

INFORMATION HANDOUT

For Contract No. 11-407004

At 11-SD-8-R61.2/R77.8

Identified by

Project ID 1100020392

AGREEMENTS

Campo Band of Mission Indians MOU: September 19, 2014

TERO Highway Construction Permit (THCP) September 14, 2014

MATERIALS INFORMATION

Water Availability Letter: June 25, 2014

MEMORANDUM OF UNDERSTANDING
Between
CALIFORNIA DEPARTMENT OF TRANSPORTATION DISTRICT 11
and
CAMPO BAND OF MISSIONS INDIANS

1. PURPOSE AND RECITALS

The California Department of Transportation (Caltrans) desires to implement Tribal Employment Rights Ordinances on transportation projects and work cooperatively with federally recognized California Native American Tribes (Tribal Governments) to increase Native American employment opportunities. Caltrans pays Tribal Employment Rights Ordinance (TERO) fees for the portions of the projects on tribal lands. Caltrans honors tribal ordinances pursuant to the law and follows TERO provisions on Hiring Preferences for Contracted State Highway Work conducted on tribal lands or on any State highway included in a TERO tribe's Indian Reservation Road (IRR) inventory when a portion of the project is on tribal lands in accordance with state law. To this end, on December 15, 2010, Caltrans adopted Deputy Directive DD-74-R2 in accordance with 23 USC § 140(d) and California Attorney General Opinion No. 07-304.

Pursuant to Deputy Directive DD-74-R2, Caltrans District 11 and the Campo Band of Mission Indians (Tribe) are engaging in this Memorandum of Understanding (TERO MOU) to facilitate the application of the Tribe's TERO for Caltrans projects on Tribal Land and to delineate the roles and responsibilities of the Tribe and Caltrans in this process.

This TERO MOU covers all applicable projects that are located on Tribal Land as denoted in the Scope of Memorandum (Appendix A). A Project Fact Sheet with project specific information will be developed for each individual project (Appendix B).

This TERO MOU represents the present intention of the parties, but it is not intended to be used as a sole basis for authorizing funding and it is not a legally binding contract between the parties unless a TERO fee is paid by Caltrans to the Tribe.

Caltrans and the Tribe

2. MEETINGS

Caltrans

- (A) The District Director, with appropriate Caltrans staff, including the District Native American Liaison (DNAL), will seek to hold at least two meetings a year with Tribes in the District to discuss upcoming projects and priorities, including those with TERO requirements. All tribes, including the Campo Band of Mission Indians, will be invited to participate and Caltrans may discuss information on employment opportunities, eligibility requirements for Native American-owned

firms to become Disadvantaged Business Enterprises, and other information important to working in conjunction with the Tribe's TERO.

- (B) The Residential Engineer (RE), DNAL, and/or other appropriate Caltrans staff will invite the Tribe's TERO Officer to project pre-construction meetings in order to give the tribe and the contractor an opportunity to coordinate and discuss communication protocols, work schedules, safety meetings, and the TERO Highway Construction Permit (THCP). Five days notice will be given to the Tribe prior to the meeting.

Tribe

- (C) The TERO Officer and/or other officials the Tribe deems appropriate will attend project preconstruction meetings to receive project information, schedules and coordinate with the contractor. Discussions may include communication protocols, work schedules, safety meetings, and the THCP. If the TERO Officer is unable to attend the preconstruction meetings, the Officer will designate an alternate to attend or arrange another meeting.
- (D) If the TERO Officer and/or other officials cannot attend meetings described in (A) above, they will make arrangements with the DNAL or other appropriate Caltrans staff to obtain the information imparted at the meetings.

3. INFORMATION SHARING BETWEEN CALTRANS AND TRIBE

Caltrans

- (A) The DNAL will be the first point of contact for information regarding Caltrans TERO policies and procedures within the District unless the Tribe is otherwise notified by the District.
- (B) The DNAL will maintain a list of Tribes with TEROs in the District and include Campo Band of Mission Indians on it. Location information with postmiles for Tribal Land on which State Highway is located will be included and provided to the District Director and other Caltrans staff as appropriate. This information will be included in the Scope of Memorandum (Appendix A).
- (C) The DNAL will work with the Tribe to obtain copies of the Tribe's TERO, IRR inventory list, THCP, and other documents and/or information necessary for implementing projects with TERO requirements.
- (D) The DNAL will be included in Project Development Team (PDT) meetings for projects with TERO requirements.

Tribe

- (E) The TERO Officer or other tribal members (as deemed appropriate by the TERO Officer or other designee) will ensure the DNAL has a copy of the Tribe's TERO; information on Tribal Lands and boundaries, including relevant portions of the Tribe's IRR inventory list; and other documents and/or information necessary for implementing projects with TERO requirements. If any of this information

changes after this MOU is executed, the Tribe will notify Caltrans so that the MOU can be updated.

- (F) The TERO Officer or other tribal members (as deemed appropriate by the TERO Officer or other designee) will contact the RE prior to visiting construction sites.

4. TRIBAL HIGHWAY CONSTRUCTION PERMIT (THCP)

Caltrans

- (A) Caltrans will include Special Provisions in the Scope of Memorandum in this MOU (Appendix A, Attachment A) directing contractors to:
- a. Submit a THCP to the Tribe within 5 days of contract approval and submit a copy to the Caltrans Residential Engineer (RE) at the same time.
 - b. Submit a signed THCP to the RE within 10 days after receipt from the Tribe.
 - c. Not begin work until the RE receives a signed THCP from contractor.
- (B) A THCP will be attached to the Scope of Memorandum in this MOU (Attachment B) and included in a Supplemental Information Handout accompanying the special provisions for projects with TERO requirements.

Tribe

- (C) The Tribe will maintain a database of personnel trained to industry standards appropriate for each labor category and refer a list of qualified personnel to contractors and subcontractors after receiving a THCP Labor Force Projection Form/Application.
- (D) The Tribe will return a completed THCP to the contractor within 30 days of receiving a THCP Labor Force Project Form/Application.
- (E) The Tribe will notify the RE if it suspends a THCP.

5. TERO FEE

Caltrans will pay a TERO fee of 5% on the total bid amount for portions of projects on Tribal Lands. If a TERO Fee is paid, this MOU shall become a binding agreement and the covenants whereby the parties will seek to perform certain actions or may elect to perform certain actions shall become binding obligations of the respective parties, and the parties agree to perform such actions.

If a TERO fee is paid:

Caltrans

- (A) The RE, DNAL, or other appropriate Caltrans staff will notify the TERO Officer when a contract with TERO requirements is approved.

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- (B) Upon receipt of a signed THCP, the RE will provide all documentation necessary so that the Tribe can properly invoice Caltrans for the amount of a contract subject to the TERO Fee.
 - (C) Caltrans will send payment to the Tribe within 45 days upon receipt of the invoice by the RE, pursuant to the Prompt Payment Act (Government Code 927, et seq.).
 - (D) The RE will forward the TERO invoice to Caltrans Accounting within 7 days of receiving a TERO invoice in accordance with established Construction payment procedures.

Tribe

- (E) The Tribe will properly invoice Caltrans for the TERO fee within 15 days after the RE provides documentation of the amount of the contract subject to the fee.
- (F) The invoice will be given to a project's RE.
- (G) The Tribe will use the fee to support the Tribe's economic development and employment programs, as described in the Tribe's TERO.

6. TERO INFORMATION IN CONTRACT AND BID DOCUMENTS

- (A) Caltrans will inform prospective bidders of projects with TERO requirements by including a Special Notice in construction contracts.
- (B) Caltrans will notify the contractor of a minimum 55-day delayed start to allow for processing of the THCP as indicated in provision 4.
- (C) Caltrans will direct the contractor to the TERO Requirements Information Handout under Supplemental Project Information. The following will be included in the Information Handout:
 - a. This MOU
 - b. Appropriate TERO provisions pertaining to the Contracted State Highway Work done within that TERO tribe's jurisdiction, included in the MOU.
 - c. Scope of Memorandum (MOU Appendix A) with
 - Project-Specific TERO Special Provisions (Appendix A, Attachment A)
 - THCP with Labor Force Project Form/Application or equivalent (Appendix A, Attachment B)
 - d. Project Fact Sheet (MOU Appendix B)

7. HIRING PROCESS

Caltrans

- (A) To the extent permitted by Federal and State law, contractors will be directed to follow hiring preference provisions of Tribal Law as defined by the Tribe's TERO, in regard to Hiring Preferences when undertaking Contracted State Highway Work on Tribal Lands.

(B) To the extent that the terms of this MOU are applicable, the DNAL will work with the Tribe in order to incorporate the Tribe's TERO (as set forth in this MOU) within Contracted State Highway Work.

TRIBE

(C) The Tribe will work with the Caltrans in order to incorporate the applicable provisions of the Tribe's TERO (as set forth in this MOU) within Contracted State Highway Work, including the provisions set forth above.

8. DEFINITIONS

Caltrans and the Tribe

(A) The following definitions, taken from or adapted in accordance with DD-74-R2, are incorporated herein:

- a. Contracted State Highway Work means non-emergency Caltrans projects, construction and contracted maintenance, conducted on tribal lands or on any State highway included in the Tribe's IRR inventory when a portion of the project is on its tribal lands.
- b. Federally Recognized Tribe – A tribal government and members of any tribe, band, pueblo, nation or other organized group that is acknowledged by the Federal Government to constitute a tribe with a government-to-government relationship with the U.S. and eligible for programs, services, and other relationships established by the U.S. for Indians because of their status as Indians (U.S. Department of Transportation Order DOT 5301.1 dated November 16, 1999), or community including any Alaska Native village or region pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).
- c. Hiring Preference – Congress has expressly authorized states to implement Indian hiring preferences for highway work conducted on tribal lands. Implementation of Indian hiring preferences is in recognition of, and with reference to, Congress' fiduciary responsibility to advance tribal economic development and self sufficiency. Hiring preferences are predicated upon membership in a Federally Recognized Tribe, so the term "federally recognized Indian" is a political classification for the purposes of this Memorandum. TERO Hiring Preferences are only available to enrolled members of Federally Recognized Tribes, and the Department cannot favor one tribe over another in implementing a Hiring Preference. Qualified job applicants will be provided to Caltrans contractors by the Tribe's designated TERO representative.
- d. Indian Reservation Road (IRR) – A public road that is located within or provides access to an Indian reservation, Indian trust land, or restricted Indian land (23 U.S.C. §101(a)(12)). These roads are important to the

overall public transportation needs to the reservation, and are recommended to the Bureau of Indian Affairs (BIA) for inclusion in the IRR inventory by the Tribe. Approval for inclusion of these routes must be given by BIA. Revised route sheets and updated documents are submitted to the Federal Lands Highway Program Administrator so the IRR inventory can be updated.

- e. Tribal Employment Rights Ordinance (TERO) – A legislative act adopted by the governing body of a Federally Recognized Tribe.
- f. Tribal Lands – Lands within a reservation, lands held in trust by BIA, or lands otherwise under the direct ownership of the Tribe. Most tribal lands are in trust status and within a reservation.

9. DURATION AND AMENDMENTS

Caltrans and the Tribe

- (A) This MOU may only be amended by a written agreement between the parties, and it may be terminated by either party upon at least thirty (30) days prior written notice to the other party. In the event of termination, unless otherwise mutually agreed by the parties, the provisions of this MOU will remain in force with respect to contracts for Contracted State Highway Work that were executed before the MOU was terminated.
- (B) No waiver of any term, covenant or condition of this MOU shall be effective unless the waiver is made in writing and executed by all the parties. No failure to enforce a term, covenant or condition of this MOU shall be deemed to be a waiver of the term, covenant or condition. No waiver of any term, covenant or condition shall imply or constitute a waiver of any other term, covenant or condition. Unless otherwise stated in the waiver, no waiver of a provision of this MOU shall constitute a continuing waiver.

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

For Campo Band of Mission Indians

By: 
RALPH GOFF, Chairman

Date: 9-12-14

For the CALIFORNIA DEPARTMENT OF TRANSPORTATION

By: 
LAURIE BERMAN District Director, District 11

Date: 9-19-14

Tribal Employment Rights Ordinance

Caltrans contract 11-407004

Project ID 1100020392

Rehabilitation Project

SD-08-R61.2/R77.8

TERO PROVISIONS – Pertaining to Contracted State Highway Work

Listed below is the Campo TERO Ordinance that pertains to State Highway Work.

**Campo Band of Mission Indians
Tribal Employment Right Ordinance
Approved: May 31, 1994**

SUBJECT: Establishment of the Campo Tribal Employment Rights Office (TERO) and adoption of standards and procedural guidelines for application of the Campo and Indian Preference in Employment.

Tribal Employment Rights Ordinance

Caltrans contract 11-407004

Project ID 1100020392

Rehabilitation Project

SD-08-R61.2/R77.8

TABLE OF CONTENTS

SECTION 1- GENERAL PROVISIONS

- 1.1 Name and Purpose
- 1.2 Definitions

SECTION 2.0-ESTABLIMENT AND ADMINISTRATION OF TRIBAL EMPLOYMENT RIGHTS PROGRAM

- 2.1 Establishment
- 2.2 Administration
- 2.3 Authority
- 2.4 Director; Appointment; Term; Vacancy
- 2.5 Duties of the Director

SECTION 3.0 TRIBAL EMPLOYMENT RIGHTS PROGRAM

- 3.1 Coverage
- 3.2 Contracts and Subcontracts
- 3.3 Minimum Numerical Goals and Timetables for Indian employment
- 3.4 Job Qualifications and Personnel Requirements
- 3.5 Tribal Hiring Hall
- 3.6 Counseling and Support Programs
- 3.7 Promotions

SECTION 4.0 HEARINGS, PENALTIES APPEALS

- 4.1 Individual Complaints
- 4.2 Complaint Procedure for the Director of the Tribal Employment
Rights Program
- 4.3 Notice
- 4.4 Hearing Procedures
- 4.5 Retaliation
- 4.6 Civil Orders and Penalties for violation

SECTION 5.0 MISCELLANEOUS PROVISIONS

- 5.1 Publication of Ordinance
- 5.2 Compliance Plan
- 5.3 Reporting and on-site inspection
- 5.4 Severability
- 5.5 Rules and Regulations
- 5.6 Tribal employment Rights Program Funds
- 5.7 Effective Date

Tribal Employment Rights Ordinance

Caltrans contract 11-407004

Project ID 1100020392

Rehabilitation Project

SD-08-R61.2/R77.8

SECTION 1.0 GENERAL PROVISIONS

1.1 Name and Purpose. This ordinance shall be known as the “Campo Band of Mission Indians Tribal Employment Rights Ordinance.” The purpose of this ordinance is to assist in and require the fair employment of Indians on the Campo Indians Reservation and to prevent discrimination against Indians in the employment practices of Reservation Employers.

1.2 Definitions. The following terms shall have the following meaning in this ordinance.

- 1.2.1 “Band” means the Campo Band of Mission Indians, a federally recognized Indian tribal government.
- 1.2.2 “Board” or “Board of Directors” means the Board of the Muht-Hei, Inc.
- 1.2.3 “Chairman” means the Chairman of the Band.
- 1.2.4 “Director” means the Director of the Tribal Employment Rights Program created this Ordinance.
- 1.2.5 “EEOC” means the United States Equal Employment Opportunity Commission.
- 1.2.6 “Employers” means any person located or engaged in work on the Reservation and employing one or more persons. The term “Employer” excludes federal, state or county government agencies, but includes contractors and subcontractors so such agencies.
- 1.2.7 “Engaged in Work on the Reservation” means an Employer or any of his or her employees spends a majority of his or her time performing work within the exterior boundaries of the Reservation on a continuing basis during any portion of a business enterprise, specific project, contract, or subcontract.
- 1.2.8 “General Council” means the General Council of the Band.
- 1.2.9 “Indian” means any person recognized as an Indian by the United States pursuant to its trust responsibility to American Indians.
- 1.2.10 “Joint Venture” means an association of two or more persons to carry out a single or limited number of business enterprises for profit, for which purpose they combine their property, money, effects, skills, and knowledge.

Tribal Employment Rights Ordinance

Caltrans contract 11-407004

Project ID 1100020392

Rehabilitation Project

SD-08-R61.2/R77.8

1.2.11 “Located on the Reservation” means an Employer maintains a temporary or permanent office or facility within the exterior boundaries of the Reservation during any specific project, contract, or subcontract.

1.2.12 “Muht-Hei, Inc.” means the corporation chartered and wholly owned by the Campo Band that is responsible for implementation of this ordinance.

1.2.13 “OFCCP” means the Office of Federal Contract Compliance Programs of the United States.

1.2.15 “Ordinance” means this Tribal Employment Rights Ordinance.

1.2.16 “Person” means an individual, trust, firm, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

1.2.17 “Reservation” means the Campo Indian Reservation.

SECTION 2.0 ESTABLISHMENT AND ADMINISTRATION OF TRIBAL EMPLOYMENT RIGHTS PROGRAM

2.1 Establishment. There is hereby established the Campo Band Tribal Employment Rights Program.

2.2 Administration. The Board of Directors of Muht-Hei, Inc. shall administer the Tribal Employment Rights Program.

2.3 Authority. In carrying out this ordinance, the Board shall have the power:

2.2.1 To hire and fire employees of the Tribal Employment Rights Program. Including a Director, and to pay them salaries from funds of the Tribal Employment Rights Program. Pursuant to a salary schedule established by the Board of Directors.

2.2.2 To establish rules and regulations implementing the Tribal Employment Rights Program.

2.2.3 To expend funds appropriated by the General Council for the Tribal Employment Rights Program.

Tribal Employment Rights Ordinance

Caltrans contract 11-407004

Project ID 1100020392

Rehabilitation Project

SD-08-R61.2/R77.8

- 2.2.4 To obtain funding from federal, state, or other sources to carry out the Tribal Employment Right Program.
- 2.2.5 To establish numerical hiring goals and timetables specifying the minimum number of Indians an Employer must hire by craft or skill level.
- 2.2.6 To establish and administer a tribal hall and require Employers to use it.
- 2.2.7 To prohibit Employers from using job qualifications criteria or personnel requirements that may bar Indians from employment unless such criteria or requirements are required by business necessity. The Board of Directors may adopt EEOC guidelines as its regulations and may adopt additional requirements to eliminate employment barriers unique to Indians and the Reservation.
- 2.2.8 To establish counseling programs to help Indians obtain and retain employment.
- 2.2.9 To hold hearing and to subpoena witnesses and documents in accordance with the Ordinance.
- 2.2.10 To require Employers to submit reports and take all actions deemed necessary by the Board of Directors for fair and vigorous implementation of this Ordinance.
- 2.2.11 To enter into cooperative agreements with federal employment rights agencies such as EEOC and OFCCP to eliminate employment discrimination against Indians both on and off the Reservation.
- 2.2.12 To take such other actions as are necessary and proper to achieve the purposes and objectives of the Tribal Employment Rights Program.

2.4 Director; Appointment; Term; Vacancy. The Board of Directors of Muht-Hei, Inc. shall appoint a Director of the Tribal Employment Rights Program. The Director shall serve at the pleasure of the Board. The Board of Directors may establish a salary for and pay the Director for his or her services.

2.5 Duties of the Director. The Director of the Tribal Employment Rights Program shall have the Authority to expend funds of the Program and obtain funds from federal, state or other sources to carry out the purposes of the Program, subject to the approval of the Board

Tribal Employment Rights Ordinance

Caltrans contract 11-407004

Project ID 1100020392

Rehabilitation Project

SD-08-R61.2/R77.8

of Directors. The Director shall have the Authority to develop rules, regulation, and guidelines to implement the Ordinance, subject to the approval of the Board of Directors, to subpoena witnesses and documents, to investigate complaints; to file complaints, to require Employers, contractors, subcontractors, and unions to submit such reports as the Director deems necessary or convenient to ensure compliance with this Ordinance; to issue compliance orders; to recommend to the Board of Directors the imposition of orders and penalties against non-complying Employers; and to take such actions as are necessary and proper for the fair and vigorous implementation of this Ordinance.

SECTION 3.0 TRIBAL EMPLOYMENT RIGHTS PROGRAM

3.1 Coverage. All employers are required to give preference to Indians in hiring, promotion, training, contracting, and subcontracting, and must comply with this ordinance and the rules, regulations and orders of the Director and the Board.

3.2 Contracts and Subcontracts. The Indian preference requirements contained in this Ordinance shall apply to and be enforceable against all contractors and subcontractors of Employers

3.3 Minimum Numerical Goals and Timetables for Indian employment. The Board of Directors may establish the minimum number of Indians each Employer must employ on his or her work force during any year that the Employer is located or engaged in work on the Reservation. Numerical goals may be set for each skill, or job classification used by the Employer and shall include but not be limited to administrative, supervisory, and professional, categories. For both new and existing Employers, the Board of Directors shall review the goals at least annually and revised them as necessary to reflect changes in the number of Indians available or changes in Employers hiring plans. Each Employer shall submit a monthly report to the Director on a form provided by the Director, indicating the number of Indians in his or her work force, all persons hired or fired during the month, the job positions involved, and any other information required by the Director.

3.5 Job Qualifications and Personnel Requirements. Employers are prohibited from using job qualifications criteria or personnel requirements that bar Indians from employment, unless such criteria or requirements are required by business necessity.

3.6 Tribal Hiring Hall. The director shall establish and administer a tribal hiring hall to assist the Board of Directors and Employers in placing Indians in job positions. An employer may recruit and hire workers from whatever sources are available to him or her and by whatever process the Employer chooses, as long as the Employer complies with this Ordinance and Indian job preference regulations and agreements pertaining to the employer's business.

Tribal Employment Rights Ordinance

Caltrans contract 11-407004

Project ID 1100020392

Rehabilitation Project

SD-08-R61.2/R77.8

3.7 Counseling and Support Programs. The Board of Directors will establish counseling and other support programs to help Indians obtain and retain employment. Every Employer shall be required to cooperate with the director regarding such counseling and support programs.

3.9 Promotions. Every Employer shall give Indian preference in all promotion opportunities and shall encourage Indians to seek such opportunities.

SECTION 4.0 HEARINGS, PENALTIES APPEALS

4.1 Individual Complaints. Any person that believes that any employer, a contractor or subcontractor of an Employer has failed to comply with this ordinance, any rules or regulations promulgated hereunder, or any orders of the Director or the Board, may file a complaint with the Director. The Director will notify such party of the alleged violations, investigate the complaint, and attempt to achieve an informal settlement of the matter. If an informal settlement cannot be achieved, such complaining person or the Director may request a hearing before the Board of Directors on the matter.

4.2 Complaint Procedure for the Director of the Tribal Employment Rights Program. If the Director has cause to believe that an Employer, contractor, subcontractor, or union has failed to comply with this ordinance, any rules or regulations promulgated hereunder, or any orders of the Director or the Board, he or she may issue a complaint. The Director shall notify such party and the Board of Directors of the alleged violations and attempt to achieve an informal settlement of the matter. If an informal settlement cannot be achieved, such complaining person or the Director may request a hearing before the Board of Directors on the matter.

4.3 Notice. If a hearing is requested by the Director, an individual, an Employer, or a union pursuant to this Section, a written notice, of hearing shall be given to all concerned parties stating the nature of the issue to be heard at the hearing. The notice shall advise such parties of their right to be at the hearing, to present testimony of witnesses and other evidence, and to be represented by counsel at their own expense.

4.4 Hearing Procedures. Hearings before the Board of Directors shall be governed by the following rules or procedure:

- 4.4.1 All parties may present witnesses and other evidence and may be represented by counsel at their own expense.
- 4.4.2 The Board of Directors may have the advice and assistance of counsel at the hearing.
- 4.4.3 The president or Vice-President of the Board of Directors shall preside, and

Tribal Employment Rights Ordinance

Caltrans contract 11-407004

Project ID 1100020392

Rehabilitation Project

SD-08-R61.2/R77.8

the Board of Directors shall proceed to ascertain the facts in a reasonable and orderly fashion.

- 4.4.4 The hearing may be adjourned, postponed, or continued at the discretion of the Board of Directors.
- 4.4.5 At the end of the hearing, the Board of Directors may take immediate action or take the matter under advisement.
- 4.4.6 The Board of Directors shall notify in writing all parties within thirty (30) days after the bearing of the decision in the matter, and such decision shall be final and not subject to appeal.

4.5 Retaliation. If any Employer, contractor or, subcontractor fires, lays off, or penalizes in any manner, any employee, contractor, sub-contractor, or union for using the complaint procedure or exercising any other right provided herein, the offending Employer, contractor, or sub-contractor shall be subject to the penalties provided in this Ordinance.

4.6 Civil Orders and Penalties for violation. Any Employer, contractor, or sub-contractor that violates this Ordinance, the rules or regulations promulgate hereunder, or any orders of the Director or the Board shall be subject to penalties for such violations, including but not limited to orders:

- 4.6.1 Requiring the payment of back pay and damages to compensate any injured party.
- 4.6.2 Summarily removing employees hired in violation of this Ordinance, the rules or regulating promulgated hereunder, or orders of the Director of the Board.
- 4.6.3 Imposing monetary civil penalties in amounts reasonably related to the harm caused by the violation.
- 4.6.4 Requiring employment, promotion, and/or training of Indians injured by the violation.
- 4.6.5 Requiring changes in procedures and policies necessary to eliminate the violations and/or prevent future violations.
- 4.6.6 Making any other provision deemed by the Board of Directors necessary to prevent, alleviate, eliminate, or compensate for any violation.

Tribal Employment Rights Ordinance

Caltrans contract 11-407004

Project ID 1100020392

Rehabilitation Project

SD-08-R61.2/R77.8

SECTION 5.0 MISCELLANEOUS PROVISIONS

5.1 Publication of Ordinance. The Board of Directors shall notify all Employers located or engaged in work on the Reservation, or known to be planning to locate or engage in work on the Reservation, of this Ordinance and their obligations to comply. The Board shall take all reasonable measures to ensure that all bid announcements issued by any tribal, federal, state, or other private or public entity contain a statement that the successful bidder will be obligated to comply with this Ordinance, all rules or regulations promulgated hereunder, and orders of the Director and The Board. All tribal agencies responsible for issuing business permits for Reservation activities or otherwise engaged in activities involving contact with prospective Employers on the Reservation shall be responsible for advising such prospective Employers of their obligations under this Ordinance, the rules or regulations promulgated hereunder, and orders of the Director and Board.

5.2 Compliance Plan. As of the effective date of this Ordinance, no new Employer may commence work on the Reservation until it has consulted with the Board of Directors on and developed a plan for meeting its obligations under this Ordinance.

5.3 Reporting and on-site inspection. Employers shall submit reports and other information requested by the Director. The Director shall have the right to make on-site inspections during regular working hours in order to monitor any Employer's compliance with this Ordinance, the rules or regulations promulgated hereunder, and orders of the Director or the Board. The Director shall have the right to speak to workers and conduct investigations on job sites with prior notice to the Resident Engineer of the project.

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

5.4 Rules and Regulations. The Board of Directors shall adopt such rules, regulations, policies, and guidelines as it deems necessary to implement this Ordinance.

10.6 Tribal employment Rights Program Funds. All funds appropriated to the Tribal Employment Rights Program or received from any federal, state, or local agency to carry out this Ordinance shall be under the management control of the Board of Directors, but shall be Tribal funds subject to the final control of and disposition by the General Council.

5.7 Effective Date. This Ordinance shall be effective from the date of its approval by the General Council.

Appendix A
Scope of Memorandum
Caltrans and Campo Tribe MOU executed on September 19, 2014.

Scope of Memorandum

Projects within the following areas have TERO requirements that must be followed pursuant to the provisions in the MOU signed by the Campo Band of Missions Indians and Caltrans on September 19, 2014:

County	Route	Begin Postmile	End Postmile	Assessor's Parcel Number (APN)	Tribal Land Ownership Status
San Diego	I-8	R61.2	R64.3		Reservation

APPENDIX A, ATTACHMENT A

Project-Specific Special Provisions For Campo Tribe TERO MOU

SPECIAL NOTICE:

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

SSP 2-1.06B SUPPLEMENTAL PROJECT INFORMATION

The Department makes the following supplemental project information available:

Supplemental Project Information	
Means	Description
Included in <i>Information Handout</i>	Campo Band of Mission Indians TERO Memorandum of Understanding (MOU) with TERO Highway Construction Permit (THCP) Application

INFORMATION HANDOUT:

Campo Tribe TERO Requirements Information Handout contains:

1. Signed one-time MOU between the Campo Tribe and the Department.
2. Attachment A project-specific TERO special provisions.
3. Attachment B TERO Highway Construction Permit Application (THCP).

SSP 5-1.20E Tribal Employment Rights Ordinance Requirements:

Complete the Campo Band of Mission Indians TERO Highway Construction Permit (THCP) Application included in the *Information Handout*. Within 5 days after Contract approval, submit the completed application to the Tribe and a copy of the submitted application to the Engineer.

Submit the executed THCP to the Engineer within 10 days after you receive it from the Tribe.

SSP 8-1.04C:

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

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

Executed Campo Band of Mission Indians TERO Highway Construction Permit (THCP)

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

Copy of the Campo Band of Mission Indians TERO Highway Construction Permit (THCP) Application submitted to the Tribe.



Campo Band of Mission Indians
Tribal Highway Construction Permit
36190 Church Road, Suite 1
Campo, CA 91906

Name of Project: I-8 Rehabilitation Project (1100020392)

Caltrans Project Expenditure Authorization (EA) Number: 11-407004

The Campo Band of Mission Indians, issues this permit in accordance with its Tribal Employment Rights Ordinance, enacted by the federally recognized governing body of the tribe, the Campo Tribal Council. This permit sets forth the terms and conditions under which a Contractor [and Subcontractors] are authorized to conduct work on California Department of Transportation (Caltrans) projects that occur on Tribal Land.

Terms and Conditions:

- 1. Contractor/Employer:** Within 5 days of contract approval, Contractor will file a Labor Force Projection Form (attached) with the Tribe's TERO Officer. Contractor will describe the types of work to be performed and skills needed to undertake such work. [Work to be performed by subcontractors will be included on [a/the] Labor Force Projection Form.]
- 2. Core Crew:** Contractor [and Subcontractors] will identify key employees, generally supervisory in nature that have worked continuously for many seasons and are not recently hired for this specific project on the Labor Force Project form.
- 3. Indian Preference:** If available, qualified Indians must be hired in preference to non-Indians. Employer shall neither recruit nor hire any non-Indians for any covered position until the tribal TERO Officer has provided notice that no qualified Indians are available to fill such covered position. The TERO Officer maintains an Indian Skills-Bank to assist Employers to meet the Indian preference requirements of the Tribal Employment Rights Ordinance. Covered positions are defined in the Ordinance. Each waiver issued is only for that particular position/task and the employee cannot be transferred to another position once that job is done.
- 4. Labor Force Changes and Curtailment:** Contractor will inform the TERO Officer of any potential changes to a project that could impact the labor force while construction is ongoing. Potential changes could be the result of additional work being needed to complete a project, among other things. Where a reduction in force is necessary, excepting Core Crew members, Indians hired pursuant to Indian preference will have the priority in retention.
- 5. Compliance Inspections:** The TERO Officer or other designated staff will make periodic visits to project sites to ensure employment and safety rules are adhered to. [The

Officer will contact the Contractor and RE prior to site visits.] To facilitate the inspections, the Contractor will share work schedules, contact information, and information on safety or other meetings with the TERO Officer at the preconstruction meeting or other venues as arranged.

6. **[Maintaining Employment Records:** Contractors will maintain accurate employment records on all employees and all applicants for employment; regardless of length and category or employment, hired, fired, or laid-off. The files shall reflect: name, address and employment category for which applicant performed or applied to perform. If applicant was contacted but not hired, hired and fired, all data should reflect action taken by that firm. Such informational records shall be made available to the TERO Officer, upon reasonable notice.]
7. **Assistance:** If a Contractor deems that an Indian employee's performance is such that he or she is jeopardizing and endangering job loss, suspension, or termination, the Contractor may contact the TERO Officer to provide assistance toward resolving of that issue.
8. **[Tribal Holidays and Ceremonial Customs:** It is further understood that the Contractor recognizes operations are taking place within a unique cultural setting. To the extent possible the Contractor, in consultation with the TERO Officer, should consider Tribal Holidays and ceremonial customs and accommodate Indian employees requesting certain leave of absences for religious purposes.]
9. **Duration and Scope of Permit:** This permit will terminate upon project completion but may be revoked by the TERO Officer in the case that the aforementioned conditions are not met.

Dominique Connolly
TERO Officer, Campo Tribe

Date

Contractor

Date



Labor Force Projection Form

This form must be completed and filed with the Campo TERO Officer. Attach additional sheets if necessary.

Contractor/Subcontractor Name: _____
Mailing Address: _____
City, State, and Zip Code: _____
Phone Number _____
Cell # _____
Contact: _____
Contracting With: Caltrans
Expenditure Authorization (EA): 11-407004

Briefly describe the project and basic tasks and types of work to be performed:

Please list types of skills and categories which will be required towards performing said contract:

1.	2.
3.	4.
5.	6.
7.	8.
9.	10.
11.	12.
13.	14.
15.	16.
17.	18.
19.	20.
21.	22.
23.	24.
25.	26.

Indian Preference shall be accorded at every Tier Level. Please list the names and positions of your Core Crew (Core Crew members are typically supervisory and members you depend on every day). All other persons needed on this job will go through the TERO Skills Bank.

Please use as many sheets as necessary for explaining your on-site employment related projection.

NAME	JOB TITLE
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	
14.	
15.	
16.	

Contractor

Date

Dominique Connolly
TERO Officer, Campo Tribe

Date

Project Fact Sheet

The following State highway construction project(s) have TERO requirements that must be followed pursuant to the Stipulations in the MOU signed by the Campo Band of Missions Indians and Caltrans on September 19, 2014:

Project EA and Project ID No.	County-Route-Postmile(s) of project	Project Description	Bridge Number [if bridge work included]	IRR Inventory Postmiles for IHP	TERO fee Postmiles
11-407004 1100020392	SD-08- R61.2/R77.8	Rehabilitation Project	N/A	SD, I-8 44.93/61.18	SD, I-8 R61.2/R64.3

Contacts:

Caltrans:

Phone Numbers:

District Director: Laurie Berman	(619) 688-6668
DNAL: Gus Silva	(619) 208-1104
Project Manager: Bruce W. Lambert	(619) 688-3288
RE : Shawn J. Rizzutto	(760) 355-0430
Const. Inspector :	

Tribal Contacts:

Phone Numbers:

TERO Officer/Director: Dominique Connolly	619-478-9046 Ext. 226
Tribal Administrator:	

D.B. Water Company Inc.
13318 Ann-O-Reno Lane
Poway Ca. 92064
858-342-0746

June 25, 2014

Marvin Canton
Project Engineer-Design
California Department of Transportation
4050 Taylor Street, M.S. 120
San Diego , Ca. 92110
(619) 688-3122

Subject: Construction water availability for SR-8 Pavement Rehabilitation

Dear Mr Canton,

This letter is to confirm the water will be available for the SR-8 Pavement Rehabilitation Project .

Per your letter you Dated June 19th 2014 a estimated water amount of 1.8 million gallons per year will be needed at the rate of approximately 15,000 gallons per day

Project expected to begin January 2015 and to continue for approximately one year.

Sincerely,
Barbara Jacobs
D.B. Water Company Inc.

APN: 033-564-02-01
State Well #165/9E-36G4
1108 Imperial Highway
Ocotillo Ca.