

ADVERTISEMENT FOR BIDS 24-RFP-055

Second Posting

Karuk Tribe
64236 Second Avenue
Happy Camp, California 96039

Separate sealed BIDS will be received for construction of the **YREKA ROADWAY IMPROVEMENTS SAFETY PROJECT, located on Apsuun, Kahtishraam, Virusur and Yellowhammer Roads in Yreka, CA 96097. Site visits are strongly encouraged prior to bid submittal, and all bidders are expected to be fully familiar with site conditions, bid item quantities and requirements prior to submitting a bid.**

Bids will be received at the **Karuk Tribe, 64236 Second Avenue, Happy Camp, California 96039** or by email to **rfpresponse@karuk.us, until Friday, October 11, 2024, 5PM, PST.**

SCOPE OF WORK

The project consists of traffic and pedestrian safety measures including the installation of new speed humps, road signs, metal beam guard rail, asphalt dike, relocation of existing streetlights, road end gates, traffic lane striping, speed hump striping, crosswalk striping, and stop bar striping. All spoils materials from this project shall be hauled off-site to non-tribal property. The sealed bid sheet also includes mobilization and traffic control. BID sheet is included in this document and design plans can be found on the Tribe's website at www.karuk.us.

Qualified Bidders shall detail their experience working on similar construction projects with state, federal or local agencies and/or with Tribes, and include at least three (3) current references. Contractor must possess current appropriate licensing for the project work, and must submit proof of insurance, Bid Bond, Non-collusive Affidavit, Contractor Questionnaire, Statement of Qualifications (if claiming Tribal preference) and TERO documents with the BID. A conditional or qualified BID will not be accepted if it modifies the Plans or Specifications or method of work.

The Contract Documents are available and may be examined at the following locations:

Humboldt Builder's Exchange, Eureka, CA
Shasta Builders Exchange, Redding, CA
Karuk Tribe webpage, online
KDOT office, Orleans, CA

Each proposal must be submitted on the prescribed form and accompanied by a certified check or Bid Bond in an amount of not less than 10 percent of the amount of bid. Successful bidders will be required to furnish both a Payment Bond and Performance Bond in the full amount of the Contract Price.

Preference in the award of this Contract shall be given to Indian and Alaskan Native organizations and economic enterprises. The Owner shall give preference to a 51% Indian-owned Economic Enterprise so long as the bid by this enterprise does not exceed the lowest responsive bid submitted by more than 5%. "Indian-owned Economic Enterprise" means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, provided that such Indian ownership shall constitute not less than 51% of the enterprise, and that ownership shall encompass active operation and control of the enterprise. All preferences shall be publicly announced at the bid opening. Any contractor claiming Indian preference shall complete and submit, with his or her BID, Tribal Identification Card(s), the form entitled "Statement of Qualifications, Alaska Native or Indian Owned Enterprise" (included in the bidding package). **All required TERO documents (including the TERO Compliance Plan) must be included in the BID,**

whether or not you're claiming tribal preference, or the BID will be deemed ineligible (See Section M).

KARUK TRIBE

YREKA ROADWAY IMPROVEMENTS SAFETY PROJECT

Project Number: J-52555 0037.10
CONTRACT DOCUMENTS

Owner:

Karuk Tribe
64236 Second Avenue
P.O. Box 1016
Happy Camp, California 96039
(530) 627-3016



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A.

INFORMATION FOR BIDDERS

BID SUBMITTALS AND CONDITIONS

BIDS will be received by Contract Compliance Officer, Karuk Tribe (herein called the "Owner"), at 64236 Second Avenue, Happy Camp, California 96039 until the time listed in the Advertisement for BIDS; and then at said office publicly opened and read aloud.

FAXED BIDS WILL NOT BE ACCEPTED.

The following documents constitute a complete bid and are required to be submitted to form a responsive bid:

- i. Form of Bid
- ii. Bid Bond
- iii. Contractor's Questionnaire
- iv. Non-Collusive Affidavit
- v. Statement of Qualifications for Indian Preference (if claimed)
- vi. TERO Compliance Plan

Each bid must be submitted in a sealed envelope, addressed to Contract Compliance, Karuk Tribe Administrative Office, 64236 Second Avenue, Happy Camp, California 96039. Each sealed envelope containing a bid must be plainly marked on the outside as **BID FOR YREKA ROADWAY IMPROVEMENTS SAFETY PROJECT J52555-0037.10**, and the envelope should bear on the outside the name of the bidder, his/her address, his/her license number if applicable, and the name of the Schedule or Schedules for which the bid is submitted. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed to:

Emma Lee Perez
Contract Compliance Special
P.O. Box 1016
Happy Camp, California 96039

BIDS received after the date and time specified for opening will not be considered. If forwarded by mail, the bid must be received by the date and time of opening. Any BIDS received after the time and date of opening resulting from untimely delay due to the mail system or other methods of conveyance will not be considered. The bidder is solely responsible for timely delivery of his bid.

Bids received prior to the time of opening will be securely kept, unopened. The official who is to open the BIDS will decide when the specified time has arrived, and no BID received thereafter will be considered. No responsibility will attach to office personnel for the premature opening of a bid not properly addressed and identified. Telegraphic BIDS or modifications will not be considered.

Any BIDS may be withdrawn prior to the above scheduled time for the opening of BIDS or authorized postponement thereof.

All BIDS must be made on the required BID form. All blank spaces for BID prices must be filled in, in ink or typewritten, and the BID form must be fully completed and executed when submitted. A conditional or qualified BID will not be accepted. BIDDERS may copy the required pages from the Project Manual, and prepare their bid on those copies, in lieu of submitting the entire Project Manual. Each signature page must bear an original signature, whether within or separate from the project Manual.

BIDDERS shall have a current California Contractors License appropriate for the nature of work to be performed. Legitimate BIDDERS (Licensed and Bonded in accordance with current California State Contractor's Law) shall have a License Class A.

The Contractor must comply with the minimum rates for wages in accordance with the provision of the Davis-Bacon and Related Act and shall provide appropriate certifications indicating compliance.

After BIDS have been submitted, the BIDDER shall not assert that there was a misunderstanding concerning the quantities of WORK or of the nature of the WORK to be done. No BIDDER may withdraw a BID within 60 (sixty) days after the actual date of the opening thereof. Should there be reasons why the contract cannot be awarded within the specified period; the time may be extended by mutual agreement between the OWNER and the BIDDER.

BID REVIEW AND AWARD

The OWNER may waive any informalities or minor defects or reject any and all BIDS.

Award will be made to the lowest responsive, responsible BIDDER with due consideration for Indian Preference.

BIDDING INFORMATION

The OWNER shall provide to BIDDERS prior to BIDDING:

- i. A package containing the BID and CONTRACT DOCUMENTS necessary to construct the project.
- ii. All information which is pertinent to, and delineates and describes, the land owned and rights-of-way acquired or to be acquired.
- iii. Bidders shall be expected to be familiar with site conditions prior to submitting a bid. **Site visits are highly encouraged to be familiar with location, bid items, and site conditions.**

The CONTRACT DOCUMENTS contain the provisions required for the construction of the PROJECT. Information obtained from an officer, agent, or employee of the OWNER or any other person shall not affect the risks or obligations assumed by the CONTRACTOR or relieve him from fulfilling any of the conditions of the contract.

BIDDERS must satisfy themselves as to the accuracy of the estimated quantities in the BID Schedule by examining the site and reviewing the drawings and specifications including ADDENDA. The failure or omission to do this shall in no way relieve any BIDDER from any obligation in respect to his BID.

Questions regarding the Plans and Specifications shall be submitted in writing to:
mrickwalt@karuk.us no later than 5:00PM PST, October 3, 2024.

QUESTIONNAIRE AND FINANCIAL STATEMENT FORM

BIDDERS must fill out, sign and submit this form as part of the proposal. BIDDERS must also, if required, present additional satisfactory evidence that they are fully prepared with the necessary experience, capital, machinery and materials to furnish the articles called for and to conduct the work as required by the drawings and specifications.

NON-COLLUSIVE AFFIDAVIT

Each person submitting a bid for any portion of the work contemplated by the bidding documents shall execute an affidavit, in the form provided by the Owner, to the effect that he has not colluded with any other person, firm or corporation in regard to any bid submitted. Such affidavit shall be attached to the bid.

BONDING REQUIREMENTS

BID, PERFORMANCE, and PAYMENT BONDS will be required for this project.

BID BONDS totaling 10% of the total bid and payable to the OWNER shall accompany any BID. A certified check may be used in lieu of a BID BOND. As soon as the BID prices have been compared, the OWNER will return the bonds of all except the three lowest responsible BIDDERS. When the AGREEMENT is executed, the bonds of the two remaining unsuccessful BIDDERS will be returned. The BID BOND of the successful BIDDER will be retained until the PAYMENT and PERFORMANCE BONDS have been executed and approved, after which it will be returned.

PERFORMANCE and PAYMENT BONDS, each totaling 100% of the CONTRACT PRICE, with a corporate surety approved by the OWNER, shall be provided to the OWNER when the AGREEMENT is executed.

Attorneys-in-fact who sign BID, PAYMENT and PERFORMANCE BONDS must file with each bond a certified and effective dated copy of their power of attorney.

INDIAN PREFERENCE

This CONTRACT shall be executed in accordance with the Indian Preference Act 1934, 25 CFR Part 5 Preference in Employment and the Karuk Tribe TITLE 5 TERO Ordinance. All BIDDERS requesting Indian preference shall submit their request for Indian preference to the Karuk Tribe office at least one week before the bid submittal date for approval.

TRIBAL EMPLOYMENT RIGHTS ORDINANCE (TERO)

All BIDDERS acknowledge that a 2% TERO fee will be imposed on the gross value of any contract initiated within the interior/exterior boundaries of the Karuk Aboriginal Territory, provided that the total contract or annual gross revenues meet or exceed \$2,500. Contact Dion Wood at (530) 493-1600 ext 2030, for questions on the Karuk TERO policy.

PURCHASE OF STEEL PRODUCTS

All steel products purchased for Federal construction projects shall be manufactured in the USA, and proof of such shall be submitted to the project engineer.

NOTICE OF AWARD

The OWNER may make such investigations, as he deems necessary to determine the ability of the BIDDER to perform the WORK. BIDDERS shall be prepared to furnish such information and data for this purpose at the OWNER's request. The OWNER reserves the right to reject any BID if the evidence submitted by, or investigation of, such BIDDER fails to satisfy the OWNER that such BIDDER is properly qualified to carry out the obligations of the AGREEMENT and to complete the WORK contemplated therein.

The successful BIDDER will be required to execute an AGREEMENT and obtain the PERFORMANCE and PAYMENT BOND, if required, within fourteen (14) calendar days from the date when NOTICE OF AWARD is delivered to the BIDDER. In case of failure of the BIDDER to execute the AGREEMENT, the OWNER may at his option consider the BIDDER in default, in which case any BID BOND accompanying the proposal shall become the property of the OWNER.

The OWNER, within fourteen (14) calendar days of receipt of the AGREEMENT and any required PERFORMANCE and PAYMENT BONDS signed by the party to whom the AGREEMENT was awarded, shall sign the AGREEMENT and return to such party an executed duplicate of the AGREEMENT. Should the OWNER not execute the AGREEMENT within such period, the BIDDER may by WRITTEN NOTICE withdraw his signed AGREEMENT. Such notice of withdrawal shall be effective upon receipt of the notice by the OWNER.

NOTICE TO PROCEED

The OWNER expects to issue the NOTICE TO PROCEED within 10 days of contract approval, or on a date mutually agreed upon by the Owner and Contractor. Should there be reasons why the NOTICE TO PROCEED cannot be issued within such period; the time may be extended by mutual agreement between

the OWNER and CONTRACTOR. If the NOTICE TO PROCEED has not been issued by November 7th, 2024, or within the period mutually agreed upon, the CONTRACTOR may terminate the AGREEMENT without further liability on the part of either party.

OTHER REQUIREMENTS

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the PROJECT shall apply to the contract throughout.

The successful BIDDER shall abide by the requirements under Executive Order No. 11246, as amended, including specifically the provisions of the equal opportunity clause set forth in the GENERAL CONDITIONS.

The successful BIDDER shall supply the names and addresses of major material SUPPLIERS and SUB-CONTRACTORS to the OWNER within ten days of receipt of NOTICE TO PROCEED.

The successful BIDDER shall supply submittals information in accordance with the submittals section of the contract documents.

FEDERAL REQUIREMENTS

1. The work to be performed under this Contract is on a project subject to section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e (b) which requires that to the greatest extent feasible: (a) preference and opportunities for training and employment shall be given to Indians.
2. Compliance with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60) (All construction contracts awarded in excess of \$10,000).
3. Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3) (All contracts and sub grants for construction or repair).
4. Compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR part 5) (Construction contracts in excess of \$2,000 when required by Federal grant program legislation).
5. Compliance with Sections 103 and 107 of the contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5) (Construction contracts in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers).
6. Access to and retention of records for a period of three (3) years relating to this Project as required by 24 CFR 85.36(j) (10) and (11). Cooperation and provision of all necessary information and documentation as may be required for reporting relating to this project.
7. Affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible (24 CFR 85.36(e); E.O. 11625).
8. No award or subcontract at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension".
9. Compliance with the provisions of the Hatch Act (5 U.S.C. 1501-1508) and the Intergovernmental Personnel Act of 1970 as amended by Title VI of Civil Service Reform Act (Pub. L. 95-454 Section 4728) prohibiting use of federally appropriated funds for influencing or attempting to influence the award of any federal monies and to make such reports and disclosures as are required there under. The signing of the contract in which this Attachment is referenced is a certification of agreed compliance.
10. Prohibition against personal or financial interest in or benefit from this contract obtained by certain affiliates, associates, board members or employees of Owner or its grantees, either from themselves or their families or business associates, during their tenure or for one year thereafter.

B.

BID

Proposal of _____
(hereinafter called "**BIDDER**"), organized and existing under the laws of the State of California, doing
business as _____ (a corporation, a partnership, an individual, etc.)
to the Karuk Tribe (hereinafter called "**OWNER**").

In compliance with your Advertisement for BIDS, Bidder hereby proposes to perform all Work for the completion of the construction of the **Yreka Roadway Improvements Safety Project** in strict accordance with the Contract Documents, including the Technical Specifications (Standard Specifications and Special Provisions) and Drawings titled "**Yreka Roadway Improvements Safety Project**", within the time set forth therein, and at the prices stated in the Bid Schedule.

By submission of this **BID**, each **BIDDER** certifies, and in the case of a joint **BID** each party thereto certifies as to his organization, that this BID has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this **BID** with any other **BIDDER** or with any competitor.

In the event that the product of a unit price and an estimated quantity does not equal the extended amount quoted, the unit price shall govern and the corrected product of the unit price and the estimated quantity shall be deemed to be the amount bid. If the sum of two or more items in a bidding schedule does not equal the total amounts quoted, the individual items amounts shall govern and the corrected total shall be deemed to be the amount bid.

BIDDER hereby agrees to commence **WORK** under this contract on or before a date to be specified in the **NOTICE TO PROCEED** and to fully complete the **PROJECT** within **45 (Forty-Five)** consecutive calendar days thereafter. **BIDDER** further agrees to pay as liquidated damages, the sum of \$1500.00 for each consecutive calendar day thereafter as provided in Section 25 of the General Provisions (Time for Completion and Liquidated Damages section).

BIDDER agrees to perform all the work described in the **CONTRACT DOCUMENTS** for the unit prices or lump sum stated in the Bid Schedule.

YREKA ROADWAY IMPROVEMENTS SAFETY PROJECT BID ITEM DESCRIPTIONS

BID ITEM #1

MOBILIZATION shall be paid for on a **LUMP SUM (LS)** basis and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals for doing all the work involved, as specified in the Contract Documents, and as directed by the Engineer including; renting, operating, and maintaining all temporary facilities, transportation of equipment, providing all necessary personnel required by Contract Documents to adequately staff the project, coordinating with utility agency and power pole relocation, providing and revising necessary submittals, including project schedules, and any other cost associated with items incidental to the contract not included in remaining pay items. No additional compensation will be allowed.

BID ITEM #2

TRAFFIC CONTROL shall be paid for on a **LUMP SUM (LS)** basis and shall include full compensation for furnishing all labor, materials, tools and equipment, and doing all work as specified in the Plans and as directed by the Engineer including; including producing and implementing a traffic control plan, placement of traffic control devices, maintenance and removal of traffic control devices, installation of temporary pedestrian access , signage, CMS and advanced warning signs, and as specified in the contract documents. No additional compensation will be allowed.

BID ITEM #3

SPEED HUMP (DETAIL 1, SHEET C2.1) shall be paid on an **EACH (EA)** basis and shall include full compensation for furnishing all labor, materials, tools and equipment, and doing all work as specified in the Plans and as directed by the Engineer including; layout, grinding, removing and disposing of existing roadway surface, purchase, transport, placement, shaping, and compaction of asphalt concrete, placement of tack oil, and clean up. No additional compensation will be allowed.

BID ITEM #4

SPEED HUMP STRIPING (DETAIL 2, SHEET C2.1) shall be paid on an **EACH (EA)** basis and shall include full compensation for furnishing all labor, materials, tools and equipment, and doing all work as specified in the Plans and as directed by the Engineer including; layout of striping (cat tracking), cleaning and preparing new and existing road surfaces, disposal of roadway cleaning debris, purchase and placement of striping materials, protection of striping while curing, and clean up. No additional compensation will be allowed.

BID ITEM #5

ROAD SIGNS (DETAILS 3 & 4, SHEET C2.1) shall be paid on an **EACH (EA)** basis and shall include full compensation for furnishing all labor, materials, tools and equipment, and doing all work as specified in the Plans and as directed by the Engineer including; sign location layout, purchase, storage, and placement of all signs, sign posts, necessary hardware, sign post foundations, removal and disposal of existing signs, and clean up. No additional compensation will be allowed.

BID ITEM #6

ROAD CLOSURE GATE (DETAIL 1, SHEET C2.2) shall be paid on an **EACH (EA)** basis and shall include full compensation for furnishing all labor, materials, tools and equipment, and doing all work as specified in the Plans and as directed by the Engineer including; gate location layout, purchase, storage, and placement of hinge post, locking post and steel locking plate, post concrete foundations, foundation excavation and disposal of spoils, gate assembly, isometric locking system, shop drawings, reflectorized red and white tape, "ROAD CLOSED" sign, priming, painting, gate appurtenances, and clean up. No additional compensation will be allowed.

BID ITEM #7

METAL BEAM GUARD RAIL (CALTRANS STANDARD A77L1) shall be paid on a **LINEAL FOOT (LF)** basis and shall include full compensation for furnishing all labor, materials, tools and equipment, and doing all work as specified in the Plans and as directed by the Engineer including; layout, purchase, storage, placement of wooden post, blocks, fastening devices, metal railing sections, terminal sections, excavation and disposal of excavated soil, appurtenances, and clean up. No additional compensation will be allowed.

BID ITEM #8

CALTRANS STANDARD A87B TYPE A ASPHALT DIKE shall be paid on a **LINEAL FOOT (LF)** basis and shall include full compensation for furnishing all labor, materials, tools and equipment, and doing all work as specified in the Plans and as directed by the Engineer including; layout, purchase, transport, placement, shaping, and compaction of asphalt concrete, placement of tack oil, and clean up. No additional compensation will be allowed.

BID ITEM #9

REFRESH EXISTING STOP LETTERING AND BAR (STRIPING) shall be paid on an **EACH (EA)** basis and shall include full compensation for furnishing all labor, materials, tools and equipment, and doing all work as specified in the Plans and as directed by the Engineer including; cleaning and preparing new and existing road surfaces, disposal of roadway cleaning debris, purchase and placement of striping materials, protection of striping while curing, and clean up. No additional compensation will be allowed.

BID ITEM #10

12" SOLID WHITE CROSSWALK shall be paid on an **EACH (EA)** basis and shall include full compensation for furnishing all labor, materials, tools and equipment, and doing all work as specified in the Plans and as directed by the Engineer including; layout of striping (two stripes per crosswalk), cleaning and preparing new and existing road surfaces, disposal of roadway cleaning debris, purchase and placement of striping materials, protection of striping while curing, and clean up. No additional compensation will be allowed.

BID ITEM #11

REFRESH EXISTING CENTERLINE STRIPING shall be paid on a **LINEAL FOOT (LF)** basis and shall include full compensation for furnishing all labor, materials, tools and equipment, and doing all work as specified in the Plans and as directed by the Engineer including; cleaning and preparing new and existing road surfaces, disposal of roadway cleaning debris, purchase and placement of striping materials, protection of striping while curing, and clean up. No additional compensation will be allowed.

BID ITEM #12

REFRESH EXISTING EDGE LINE STRIPING shall be paid on a **LINEAL FOOT (LF)** basis and shall include full compensation for furnishing all labor, materials, tools and equipment, and doing all work as specified in the Plans and as directed by the Engineer including; cleaning and preparing new and existing road surfaces, disposal of roadway cleaning debris, purchase and placement of striping materials, protection of striping while curing, and clean up. No additional compensation will be allowed.

BID ITEM #13

RELOCATE EXISTING STREET LIGHT shall be paid on an **EACH (EA)** basis and shall include full compensation for furnishing all labor, materials, tools and equipment, and doing all work as specified in the Plans and as directed by the Engineer including; trenching, backfilling, trench paving, new conduits, new pull boxes, new wiring, excavation and pouring new foundation including reinforcing steel and bolts, removal and preservation of existing light, reconnection of electrical wiring, disposal of trench spoils, testing, repair or replacement of damaged equipment or appurtenances, and clean up.

YREKA ROADWAY IMPROVEMENTS SAFETY PROJECT

BID SHEET

| Bid Item No. | Bid Item Description | Qty | Unit of Measure | Unit Price | Total Price |
|---------------------|--|------------|------------------------|-------------------|--------------------|
| 1 | Mobilization | 1 | LS | | |
| 2 | Traffic Control | 1 | LS | | |
| 3 | Speed Hump (Detail 1, Sheet C2.1) | 8 | EA | | |
| 4 | Speed Hump Striping (Detail 2, Sheet C2.1) | 9 | EA | | |
| 5 | Road Signs (Details 3 & 4, Sheet C2.1) | 98 | EA | | |
| 6 | Road Closure Gate (Detail 1, Sheet C2.2) | 2 | EA | | |
| 7 | Metal Beam Guardrail (Detail 1, Sheet C2.0) | 2,202 | LF | | |
| 8 | Caltrans Standard A87B Type E Asphalt Dike | 682 | LF | | |
| 9 | Refresh existing Stop letters and bar (striping) | 11 | EA | | |
| 10 | 12" Solid white crosswalk | 1 | EA | | |
| 11 | Refresh existing centerline striping | 13,100 | LF | | |
| 12 | Refresh existing edge line striping | 26,200 | LF | | |
| 13 | Relocate Existing Streetlight | 2 | EA | | |

Estimated quantities designated with (F) are final pay items in accordance to Section 9-1.02C, "Final Pay Item Quantities" of the Standard Specifications.

Respectfully Submitted:

Signature

Address

Title

Date

License No.

Expiration Date

SEAL – (if BID is by a corporation)

C.

BID BOND

KNOW ALL BY THESE PRESENTS, that we, the undersigned,

_____ as Principal, and

_____ as Surety, are hereby held and firmly

bound unto the Karuk Tribe, as **OWNER** in the penal sum of _____ for payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

Signed, this _____ day of _____, 20__.

The Condition of the above obligation is such that whereas the Principal has submitted to the Owner a certain BID, attached hereto and hereby made a part hereof to enter into a contract in writing, for the completion of the **Yreka Roadway Improvements Safety Project**.

NOW, THEREFORE,

(a) If said BID shall be rejected, or

(b) If said BID shall be accepted and the Principal shall execute and deliver a contract in the form attached hereto (properly completed in accordance with said BID) and shall furnish a BOND for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said BID, then this obligation, shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such BID; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Principal

BY: _____ (Seal)

Surety

BY: _____ (Seal)

IMPORTANT - Surety companies executing BONDS must be authorized to transact business in the state where the project is located.

D.

CONTRACTOR QUESTIONNAIRE

Name: _____

Social Security Number: _____

D.B.A.: _____

Street address: _____

City: _____ Telephone: _____

State License Number: _____ Type: _____

Bank References: _____

List three most recent construction jobs by name and address:

How long in business? _____ How many employees? _____

Are you an equal opportunity employer? _____

Are you eligible to perform federal government work? _____

Name and address of insurance carrier: _____

Conflict of Interest:

Are you or any member of your family related to any employee of the Owner or member of the governing board of the Owner?

No: _____ Yes: _____ If yes, please explain relationship:

Signature of License Holder

Date: _____

Signature of Company Representative (if different)

Date: _____

E.

NON-COLLUSIVE AFFIDAVIT

AFFIDAVIT

State of _____

County of _____

_____, being first duly sworn, deposes and says:

That he is, _____ the party making the foregoing proposal for bid, that such proposal or bid is genuine and not collusive or sham; that said bidder has no colluded, conspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham bid or to refrain from bidding, and has not, in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiant or of any other bidder, or to fix any overhead, profit or cost element of said bid price, or of that of any other bidder, or to secure any advantage against the Owner or any person interested in the proposed contract, and that all statements in said proposal for bid are true.

Project Name: **YREKA ROADWAY IMPROVEMENTS SAFETY PROJECT**

Location: **Apsuun, Kahtishraam, Virusur and Yellowhammer Roads, Yreka, CA 96097**

(Signature)

(Name and title)

(Date)

(Signature should be notarized.)

F.

**STATEMENT OF QUALIFICATIONS
ALASKA NATIVE OR INDIAN OWNED ENTERPRISES**

The undersigned certifies under oath the truth and correctness of all answers to questions made hereinafter:

- Applicant wishes to qualify as an "Economic Enterprise" as defined in Section 3(e) of the Indian Financing Act of 1974 (P.L. 93-262); that is: "an Indian-Owned... commercial, industrial or business activity established or organized for the purpose of profit: Provided, that such Indian ownership shall constitute not less than 51 percent of the enterprise",

or

- A "Tribal Organization" as defined in Section 4(c) of the Indian Self-Determination and Education Assistance Act (P.L. 93-638); that is: "the recognized governing body of any Indian Tribe; any legally established organization of Indians which is controlled, sanctioned or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: Provided, that in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian Tribe, the approval of each such Indian Tribe shall be a prerequisite to the letting or making of such contract or grant..."

1. Name of Enterprise or Organization: _____

Address: _____

Telephone No: _____

2. Check One:

- Corporation
- Joint Venture
- Partnership
- Sole Proprietorship
- Other (Specify) _____

3. If a Corporation, answer the following:

a. Date of incorporation: _____

b. State of Incorporation: _____

c. Give the names and addresses of the officers of this corporation and establish whether they are Indian (I) or Non- Indian (NI).

| Name and Social Security No. | I or | Title | Address | % of Stock Ownership |
|------------------------------|------|--------------------|---------|----------------------|
| | | President | | |
| | | Vice-President | | |
| | | Secretary or Clerk | | |
| | | Treasurer | | |

d. Complete the following information on any stockholder who is not listed in C above, owning 51% or more of the stock. Establish whether they are Indian (I) or Non-Indian (NI).

| Name and Social Security No. | I or | Address | % of Stock Ownership |
|------------------------------|------|---------|----------------------|
| | | | |

If a Sole Proprietorship or Partnership, answer the following:

a. Date of Organization: _____

b. Give the following information on the individual or partners and establish whether they are Indian (I) or Non-Indian (NI).

| Name and Social Security No. I or Address | % of Ownership |
|---|----------------|
| | |

If a joint Venture, answer the following:

- a. Date of Joint Venture Agreement: _____
- b. Attach the information for each member of the joint venture prepared in the appropriate format given above.

4. Give the name, address, and telephone number of the principal spokesperson of your organization:

5. Will any officer or partner listed in Q4 be engaged in outside employment?

Yes No

If Yes, complete the following:

| Name/Title | Hours Per Week Outside the Enterprise |
|------------|---------------------------------------|
| | |
| | |
| | |

6. Does this enterprise have any subsidiaries or affiliates or is it a subsidiary or affiliate of another concern?

Yes No

If yes, complete the following:

| Name and Address of subsidiary, affiliate or other concerns | Description of Relationship |
|---|-----------------------------|
| | |
| | |
| | |

7. Does this enterprise or any person listed in Q4 above have or intend to enter into any type of agreement with any other concern or person which relates to or affects the on-going administration, management or operations of this enterprise? These include but are not limited to management, and joint venture agreements and any arrangement or contract involving the provision of such compensated services as administrative assistance, data processing, management consulting of all types, marketing, purchasing, production and other type of compensated assistance.

Yes No

If yes, attach a copy of any written agreement or an explanation of any oral or intended agreement.

8. a. Indicate the core crew employees in your work force, their job titles, and whether they are Indian or Non-Indian. Core crew is defined as an individual who is a current bona-fide individual who is regularly employed by the contractor in a supervisory or other key position when work is available.

b. Over the past three years, what has been the average number of employees? _____

G.

NOTICE OF AWARD

To:

PROJECT DESCRIPTION:

This is a construction contract for completion of the **Yreka Roadway Improvements Safety Project**

The OWNER has considered the BID submitted by you for the above described WORK in response to its Advertisement for BIDS dated _____, and the contract documents package.

You are hereby notified that your BID has been accepted in the amount of \$_____

You are required to execute the Agreement and furnish CONTRACTOR'S Performance and Payment BONDS, if required, to the OWNER within ten calendar days from the date of this Notice to you. In addition, you are required to furnish a certificate of insurance before the Notice to Proceed will be issued.

You are required to submit a plan for the maximum utilization of Indian and Alaska Native workers. Notice to Proceed will not be issued until the OWNER has received and approved this plan and the TERO Officer has issued a TERO Permit enumerating the plan. Reference General Provisions Section 49. If you need information on Indian Employment, contact Dion Wood at (530) 493-1600 ext. 2030

If you fail to execute and furnish the Agreement and any required BONDS within ten days from the date of this Notice, the OWNER will be entitled to consider all your rights arising out of the OWNER'S acceptance of your BID as abandoned and as a forfeiture of your BID BOND. The OWNER will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this **NOTICE OF AWARD** to the **OWNER**.

Dated this _____ day of _____, _____

Karuk Tribe
(Owner)

By _____
Russell Attebery

Title Chairman

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged

By _____ (Company Name)

this the _____ day of _____ 20____

By _____

Title _____

Karuk Community Health Clinic
64236 Second Avenue
Post Office Box 316
Happy Camp, CA 96039
Phone: (530) 493-5257
Fax: (530) 493-5270



Karuk Dental Clinic
64236 Second Avenue
Post Office Box 1016
Happy Camp, CA 96039
Phone: (530) 493-2201
Fax: (530) 493-5364

Administrative Office
Phone: (530) 493-1600 • Fax: (530) 493-5322
64236 Second Avenue • Post Office Box 1016 • Happy Camp, CA 96039

H.

**KARUK TRIBE
CONSTRUCTION CONTRACT
CONTRACT NUMBER 24-C-_____**

This Agreement, made this _____, by and between the **Karuk Tribe**, hereinafter called "**Owner**" and _____ hereinafter called "**Contractor**."

Witnesseth: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The Contractor will commence and complete **all construction (including obtaining necessary permits and testing), and commissioning of the Karuk Tribe's Yreka Roadway Improvements Safety Project in Yreka, California.**
2. The Contractor will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the construction and completion of the PROJECT described herein.
3. The Contractor will commence the work required by the Contract documents within ten calendar days after the date of the Notice to Proceed and will complete the same by **5 p.m.** _____.
4. The Contractor agrees to perform all of the work described in the Contract Documents and comply with the terms therein for the sum of _____ as shown in the Bid (Proposal) documents.
5. The term "**Contract Documents**" means and includes the following:

- Advertisement for Bids
- Information for Bidders
- Bid/Bid Schedule
- Bid Bond
- Contractor Questionnaire
- Non-Collusive Affidavit
- Statement of Qualifications
- Notice of Award
- Agreement
- Payment Bond
- Performance Bond
- Notice to Proceed
- Change Order Information
- General Conditions
- Karuk Tribal Employment Rights Policy
- Indian Preference Documentation, if applicable

Special Provisions
Davis-Bacon Wage Determinations
Technical Specifications
Project Plans

6. The Owner will pay to the Contractor in the manner and at such times as set forth in the General Provisions such amounts as required by the Contract Documents.
7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

In Witness Whereof, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in 2 (no.) copies, each of which shall be deemed an original on the date first above written.

OWNER: KARUK TRIBE

Contractor

BY: _____
Russell Attebery

BY: _____
Name

TITLE: Chairman

TITLE: Owner

P O BOX 1016

_____.

HAPPY CAMP, CA 96039

TEL: 530-493-1600

TEL: _____

I.

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

_____ (Name and Address of Contractor)
 a _____, hereinafter called Principal, and _____,
 (Corporation Partnership or Individual) (Name and Address of Surety)

hereinafter called Surety, are held and firmly bound unto the Karuk Tribe 64236 Second Avenue, Happy Camp, California 96039, hereinafter called Owner, in the penal sum of \$_____, in lawful money of the United States, for the payment of which sum will and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

The condition of this obligation is such that whereas, the Principal entered into a certain contract Owner, dated the _____, a copy of which is hereto attached and made a part hereof for the all construction (including obtaining necessary permits), inspection and commissioning of the Karuk Tribe's **Yreka Roadway Improvements Safety Project** in Yreka, California.

Now Therefore, if the Principal shall promptly make payment to all persons, firms, sub-contractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by sub-contractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

Provided further, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed there under or the Technical Specifications accompanying the same shall in any wise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the Technical Specifications.

Provided further, that no final settlement between the Owner and the Principal shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

In Witness Thereof, this instrument is executed in 2 counterparts
 (Number)

one of which shall be deemed an original, this the _____ day of _____, 20_____.

(SEAL) _____
 (Name of Principal)

BY: _____
 (Signature for Principal)

 (Address)

ATTEST: _____
 (Principal Secretary)

WITNESS: _____
 (Witness as to Principal)

 (Address)

(SEAL) BY: _____
(Attorney-in-Fact)

(Address)

ATTEST: _____
(Surety Secretary)

WITNESS: _____
(Witness as to Principal)

(Address)

NOTE: Date of Bond must not be prior to date of Contract. If Principal is Partnership, all partners should execute Bond.

IMPORTANT: Surety companies executing Bonds must be authorized to transact business in the State where the project is located.

J.

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that

_____ (Name and Address of Contractor)
a _____, hereinafter called Principal, and _____
_____ Corporation Partnership or Individual)
_____ (Name and Address of Surety)

hereinafter called Surety, are held and firmly bound unto the Karuk Tribe 64236 Second Avenue, Yreka, California, 96097, hereinafter called OWNER, in the penal sum of \$ _____ in lawful money of the United States, for the payment of which sum will and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the _____ a copy of which is hereto attached and made a part hereof for the all construction (including obtaining necessary permits), inspection and commissioning of the Karuk Tribe's **Yreka Roadway Improvements Safety Project** in Yreka, California.

NOW THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the Surety and during the one year guaranty period, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the Work to be performed there under or the Technical Specifications accompanying the same shall in any wise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the Technical Specifications.

Provided further, that no final settlement between the OWNER and the Principal shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

In witness thereof, this instrument is executed in 2 counterparts one of which shall be
(Number)
deemed an original, this the _____ day of _____, 20____.

(SEAL) _____
(Name of Principal)

BY: _____
(Signature for Principal)

(Address)

ATTEST: _____
(Principal Secretary)

WITNESS: _____
(Witness as to Principal)

(Address)

(SEAL) BY: _____
(Attorney-in-Fact)

(Address)

ATTEST: _____
(Surety Secretary)

WITNESS: _____
(Witness as to Principal)

(Address)

NOTE: Date of Bond must not be prior to date of Contract. If Principal is Partnership, all partners should execute Bond.

IMPORTANT: Surety companies executing Bonds must be authorized to transact business in the State where the project is located.

K.

NOTICE TO PROCEED

To: _____
(Contractor)

(Address)

Date: _____

Project: Yreka Roadway Improvements Safety Project

You are hereby notified to commence work in accordance with the Agreement dated _____, on or before _____ and you are to complete the work by _____.

Prior to commencing work, you shall obtain Certificates of Insurance acceptable to the Owner and place them on file with the Owner (reference General Provision section 16).

Within ten days of this notice, you shall provide a Construction Progress Schedule to the Owner through the Contract Manager for approval (reference Special Provisions section 7).

Karuk Tribe
(Owner)

By: Russell Attebery

Title: Chairman

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by:

(Contractor)

this the ____ day of _____, 20__.

By: _____

Title: _____

L.

GENERAL CONDITIONS

1. Definitions
2. Additional Instructions, Detail Drawings
3. Reports and Records
4. Drawings and Specifications
5. Site Investigation & Conditions
6. Shop Drawings
7. Materials, Services and Facilities
8. Substitutions
9. Patents
10. Surveys, Permits, Regulations
11. Laws and Regulations Affecting Work
12. Taxes
13. Protection of Work, Property, Persons
14. Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements
15. Operations and Storage Areas
16. Insurance
17. Indemnification
18. Contract Security
19. Accident Prevention and Safety Program
20. Temporary Sanitary Facilities
21. Supervision by Contractor
22. Subcontracting
23. Separate Contracts
24. Days of Work, Hours of Work
25. Time for Completion and Liquidated Damages
26. Progress Schedules & Requirements for Compliance
27. Land and Rights-of-Way
28. Suspension of Work, Termination and Delay
29. Inspection and Testing
30. Correction of Work
31. Changes in the Work
32. Changes in Contract Price
33. Differing Site Conditions
34. Use and Possession Prior to Completion
35. Record Drawings
36. Cleanup and Finish Grading
37. Measurement and Payment
38. Variation in Estimated Quantities
39. Final Inspections
40. Payments to Contractor
41. Assignments
42. Guaranty
43. Acceptance of Final Payment as Release
44. Contract Manager's Role and Authority
45. Resolution of Disputes
46. Equal Employment Opportunity
47. Clean Air and Water
48. Indian Preference

1. **DEFINITIONS**

- 1.1 Wherever used in the contract documents, the following terms shall have the meanings indicated which shall be applicable to both the singular and plural thereof:
- 1.2 Addenda - Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the contract documents, drawings and technical provisions, by additions, deletions, clarifications or corrections.
- 1.3 Bid - The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the work to be performed.
- 1.4 Bidder - Any person, firm or corporation submitting a bid for the work.
- 1.5 Bonds - Bid, Performance, and Payment Bonds and other instruments of security, furnished by the Contractor and his surety in accordance with the contract documents.
- 1.6 Change Order - A written order to the Contractor authorizing an addition, deletion or revision in the work within the general scope of the contract documents, or authorizing an adjustment in the contract price or contract time.
- 1.7 Contract Documents - The contract, including Advertisement For BIDS, Information For Bidders, Bid, Bid Bond, Agreement, General Provisions, Labor Provisions, Special Provisions, Payment Bond, Performance Bond, Notice of Award, Notice to Proceed, Change Order, Drawings, Technical Specifications, Submittal Requirements, and Addenda.
- 1.8 Contract Price - The total monies payable to the Contractor under the terms and conditions of the Contract Documents.
- 1.9 Contract Time - The number of calendar days stated in the Contract Documents for the completion of the work.
- 1.10 Contract Manager - The person with the owner organization who is authorized to administer the contract for the Owner.
- 1.11 Contractor - The person, firm or corporation with whom the Owner has executed the Agreement.
- 1.12 Contract Manager Representative - The representative of the Contract Manager authorized to deal with the Contractor at the site to administer the technical aspects of the Contract and to assure compliance with the Drawings and Specifications.
- 1.13 Drawings - The part of the contract documents which show the characteristics and scope of the work to be performed.
- 1.14 Engineer – The person, firm or corporation named as such in the contract documents.
- 1.15 Field Order - A written order effecting a change in the work not involving an adjustment in the contract price or an extension of the contract time, issued by the Owner or Contract Manager to the Contractor during construction.
- 1.16 Indian Health Service (IHS).
- 1.17 Notice Of Award - The written notice of the acceptance of the bid from the Owner to the successful Bidder.
- 1.18 Notice To Proceed - Written communication issued by the Owner to the Contractor authorizing him to proceed with the work and establishing the date of commencement of the work.
- 1.19 Owner - The Karuk Tribe.
- 1.20 Plans - The part of the contract documents which show the characteristics and scope of the work to be performed and which have been prepared or approved by the Contract

- Manager. In as far as these contract documents are concerned; the terms Drawings and Plans are synonymous.
- 1.21 Project - The undertaking to be performed as provided in the contract documents.
 - 1.22 Shop Drawings - All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a Sub-Contractor, manufacturer, supplier or distributor, which illustrate how specific portions of the work shall be fabricated or installed.
 - 1.23 Specifications - A part of the contract documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship. In as far as these contract documents are concerned; the terms Technical Provisions and Specifications are synonymous.
 - 1.24 Sub-Contractor - An individual, firm or corporation having a direct contract with the Contractor or with any other sub-contractor for the performance of a part of the work at the site.
 - 1.25 Substantial Completion - That date as certified by the Contract Manager when the construction of the project is sufficiently completed in accordance with the contract documents, so that the project or specified part can be utilized for the purposes for which it is intended.
 - 1.26 Special Provisions - Modifications and additions to General Conditions which may be required by a federal agency for participation in the project, or such requirements that may be imposed by applicable state or local laws, or the Owner's contracting practices.
 - 1.27 Supplier - Any person or organization who supplies materials or equipment for the work, including that fabricated to a special design, but who does not perform labor at the site.
 - 1.28 Technical Specifications - A part of the contract documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship. In as far as the contract documents are concerned, the terms Technical Specifications and Technical Provisions are synonymous.
 - 1.29 Work - All labor necessary to produce the construction required by the contract documents and all materials and equipment incorporated or to be incorporated in the project.
 - 1.30 Written Notice - Any notice to any party of the Agreement relative to any part of this Agreement in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party at his last given address, or delivered in person to said party or his authorized representative on the work.

2. ADDITIONAL INSTRUCTIONS, DETAIL DRAWINGS ORDER OF PRECEDENCE

- 2.1 The Contractor may be furnished additional instructions and detail drawings, by the Contract Manager as necessary to carry out the work required by the contract documents.
- 2.2 The additional drawings and instruction thus supplied will become a part of the contract documents. The Contractor shall carry out the work in accordance with the additional detail drawings and instructions.
- 2.3 In the event of an inconsistency between provisions of this contract, the inconsistency shall be resolved by giving precedence in the order given in the Special Provisions section of these documents.

3. REPORTS AND RECORDS

- 3.1 The Contractor shall submit to the Contract Manager such schedule of quantities and costs, payrolls, reports, estimates, records and other data where applicable as are required by the contract documents for the work to be performed.

- 3.2 The Contractor shall keep all records related to the contract for a minimum of three years after acceptance of the completed work.

4. **DRAWINGS AND TECHNICAL SPECIFICATIONS**

- 4.1 The intent of the drawings and technical provisions is that the Contractor shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the work in accordance with the contract documents and all incidental work necessary to complete the project in an acceptable manner, ready for use, occupancy or operation by the Owner.
- 4.2 In case of conflict between the drawings and technical specifications, the technical specifications shall govern. Figure dimensions on drawings shall govern over scale dimensions, and detailed drawings shall govern over general drawings.
- 4.3 Any discrepancies found between the drawings and technical specifications and site conditions or any inconsistencies or ambiguities in the drawings or technical specifications shall be immediately reported to the Contract Manager, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. Work done by the Contractor after his discovery of such discrepancies, inconsistencies or ambiguities shall be done at the Contractor's risk.

5. **SITE INVESTIGATION AND CONDITIONS**

- 5.1 The Contractor will take steps necessary to ascertain the nature and location of the work, and investigate the general and local conditions which can affect the work or its cost, including but not limited to:
- a) conditions bearing upon transportation, disposal, handling, and storage of materials;
 - b) the availability of labor, water, electric power, and roads;
 - c) uncertainties of weather, river stages, tides, or similar physical conditions at the site;
 - d) the conformation and conditions of the ground; and
 - e) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also will observe and determine the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Owner, as well as from the drawings and technical specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Owner.
- 5.2 The Owner assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Owner. The Owner does not assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its representatives before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

6. **SHOP DRAWINGS**

- 6.1 The Contractor shall provide shop drawings as may be necessary for the prosecution of the work as required by the contract documents. The Contract Manager will have the drawings promptly reviewed and will recommend approval or disapproval of all shop drawings.

Approval of any shop drawing shall not release the Contractor from responsibility for deviations from the contract documents. The approval of any shop drawing which substantially deviates from the requirement of the contract documents shall be evidenced by a change order.

6.2 When submitted for review and approval, shop drawings shall bear the Contractor's certification that he has reviewed, checked and approved the shop drawings and that they are in conformance with the requirements of the contract documents.

6.3 Portions of the work requiring a shop drawing or sample submission shall not begin until the shop drawing or submission has been approved by the Contract Manager. A copy of each approved shop drawing and each approved sample shall be kept in good order by the Contractor at the site and shall be available to the Owner and IHS representatives.

7. MATERIALS, SERVICES AND FACILITIES

7.1 It is understood that, except as otherwise specifically stated in the contract documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete, and deliver the work within the specified time.

7.2 Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the work. Stored materials and equipment to be incorporated in the work shall be located so as to facilitate prompt inspection.

7.3 Manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.

7.4 Materials, supplies and equipment shall be in accordance with samples submitted by the Contractor and approved by the Contract Manager.

7.5 Materials, supplies or equipment to be incorporated into the work shall not be purchased by the Contractor or the Sub-Contractor subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

7.6 The Contractor shall promptly remove from the premises all materials rejected by the Contract Manager for failure to comply with the contract documents. The Contractor shall promptly replace the materials with acceptable materials without expense to the Owner.

8. SUBSTITUTIONS

8.1 Whenever a material, article or piece of equipment is identified on the drawings or technical specifications by reference to brand name or catalogue number, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacities, quality and function shall be considered. The Contractor may recommend the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the contract documents by reference to brand name or catalogue number, and if, in the opinion of the Contract Manager, such material, article, or piece of equipment is of equal substance and function to that specified, the Contract Manager may approve its substitution and use by the Contractor. Any cost differential shall be deductible from the contract price and the contract documents shall be appropriately modified by change order. The Contractor warrants that if substitutes are approved, no major changes in the function or general design of the project will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the Contractor without a change in the contract price or contract time.

9. **PATENTS**

- 9.1 The Contractor shall pay all applicable royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for any such loss when a particular process, design, or the product of a particular manufacturer or manufacturers is specified. However, if the Contractor has reason to believe that the design, process, or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Contract Manager.

10. **SURVEYS, PERMITS, REGULATIONS**

- 10.1 The Owner shall furnish all boundary surveys and establish all base lines for locating the principal component parts of the work together with a suitable number of bench marks adjacent to the work as shown in the contract documents. From the information provided by the Contract Manager, unless otherwise specified in the contract documents, the Contractor shall develop and make all detail surveys needed for construction such as slope stakes, batter boards, stakes for pile locations and other working points, lines, elevations and cut sheets.
- 10.2 The Contractor shall carefully preserve bench marks, reference points and stakes and, in case of willful or careless destruction, he shall be charged with the resulting expense and shall be responsible for any mistakes that may be caused by their unnecessary loss or disturbance.
- 10.3 Permits and licenses of a temporary nature necessary for the prosecution of the work shall be secured and paid for by the Contractor unless otherwise specified in the contract documents. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the Owner, unless otherwise specified. The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the Contractor observes that the contract documents are at variance therewith, he shall promptly notify the Contract Manager in writing, and any necessary changes shall be adjusted as provided in Section 31 -"Changes in the Work".

11. **LAWS AND REGULATIONS AFFECTING WORK**

- 11.1 The Contractor shall at all times observe and comply with Federal, State, City, County and Tribal laws, ordinances and regulations which in any manner affect the conduct of the work; and all such orders and decrees as exist at the present and which may be enacted later by legislative bodies or tribunals having legal jurisdiction or authority over the work. No pleas of misunderstanding or ignorance thereof will be considered. The Contractor shall be wholly responsible for any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree.

12. **TAXES**

- 12.1 This contract is subject to all provisions of the Karuk Tribe TERO Ordinance. Within 10 days of execution of this contract, Contractor shall contact the Karuk Tribal Employment Rights office at 530-493-1600, Extension 2030 for a TERO packet and instructions. An amount equal to 2% (two percent) of this contract sum, and all future change orders is payable to the Karuk Tribe as a TERO fee. Contractor may include the entire TERO fee in his first application for payment, or include the TERO fee in each of his progress payment applications.

13. **PROTECTION OF WORK, PROPERTY AND PERSONS**

13.1 The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. He will take all necessary precautions for the safety of and will provide the necessary protection to prevent damage, injury or loss to all employees on the work and other persons who may be affected thereby, all the work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto.

14. **PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS**

14.1 The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work sites which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall remove trees only when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound.

14.2 The Contractor shall protect from damage all existing improvements and utilities:

- i. at or near the work site, and
- ii. on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor.

14.3 The existence and location of utilities are not guaranteed by the Owner and shall be investigated and verified in the field by the Contractor before commencing construction activities in any particular area. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contract Manager may have the necessary work performed and charge the cost to the Contractor.

15. **OPERATIONS AND STORAGE AREAS**

15.1 The Contractor shall confine all operations (including storage of materials) to areas authorized or approved by the Contract Manager. The Contractor shall hold and save the Owner and its representatives free and harmless from liability of any nature occasioned by the Contractor's performance.

15.2 Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the Contract Manager and shall be built with labor and materials furnished by the Contractor without expense to the Owner. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. Only with the written consent of the Contract Manager may the buildings and utilities be abandoned and not removed.

15.3 The Contractor shall use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contract Manager. In such case, the Contractor shall minimize disruption and delays to traffic in the affected areas. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

16. **INSURANCE**

- 16.1 The Contractor shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the Contractor's execution of the work, whether such execution be by himself or by any Sub-Contractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:
- i. Claims under workmen's compensation, disability benefit and other similar employee benefit acts;
 - ii. Claims for damages because of bodily injury, occupational sickness or disease, or death of his employees;
 - iii. Claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees;
 - iv. Claims for damages insured by usual personal injury liability coverage which are sustained
 - a. by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or
 - b. by any other person; and
 - v. Claims for damages because of injury to or destruction of tangible property, including loss of use resulting there from.
- 16.2 Certificates of Insurance acceptable to the Contract Manager shall be filed with the Contract Manager prior to commencement of the work. These Certificates shall contain a provision that coverage's afforded under the policies will not be canceled unless at least fifteen (15) days prior written notice has been given to the Contract Manager.
- 16.3 The Contractor shall procure and maintain, at his own expense, during the contract time, liability insurance as hereinafter specified;
- 16.3.1 Contractor's General Public Liability and Property Damage Insurance including vehicle coverage issued to the Contractor and protecting him from all claims for personal injury, including death, and all claims for destruction of or damage to any property, arising out of or in connection with any operations under the contract documents, whether such operations be by himself or by any Sub-Contractor under him, or anyone directly or indirectly employed by the Contractor or by a Sub-Contractor under him. Insurance shall be written with a limit of liability of not less than \$500,000 for all damages arising out of bodily injury, including death, at any time resulting there from, sustained by any one person in any one accident; and a limit of liability of not less than \$1,000,000 aggregate for any such damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than \$200,000 for all property damage sustained by any one person in any one accident; and a limit of liability of not less than \$500,000 aggregate for any such damage sustained by two or more persons in any one accident.
- 16.3.2 The Contractor shall acquire and maintain, if applicable, Fire and Extended Coverage insurance upon the project to the full insurable value thereof for the benefit of the Owner, the Contractor, and Sub-Contractors as their interest may appear. This provision shall in no way release the Contractor or Contractor's surety from obligations under the contract documents to fully complete the project.
- 16.4 The Contractor shall procure and maintain, at his own expense, during the contract time, in accordance with the provisions of the laws of the state in which the work is performed, Workmen's Compensation Insurance, including occupational disease provisions, for all of his employees at the site of the project and in case any work is sublet, the Contractor shall require such Sub-Contractor similarly to provide Workmen's Compensation Insurance, including occupational disease provisions for all of the latter's employees unless such

employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under this contract at the site of the project is not protected under Workmen's Compensation statute, the Contractor shall provide, and shall cause each Sub-contractor to provide, adequate and suitable insurance for the protection of his employees not otherwise protected.

- 16.5 The Contractor shall secure, if applicable, "All Risk" type Builder's Risk Insurance for work to be performed. Unless specifically authorized by the Contract Manager, the amount of such insurance shall not be less than the contract price totaled in the bid. The policy shall cover not less than the losses due to fire, explosion, hail, lightning, vandalism, malicious mischief, wind, collapse, riot, aircraft, and smoke during the contract time, and until the work is accepted by the Contract Manager. The policy shall name as the insured the Contractor and the Owner.

17. INDEMNIFICATION

- 17.1 The Contractor will indemnify and hold harmless the Owner, his agents and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the work, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting there from; and is caused in whole or in part by any negligent or willful act or omission of the Contractor, and Sub-contractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

- 17.2 In any and all claims against the Owner or any of his agents, or employees by any employee of the Contractor, any Sub-contractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Sub-Contractor under workmen's compensation acts, disability benefit acts or other employee benefits acts.

- 17.3 The obligation of the Contractor under this paragraph shall not extend to the liability of the Owner, his agents, or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or technical specifications.

18. CONTRACT SECURITY

- 18.1 If required in the contract documents, the Contractor shall within ten days after the receipt of the Notice of Award furnish the Contract Manager with a Performance Bond and a Payment Bond in penal sums equal to the amount of the contract price, conditioned upon the performance by the Contractor of all undertakings, covenants, terms, conditions and agreements of the contract documents, and upon the prompt payment by the Contractor to all persons supplying labor and materials in the prosecution of the work provided by the contract documents. Such bonds shall be executed by the Contractor and a corporate bonding company licensed to transact such business in the state in which the work is to be performed. The expense of these bonds shall be borne by the Contractor. If at any time a surety on any such bond is declared as bankrupt or loses its right to do business in the state in which the work is to be performed, the Contractor shall within ten days after notice from the Contract Manager to do so, substitute an acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the Contract Manager. The premiums on such bond shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable bond to the Contract Manager.

19. **ACCIDENT PREVENTION AND SAFETY PROGRAM**

- 19.1 The Contractor shall be solely and completely responsible for conditions of the job site, including safety of all persons, including employees, and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours. Safety provisions shall conform to U.S. Department of Labor (OSHA), and all other applicable federal, state, county, and local laws, ordinances, codes, the requirements set forth below, and any regulations that may be detailed in other parts of these documents. Where any of these are in conflict, the more stringent requirement shall be followed. The Contractor's failure to thoroughly familiarize himself with the aforementioned safety provisions shall not relieve him from compliance with the obligations and penalties set forth herein.
- 19.2 The Contract Manager will notify the Contractor of any observed non-compliance with the foregoing provisions and the action to be taken. The Contractor shall, upon receipt of such notice, immediately take corrective action. If the Contractor fails or refuses to comply promptly, the Contract Manager may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of claims for extension of time, or for excess costs or damages by the Contractor.
- 19.3 The Contractor shall develop and maintain for the duration of this contract, a safety program that will effectively incorporate and implement all required safety provisions. The Contractor shall appoint an employee who is qualified and authorized to supervise and enforce compliance with the safety program.
- 19.4 The Contractor as a part of his safety program, shall maintain at his office or other well-known place at the job site, safety equipment applicable to the work as prescribed by the aforementioned authorities, all articles necessary for giving first aid to the injured, and shall establish the procedure for the immediate removal to a hospital or a doctor's care of persons who may be injured on the job site.
- 19.5 If death or serious injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger to the Contract Manager. In addition, the Contractor must promptly report in writing to appropriate authorities and the Contract Manager's representative all accidents whatsoever arising out of, or in connection with, the performance of the work whether on, or adjacent to, the site, giving full details and statements of witnesses. If a claim is made by anyone against the Contractor or any Sub-Contractor on account of any accident, the Contractor shall promptly report the facts in writing to the Contract Manager giving full details of the claim.
- 19.6 The Contractor shall provide, erect, and maintain all necessary barricades, suitable and sufficient lights, danger signals, signs and other traffic control devices, and shall take all necessary precautions for the protection of the work and safety of the public. Highways closed to traffic shall be protected by effective barricades, and obstructions shall be illuminated during the hours of darkness. Suitable warning signs shall be provided to control and direct traffic properly. The Contractor shall erect warning signs in advance of any place on the project where operations may interfere with the use of the road by traffic, and at all intermediate points where the new work crosses or coincides with an existing road.
- 19.7 Compliance with the requirements of this provision by Sub-Contractors will be the responsibility of the Contractor.

20. **TEMPORARY SANITARY FACILITIES**

- 20.1 The Contractor shall provide and maintain necessary sanitary conveniences for the use of those employed on or about the work properly secluded from public observation in such a manner and at such points as shall be approved by the Contract Manager, and their use shall be strictly enforced.

21. **SUPERVISION BY CONTRACTOR**

- 21.1 The Contractor will supervise and direct the work. He will be solely responsible for the means, methods, techniques, sequences and procedures of construction. The Contractor will employ and maintain on the work a qualified supervisor or superintendent who shall have been designated in writing by the Contractor as the Contractor's representative at the site. The supervisor shall have full authority to act on behalf of the Contractor and all communications given to the supervisor shall be as binding as if given to the Contractor. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the work.

22. **SUBCONTRACTING**

- 22.1 The Contractor may utilize the services of specialty Sub-Contractors on those parts of the work which, under normal contracting practices, are performed by specialty Sub-Contractors.
- 22.2 The Contractor shall not award work to Sub-Contractor(s) in excess of 67% of the contract price, without prior written approval of the Contract Manager.
- 22.3 The Contractor shall be fully responsible to the Owner for the acts and omissions of his Sub-Contractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.
- 22.4 The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind Sub-Contractors to the Contractor by the terms of the contract document insofar as applicable to the work of Sub-Contractors and to give the Contractor the same power as regards terminating any subcontract that the Contract Manager may exercise over the Contractor under any provision of the contract documents.
- 22.5 Nothing contained in this contract shall create any contractual relation between any Sub-Contractor and the Owner.

23. **SEPARATE CONTRACTS**

- 23.1 The Owner reserves the right to let other contracts in connection with this project. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate his work with theirs. If the proper execution or results of any part of the Contractor's work depends upon the work of any other Contractor, the Contractor shall inspect and promptly report to the Contract Manager any defects in such work that render it unsuitable for such proper execution and results.
- 23.2 The Owner may perform additional work related to the project by him, or he may let other contracts containing provisions similar to these. The Contractor will afford the other Contractors who are parties to such contracts (or the Owner, if he is performing the additional work himself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of work, and shall properly connect and coordinate his work with theirs.

23.3 If the performance of additional work by other Contractors or the Owner is not noted in the contract documents prior to the execution of the contract, written notice thereof shall be given to the Contractor prior to starting any such additional work. If the Contractor believes that the performance of such additional work by the Owner or others involves him in additional expense or entitles him to an extension of the contract time, he may make a claim therefore as provided in Sections 31 and 32.

24. DAYS OF WORK, HOURS OF WORK

24.1 Regular work shifts shall be eight hours daily Monday through Friday, except on holidays indicated below. Time of beginning and ending the day's work shall be approved by the Contract Manager. The Contract Manager, when in his opinion it is justified, may grant the Contractor permission to work overtime upon written request by the Contractor. When for good reason short periods of overtime work are required, the Contract Manager may give approval without advance written notice.

24.2 Construction work will not be permitted on Saturdays, Sundays, nor on New Year's Day, Martin Luther King's Day, President's Day, Memorial Day, Independence Day, Labor Day, Native American Day, Veterans Day, Thanksgiving Day and Christmas Day, nor any other holidays declared by the federal government. When any of the above holidays falls on Saturday and the preceding Friday is established as a holiday or when any of the holidays fall on Sunday and the following Monday is established as a holiday, no construction will be permitted on those days. The Contract Manager, when in his opinion it is justified, may grant the Contractor permission to work on any of the above days upon written application by the Contractor. Approval shall be required at least 48 hours in advance. Schedule for contractor working days for this project shall be provided to the Department of Transportation as well as to the Karuk Tribe Housing Authority no less than 1 week in advance of commencement of work. Any changes to the schedule require prompt notification to the Department of Transportation and Karuk Tribal Housing Authority.

25. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

25.1 The time for completion of the work is an essential condition of the contract documents. The time for completion appears in the Agreement. The work embraced shall be commenced on a date specified in the notice to proceed.

25.2 The Contractor will proceed with the work at such rate of progress to insure full completion within the time for completion. It is expressly understood and agreed, by and between the Contractor and the Owner, that time for completion of the work under the contract is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the work.

25.3 If the Contractor shall fail to complete the work within the time for completion, or extension of time granted by the Contract Manager, then the Contractor will pay to the Owner the amount for liquidated damages the sum of \$1500.00 for each consecutive calendar day thereafter and/or as specified in the contract documents for each calendar day that the work shall be incomplete after the date established by the time for completion.

25.4 The Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due to the following, and the Contractor has promptly given written notice of such delay to the Contract Manager.

25.4.1 To any preference, priority or allocation order duly issued by the Contract Manager.

25.4.2 To unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, or of the public enemy,

acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather; and

25.4.3 To any delays of Sub-Contractors occasioned by any of the causes specified in paragraphs 25.4.1 and 25.4.2 of this article.

26. PROGRESS SCHEDULES AND REQUIREMENTS FOR COMPLIANCE

26.1 If, in the opinion of the Contract Manager, the Contractor falls behind the progress schedule, the Contractor shall take such steps as may be necessary to assure performance within the allowable time for completion. The Contractor may propose for approval by the Contract Manager measures such as increasing number of workers, number of shifts, or overtime operations, days of work, or the amount of construction plant, or all of them. The Contract Manager may require the Contractor to submit for approval such supplementary schedule or schedules necessary to demonstrate that the work shall be performed within the allowable time for completion, all without additional cost to the Owner.

26.2 Failure of the Contractor to comply with the requirements of this provision shall be grounds for determination that the Contractor is not prosecuting the work with such diligence as will insure completion within the specified time for completion. Upon such determination the Contract Manager may terminate the Contractor's right to proceed with the work, or any separable part thereof in accordance with Section 28 entitled "Suspension of Work, Termination and Delay".

27. LAND AND RIGHTS-OF-WAY

27.1 Prior to issuance of notice to proceed, the Contractor shall obtain all rights-of-way necessary for carrying out and for the completion of the work to be performed pursuant to the contract documents, unless otherwise mutually agreed.

27.2 The Contractor shall obtain all necessary permits prior to commencement of the project.

27.3 The Contractor shall provide at his own expense and without liability to the Owner any additional land and access thereto that the Contractor may desire for temporary construction facilities, or for storage of materials. No spoils shall be left on tribal lands after project completion.

28. SUSPENSION OF WORK, TERMINATION AND DELAY

28.1 The Contract Manager may suspend the work or any portion thereof for a period of not more than 90 days or such further time as agreed upon by the Contractor, by written notice to the Contractor which notice shall fix the date on which work shall be resumed. The Contractor will resume that work on the date so fixed. The Contractor will be allowed an increase in the contract price or an extension of the contract time, or both, directly attributable to any suspension.

28.2 If the Contractor is adjudged as bankrupt or insolvent, or if he makes a general assignment for the benefit of his creditors or if a trustee or receiver is appointed for the Contractor or for any of his property, or if he files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if he repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or if he repeatedly fails to make prompt payments to Sub-Contractors or for labor, materials or equipment or if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the work or if he disregards the authority of the Contract Manager, or if he otherwise violates any provision of the contract documents, then the Contract Manager may, without prejudice to any other right or remedy and after giving the Contractor and his surety a minimum of ten days from delivery of a written notice, terminate the services of the

Contractor and take possession of the project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor, and finish the work by whatever method he may deem expedient. In such case the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price exceeds the direct and indirect costs of completing the project, including compensation for additional professional services, such excess shall be paid to the Contractor. If such costs exceed such unpaid balance, the Contractor will pay the difference to the Owner. Such costs incurred by the Owner will be determined by the Contract Manager and incorporated in a change order.

- 28.3 Where the Contractor's services have been so terminated by the Contract Manager, said termination shall not affect any right of the Owner against the Contractor then existing or which may thereafter accrue. Any retention or payment of monies by the Owner due the Contractor will not release the Contractor from compliance with the contract documents.
- 28.4 After ten days from delivery of a written notice to the Contractor, the Contract Manager may without cause and without prejudice to any other right or remedy, elect to abandon the project and terminate the contract. In such case, the Contractor shall be paid for all work executed and any expense sustained plus reasonable profit.
- 28.5 If, through no act or fault of the Contractor, the work is suspended for a period of more than 90 days by the Contract Manager or under an order of court or other public authority, or the Contract Manager fails to act on any request for payment within 30 days after it is submitted, or the Owner fails to pay the Contractor substantially the sum approved by the Contract Manager or awarded by arbitrators within 30 days of its approval and presentation, then the Contractor may, after ten days from delivery of a written notice to the Contract Manager, terminate the contract and recover from the Owner payment for all work executed and all expenses sustained. In addition and in lieu of terminating the contract, if the Contract Manager has failed to act on a request for payment or if the Owner has failed to make any payment as aforesaid, the Contractor may, upon ten days written notice to the Contract Manager, stop the work until he has been paid all amounts then due, in which event and upon resumption of the work, change orders shall be issued for adjusting the contract price or extending the contract time or both to compensate for the costs and delays attributable to the stoppage of the work.
- 28.6 If the performance of all or any portion of the work is suspended, delayed, or interrupted as a result of a failure of the Contract Manager to act within the time specified in the contract documents, or if no time is specified, within a reasonable time, an adjustment in the contract price or an extension of the contract time, or both, shall be made by change order to compensate the Contractor for the costs and delays necessarily caused by the failure of the Contract Manager.

29. **INSPECTION AND TESTING**

- 29.1 All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with generally accepted standards, as required and defined in the contract documents.
- 29.2 The Owner shall provide any inspection and testing services beyond those required by the contract documents.
- 29.3 The Contractor shall provide at his expense the testing and inspection services required by the contract documents.
- 29.4 If the contract documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any work to specifically be inspected, tested, or

- approved by someone other than the Contractor, the Contractor will give the Contract Manager timely notice of readiness. The Contractor will then furnish the Engineer the required certificates of inspection, testing or approval.
- 29.5 Inspections, tests or approvals by the Contract Manager or others are for the sole use of the Owner and shall not relieve the Contractor from his obligations to perform the work in accordance with the requirements of the contract documents.
- 29.6 The Contract Manager and his representatives will at all times have access to the work. In addition, authorized representatives and agents of any participating federal or state agency shall be permitted to inspect all work, materials, and payrolls, records of personnel, invoices of materials, and other relevant data and records. The Contractor will provide proper facilities for such access and observation of the work and also for any inspection, or testing thereof.
- 29.7 If any work is covered contrary to the written instructions of the Contract Manager it must, if requested by the Contract Manager, be uncovered for his observation and replaced at the Contractor's expense.
- 29.8 If the Contract Manager considers it necessary or advisable that covered work be inspected or tested by others, the Contractor, at the Contracting Manager's request, will uncover, expose or otherwise make available for observation, inspection or testing-that portion of the work in question, furnishing all necessary labor, materials, tools and equipment. If it is found that such work is defective, the Contractor will bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction. If, however, such work is not found to be defective, the Contractor will be allowed an increase in the contract price or an extension of the contract time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction and an appropriate change order shall be issued.
30. **CORRECTION OF WORK**
- 30.1 The Contractor shall promptly remove from the premises all work rejected by the Contract Manager for failure to comply with the contract documents, whether incorporated in the construction or not, and the Contractor shall promptly replace and re-execute the work in accordance with the contract documents and without expense to the Owner and shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.
- 30.2 All removal and replacement work shall be done at the Contractor's expense. If the Contractor does not take action to remove such rejected work within 10 days after receipt of written notice, the Owner may remove such work and store the materials at the expense of the Contractor.
31. **CHANGES IN THE WORK**
- 31.1 All change orders that will increase the contract price are required to have a cost analysis performed and require written approval from the Karuk Tribe prior to implementation.
- 31.2 The Contract Manager may at any time, as the need arises, order changes within the scope of the work without invalidating the Agreement. If such changes increase or decrease the amount due under the contract documents, or in the time required for performance of the work, an equitable adjustment shall be authorized by change order.
- 31.3 The Contract Manager also may, at any time, by issuing a field order, make changes in the details of the work. The Contractor shall proceed with the performance of any changes in

the work unless the Contractor believes that such field order entitles him to a change in contract price or time, or both, in which event he shall give the Contract Manager written notice thereof within seven days after the receipt of the ordered change. Thereafter the Contractor shall document the basis for the change in contract price or time within 30 days. The Contractor shall not execute such changes pending the receipt of an executed change order or further instruction from the Contract Manager.

32. CHANGES IN CONTRACT PRICE

32.1 The contract price may be changed only by a change order. The value of any work covered by a change order or of any claim for increase or decrease in the contract price shall be determined by one or more of the following methods in the order of precedence listed below:

- i. Unit prices previously approved.
- ii. An agreed lump sum.
- iii. The actual cost for labor, direct overhead, materials, supplies, equipment, and other services necessary to complete the work. In addition there shall be added an amount to be agreed upon but not to exceed 15% of the actual cost of the work to cover the cost of general overhead and profit.

33. DIFFERING SITE CONDITIONS

33.1 The Contractor shall promptly, and before such conditions are disturbed, except in the event of an emergency, notify the Contract Manager by written notice of:

33.1.1 Subsurface or latent physical conditions at the site differing materially from those indicated in the contract documents; or

33.1.2 Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract documents.

33.2 The Contract Manager shall promptly investigate the conditions, and if he finds that such conditions do so materially differ and cause an increase or decrease in the cost of, or in the time required for, performance of the work, an equitable adjustment shall be made and the contract documents shall be modified by a change order. Any claim of the Contractor for adjustment hereunder shall not be allowed unless he has given the required written notice; provided that the Contract Manager may, if he determines the facts so justify, consider and adjust any such claims asserted before the date of final payment.

34. USE AND POSSESSION PRIOR TO COMPLETION

34.1 The Owner shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contract Manager shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the Owner intends to take possession of or use. However, failure of the Contract Manager to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The Owner's possession or use shall not be deemed an acceptance of any work under the contract.

34.2 While the Owner has such possession or use, the Contractor shall be relieved of the responsibility for the loss of or damage to the work resulting directly from the Owner's possession or use. If prior possession or use by the Owner delays the progress of the work or causes additional expense to the Contractor, an adjustment shall be made in the contract price, the time of completion or both, and the contract shall be modified in writing accordingly.

35. **RECORD DRAWINGS**

- 35.1 Record Drawings shall be prepared by the Contractor and shall include: all information shown on the Contractors drawings and all deviations, modifications or changes from those drawings, however minor, which were incorporated in the work; all additional work not appearing on the contract drawings; and any changes made after the final inspection.
- 35.2 Record drawing shall be kept current and available on the job site at all times. No construction work shall be concealed until the necessary data has been recorded.
- 35.3 Record drawings will be jointly inspected for accuracy and completeness by the Contract Manager or his representative at, or just prior to, the Contractor submitting requests for payment. Incomplete drawings will be corrected before payment approval is recommended (Reference section 40, "Payments to Contractor").
- 35.4 Record drawings shall accurately show, using details, notes, etc., the following information:
- i. The project number, contract number, community name, and other relevant general information.
 - ii. The location and description of any utility lines or other installations of any kind or description known to exist within the construction area. The location includes dimensions to permanent features.
 - iii. The location and dimensions of any changes from the contract drawings.
 - iv. Changes in design details or additional information obtained from working drawings specified to be prepared and/or furnished by the Contractor including but not limited to fabrication, erection, installation plans, and placing details, pipe sizes, insulation materials, dimensions or equipment foundations, etc.
 - v. The location and description of all buried facilities installed by the Contractor including at least two ties to permanent features and bury depth of major components, fittings, appurtenances, and change of direction of pipelines.
 - vi. All changes or modification which results from the final inspection.
 - vii. All information as required in the technical specifications.
- 35.5 One copy of the Record Drawings shall be delivered to the Contract Manager with the Contractor's written request for final inspection. The Contract Manager will expedite drawings review and will provide written approval or disapproval prior to the final inspection. If the Record Drawings are disapproved, they will be returned to the Contractor for further work and re-submittal. Final payment will not occur until an approved set of drawings is received.

36. **CLEANUP AND FINISH GRADING**

- 36.1 The Contractor shall restore all areas disturbed by construction to a condition at least equal to that existing prior to construction. Excess construction materials, equipment, tools, waste excavation, and rubbish shall be removed. Excavated areas shall be finish graded to provide drainage as required by the drawings and technical specifications, or in the absence of specific requirements, to provide drainage away from the facilities constructed and to restore original drainage patterns in existence prior to construction and to provide drainage away from excavated areas and installed facilities.

37. **MEASUREMENT AND PAYMENT**

- 37.1 Completed items of work shall be measured and paid for in accordance with the requirements listed in the bid schedule and any subsequent approved change orders. Payment shall be based on the actual quantities completed and shall represent full compensation under the contract. The price paid for the completed item of work shall include full compensation for furnishing all labor, materials, (other than that furnished by the Owner), tools, equipment, and performing all work required by the provisions of the contract

to furnish and install the item of work, complete in place. In all cases, the finished product shall be a complete, operational system or component. The price for the completed item of work shall also include all applicable state and local sales and other taxes.

38. VARIATION IN ESTIMATED QUANTITIES

38.1 If the quantity of a unit-priced item in this contract is an estimated quantity and the actual quantity of the unit-priced item varies more than 25% above or below the estimated quantity, an equitable adjustment in the contract price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above 125% or below 75% of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Contractor may request, in writing, an extension of time, to be received by the Contract Manager within ten days from the beginning of the delay, or within such further period as may be granted by the Contract Manager before the date of final settlement of the contract. Upon the receipt of a written request for an extension, the Contract Manager shall ascertain the facts and make any appropriate adjustment for extending the completion date.

39. FINAL INSPECTION

39.1 Final inspection will be made by the Owner when the Contractor advises that all materials have been furnished, all the work has been performed, and all the construction provided for by the contract has been completed in accordance with its terms. The Contractor shall submit a written request to the Owner at least five working days before the requested final inspection date if required.

39.2 If a re-inspection or re-test is required because of uncompleted work, the Owner may charge the Contractor for re-inspection costs.

39.3 The Owner will provide written acceptance when all materials, work or other requirements of the drawings, specifications and contract are furnished or completed. The written acceptance will include the date the work is determined to be complete, and until such acceptance, the Contractor will be responsible for all work performed and materials delivered.

40. PAYMENTS TO CONTRACTOR

40.1 Payment requests shall be made on a monthly interval unless otherwise designated by the Contract Manager. The Contractor will submit to the Contract Manager a partial payment request filled out and signed by the Contractor covering the work performed during the period covered by the partial payment estimate and supported by such data as the Contract Manager may reasonably require. The request for payment may also include an allowance for the cost of such major materials and equipment which are suitably stored at the site on tribal trust land. If payment is requested on the basis of materials and equipment not incorporated in the work but delivered and suitably stored at the site, the partial payment estimate shall also be accompanied by such supporting data, satisfactory to the Contract Manager, as will establish the Owners title to the material and equipment and protect his interest therein, including applicable insurance. The Contract Manager will, within ten days after receipt of each partial payment estimate, either approve payment and present the partial payment estimate to the Owner, or return the partial payment estimate to the Contractor indicating in writing his reasons for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and resubmit the partial payment estimate. The Owner will, within 20 days of presentation to him of an approved partial payment estimate, pay the Contractor a progress payment on the basis of the approved partial payment estimate. The Owner shall retain 10% of the amount of each payment and 2% TERO tax until final completion and acceptance of all work covered by the contract documents. The Owner at any time, however, after 50% of the work has been completed, if

he finds that satisfactory progress is being made, may reduce retention to 5% on the current and remaining estimates. When the work is substantially complete (operational or beneficial occupancy), the retained amount may be further reduced below 5% to only that amount necessary to assure completion. On completion and acceptance of a part of the work on which the price is stated separately in the contract documents, payment may be made in full, including retained percentages less authorized deductions.

- 40.2 Upon completion and acceptance of the work, the Contract Manager may issue a certificate attached to the final payment request that the work has been accepted by him under the conditions of the contract documents. Within 30 days of completion and acceptance of the work, the Owner shall pay the entire balance found to be due the Contractor including the retained percentages, but except such sums as may be lawfully retained by the Owner.
- 40.3 The Contractor will indemnify and save the Owner or the Owner's agents harmless from all claims growing out of the lawful demands of Sub-Contractors, laborers, workmen, mechanics, material men, and furnishers of machinery and parts thereof, equipment, tools, and all supplies, incurred in the furtherance of the performance of the work. The Contractor shall, at the Contract Manager's request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the Contractor fails to do so the Contract Manager may, after having notified the Contractor, either arrange payment for unpaid bills or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed, in accordance with the terms of the contract documents, but in no event shall the provisions of this sentence be construed to impose any obligations upon the Owner to either the Contractor, his Surety, or any third party. In paying any unpaid bills of the Contractor, any payment so made by the Owner shall be considered as a payment made under the contract documents by the Owner to the Contractor and the Owner shall not be liable to the Contractor for any such payments made in good faith.
- 40.4 If the Owner fails to make payment 30 days after approval by the Contract Manager, in addition to other remedies available to the Contractor, there shall be added to each such payment interest at the maximum legal rate commencing on the first day after said payment is due and continuing until the payment is received by the Contractor.

41. **ASSIGNMENTS**

- 41.1 Neither the Contractor nor the Owner shall sell, transfer, assign or otherwise dispose of the contract or any portion thereof, or of his right, title or interest therein, or his obligations thereunder, without written consent of the other party.

42. **GUARANTY**

- 42.1 The Contractor shall guarantee all materials and equipment furnished and work performed for a period of **one year** from the date of substantial completion of the system that the completed system is free from all defects due to faulty materials or workmanship and the Contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the systems resulting from such defects. The Contract Manager will give notice of observed defects with reasonable promptness. In the event that the Contractor should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, the Owner may do so and charge the Contractor the cost thereby incurred. The performance bond, if required, shall remain in full force and effect through the guarantee period.

43. **ACCEPTANCE OF FINAL PAYMENT AS RELEASE**

43.1 The acceptance by the Contractor of final payment shall be and shall operate as a release to the Owner of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically accepted by the Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner and others relating to or arising out of this work. Any payment, however, final or otherwise, shall not release the Contractor or his sureties from any obligations under the contract documents or the performance bond and payment bonds.

44. **CONTRACT MANAGER'S ROLE AND AUTHORITY**

44.1 The Contract Manager or his designee shall act as the Owner's representative during the construction period. He shall decide questions which may arise as to quality and acceptability of materials furnished and work performed. He shall interpret the intent of the contract documents in a fair and unbiased manner. The Contract Manager will make visits to the site and determine if the work is proceeding in accordance with the contract documents.

44.2 The Contractor will be held strictly to the intent of the contract documents in regard to the quality of materials, workmanship and execution of the work. Inspections may be made at the factory or fabrication plant of the source of material supply.

44.3 The Contract Manager will not be responsible for the construction means, controls, techniques, sequences, procedures, or construction safety.

44.4 The Contract Manager does not have authority to obligate the Owner to change in the terms of the contract without the approval of the Owner.

45. **RESOLUTION OF DISPUTES**

45.1 All claims, disputes and other matters in question arising out of, or relating to, the contract documents or the breach thereof, except for claims which have been waived by the making and acceptance of final payment as provided by Section 43, shall be decided by alternate dispute resolution procedures. These procedures may include but are not limited to conciliation, facilitation, mediation and fact finding.

45.3 The Contractor will carry on the work and maintain the progress schedule during any dispute resolution proceedings, unless otherwise mutually agreed in writing.

46. **EQUAL EMPLOYMENT OPPORTUNITY**

46.1 During the performance of this contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

46.2 The Contractor shall take affirmative action to ensure the applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

46.3 The Contractor agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- 46.4 The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor; state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, or national origin.
- 46.5 The Contractor shall send, to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of the Contractor's commitment under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- 46.6 The Contractor shall comply with all provision of Executive Order No. 11246, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor.
- 46.7 The Contractor shall furnish to the Contract Manager, all information required by Executive Order No. 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. Standard Form 100 (EEO - 1), or any successor form, is the prescribed form to be filed within 30 days following the award, unless filed within 12 months preceding the date of award.
- 46.8 The Contractor shall permit access to its books, records, and accounts by the Owner, Owner's representatives or the Office of Federal Contract Programs (OFCCP) for the purposes of investigation to ascertain compliance with the applicable rules, regulations, and orders.
- 46.9 If the OFCCP determines that the Contractor is not in compliance with this clause or any rules, regulations, and orders of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further contracts.
- 46.10 The Contractor shall include the terms and conditions of this section in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order No. 12246, as amended, so that such provisions will be binding upon each Sub-Contractor or vendor.
- 46.11 The Contractor shall take such action with respect to any subcontract or purchase order as the Contract Manager may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with litigation with a Sub-Contractor or vendor as a result of such direction by the Contract Manager, the Contractor may request the Owner and the United States to enter into such litigation to protect the interests of the United States.
47. **CLEAN AIR AND WATER**
- 47.1 The Contractor agrees to comply with all the requirements of section 114 of the Clean Air Act (42 U.S.C. 7414) and section 308 of the Clean Water Act (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Clean Air Act and the Clean Water Act, and all regulations and guidelines issued to implement those acts before the award of this contract.
- 47.2 The Contractor agrees that no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of the facility from the listing.

47.3 The Contractor agrees to use best efforts to comply with clean air standards and clean water standards at the facility in which the contract is being performed.

47.4 The Contractor agrees to insert the substance of this clause into any nonexempt subcontract, including this subparagraph 48.4.

48. **INDIAN PREFERENCE**

48.1 The Contractor agrees:

48.1.1 To give preference in employment opportunities under this contract to the greatest extent feasible to Indians who can perform required work, regardless of age (subject to existing laws and regulations), sex, religion, or Tribal affiliation. To the maximum extent feasible and consistent with the efficient performance of this contract, the Contractor further agrees to give preference to the greatest extent feasible in employment and training opportunities under this contract to Indians who are not fully qualified to perform regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation.

48.1.2 The Contractor also agrees to give preference to Indian Organizations and Indian-owners economic enterprises in the awarding of any subcontracts to the greatest extent feasible and consistent with the efficient performance of this contract. The Contractor shall maintain statistical records as are necessary to indicate compliance with this paragraph.

48.2 In connection with the Indian employment preference requirements of this clause, the Contractor shall provide opportunities for on-the-job training incident to such employment that will increase the vocational effectiveness of an Indian employee.

48.3 If the Contractor is unable to fill its employment and training opportunities after giving full consideration to Indians as required by this clause, those needs may be satisfied by selection of persons other than Indian in accordance with applicable fair employment practices.

48.4 If no Indian organizations or Indian-owned economic enterprises are available under reasonable terms and conditions, including price, for awarding of subcontracts in connection with the work performed under this contract, the Contractor agrees to comply with the provisions of this contract by applying fair, competitive contracting practices.

48.5 As used in this clause:

- i. The term "Indian" means a person who is a member of an Indian Tribe or qualifies as a California Indian according to federal law. If the Contractor has reason to doubt that a person seeking employment preference is an Indian, the Contractor shall grant the preference but shall require the individual to provide evidence within 30 days from start of employment.
- ii. The term "Indian Tribe" means an Indian Tribe, pueblo, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 16311) which is recognized as eligible for the special programs and services provided by the United States to Indian because of their status as Indians.
- iii. The term "Indian Organization" means the governing body of any Indian Tribe or entity established or recognized by such governing body in accordance with the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451); and,
- iv. The term "Indian-owned Economic Enterprise" means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, provided that such Indian ownership shall constitute not less than 51% of the enterprise, and that ownership shall encompass active operation and control of the enterprise.

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TITLE 5 KARUK TRIBAL EMPLOYMENT RIGHTS ORDINANCE

STANDARDS AND PROCEDURES FOR EMPLOYMENT PRACTICES AND APPLICATION OF INDIAN PREFERENCE

5.1 SHORT TITLE

5.1.01 The short title of this Ordinance shall be the Tribal Employment Rights Ordinance, or TERO.

Enforcement of Ordinance NO. 93-0-01, Certification of Indian Firms. The Tribal Employment Rights Commission is authorized to certify that an enterprise meets the definition of an Indian firm as set forth in **Section 2.04** for the purpose of Indian preference, and for documentation of minority small business contract eligibility or claimed exemptions from State taxation and wage performance bond requirements; provided, however, that certification as provided herein shall not require the Commission to advocate the claims of private individuals and entities before any agency of another government.

5.2 DEFINITIONS

- a) "Indian" means any member of any federally recognized Tribe, or any person who furnishes documentary proof that he or she is recognized as an Indian by the United States pursuant to its trust responsibility to American Indians. **See 24CFR 1000.48 (b)(1) and 25CFR 41.3 (h)(i). See Amendment #001**
- b) "Karuk Reservation" means the aboriginal territory of the Karuk People and all lands of the Karuk Tribe of California, including Indian Country as defined at **18 U.S.C. Section 1151**, as follows:
- c) Except as otherwise provided in **Sections 1154 and 1156** of this title, the term "Indian Country", as used in this chapter, means
 - i. all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of way running through the reservation,
 - ii. all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, and
 - iii. all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.
- d) "Employer" means any person, company, contractor, Sub-Contractor or entity located or engaging in commercial or employment activity within the Karuk Reservation. And which employs two or more persons. See section 5.2(b), 18 U.S.C. section 1156
- e) "Indian Firm" means a firm or business certified by the Commission as eligible for Indian Preference in contracting or subcontracting; provided that Indians hold at least 51% ownership interest in such firm or business and exercise majority management control.
- f) "Commission" and "Office" means the Tribal Employment Rights Commission and its office.
- g) "Council" means the Karuk Tribal Council.
- h) "Court" except where otherwise specified, means the Tribal court having jurisdiction over civil actions.
- i) "Person" means natural persons, either tribal member or non-tribal member, and foreign and domestic corporations and tribal governments and their political subdivisions.
- j) "Resident Indian" means an Indian living within the Karuk Reservation.
- k) "Threshold" means a level above which Indian preference will be required as established by:
 - i. Job Description;
 - ii. Interview Committees;
 - iii. Skills Test;
 - iv. Request for Proposals, Notice of Funds Availability and License requirements;
 - v. Other Written Requirements.

5.3 ESTABLISHMENTS OF TRIBAL EMPLOYMENT RIGHTS COMMISSION AND OFFICE

5.3.01 Establishments and purpose of the Commission. The Karuk Tribe hereby establishes the Tribal Employment Rights Commission for the purpose of;

- a) Implementing and enforcing the provisions of this Ordinance in order to promote the employment of the Tribal members.
- b) To insure that this Ordinance, the Personnel Policies and Procedures of the Karuk Tribe, Unemployment laws, Disability and Workman's Compensation Insurance, or other Council enactment's and policies regulating employment practices of the Tribe, its entities or other employers or contractors within the Reservation, or within the jurisdiction of the Tribe, are complied with.

5.3.02 General Powers of the Commission

- a) ORGANIZATIONAL AUTHORITY: The Commission may hire staff, obligate funds appropriated by the Council, and secure and obligate funding from Federal, State or other sources to carry out its duties and functions under this Ordinance upon receiving approval of such action from the Council. The Commission is further authorized and directed to adopt and request Council Approval of such regulations as are necessary to enable it to carry out its duties and functions. The Commission shall report directly to the Tribal Council.
- b) REGULATORY AUTHORITY
 - i. The Commission shall issue rules, regulations, interpretation of laws, and guidelines for Indian preference necessary to implement this Ordinance. Such rules and regulations shall become effective upon written approval of the Council. The Commission shall take all reasonable steps to insure that the general Reservation community, businesses, contractors, employers or other entities dealing with employment on the Reservation or within the jurisdiction of the Tribe, be on notice of all Indian Preference and employment related laws.
 - ii. The Commission shall maintain an Indian Skills Bank as a means of providing qualified Indian employees to employers, contractors and Sub-Contractors. The Commission shall also actively recruit and certify Indian firms as eligible for Indian preference in contracting and subcontracting.
 - iii. The Commission is authorized to certify Indian Firms, from on or off the Reservation, for purposes of Indian preference, minority small business contract eligibility, exemption from state taxation and wage performance bond requirements, and other purposes.
 - iv. The Commission shall register off-reservation contractors and sub-contractors and employers, approve Indian Preference Plans, and issue work permits.
 - v. The Commission is authorized and directed to investigate complaints regarding any violation of the provisions of this Ordinance. The Commission may also investigate possible violations on its own initiative.
- c) ADJUDICATORY AUTHORITY: The Commission may hold hearings on and determine any matter under its authority, including but not limited to hearings necessary to the issuance, modification, and revocation of any permit, license, or assessment authorized hereunder, as well as any adjudicatory hearing regarding violations of the provisions of this Ordinance. The Commission shall develop procedures to govern its hearings, and is authorized to issue compliance orders and to impose civil penalties in the form of fines and sanction.
- d) COOPERATIVE AGREEMENT WITH OTHER GOVERNMENTS The Commission may negotiate, and upon Council approval, enter into cooperative agreements with agencies of the state and federal government in order to implement the intent of this Ordinance, and to eliminate unlawful discrimination against Indians, and to provide for review of other employment related issues. Between the Tribe, State and Federal Government.

5.3.03 Composition of the Commission: The Commission shall be composed of five (5) members and one (1) alternate. Three (3) members of the Commission shall be Council members, or Tribal members appointed by the Council, two members selected by the Council shall not be an elected representative of the Tribe and may be a non-tribal member of the Reservation Community. Each Commissioner shall serve for a term of three years, except two of the first Commissioners appointed

by the Council shall serve a term of two (2) years, after which their successors shall serve a term of three (3) years. Commissioners may be removed by the Council at any time for cause, subject to notice and opportunity for a hearing before the Council.

- a) Decisions of the Commission shall be made by Majority vote. A quorum shall consist of any three (3) of the five (5) Commissioners.
- b) Any Commissioner who is also on the staff of the Council shall be disqualified from any involvement in decisions affecting the Tribal Department or entity with which he or she is employed.

5.3.04 Officers: The officers of the Commission shall be a Chairperson, Vice-Chairperson, Secretary, and Treasurer, all to be selected by the Commission from among its members. The Officers shall be appointed each year by the Commission at its first meeting. All officers shall be members of the Commission. Unless an officer resigns, dies or is removed prior thereto, an officer shall hold office until a successor has been chosen and qualified. Any officer may resign at any time by delivering a written resignation to the Chairperson or Secretary.

5.3.05 Powers of the TERO Director: The Commission may, with the approval of the Tribal Council, hire a Director. The Director shall have those powers delegated by the Commission as it deems necessary to carry out this Ordinance. The Director shall be the investigating agent for the Commission responsible for investigating, researching, reporting and documenting any information required by the Commission. The Director shall report directly to the Commission.

5.4 INDIAN EMPLOYMENT PREFERENCE POLICY AND PROCEDURES

5.4.01 All employers shall extend a preference to qualified Indians, as provided herein, in all aspects of employment, including but not limited to, recruitment, hiring, contracting and sub-contracting. No employer shall recruit, hire or otherwise employ any non-Indian for any employment position covered by this Ordinance, unless and until the Commission has been provided reasonable opportunity to furnish written notice to such employer that no qualified Indians are available for such position.

5.4.02 Applicability: Unless clearly and expressly prohibited by Federal or other Tribal law, this Ordinance shall apply to all employers, including but not limited to: the Council and all of its programs, departments, and chartered entities or enterprises; private employers, independent contractors and sub-contractors; including those performing work for the Council, the State of California or the United States.

5.4.03 Covered Position: The Indian employment preference policy of this section shall apply to each and every job classification, skill area, or craft recognized or utilized by an employer, including, but not limited to, administrative, supervisory, and professional classifications.

5.4.04 Qualified Indians: Employment Criteria: An Indian shall be qualified for employment in a position if he or she meets the threshold requirements for such position, and such Indian shall be accorded the preferences to which he or she is entitled under this Ordinance. No employer may utilize any employment criterion that is not legitimately related to the performance of the position.

5.4.05 Eligible Indians: All employers, including the Karuk Tribe and its programs, departments, chartered entities, and enterprises shall, for all positions funded by Tribal funds, extend Indian Preference according to the following priorities:

- a) Members of the Karuk Tribe;
- b) Other resident local Indians;
- c) Other Indians;
- d) Descendants and Non-Indian spouse of Tribal members;
- e) Other persons

5.4.06 Funding: For any position not funded exclusively by Karuk Tribal funds, all employers, including the Karuk Tribe, shall extend first priority Indian preference to all local resident Indians on an equal basis, irrespective of the preference priorities established in **Section 5.4.05** of this Ordinance.

5.4.07 Notice Of Employee Rights: All employers subject to this Ordinance shall prominently display a notice to all employees and applicants for employment of their rights under this Ordinance.

5.4.08 Employer Retaliation Prohibited It shall be violation of this Ordinance for any employer to take any adverse personnel or hiring action or to retaliate in any way, against any person who attempts to exercise rights protected under this Ordinance. Employers found by the Commission, pursuant to an adjudicatory hearing, to have engaged in retaliation shall be subject to appropriated sanctions pursuant to **Section 5.3.02(c)**.

5.5 ESTABLISHMENT OF TRIBAL EMPLOYMENT RIGHTS OFFICE FEES

5.5.01 There is hereby established a Tribal Employment Rights Fee to be paid to the Commission by each prime contractor, and each employer operating within any area of Karuk Tribal Jurisdiction, whose total contract or annual gross revenues is \$2,500.00 or more. The fee shall be equivalent to two percent (2%) of the total gross value of any contract initiated within the Karuk Reservation or two percent (2%) of the total annual gross revenues of businesses within the Karuk Reservation. The total TERO fees shall either be deducted from the first payment made to Contractor at the beginning of the contract or paid in incremental payments to coincide with the contractual payment schedule. The proceeds of the fees shall be placed in a separate account for use in implementing this Ordinance, or other purpose approved by the Commission and the Council and shall be administered and governed under guidelines approved by the Tribal Fiscal Department. A contractor or employer failing to pay the Tribal Employment Rights Office Fees shall be subject to sanctions, pursuant to **Section 5.3.02(c)**.

5.6 SPECIAL REQUIREMENTS FOR CONTRACTOR AND SUB-CONTRACTORS

5.6.01 The requirements of this Section apply to all employers engaging in commercial or employment activities within the Reservation, pursuant to public or private contract:

5.6.02 Certification by Commission Any contractor or sub-contractor claiming eligibility for Indian preference under this title shall submit documentation acceptable to the Commission, pursuant to its authority under **Section 5.3.02 (b) (iii)**, that it is an Indian firm as defined in **Section 5.2(d)**.

5.6.03 Indian Preference Plan: Each contractor shall include in its bid, an Indian Preference plan for the master contract and any subcontracts. The plan shall indicate the name of the proposed sub-contractor, whether the sub-contractor is an Indian owned firm and if not, information on the good faith steps taken to identify Indian firms for the subcontract.

5.6.04 Failure to Submit Indian Preference Plan : An apparent successful bidder who fails to submit an Indian preference plan prior to award of the contract may be considered a non-responsive bidder for the purpose of awarding the contract.

5.6.05 Amendments to Plan: If awarded the bid, the contractor shall not deviate from the plan or add or delete any existing new subcontract or sub-contractors without the written consent of the Commission or its Office. Any amendments to the Indian Preference Plan must be in writing and approved prior to the date of implementation.

5.6.06 Bid Shopping Prohibited: A contractor is prohibited from engaging in bid shopping as a means of avoiding its Indian subcontract preference obligation. Bid shopping is defined as any practice in which a bidder or contractor informs a prospective sub-contractor that it will receive a subcontract only if it offers a price lower than that proposed by another firm.

5.7 JOB CATEGORIES

5.7.01 Identification of Regular, Permanent Employees: Prospective contractors and bidders shall identify regular, permanent employees, including those of sub-contractors, in the bid package. Such employees may be on the project whether or not they are Indian. A regular, permanent employee is one who is and has been on the contractor's or sub-contractor's annual payroll for six (6) months

prior to the Request for Proposal, or is an owner of the firm. The fact that an individual has worked for the contractor on previous projects shall not of itself qualify that individual as a regular, permanent employee. Exceptions for superintendents and other key personnel may be granted by the Commission on a case by case basis. It shall be evidence creating a rebuttal presumption that any contractor or sub-contractor filling vacant employment positions in its organization immediately prior to undertaking work pursuant to a contract on the Karuk Reservation that such actions were intended to circumvent the provisions of this Ordinance, and upon request from the Commission or its Office, such contractor or sub-contractor shall provide evidence acceptable to the Commission rebutting said presumption. The Commission may impose sanctions pursuant to **Section 5.3.02(c)** for violation of this **Section 5.7.01**, and such sanctions may include cancellation of the contract or subcontract as well as fines and penalties.

- 5.7.02 Lay Offs: No Indian worker shall be laid off as long as a non-Indian worker in the same craft or position is still employed or as long as the Indian meets the threshold qualification for the job, unless such non-Indian has been employed for more than ninety (90) days longer than such Indian. If the contractor lays off by crews, qualified Indians shall be transferred to any crew that will be retained, as long as there are non-Indians in the same craft or position employed elsewhere on the Reservation under the same contract.
- 5.7.03 Reporting Requirements : Each employer shall submit annual reports to the Commission on a form provided indicating the number of employees including a separate tally of Indians it has on its workforce, hires, fires and other information as may be identified on the form. An employer who fails to submit annual reports shall be subject to sanctions, pursuant to **Section 5.3.02 9(c)**.

5.8 IMPLEMENTATION

5.8.01 In implementing the requirements of this Ordinance, the Commission or its Office may:

- a) Require employers to establish or participate in such training programs as the Commission determines necessary in order to increase the pool of qualified Indians on and near the Karuk Reservation. Such training programs when required shall be noted in the Request for Proposal and shall be included in the bid package. If required training programs are not included in the bid package, the Commission shall give due consideration to the increase in cost, if any for providing the program.
- b) Attend or monitor all job interviews as a non-voting participant.
- c) Prohibit an employer from establishing extraneous qualification criteria or other requirements that serves as barriers to Indian employment.
- d) Enter into agreements, subject to approval by the Council, with unions and other employers to insure compliance with this Ordinance.
- e) Require employers to give preference in the award of contracts and subcontracts to certified Indian owned firms and businesses.
- f) Establish programs to provide counseling and support to Indian workers to assist them in retaining employment. Employers may be required to participate in and/or cooperate with such support and counseling programs.
- g) Issue permits for the implementation of the provisions of this Ordinance and other agreements entered into under the authority of this Ordinance.

5.9 ENFORCEMENT BY TRIBAL EMPLOYMENT RIGHTS OFFICE COMMISSION.

5.9.01 In implementing this Ordinance the Commission and its Office, in addition to all other powers contained in this Ordinance, shall have the following powers of enforcement.

- a) Investigation Monitoring To investigate and monitor complaints, concerns, and inquiries regarding Indian preference and other employment related concerns.
- b) Issue Notice of Non-Compliance and Compliance Orders. To issue notices of non-compliance with this Ordinance or other rules, regulations or policies within its jurisdiction, and to issue such orders as reasonably necessary to remedy the non-compliance.

- c) Hearings to hold such hearings as may be necessary to resolve complaints and hear concerns regarding matters covered under this Ordinance.
- d) Employment on Karuk Lands “No person shall be required, as a condition of employment or continuation of employment on Karuk Lands, to:
 - i. resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;
 - ii. become or remain a member of a labor organization;
 - iii. pay dues, fees, assessments or other charges of any kind or amount to a labor organization;
 - iv. pay to any charity or other third party, in lieu of such payments any amount equivalent to or a pro-rata portion of dues, fees, assessment or other charges regularly required of members of a labor organization; or
 - v. be recommended, approved, referred or cleared through a labor organization.” See **Section 164 of the National Labor Relations Act (NLRA)**

5.10 APPEALS

5.10.01 Decisions of the Commission may be appealed to The Tribal Council. The Tribal Council is hereby authorized to hear and dispose of appeals brought under this section. The Council may delegate this authority to Court defined in **Section 5.2(g)**.

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TRIBAL EMPLOYMENT RIGHTS OFFICE COMPLIANCE PLAN

Bidder/Employer Name: _____

Mailing Address: _____

City, State and Zip Code: _____

Contact Person: _____ Phone Number: _____

E-mail: _____

Bid Amount: \$ _____ TERO Fee (2%): \$ _____

THIS IS AN AGREEMENT BETWEEN THE KARUK TRIBE'S TRIBAL EMPLOYMENT RIGHTS OFFICE (TERO) AND _____, HEREINAFTER KNOWN AS "EMPLOYER" CONDUCTING COMMERCE AND EMPLOYMENT ACTIVITY WITHIN THE ANCESTRAL TERRITORY OF THE KARUK TRIBE.

- Employer shall provide the completed compliance plan with the submission of bid.
- Upon notification of the award, Employer shall contact the TERO Office within ten (10) days prior to any work to be performed.
- Employer shall contact the TERO Office and Contract/Project Manager immediately, in writing, advising of any contract or sub-contractor changes to obtain approval prior to working on the job site.
- Employer understands and agrees to comply with the requirements and procedures in the selection of contractors, sub-contractors, employees and recruitment of viable Indian applicants in accordance with the Karuk Tribe's Employment Rights Ordinance and the Karuk Tribe's Workforce Protection Act (WPA).

By signing below the Employer certifies the position information is true and correct and there have been no omissions in the completion of the labor force projections. Falsification of the information provided will result in sanctions, penalties, fines and/or debarment with the Karuk Tribe.

Employer Signature

Date

List Non-Native Contractor/Sub-contractors to be hired for this Project:

| Contractor/Sub-contractor Contact Person, Phone # and E-mail: | Work to be Performed: |
|--|-----------------------|
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Open Positions: Employer agrees to hire 100% of all its open positions/Sub-contractors for this project through the TERO Skills Bank. If Employer is unable to hire 100% then company representatives will need to meet with the TERO Director. Failure to comply with this hiring requirement will result in sanctions and/or penalties.

| Job Title/Sub-contractor Needed: | Skills Required: |
|----------------------------------|------------------|
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| | |

Number of positions to be filled for this project: _____

| |
|---|
| <p><u>For Internal Use Only:</u></p> <p>Contract Number #: _____ Project Manager: _____</p> |
|---|

TITLE 5
TRIBAL EMPLOYMENT RIGHTS ORDINANCE
STANDARDS AND PROCEDURES FOR EMPLOYMENT PRACTICES AND
APPLICATION OF INDIAN PREFERENCE

AMENDMENT #001

5.2 DEFINITIONS

- a) "Indian" means any member of any federally recognized Tribe, or any person who furnishes documentary proof that he or she is recognized as an Indian by the United States pursuant to its trust responsibility to American Indians. **See 24CFR 1000.48(b) (1) and 25CFR 41.3(h) (i).**

Revised 01-10-02

TITLE 5
TRIBAL EMPLOYMENT RIGHTS ORDINANCE
STANDARDS AND PROCEDURES FOR EMPLOYMENT PRACTICES AND
APPLICATION OF INDIAN PREFERENCE

AMENDMENT #002

5.9 ENFORCEMENT BY TRIBAL EMPLOYMENT RIGHTS OFFICE COMMISSION.

5.9.01 In implementing this Ordinance, the Commission and its Office, in addition to all other powers contained in this Ordinance, shall have the following powers of enforcement.

- d) Employment on Karuk Lands "No person shall be required, as a condition of employment or continuation of employment on Karuk Lands, to:
- i. resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;
 - ii. become or remain a member of a labor organization;
 - iii. pay dues, fees, assessments or other charges of any kind or amount to a labor organization;
 - iv. pay to any charity or other third party, in lieu of such payments any amount equivalent to or a pro-rata portion of dues, fees, assessment or other charges regularly required of members of a labor organization; or
 - v. be recommended, approved, referred or cleared through a labor organization." See **Section 164 of the National Labor Relations Act (NLRA)**

Council approved June 26, 2004.

N.

DAVIS-BACON WAGE DETERMINATIONS

Refer to: <https://sam.gov/wage-determination/CA20230007/25>