signed by everyone entering or leaving the work area. All pages of the logbook must be the same as the sample page bound into these Specifications.

1.4. DOCUMENTS INCORPORATED BY REFERENCE

- A. The current issue of each document shall govern. Where conflict among requirements or with these Specifications exists, the most stringent requirements shall apply.
 - 1. US Environmental Protection Agency National Emissions Standards for Hazardous Air Pollutants (NESHAPS). (Code of Federal Regulations Title 40, Part 61, Subparts A and M.)
 - 2. US Environmental Protection Agency Office of Toxic Substances Guidance Document, "Guidance for Controlling Friable Asbestos-Containing Materials in Buildings." EPA Report Number 560/5-85-024 ("Purple Book").
 - 3. US Department of Labor Occupational Safety and Health Administration (OSHA):
 - a. Title 29 Code of Federal Regulations Section 1910.1001—General Industry Standard for Asbestos.
 - b. Title 29 Code of Federal Regulations Section 1910.134—General Industry Standard for Respiratory Protection.
 - c. Title 29 Code of Federal Regulations Section 1910 et al.—Occupational Exposure to Asbestos; Final Rule.
 - d. Title 29 Code of Federal Regulations 1926.1101—Construction Standard for Asbestos.
 - e. Title 29 Code of Federal Regulations Section 1910.1020—Access to Employee Exposure and Medical Records.
 - f. Title 29 Code of Federal Regulations Section 1910.1200—Hazard Communication.
 - 4. National Institute for Occupational Safety and Health (NIOSH), 42 CFR, Part 84, Respiratory Protective Devices.
 - 5. American National Standards Institute (ANSI) NY; ANSI Standard Z 88.2-1980 "American National Standards Practice for Respiratory Protection," latest edition.
 - 6. Oregon Administrative Rules Chapter 340, Division 248, Department of Environmental Quality; Chapter 340, Division 33, Licensing and Certification Requirements.
 - 7. Oregon Administrative Rules Chapter 437, Divisions 2 and 3.

8. Oregon Revised Statutes (ORS), Chapters 279C, Certified Asbestos Contractors and Prevailing Wage; 656, Workers Compensation; and 701, Construction Contractors and Contracts.
9. All related electrical work shall be performed in accordance with the National Electrical Code.
10. All local ordinances, regulations, or rules pertaining to asbestos, including its storage, transportation, and disposal.

1.5. SUBMITTALS AND NOTICES

- A. Contractors shall submit copies of each submittal package as indicated below.
- B. Contractors shall submit to the Owner and environmental consultant the following information prior to beginning work on the project:
 1. **CONTRACTOR'S LICENSE.** Submit proof that the asbestos abatement contractor is currently and for the duration of the project licensed with the State of Oregon to perform asbestos abatement, per ORS Chapter 701, and OAR Chapter 340, Division 248.
 2. **ASBESTOS SUPERVISOR.** Submit the name and resume of the assigned on-site foreman. At minimum, the foreman shall have successfully completed the Department of Environmental Quality (DEQ) asbestos supervisor course as approved by the State of Oregon. Other criteria such as references and similar projects will also be reviewed. At the Owner's or environmental consultant's request, the contractor shall arrange an oral interview with the assigned on-site foreman. The Owner, and the environmental consultant reserve the right to reject the foreman from the work at any time during the project. The contractor shall then assign another on-site foreman for the Owner, and environmental consultant's approval as described above.
 3. **INSURANCE CERTIFICATE.** Submit a copy of the certificate of asbestos-specific liability insurance policy.
 4. **WORKER CERTIFICATION.** Submit written proof indicating that all employees impacting asbestos-containing materials are State of Oregon certified asbestos workers. Proof shall include photocopies of certificates and a signature from the contractor's principal indicating that all employees assigned to this project have completed such a program.
 5. **RESPIRATOR PROGRAM.** Submit written proof indicating respirator program is in compliance with all parts of OSHA Asbestos Regulations CFR Title 29, Part 1910.134 and 1926.1101, OR-OSHA Chapter 437, 1910.134 and 1926.1101.
 6. **MEDICAL PROGRAM.** Submit written proof medical exam program is in compliance with OSHA Asbestos Regulations CFR Title 29, Section 1926.1101 and OR-OSHA Chapter 437, 1926.1101.
 7. **EMERGENCY PLANS.** Submit a written emergency control and cleanup plan to be followed by the contractor in the event of an accidental breach in containment, power failure, and accidental disturbance of ACMs in non-isolated areas.
 8. **NOTIFICATION.** Submit copy of written notification to DEQ of the proposed asbestos work not fewer than 10 days before work commences on this project.
 9. **DISPOSAL PLAN.** Submit written proof that all required permits and arrangements regarding the transportation and disposal of asbestos-containing or contaminated materials, supplies, etc. have been obtained. The disposal site must be approved by the EPA and/or DEQ and other responsible agencies.
 10. **WORK PLAN.** Submit a written work plan satisfactory to the Owner and environmental consultant describing the schedule for asbestos abatement, decontamination procedures, and plans for construction and location of decontamination enclosure systems, pressure differential exhaust fans, etc. in compliance with these Specifications and applicable regulations, including calculations for determining required number of negative-air filtration units. The plan shall schedule the systematic flow of work throughout the facility per Specifications on a day-by-day basis, outlining building or room-by-room, or area-by-area procedures and planned alternative control measures. The contractor shall keep close coordination of his work with the Owner and environmental consultant.
 11. **AIR MONITORING.** Submit information pertaining to the proposed air monitoring program for this project. This information shall include the name(s) of the certified industrial hygienist appointed, the name of the on-site industrial hygiene technician working under

- his supervision, types of equipment, and sampling schedule, sampling procedures, calibration recordkeeping, and testing laboratory proposed.
12. **PRODUCT INFORMATION.** Submit complete product information for any materials and products for which the contractor requests approval for use on this job (other than those specified).
 13. **EMERGENCY PHONE NUMBER.** Submit a local phone number at which the contractor or on-site foreman can be reached on a 24-hour basis during the course of the work.
- C. The contractor shall not begin work until submittals are reviewed and accepted by the Owner and the environmental consultant. Allow a 10-day review period.
 - D. During the work, the contractor shall submit the following to the Owner and environmental consultant, on a periodic basis as agreed to by the Owner, environmental consultant, and the contractor:
 1. Waste shipment and disposal documentation.
 2. Air monitoring data and Daily Logs/Reports.
 3. Notification updates.
 - E. Contractor shall submit to the Owner and environmental consultant, in writing, all information required above regarding any new asbestos workers hired by, or subcontracted to, the contractor before these new asbestos abatement workers begin work.
 - F. Prior to removal of decontamination systems and isolation barriers, the contractor shall obtain specific written permission from the environmental consultant.
 - G. Prior to making final application for payment the contractor shall:
 1. Complete all work under this contract.
 2. Submit to the environmental consultant all required submittals, including all waste shipment records completely filled out and signed.
 3. Submit to the owner all payroll reports for work on this contract and other information as described elsewhere in the Specifications, if appropriate, under the contract.
 4. Submit to the environmental consultant a signed affidavit stating that all ACMs have been removed per regulatory requirements (rules or guidelines).
 - H. See other sections of these Specifications, and EPA, OSHA, and other standards referenced therein, for further information and requirements not included above.
- 1.6. BUILDING PROTECTION**
- A. Building Security and Protection
 1. The contractor shall post adequate warning signs at all potential entrances to work areas as required by the EPA and OSHA.
 2. The contractor shall protect all existing fixed equipment, building finishes that are to remain, and existing systems and functions from damage during the abatement process. Extra precautions are to be taken in protecting existing electrical panels, light fixtures, etc. Any damage to existing building, services, and/or equipment shall be remedied by the contractor at their expense.
 3. Contractor shall clean external surfaces of contaminated containers and equipment thoroughly by wet sponging and HEPA vacuum.
 4. Contractor shall maintain access and use of existing fire lanes.
 5. Contractor is responsible for securing all building during non-working hours to prevent unauthorized access.
- 1.7. PERSONNEL PERSONAL PROTECTION**
- A. Training
 1. Prior to commencement of work, contractor shall ensure that all workers have been trained as specified.
 2. The contractor shall provide and post, in the clean room(s) and the equipment room(s), the decontamination, respirator, and work procedures to be followed by the workers.
 3. For demolition of non-asbestos containing walls and ceilings in areas containing friable asbestos materials, the contractor has the option to train qualified demolition workers. Such training shall be the sole responsibility of the contractor and shall consist of a minimum of eight hours, unless applicable regulatory agencies accept a lesser amount of

classroom time. Topics shall include the background of asbestos, health effects, personnel protection, use of worker decontamination and other topics. Training shall be acceptable to Oregon OSHA (OR-OSHA), DEQ, and other applicable agencies.

B. Personnel Personal Protective Equipment for Asbestos Removal

1. Work clothes shall consist of disposable full-body coveralls and head and foot covers (Tyvek or approved), boots, or sneakers. Eye, hearing, fall protection, and hard hats should be available as appropriate.
2. At minimum, respiratory protection shall be approved by National Institute for Occupational Safety and Health/Mine Safety and Health Administration (NIOSH/MSHA); US Department of Labor; US Department of Health, Education, and Welfare; Centers for Disease Control; and as listed below. Respiratory protection shall provide workers with a maximum calculated fiber level inside the mask of 0.01 f/cc.
 - a. Glovebag or modified glovebag: full-face mask, powered air-purifying respirator with disposable HEPA filter cartridges (magenta/purple color code). Protection factor: 100.
 - b. Demolition of walls and ceilings that may impact friable asbestos-containing material: half-face mask, negative-pressure respirator with disposable HEPA filter cartridges (magenta/purple color code). Protection factor: 10.
 - c. Pre-abatement work in close proximity to friable asbestos-containing materials: half-face mask, negative-pressure respirator with disposable HEPA filter cartridges (magenta/purple color code). Protection factor: 10.
 - d. Abatement in isolated areas: full-face mask, powered air-purifying respirator with disposable HEPA filter cartridges (magenta/purple color code). Protection factor: 100.
 - e. HEPA vacuuming and wet cleaning of surfaces: half-face mask, negative-pressure respirator with disposable HEPA filter cartridges (magenta/purple color code). Protection factor: 10.
 - f. Vinyl asbestos floor tile removal: half-face mask, negative-pressure respirator with disposable HEPA filter cartridges (magenta/purple color code). Protection factor: 10.
 - g. Handling of double-bagged asbestos-contaminated waste: half-face mask, negative-pressure respirator with disposable HEPA filter cartridges (magenta/purple color code). Protection factor: 10.
3. Additional respiratory protection shall be as required by CFR 29 1910.134 and 1926.1101, OR-OSHA Chapter 437, 1910.134 and 1926.1101.
4. As part of the contractor's respiratory protection program, all workers shall be provided with a selection of brands and sizes of respirators to choose from. At a minimum, all workers shall be qualitatively fit-tested at the time of respirator selection per OR-OSHA Worker's Compensation Department Rule 22-069 (4)(e)(5)(i), and semiannually thereafter.
5. Contractor shall supply replacement filter cartridges, as required. Cartridges that have become wet or clogged shall be replaced immediately.

C. Worker Decontamination Enclosure System

1. The contractor shall construct a personnel decontamination facility immediately outside of the isolated work area consisting of three chambers and two air locks as follows:
 - a. The equipment room shall consist of an air lock to the shower room, and a curtained doorway to the work area.
 - b. The shower room shall have two air locks, one to the equipment room and one to the clean room. All showers shall have hot and cold water controllable at the taps and installed in this room. The contractor shall supply and maintain soap, shampoo, and towels at all times in the shower area. Shower wastewater shall be filtered to remove all fibers larger than five microns, or as required by local regulations, before disposal in the municipal sewer system, or shall be collected and disposed of as asbestos-contaminated material. Permits shall be obtained, and all water discharge

- regulations complied with, as required by local municipalities. Water filters shall be disposed of as asbestos-contaminated material.
- c. The clean room shall consist of an air lock to the shower room and a curtained doorway to the adjacent building area. The clean room shall contain a first aid kit, a place to sit down, the worksite entry logbook, and storage for workers' and visitors' clothing and shoes. Work, respirator, and decontamination procedures; regulations; and prevailing wage rates shall be conspicuously posted. There shall be a supply of clean, protective clothing, and respirators and cartridges in the clean room at all times.
 2. The contractor shall not begin asbestos abatement work unless this system is functional, in good repair, and has been found acceptable for specification compliance by the Environmental Consultant.
- D. Personnel Protection Procedures in Isolated Work Areas
1. Each worker shall, upon entering the job site, remove street clothes in the clean change room, put on and fit-test his respirator, put on clean protective clothing, and sign in on the worksite entry logbook before entering the equipment room or the work area.
 2. Workers shall, each time they leave the work area, remove gross contamination from clothing before leaving the work area; proceed to the equipment room and remove and dispose of disposable work clothes; remove and store shoes, boots, and other equipment except respirators; still wearing the respirator, proceed to the showers and clean the outside of the respirator with soap and water while showering; remove the respirator; thoroughly shampoo and wash themselves; remove filters, dispose of filters in the container provided for that purpose, and wash and rinse the inside of the respirator.
 3. Following showering and drying off, each worker shall proceed directly to the clean change room and dress in clean clothes at the end of each day's work or before eating, smoking, or drinking. Before reentering the work area from the clean change room, each worker shall put on his respirator with clean filters, dress in clean protective clothing, and sign in on the worksite entry logbook.
 4. Contaminated work footwear and other equipment shall be stored in the equipment room when not in use in the work area. Upon completion of asbestos abatement, footwear shall be disposed of as contaminated waste or cleaned thoroughly inside and out, using soap and water, before removing from work area.
 5. Workers shall not eat, drink, or chew gum at the worksite except in the established clean room. Smoking or using other tobacco products is prohibited.
 6. Workers shall be fully protected with respirators and protective clothing immediately prior to the first disturbance of asbestos-containing or contaminated material and until final cleanup is completed.
- E. Access to Isolated Work Area by Others
1. Except for emergency personnel, the contractor shall limit access to the work area to authorized visitors.
 2. The contractor shall provide protective clothing, respirators, and equipment for all authorized visitors, as specified above.
 3. All authorized visitors shall be subject to the personnel protection provisions specified above and shall sign in and out on the worksite entry logbook.
- F. Personnel Personal Protection during Work in Non-Isolated Work Areas:
1. Work clothes per Section 1.6 B.
 2. Respiratory protection per Section 1.6 B.
 3. Worker protection procedures will differ from Section 1.6 D, in that two layers of coveralls shall be worn after removal of street clothes. Worker decontamination through a worker decontamination enclosure is required. The first layer of coveralls must be removed when exiting the glovebag work area. The worker shall immediately proceed to the worker decontamination unit. The remaining requirements of Section 1.6 D still apply.
 4. Contractor shall submit to the architect and environmental consultant for approval an emergency control and cleanup plan to be followed in the event of asbestos contamination

during glovebag use. Contractor shall ensure all workers are thoroughly familiar with approved plan.

5. Contractor shall promptly remove all bags as they are used to the bag-holding and decontamination enclosure system.

G. Emergency Precautions

1. The contractor shall establish emergency and fire exits from the work area. Contractor shall ensure these exits are well marked and remain unobstructed.
2. The contractor shall be prepared to administer first aid to injured personnel after decontamination. Seriously injured personnel shall be treated immediately or evacuated without delay for decontamination.
3. The contractor shall notify the local fire department of the asbestos abatement project prior to beginning work area preparation, if required by local jurisdiction.

1.8. SAFETY

- A. With regard to the work of this contract, the safety of the contractor's employees, the owner's employees, and the public is the sole responsibility of the contractor.

1.9. LIABILITY

- A. The contractor is an independent contractor and not an employee of the Owner or the environmental consultant. The Owner, and environmental consultant shall have no liability to the contractor, or any third persons, for the contractor's failure to faithfully perform and follow the provisions of these Specifications and the requirements of the governing agencies. Notwithstanding the failure of the Owner, or the environmental consultant to discover a violation by the contractor of any of the provisions of these Specifications, or to require the contractor to fully perform and follow any of them, shall not constitute a waiver of any of the requirements of these Specifications, which shall remain fully binding upon the contractor.

1.10. DELIVERY

- A. The contractor shall deliver all materials to the worksite in the original packages, containers or bundles bearing the name of the manufacturer and the brand name.

1.11. STORAGE

- A. The contractor shall store all materials subject to damage off the ground, away from wet or damp surfaces, away from heat sources, and under cover sufficient to prevent damage, contamination, or fire.

1.12. PROTECTION

- A. Damaged or deteriorating materials shall not be used and shall be removed from the premises by the contractor. Materials that become contaminated with asbestos shall be disposed of in accordance with the applicable regulations by the contractor.

1.13. SUBCONTRACTORS

- A. Any subcontractors employed by the contractor shall be bound to all the work and safety standards specified elsewhere in this Specification. Subcontractor's personnel shall be fully trained and supervised by the contractor during performance of this work.

PART 2 PRODUCTS

2.1. MATERIALS

- A. Plastic Sheet: Plastic sheet shall be flame-retardant polyethylene material sized in lengths and widths to minimize the frequency of joints. The minimum thickness shall be 6-mil.
- B. Plastic Bags: Plastic bags shall be 6-mil polyethylene printed with warning labels per OSHA and EPA regulations.
- C. Tape: Tape shall be capable of sealing joints of adjacent sheets of plastic; attaching plastic sheet to finished or unfinished surfaces of dissimilar materials; and adhering under dry and wet conditions, including use of amended water. Minimum of 2-inch-wide tape must be used.

- D. Disposal Containers: Disposal containers shall be suitable to receive and retain any asbestos-containing or contaminated materials until disposal at an approved site. The containers shall be labeled in accordance with OSHA and EPA regulations. Containers must be both airtight and watertight, and have hard top, bottom, and sides.
- E. Warning Labels and Signs: Warning labels and signs shall be posted as required by OR-OSHA, Oregon Department of Transportation, and DEQ regulations.
- F. Amended Water: Clean potable water containing a surfactant additive. The surfactant additive shall be 50% polyoxyethylene ether and 50% polyethylene ester, or equivalent, and shall be mixed with water at a concentration of one-ounce surfactant to five gallons of water, or as recommended by the manufacturer in the case of an equivalent.
- G. Encapsulants (Sealants): Encapsulants shall be of the bridging or penetrating variety and shall be listed as "satisfactory" by the EPA. Encapsulants shall provide a suitable substrate bonding agent for application of new material where appropriate. Penetrating Encapsulant: No. 207 Special Sealer #33775-27A as manufactured by Makus-Cincinnati, Inc.; "Asbestop 30B-2" as manufactured by Asbesco Corp.; "Cable Coating 22-P" as manufactured by American Coatings Corp. or approved. Bridging Encapsulant: Decadex Firecheck, manufacturer's standard color "Magnolia," as manufactured by Pentagon Plastics, Inc.; "Cable Coating 2-B," manufacturer's standard color gray, as manufactured by American Coatings Corp.; or approved.
- H. Rewettable Lagging Cloth: Twelve-ounce glass fabric lagging cloth saturated with dried lagging adhesive. "Dip-Lag" as manufactured by Claremont Co. or approved.
- I. Enclosure: Protective plastic jacketing systems, framed gypsum board enclosures, suspended ceilings or other materials as specified elsewhere.
- J. Other Materials: Provide all other materials such as lumber, nails, and hardware, which may be required to construct and dismantle the decontamination area, and the barriers that isolate the work area, and as required to complete the work, as specified.

2.2. TOOLS AND EQUIPMENT

- A. Water Sprayer: The water sprayer shall be an airless or other low-pressure sprayer for amended water application.
- B. Air-Purifying Equipment: Air-purifying equipment shall consist of HEPA filtration systems. No air movement system or air equipment shall discharge asbestos fibers outside the work area. Each unit shall be capable of variable volume from a minimum of 500 cubic feet per minute (CFM) to at least 1700 CFM under load and shall have at least two stages of pre-filtration ahead of the HEPA final filter. Each unit shall be overload protected and equipped with an elapsed time indicator (hour meter), static pressure gauge with low flow alarm, and heat and smoke sensors that visually and audibly warn workers and shut unit fan down within 30 seconds. The units shall be: Micro-Trap Portable Air Filtration System manufactured by Asbestos Control Technology, Inc., "HOG 2000" Negative-air Protection System manufactured by Control Resource Systems or approved.
- C. Pressure Differential Monitoring Equipment: A combination sensing, alarm, and recording device shall be in operation at all times during use of the HEPA air-purifying equipment. The unit shall be a "Neg-A-Master," manufactured by Control Resource Systems, Inc., or approved.
- D. Water-purifying Equipment: Water-purifying equipment shall be capable of removing all fibers longer than five microns, or as required by local regulations, from water used in abatement work and decontamination showers. Control Resource Systems, Inc. "AQUA-HOG" or approved.
- E. Airless Sprayer: An airless sprayer, suitable for application of penetrating encapsulant material, shall be used.
- F. Vacuum Equipment: All vacuum equipment used in the work area shall be HEPA equipment, and suitable for wet/dry usage.
- G. Scaffolding: Scaffolding, as required to accomplish the specified work, shall meet all applicable safety regulations. All special scaffolding shall have drawings and calculations stamped and signed by a civil or structural engineer registered with the State of Oregon.
- H. Transportation Equipment: Transportation equipment, as required, shall be suitable for loading, temporary storage, transit, and unloading of contaminated waste without exposure to persons or property. Equipment shall have a hard top, bottom, and sides. If equipment is rented, notify rental agency in advance, in writing, of intended use of equipment.

- I. Electrical: Electrical tools, equipment, and lighting shall meet all applicable codes and regulations. Ground fault protection as required by OSHA, shall be in effect at all times. The contractor shall take all additional precautions and measures necessary to ensure a safe working environment during wet removal.
- J. Glovebags: Bags shall be clean poly bags seamless at the bottom, with pre-printed asbestos warning labels, 6-mil PVC with attached TYVEK arms, and latex gloves. Bags shall be Profo' Bag manufactured by Asbestos Control Technology, Inc., or Asbest'O'Saf/SAC by Control Resource Systems, Inc., or approved.
- K. Remote Filter Housing: Stainless steel housing shall have pre-filters and HEPA filter sealed to cabinet flanges by Century Equipment "Advance Guard II" or approved equal.
- L. Other Tools and Equipment: Other suitable tools shall be provided for the removal, enclosure, encapsulation, patching, and disposal activities including, but not limited to, hand-held scrapers, wire brushes, sponges, and rounded-edge shovels.

PART 3 EXECUTION

3.1. FULL ISOLATION WORK AREA PREPARATION

- A. Contractor shall perform the following isolation procedures in the order in which they are presented. Any alternative control measures considered for Class I work shall be performed in accordance with 29 CFR 1926.1101.
 - 1. Shut down, remove filters, and isolate HVAC systems to prevent contamination and fiber dispersal.
 - 2. Use a journeyman electrician at a minimum. It is the Contractor's responsibility to verify operation of systems that will be shut off during abatement. If any system is found to be defective or not operating satisfactorily, the contractor shall notify the CMGC or environmental consultant in writing prior to shutoff.
 - 3. Install critical barriers as follows: seal off all openings including, but not limited to, doorways, windows, and other penetrations of the work area with solid critical barriers except openings left for HEPA air-purification system, which shall be properly HEPA-filtered. Where doors exist, sealing may be done by closing door, sealing with tape on both sides, and then covering both sides with two layers of plastic sheeting.
 - 4. Pre-clean movable objects, such as furniture and equipment to be removed (and carpeting), within the proposed work areas using HEPA-filtered vacuum equipment and/or wet cleaning methods as appropriate and remove such objects from work areas to a temporary location or consolidate such objects away from removal work and enclose with critical barriers.
 - 5. Pre-clean fixed objects within the proposed work areas using HEPA-filtered vacuum equipment and/or wet cleaning methods as appropriate and enclose with critical barriers. Equipment that must continue operating shall be enclosed and ventilated to avoid damage.
 - 6. Set up the worker decontamination enclosure system (decon). Once this system is installed and abatement commences, it shall be used in the specified manner for the ingress and egress of all personnel and equipment, except in emergency situations. All personnel shall sign the worksite entry logbook each time they pass in or out of the decontamination enclosure.
 - 7. Install HEPA air-purifying equipment pressure differential fan system so as to ensure lower static pressure in the isolated work area than in surrounding areas, a flow of air through all parts of the isolated work area towards the air-purifying equipment, and minimum air contamination levels at abatement worker breathing zones. Discharge from air-purifying equipment shall be ducted outside the building. Use one or more units of capacity as recommended by the manufacturer for the volume of the isolated work area, but in no case shall airflow be less than six air changes every 60 minutes with a minimum pressure differential of 0.02 inches wg between the work area and the decon clean room.
 - 8. Cover floor and wall surfaces with plastic sheeting sealed with tape. Cover floors first so that plastic extends at least 12 inches up on walls, then cover walls with plastic sheeting

- to overlap floor plastic by a minimum of 24 inches, thus overlapping the horizontal floor material by a minimum of 12 inches. Install additional layer of plastic sheeting on floor and walls in similar manner. The contractor may use mechanical fastening techniques, such as tack strips, as necessary to secure wall plastic sheeting. The contractor shall repair any damage resulting from mechanical fasteners.
9. Maintain emergency and fire exits from the work areas, or establish alternative exits satisfactory to the local building or fire department officials. Ensure that all exits remain unobstructed and well marked.
 10. Adequate portable fire extinguishing equipment shall be maintained within work area as defined by OSHA and/or local fire department officials.
- B. No asbestos abatement work shall occur unless the work area isolation has been found acceptable for Specification compliance by the environmental consultant.
- C. Isolated work area enclosure system maintenance. The contractor shall be responsible for daily documentation of the following:
1. Prior to the first use, and at the beginning of each shift during abatement work, containments shall be given a complete visual inspection by the contractor's shift foreman and industrial hygienist. Inspection shall include the HEPA air-purification system and associated filters. A smoke tube test by the shift foreman shall then be made of the worker decontamination enclosure system and other critical areas to verify that the isolated area is under negative air pressure. Work shall not begin until all defects have been repaired.
 2. Periodic inspections shall be made, as required, during each shift to assure continued proper functioning of the containment and HEPA system.

3.2. NON-ISOLATED WORK AREA PREPARATION

- A. The contractor shall perform the following procedures in the order in which they are presented and describe procedures for glovebag work and other work in non-isolated work areas. Any alternative control measures considered for Class II work shall be performed in accordance with 29 CFR 1926.1101.
1. Shut down HVAC systems (as appropriate)
 2. Restrict access to work area and post warning signs. Do not perform glovebag work or any abatement work in an occupied area.
 3. Completely pre-clean entire work area using HEPA vacuum equipment or wet cleaning methods.
 4. Set up the worker decontamination enclosure system. Once this system is installed and abatement commences, it shall be used in the specified manner for the ingress and egress of all personnel, except in emergency situations. All personnel shall sign the worksite entry logbook each time they pass in or out of the decontamination enclosure.
 5. At the direction of the environmental consultant, install HEPA exhaust fan in work area. Duct fan intake to immediate area of work in such a manner that any fibers released will be drawn away from the worker and into intake duct.
 6. Cover floor and other surfaces below work area with 6-mil plastic sheeting. Seal openings and install curtained doorways and air locks as directed by the environmental consultant.
 7. Have emergency cleanup equipment and supplies, including HEPA vacuum, amended water, disposal bags, mop, buckets, towels, and sponges on hand prior to start of abatement work.
- B. No asbestos abatement work shall occur unless the work area has been found acceptable for Specification compliance by the environmental consultant or industrial hygiene technician.

3.3. REMOVAL OF ASBESTOS-CONTAINING MATERIALS IN FULL ISOLATION WORK AREAS

- A. The contractor shall isolate work area as specified.

- B. The contractor shall remove all asbestos-containing pipe insulation, surfacing material, and other asbestos-containing materials as defined in the project-specific scope of work and the Hazards Materials Survey Report.
 - 1. The contractor shall spray the asbestos material with amended water. A fine spray of this solution shall be applied to prevent fiber disturbance preceding the removal of the asbestos material. The asbestos shall be sufficiently saturated to prevent emission of airborne fibers in excess of specified fiber levels.
 - 2. The contractor shall remove asbestos material while damp and pack it in sealable plastic bags (6-mil minimum thickness). Bags shall be moved to bag load out facility or equipment room in the worker decontamination system. Outside surface shall be washed and placed inside a second plastic bag (6-mil minimum thickness) bearing DEQ warning label, name of waste generator, and location from which waste was generated.
 - 3. After completion of stripping work, the contractor shall clean all surfaces from which asbestos has been removed by brushing and/or wet sponging or cleaning by an equivalent method to remove all visible material. During this work the surfaces being cleaned shall be kept wet. Avoid using wire brushes if possible.
 - 4. The contractor shall collect all water used in the removal and cleaning process and dispose of as contaminated waste or filter to remove all fibers more than five microns in length before disposal in the municipal sewer system, or as required by local regulations. Water filters shall be disposed of as asbestos-contaminated material.
- C. Removal of non-friable materials, such as floor tiles, shall be accomplished by such manner as to minimize breakage and maintain non-friability. Do not drop, throw, saw, or scrape non-friable materials during removal, handling, or disposal. The use of spud bars to remove floor tiles is an acceptable practice.
- D. The contractor shall maintain a safe and uncluttered work area, worker decontamination system, and bag load out facility on a daily basis.

3.4. REMOVAL OF ASBESTOS-CONTAINING MATERIALS IN NON-ISOLATED AREAS

- A. The contractor shall apply spray coat of amended water to material to be removed; material shall be kept damp during entire removal process.
- B. Glovebag work shall be as follows. All removal using the glovebag method shall be performed strictly according to regulations, manufacturer's printed instructions, and as demonstrated by the manufacturer's representative or as further specified in this section. Workers are not to smoke or wear hand or wrist jewelry while using glovebags.
 - 1. The contractor shall coordinate the shutoff of all sources of heat to objects to be worked on. Do no work on objects above 150 degrees Fahrenheit (°F).
 - 2. The contractor shall install port for hose of HEPA vacuum to create reduced pressure inside glovebag. Installing of fresh air intake and/or bridging to prevent collapse of bag are acceptable. Reduced pressure shall be maintained throughout entire abatement procedure.
 - 3. During the removal phase, the contractor shall use amended water to reduce potential for airborne fibers.
 - 4. After completion of insulation removal and cleaning, but prior to removal of glovebag, the contractor shall apply a single "tack" coat of penetrating encapsulant to surface of pipe and any remaining non-asbestos insulation, within the glovebag.
 - 5. After the pipe has been sealed, but prior to removal of glovebag, the contractor shall thoroughly wash the upper chamber of the glovebag and seal the contents of the bag in the lower chamber.
 - 6. The contractor shall seal flap if used and, using a HEPA vacuum, remove all contaminated air in the upper chamber.
 - 7. The contractor shall follow procedures set forth in Section 02 82 13.11 in case of a spill or if air analysis indicates a fiber count in excess of limits.

8. The contractor shall promptly double-bag the glovebag after removal is complete, place it into a sealed container, and remove to the bag holding enclosure.
9. The contractor shall cover ends of remaining existing insulation with rewettable lagging cloth. Lagging cloth shall be extended a minimum of 6 inches back along existing insulation.
- C. Wrap and cut method shall be as follows: at intervals determined by the contractor, glovebag-remove 2 to 3 feet of asbestos-containing pipe insulation as specified. Seal remaining pipe, with asbestos-containing pipe insulation intact, in two separate layers of 6-mil plastic sheeting. Cut pipe wrap sections at ends taking care to not damage adjacent wrapped or unwrapped insulated sections. Label double-wrapped pipe as specified for disposal. Obtain approval of landfill prior to utilizing this method. Dispose as contaminated waste in accordance with Specifications and approved landfill requirements.
- D. Removal of cement asbestos board and similar material shall be as follows: material shall be removed one sheet or piece at a time. Material shall be kept continuously wet. Cut or remove fasteners one at a time while running HEPA vacuum at the point where work is being done so as to collect all dislodged particles and fibers.
 1. When all fasteners have been removed, carefully remove entire sheet or piece and wrap in 6-mil plastic sheeting while still wet. Do not drop, throw, break, saw, or scrape cement asbestos board during removal, handling, or disposal.
 2. Label, transport, and dispose of wrapped sheets as specified in the Disposal section.
 3. Clean entire substrate with HEPA vacuum or wet cleaning methods and leave ready for application of replacement material.

3.5. CLEANUP IN FULL ISOLATION WORK AREAS

- A. At the conclusion of removal in the isolated work area, conduct cleanup in the sequence described below. Windows, doors, HVAC vents, etc. shall remain sealed and HEPA-filtered pressure differential fan systems shall remain in service.
 1. REMOVE MATERIAL AND EQUIPMENT. The contractor shall remove visible accumulations of material and debris (including filters removed from HVAC equipment and HEPA air-purification equipment). Contractor shall include all sealed containers and equipment used in the work area in the cleanup and remove them from the work area after decontamination of outer surfaces.
 2. FIRST CLEAN. The contractor shall clean all surfaces in the work area and any other contaminated areas with water and/or HEPA-filtered vacuum equipment.
 3. WAIT 24 HOURS. After the first cleaning of the work area, wait 24 hours to allow for settlement of dust. During this settling period, no entry to the work area shall be allowed.
 4. SECOND CLEAN. Wet-clean or clean with HEPA-filtered vacuum equipment all surfaces in the work area. After completion of the second cleaning operation, perform a complete visual inspection of the work area to ensure that the work area is free of visible debris.
 5. VISUAL INSPECTION. Prior to application of post-removal encapsulant, contact the environmental consultant for a visual observation of the work area. The work area shall be free of visible debris. Observation by the consultant does not alleviate the contractor of responsibility to provide work in compliance with the Specifications. The contractor shall contact the environmental consultant at least 24 hours prior to desired inspection time.
 6. REMOVE PLASTIC SHEETING. After visual observation by the consultant, the contractor shall apply a coat of approved encapsulant to all surfaces in the work area where asbestos has been removed and to disposable plastic sheeting as a post-removal encapsulant. Encapsulant application shall follow all applicable manufacturer recommendations and shall provide a compatible bonding agent for application of new material.
 7. FINAL CLEAN. After the encapsulation is complete, the contractor shall remove all noncritical plastic and clean all floors, walls, fixtures, and other surfaces within the work area with only critical barriers in place using wet methods or HEPA-filtered vacuum equipment. Plastic sheeting over carpets may remain in place.
 8. CONTACT ENVIRONMENTAL CONSULTANT. The environmental consultant shall be contacted for a visual observation of the work area. The work area shall be free of visible

debris. Observation by the consultant does not alleviate the contractor of responsibility to provide work in compliance with the Specifications. The contractor shall contact the environmental consultant at least 24 hours prior to desired inspection time. The consultant shall conduct final air monitoring as specified after work area has been allowed sufficient time to dry.

9. TEARDOWN. When the final observation by the environmental consultant and air sampling test results are satisfactory, the contractor shall then remove the decontamination systems and remaining barriers.
10. DISPOSAL. The contractor shall properly dispose of all waste materials. All polyethylene material, tape, cleaning material, and contaminated clothing shall be double-bagged, sealed, and labeled as described above for asbestos waste material.

3.6. CLEANUP IN NON-ISOLATED WORK AREAS

- A. FIRST CLEAN. The contractor shall remove visible accumulations of asbestos material and debris. All surfaces shall be cleaned within the affected work area. Cleaning shall be with amended water and/or HEPA-filtered vacuum equipment. In a large open area, the affected work area shall include the immediate work area and an area that encompasses at least 6 feet in all directions or as defined by the environmental consultant. In small work areas, the affected work area shall include the entire room.
- B. AFFECTED AREA. The affected work area may be further defined in the scope of work by the environmental consultant. During the work, high fiber levels, as indicated by air monitoring results, may increase the area to be cleaned. The increase in the affected area due to high fiber levels or other indications of fiber dispersal will be defined by the environmental consultant, and the contractor shall bear all costs of additional cleaning.
- C. VISUAL INSPECTION. After completion of the cleaning operation, the environmental consultant shall perform a visual observation of the affected work area to ensure that the affected work area is free of visible dust and debris. Observation by the consultant does not alleviate the contractor of responsibility to provide work in compliance with the Specifications. The contractor shall contact the environmental consultant at least 24 hours prior to desired inspection time.
- D. ENCAPSULANT. After visual observation by the environmental consultant, the contractor shall spray-apply encapsulant to the material substrate, all temporary plastic sheeting, and other temporary protective materials.
- E. CLEARANCE SAMPLING. Post-abatement air sampling shall be at the discretion of the environmental consultant and will be determined by the ongoing sample results.
- F. TEARDOWN. When the final observation by the environmental consultant and air sampling test results (if required) are satisfactory, the temporary plastic sheeting and other temporary protective materials shall be removed by the contractor.
- G. DISPOSAL. The contractor shall properly dispose of all waste materials, all polyethylene material, tape, and cleaning material, and contaminated clothing shall be double-bagged, sealed, and labeled as described for asbestos waste material.

3.7. RE-ESTABLISHMENT OF OBJECTS AND SYSTEMS

- A. When cleanup is complete, the contractor shall:
 1. Relocate objects moved to temporary locations in the course of the work to their former positions. Coordinate with the Owner.
 2. Clean, repair and/or repaint all surfaces soiled, discolored, or damaged by removal of tape, adhesive, or other work of this contract to match existing surfaces. The contractor shall bear all costs associated with damage incurred during the abatement, which includes, but is not limited to, perimeter plaster walls, wall murals, windows, and mullions
 3. If the contractor uses caulking to seal cracks in concrete floor, the caulking must be removed to the architect's satisfaction at completion of project.
 4. Return mechanical, electrical, and other systems shut down by the contractor to complete and functional operation.
 5. Re-secure objects removed in the course of work in their former positions, including air dampers in plenums, and adjust for proper operation.
 6. Clean, repair and/or repaint all surfaces soiled, discolored, or damaged by removal of tape, adhesive, or other work of this contract to match adjacent surfaces.

3.8. DISPOSAL

- A. The contractor shall affix warning labels having waterproof print and permanent adhesive to the lid and sides of all containers. Warning labels shall be conspicuous and legible, and contain the following words:

DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD
AVOID BREATHING AIRBORNE ASBESTOS FIBERS

- B. The contractor shall determine current waste handling, transportation, and disposal regulations for the work site and for each waste disposal landfill. The contractor must comply with these regulations and all US Department of Transportation, DEQ, and EPA requirements. Double-bagged material in containers shall be delivered to the pre-designated disposal site for burial. Labels and all necessary signs shall be in accordance with DEQ and OSHA standards.
- C. The contractor shall remove decontaminated containers from the site as soon as possible and notify the disposal site in advance of material delivery to assure immediate burial of containers.
- D. If the bags are broken or damaged, or the container is contaminated, the contractor shall clean and decontaminate the entire container for reuse.
- E. The contractor shall submit three copies of written proof of disposal at approved disposal site to the environmental consultant prior to completion of the abatement work specified in this section. The contractor shall use copies of the DEQ Waste Shipment Record ASN-4, completely filled out and signed, and accompanied by tickets and/or receipts from disposal site.

END OF SECTION

SECTION 31 10 00 SITE CLEARING

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. General Provisions of the Contract, including General and Special Conditions and Division-1 Specification sections, apply to work of this section.

1.2 SUMMARY

- A. Section Includes:
 - 1. Removing above- and below-grade site improvements.
 - 2. Disconnecting, and removing site utilities.
 - 3. Temporary erosion- and sedimentation-control measures.
 - 4. Septic Tank and Drainfield decommissioning

1.3 REFERENCED DOCUMENTS

- A. Oregon Department of Transportation (ODOT) Standard Specifications, current edition
- B. Oregon Department of Transportation (ODOT) Standard Drawings, current edition
- C. Environmental Conditions and Inventory Report (Environmental Report), prepared by PBS Engineering and Environmental dated April 2021.
- D. Hazardous Materials Survey Report (Hazmat Report), prepared by PBS Engineering and Environmental dated April 2021.

1.4 MATERIAL OWNERSHIP

- A. Except for materials indicated to remain Owner's property, such as observation wells and portions of exterior fences, cleared materials shall become Contractor's property and shall be removed from Project site.

1.5 PROJECT CONDITIONS

- A. Traffic: Minimize interference with adjoining roads, streets, walks, and other adjacent occupied or used facilities during site-clearing operations.
 - 1. Do not close or obstruct streets, walks, or other adjacent occupied or used facilities without permission from Owner and authorities having jurisdiction.
 - 2. Provide alternate routes around closed or obstructed traffic ways if required by Owner or authorities having jurisdiction.
- B. Utility Locator Service: Notify utility locator service for area where Project is located a minimum of 48 hours before site clearing.
- C. Do not commence site clearing operations until temporary erosion- and sedimentation-control measures are in place.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Satisfactory Soil Material: Requirements for satisfactory soil material are specified in Division 31 Section "Earth Moving".
 - 1. Obtain approved borrow soil material off-site when satisfactory soil material is not available on-site.

PART 3 - EXECUTION

3.1 PREPARATION

- A. Protect and maintain benchmarks and survey control points from disturbance during construction.
- B. Protect existing site improvements indicated to remain owner's property, such as observation wells, from damage during site clearing and restoration.
 - 1. Restore damaged improvements to their original condition, as acceptable to Owner.

3.2 TEMPORARY EROSION AND SEDIMENTATION CONTROL

- A. Provide temporary erosion and sedimentation control measures to prevent soil erosion and discharge of soil-bearing water runoff or airborne dust to adjacent properties and walkways, according to requirements of authorities having jurisdiction, including but not limited to the

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Confederated Tribes of the Umatilla Indian Reservation.

- B. Verify that flows of water redirected from construction areas or generated by construction activity do not enter or cross protection zones.
- C. Inspect, maintain, and repair erosion and sedimentation control measures during construction until permanent vegetation such as hydroseed has been established.
- D. Remove erosion and sedimentation controls and restore and stabilize areas disturbed during removal.

3.3 EXISTING UTILITIES

- A. Locate, identify, disconnect, and remove from Project Site all above-ground and below-ground utilities except those indicated to be removed by the utility company owning said utility. Utilities for removal include but are not limited to private culverts, private below ground electrical conduits, electrical boxes, breakers and circuits, communication lines, propane plumbing and propane tanks, wastewater lines connected to septic tanks, and above- and below-ground irrigation and potable water piping and spigots.
 - 1. Arrange with utility companies to shut off indicated utilities.
 - 2. Overhead electrical lines and associated electrical poles and pole mounted transformers are to be removed by the utility company, and are to be protected by the contractor from damage during site clearing and restoration.
- B. Interrupting Existing Utilities: Do not interrupt utilities serving facilities occupied by Owner, neighboring residents or others unless permitted under the following conditions and then only after arranging to provide temporary utility services according to requirements indicated:
 - 1. Notify the Wenaha Group not less than two days in advance of proposed utility interruptions.
 - 2. Do not proceed with utility interruptions without written permission from the Wenaha Group.

3.4 GRADING

- A. Fill depressions caused by site clearing including but not limited to pits or depressions resulting from building and/or foundation demolition, septic tank or drainfield decommissioning, well decommissioning and trenching for utility removal,
 - 1. Place fill material in horizontal layers not exceeding a loose depth of 8 inches, and compact each layer to a density equal to adjacent original ground.
 - 2. Contractor shall use available fill material from on site and avoid imported material unless necessary.

3.5 FENCING

- A. Remove fence posts, fence panels, barbed wire and other fence elements within and along property boundaries except as indicated below and depicted on Drawing Sheets 1-6.
 - 1. Fence elements along the western side of Sampson Lane, and along the boundary of the southeast adjacent property located at 47587 Wa Wa NE Lane will be protected from damage by the contractor as shown in Drawing Sheet 1.
 - 2. Fence elements along the western boundary of the Jeremy Moore property and the eastern boundaries of the Hall property will be protected from damage by the contractor as shown in Drawing Sheet 2.
 - 3. Fence elements along the eastern, southern and a portion of the western boundaries of the Hendrickson property will be protected from damage by the contractor as shown in Drawing Sheet 3.
 - 4. No fence elements require protection from damage by the contractor on the Obornik property. See Drawing Sheet 4.
 - 5. Fence elements along the eastern boundary of the Caldwell property will be protected from damage by the contractor as shown in Drawing Sheet 5.
 - 6. Fence elements along the western, northern and eastern boundaries of the Beers property will be protected from damage by the contractor as shown in Drawing Sheet 6.

3.6 SITE IMPROVEMENTS

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SITE CLEARING

- A. Remove existing above and below grade improvements as indicated and necessary to restore Project Site to natural condition including but not limited to site structures, foundational elements, footings, above- and below-ground utilities except where otherwise noted, debris, septic tanks, and general rubbish.
 - 1. Obtain necessary permits from authority having jurisdiction, including Stream Zone Alteration Permits from CTUIR, for removal of site improvements. See Environmental Inventory Report for additional detail.
- B. Demolition and removal of site improvements shall be performed in accordance with Specification Section 02 41 17 Demolition and Destruction.
- C. Removal of all paving, gravel, asphalt and concrete pads, driveways, parking, etc.

3.7 SEPTIC TANK AND DRAINFIELD DECOMMISSIONING

- A. Remove septic tanks from Project Site.
- B. Remove all drain lines and other leach field elements connecting to septic tanks on the Project Site.
- C. See Section 5 of the Environmental Inventory Report for additional detail.

3.8 DISPOSAL OF SURPLUS AND WASTE MATERIALS

- A. Contractor shall assume all manmade debris observed onsite during bid process will be responsibility of contractor to remove in accordance with the applicable regulations of the authority having jurisdiction, including but not limited to the Confederated Tribes of the Umatilla Indian Reservation. Contractor shall take ownership of materials removed from the Project Site and dispose and/or recycle said materials in accordance with local, state and federal regulations.
- B. Remove obstructions, demolished materials, waste materials including trash and debris, and any other manmade materials or improvements present at the Project Site and legally dispose of them off Owner's property in accordance with local, state and federal regulations.
- C. Separate recyclable materials produced during site clearing from other non-recyclable materials. Store or stockpile without intermixing with other materials and transport them to appropriate recycling facilities. Do not interfere with other project work.
- D. Contractor shall provide all documentation and receipts from landfills, recycling facilities, or other disposal facilities for the disposal of all site improvements and waste materials removed from the Project Site.

END OF SECTION

**SECTION 31 20 00
EARTH MOVING AND HYDROSEEDING**

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. General Provisions of the Contract, including General and Special Conditions and Division-1 Specification sections, apply to work of this section.

1.2 SUMMARY

- A. Section Includes:
 - 1. Backfilling for buildings and structures.
 - 2. Backfilling for septic tanks.
 - 3. Backfilling for utility trenches.
 - 4. Hydroseeding Native Dryland Mix.

1.3 REFERENCED DOCUMENTS

- A. Oregon Department of Transportation (ODOT) Standard Specifications, current edition
- B. Oregon Department of Transportation (ODOT) Standard Drawings, current edition

1.1 DEFINITIONS

- A. Backfill: Soil material used to fill an excavation.
 - 1. Backfill: Native soil sourced from the Project Site placed within a pit, depression or trench to bring the depression to desired and/or surrounding grade.
- B. Excavation: Removal of material encountered above subgrade elevations and to lines and dimensions indicated.
 - 1. Authorized Additional Excavation: Excavation below subgrade elevations or beyond indicated lines and dimensions as directed by Owner and/or Owner's Representative. Authorized additional excavation and replacement material will be paid for according to Contract provisions for changes in the Work.
 - 2. Unauthorized Excavation: Excavation below subgrade elevations or beyond indicated lines and dimensions without direction by Owner and/or Owner's Representative. Unauthorized excavation, as well as remedial work directed by Owner or Owner's Representative, shall be without additional compensation.
- C. Artificial Fill: Soil materials sourced from outside of the Project Site brought to the Project Site to be used as backfill.
- D. Structures: Buildings, footings, foundations, retaining walls, slabs, tanks, curbs, mechanical and electrical appurtenances, or other man-made stationary features constructed above or below the ground surface.
- E. Subgrade: Uppermost surface of an excavation or the top surface of a fill or backfill immediately below subbase, drainage fill, drainage course, or topsoil materials.
- F. Utilities: On-site underground pipes, conduits, ducts, and cables, as well as underground services within buildings.

1.2 QUALITY ASSURANCE

- A. Pre-excavation Conference: Conduct conference at Project site.

1.3 PROJECT CONDITIONS

- A. Utility Locator Service: Notify utility locator service for area where Project is located before beginning earth moving operations.

PART 2 - PRODUCTS

2.1 SOIL MATERIALS

- A. General: Provide borrow soil materials when sufficient satisfactory soil materials are not available from excavations.
- B. Satisfactory Soils: Soils deemed by the contractor to be suitable for use as backfill

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based on structural properties.

- C. Unsatisfactory Soils: Soil Classification Groups GC, SC, CL, ML, OL, CH, MH, OH, and PT according to ASTM D 2487, or a combination of these groups.

2.2 HYDROSEEDING

- A. Provide for hydroseeding as set forth in Oregon State Department of Transportation (ODOT) "Oregon Standard Specifications for Construction: (most current edition) for hydroseeding.
- B. Suspended Tackifier: Liquid tackifier with cellulose fiber as specified in ODOT standard 01030.48(4)a.
1. Liquid Tackifier Manufacturers:
 - a. WIL-TACK (Sodium Acrylate/Acrylamide) by Wilbur Ellis Company LLC
 - 1) Address: 150 Burlington St, Pasco, WA 99301
 - 2) Phone: 509-545-9329
 - 3) Sale Representative: Mike Smith
 - 4) Web: <http://ag.wilburellis.com/Products/pages/WIL-TACK.aspx>
 - b. Contractor to select and provide Product MSDS and/or manufacturer label for product information to Owner's Representative for approval.
 2. Fiber Manufacturers:
 - a. Excel Fiber Mulch II from American Excelsior Corporation:
 - 1) Address: 850 Ave. East, Arlington, TX 76011
 - 2) Phone: 800-777-7645
 - 3) Fax: 817-649-7816
 - 4) Web: <https://americanexcelsior.com/product/?sub=18>
 - b. EFM Bonded Fabric Matrix by Profile Products LLC
 - 1) Address: 750 W. Lake Cook Rd, Suite 440, Buffalo Grove, IL 60089
 - 2) Corporate Office: 847-215-1144
 - 3) Erosion/Vegetative Solutions Phone: 800-508-8681
 - 4) Web: <http://www.profileevs.com/products/hydraulic-erosion-control/advancedfiber-matrices>
 3. Contractor to select and provide Product MSDS and/or manufacturer label for product information to Project manager for approval.

PART 3 - EXECUTION

3.1 PREPARATION

- A. Protect and maintain erosion and sedimentation controls during earth moving operations.

3.2 EXCAVATION, GENERAL

- A. Unclassified Excavation: Excavate to subgrade elevations regardless of the character of surface and subsurface conditions encountered. Unclassified excavated materials may include rock, soil materials, and obstructions. No changes in the Contract Sum or the Contract Time will be authorized for rock excavation or removal of obstructions.
1. If excavated materials intended for fill and backfill include unsatisfactory soil materials and rock, replace with satisfactory soil materials.
 2. Contractor must notify Wenaha Group if any contaminated soil is found. Soil must be removed from site.

3.3 EXCAVATION, FORMER AST LOCATION

- A. Contractor shall excavate approximately 5 yards of petroleum contaminated soil from beneath the location of the former diesel ASTs on the Obornik Property as detailed in Section 7.1 of the Environmental Inventory Report.
1. Contractor shall provide unit price on a per cubic yard basis for removal, transport and disposal of an estimated 5 cubic yards of petroleum contaminated soil at an accepting facility in accordance with federal, state and local regulations.

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2. Contractor shall provide all documentation and receipts related to transport and disposal of contaminated soil to the Owner's Representative within 30 days of disposal.

3.4 STORAGE OF SOIL MATERIALS

- A. Stockpile borrow soil materials and excavated satisfactory soil materials without intermixing. Place, grade, and shape stockpiles to drain surface water. Cover to prevent windblown dust.
 1. Stockpile soil materials away from edge of excavations.
 2. To the extent practicable, avoid unnecessary stockpiling of soils by using spoils generated by excavation as backfill of the trench or excavation from which the material was generated at the end of each working day.

3.5 BACKFILL

- A. Backfill material generated from excavation of below-grade utilities or site improvements shall be placed adjacent to but a safe distance away from the excavation from which they were generated.
- B. Upon completion of removal of below-grade utilities or site improvements, backfill staged adjacent to the excavation from which it was generated shall be placed back into the excavation, depression or trench in horizontal layers not exceeding 8 inches and compacted to a density equal to adjacent original ground.
- C. Place backfill on subgrades free of debris, mud, frost, snow, or ice.

3.6 GRADING

- A. General: Uniformly grade areas to a smooth surface, free of irregular surface changes.

3.7 HYDROSEEDING

- A. Include seed in hydroseeding as set forth ODOT 01030.48.
- B. Hydroseed with machine. Do not hydroseed when wind velocity exceeds 5 mph.
 1. Evenly distribute seed by sowing equal quantities in two directions at right angles to each other.
 2. Do not use wet seed or seed that is moldy or otherwise damaged.
 3. Do not seed against existing trees. Limit extent of seed to outside edge of planting saucer.
- C. Application rate of seed to meet application rates in conjunction with tackifier and cellulose fiber application rates as follows:
 1. Native Dryland Seed Mix at an application rate: 36.8 pounds live seed (PLS)/acre.
- D. Protect seed on slopes greater than 10% with erosion cloth as specified above.
- E. Protect seeded areas with slopes not exceeding 1:6 with:
 1. Reapply Hydroseeding Tackifier and Fiber without seed at a rate as outlined above prior to forecasted wind speeds that will exceed 25 miles per hour or temperatures exceeding 90 degrees F as needed to prevent wind/water erosion or drying of un-germinated seed. Contractor to schedule one protective spray in addition to initial hydroseeding with seed. Do not apply hydroseed after seed has germinated and rooted. Contractor to credit owner if application is not used. Contact Owner's Representative if contractor if additional applications are required with standard approval and change order procedures.

1.1 DISPOSAL OF SURPLUS AND WASTE MATERIALS

- A. Remove surplus satisfactory soil and waste materials, including unsatisfactory soil, trash, and debris, and legally dispose of them off Owner's property in accordance with local, state and federal regulations.

END OF SECTION

SECTION 31 30 00 WELL DECOMMISSIONING

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. General Provisions of the Contract, including General and Special Conditions and Division-1 Specification sections, apply to work of this section.

1.2 SUMMARY

- A. Section Includes:
 - 1. Well decommissioning

1.3 REFERENCED DOCUMENTS

- A. Oregon Department of Transportation (ODOT) Standard Specifications, current edition
- B. Oregon Department of Transportation (ODOT) Standard Drawings, current edition
- C. Environmental Conditions and Inventory Report (Environmental Report), prepared by PBS Engineering and Environmental dated April 2021.
- D. CTUIR Administrative Rules and Standards to the Water Code – Section 500: Standards for the Construction and Maintenance of Wells on the Umatilla Indian Reservation.
- E. Water Code - Statutes of the Confederated Tribes of the Umatilla Indian Reservation As Amended through Resolution No. 20-090 (September 28, 2020).

1.4 MATERIAL OWNERSHIP

- A. Except for materials indicated to remain Owner's property, such as observation wells and portions of exterior fences, cleared materials shall become Contractor's property and shall be removed from Project site.

1.5 PROJECT CONDITIONS

- A. Traffic: Minimize interference with adjoining roads, streets, walks, and other adjacent occupied or used facilities during site-clearing operations.
 - 1. Do not close or obstruct streets, walks, or other adjacent occupied or used facilities without permission from Owner and authorities having jurisdiction.
 - 2. Provide alternate routes around closed or obstructed traffic ways if required by Owner or authorities having jurisdiction.
- B. Utility Locator Service: Notify utility locator service for area where Project is located a minimum of 48 hours before site clearing.
- C. Do not commence well decommissioning operations until temporary erosion- and sedimentation-control measures are in place.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Materials used for well sealing and/or decommissioning shall meet the requirements of the referenced documents presented in Section 1.3 of this specification section.
 - 1. .

PART 3 - EXECUTION

3.1 WELL DECOMMISSIONING

- A. Decommission all water wells, excluding two observation wells on the Obornik property, in accordance with the Confederated Tribes of the Umatilla Indian Reservation Administrative Rules and Standards to the Water Code Section 500: Standards for the Construction and Maintenance of Wells on the Umatilla Indian Reservation 512. Abandonment of Wells (p. 137).
- B. Obtain necessary well decommissioning permits from CTUIR. Well decommissioning permit fees will be waived for the project.
- C. Well logs for Project Site wells to be decommissioned are included as Appendix A of the Environmental Report.
- D. Above-grade improvements associated with and connected to wells are to be removed from the Project Site in accordance with Existing Utilities and Site Improvement sections of this specification section.

31 30 00
WELL DECOMMISSIONING

3.2 DISPOSAL OF SURPLUS AND WASTE MATERIALS

- A. Remove obstructions, demolished materials, waste materials including trash and debris, and any other manmade materials generated as waste during well decommissioning. Legally dispose of them off Owner's property in accordance with local, state and federal regulations.
- B. Separate recyclable materials produced during site clearing from other non-recyclable materials. Store or stockpile without intermixing with other materials and transport them to appropriate recycling facilities. Do not interfere with other project work.

END OF SECTION