



# *Chemehuevi Indian Tribe*

P. O. BOX 1976 • HAVASU LAKE, CA 92363 • (760) 858-4219 • FAX: (760) 858-5400

## **TRIBAL EMPLOYMENT RIGHTS OFFICE (TERO)**

### **Compliance Agreement**

The laws and regulations of the Chemehuevi Indian Tribe require all employers working on the reservation to give employment preference to Indians and to comply with the Tribal Employment Rights Ordinance that was approved and adopted by Resolution, by the Chemehuevi Tribal Council, on November 23, 1996.

The purpose of the Ordinance is to ensure compliance by employers on the Chemehuevi Indian Reservation with federal and tribal laws that are intended to:

- (a) **Prevent employment related discrimination against American Indians;**
- (b) **Give preference in employment and training opportunities on and near the Chemehuevi Indian Reservation; and**
- (c) **Maximum employment opportunities in mid-level and management levels for American Indians, and to prevent foreclosure of such opportunities as the result of lack of training and skills and contracting to American Indians;**
- (d) **Maximum utilization of Indian workers in all employment**

An employer who has established a permanent place of business on the Reservation shall negotiate and execute a Compliance Agreement within thirty (30) days from the date the Employer receives notification from the Director that a Compliance Agreement is required.

Therefore, the Chemehuevi Indian Tribe (hereafter "Tribe") and the

(hereafter "Employer") does hereby enter in the following agreement in satisfaction of the aforementioned laws and regulations.

1. **The Employer agrees to give absolute preference to Indians in all phases of employment including hiring, training, promotions, contracting, and subcontracting. This means that for any job on the specific work project, except previously identified and agreed upon key personnel of the Employer, a qualified Indian will be given preference over a non-Indian for all jobs performed on the Reservation.**

2. CHEMEHUEVI TRIBAL HIRING PREFERENCE:

- a. Tribal Members
  - b. Spouse of Tribal Members
  - c. Other Indians
  - d. Non-Indians
3. The Tribe and its Tribal Employment Rights Office will seek to identify qualified Indians for jobs and refer them to the Employer. The Employer in turn agrees to post all jobs, listed by skills category, qualifications and dates of expected employment.
  4. All Job descriptions/announcements will be submitted to TERO.
  5. The Employer shall not hire a non-Indian *in violation of the Compliance agreement* until the Director has certified within a reasonable time that no qualified Indian is available to fill the vacancy.
  6. If the Employer determines that an Indian referred to it is not qualified for the job, it shall inform TERO and the Indian referred in writing, of the specific skills lacking and of the type of training that person would need to become qualified.
  7. The Employer agrees to provide, two weeks in advance of any work, including; date of project work to begin; anticipated length of the project; expected number of jobs to be performed by skill category; if construction work, number of Journeyman and Apprentice slots; basic qualifications for each category (e.g. years of experience, education level, special skills, etc.):
    - a. Hiring Ration (to be determined)
    - b. Laborers (50% Tribal Members, Spouse of Tribal Member, other Indian)
    - c. Copy of Contract
  8. The Director will conduct site inspections as deemed necessary; and examine Employers payroll records, when necessary to confirm payroll reports.
  9. The Employer agrees to provide weekly payroll records to the TERO showing the following information on all Indian and non-Indian workers, name, social security number, address, wage and salary paid (hourly, weekly, or monthly, depending upon method of computing), total hours worked, skill category or job titles.





# *Chemehuevi Indian Tribe*

P. O. Box 1976 • HAVASU LAKE, CA 92363 • (760) 858-4219 • FAX: (760) 858-5400

## Tribal Employment Rights Office (TERO)

### COMPLIANCE PLAN CONDITIONS

COMPANY \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

BUSINESS LICENSE NUMBER: \_\_\_\_\_

DATE LICENSE ACQUIRED: \_\_\_\_\_

EXPIRATION DATE: \_\_\_\_\_

ANY EMPLOYER NOT SUBMITTING AN ACCEPTABLE COMPLIANCE PLAN  
MAY BE DENIED THE RIGHT TO COMMENCE OR CONTINUE DOING  
BUSINESS ON THE CHEMEHUEVI INDIAN RESERVATION.

Page Two of Three  
Chemehuevi Indian Tribe  
TERO Compliance Plan Conditions

CONTRACT AMOUNT \$ \_\_\_\_\_ TERO FEE 2% \_\_\_\_\_

FUNDING AGENCY \_\_\_\_\_

PROJECT START DATE \_\_\_\_\_ PROJECT END \_\_\_\_\_

CORE CREW - NAMES \_\_\_\_\_ JOB CLASSIFICATION \_\_\_\_\_

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_
11. \_\_\_\_\_
12. \_\_\_\_\_

ESTIMATED NUMBER OF WORKERS NEEDED AND JOB TITLES

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_
11. \_\_\_\_\_
12. \_\_\_\_\_

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EMPLOYERS SIGNATURE/DATE: \_\_\_\_\_  
TERO OFFICIAL SIGNATURE/DATE: \_\_\_\_\_

Page Three of Three  
Chemehuevi Indian Tribe  
TERO Compliance Plan Conditions

COMPANY: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PROJECT: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CHEMEHUEVI TRIBAL TERO FEE PAYMENT SCHEDULE:

DATE: _____	AMOUNT: _____
DATE: _____	AMOUNT: _____
DATE: _____	AMOUNT: _____
DATE: _____	AMOUNT: _____
DATE: _____	AMOUNT: _____
DATE: _____	AMOUNT: _____

LIST THE IDENTIFIED INDIAN PREFERENCE SUBCONTRACTORS FOR THIS PROJECT:

Company	Area of Work	Contact Person/Phone
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I HAVE READ THIS TERO COMPLIANCE PLAN AGREEMENT AND AGREE TO ABIDE BY THE STATED CONDITIONS:

EMPLOYER SIGNATURE/DATE: \_\_\_\_\_

TERO OFFICIAL SIGNATURE/DATE: \_\_\_\_\_



# Tribal Employment Rights Office

**To:** Employers/Contractors

**Fr:** Varner K. Escobar, TERO Director (CIT)  
Phone: 760-858-5100/ Fax: 760-858-5279  
Tribal Administration Office: 760-858-4219  
E-mail: [dir.tero@cit-nsn.gov](mailto:dir.tero@cit-nsn.gov)

**Subject:** TERO information Packet: (1) TERO Notice, (2) TERO Ordinance,  
(3) Compliance Plan/Agreement,

On March 28, 2009 the Chemehuevi Indian Tribal Council approved and adopted by resolution, the Tribal Employment Rights Ordinance (TERO) No. 09-03-28-A.

The purpose of the Ordinance is to ensure compliance by employers on the Chemehuevi Indian Reservation with Federal and Tribal laws that are intended to: 1) prevent employment related discrimination against Native Americans, 2) give preference in employment, contracting and training to Native Americans, 3) maximum utilization of Native American workers in all employment opportunities on and near the Chemehuevi Indian Reservation, and 4) maximum employment opportunities in mid-level and management levels for Native Americans, and to prevent foreclosure on such opportunities as the result of lack of training and skills.

It is the responsibility of this office (TERO) to inform all employers that any employer who intends to engage in permanent or temporary business on the Reservation shall not commence any work on the Reservation until a TERO Compliance Plan/Agreement has been completed and signed by both the TERO Director and the Employer representative. An employer who intends to establish a permanent or temporary place of business on the reservation shall execute a compliance Plan/Agreement prior to establishing the business.

Employer shall mean any person, company, contractor, sub-contractor or other entity located or engaged in work on the Chemehuevi Indian Reservation. The term "employer" shall also include contractors and subcontractors of state, county and all government agencies.

Employers shall submit a compliance agreement certification signed by the employer and the TERO Director, setting forth how each employer will meet Indian Preference and that they will comply full with the ordinance. The TERO Director shall assess and collect the TERO fee of 2% of the total contract amount as established by the Tribal Council in the TERO Ordinance regarding (Construction) on Tribal Lands. TERO fee shall be paid prior to commencing work or in the compliance with the approval payment schedule in the TERO compliance plan. Any violations of this TERO Ordinance will result in a prompt and thorough investigation by the TERO Director.

**AN ORDINANCE OF THE TRIBAL COUNCIL OF THE  
CHEMEHUEVI INDIAN TRIBE REQUIRING INDIAN  
PREFERENCE IN HIRING AND ESTABLISHING THE  
CHEMEHUEVI TRIBAL EMPLOYMENT RIGHTS OFFICE.**

The Tribal Council ("Council") of the Chemehuevi Indian Tribe ("Tribe") does hereby ordain as follows:

Section 1. Findings and Declaration. The Tribal Council for the Chemehuevi Indian Tribe ("Tribe") finds and declares that:

1. Indian people have unique employment rights and the Tribe has the authority to pass laws and enact regulations to enforce Indian preference in employment on the Chemehuevi Indian Reservation. Indian preference in employment is not a racial preference, but a political preference that has been recognized as permissible under federal law;

2. The Council finds that it is necessary and important to establish an Employment Rights Program in order to implement Indian preference to maximize the participation of Chemehuevi tribal members in all employment, business, and training opportunities and to overcome the discriminatory barriers that have traditionally blocked Indian people from participating in the labor force;

3. The Council finds that it is in the best interests of the Tribe to establish an Indian preference hiring policy for all employers on the Reservation and to establish the Tribal Employment Rights Office to ensure that the Tribe's hiring policies are implemented.

Section 2. Adoption of a New Ordinance Entitled "Tribal Employment Rights Ordinance". A new Chapter 1 entitled "Tribal Employment Rights Ordinance," is hereby adopted and added to Title 2 of the Chemehuevi Tribal Code, which shall provide as follows:

**CHAPTER 1**

**TRIBAL EMPLOYMENT RIGHTS ORDINANCE**

**Sections:**

- 02.01.010 Definitions.
- 02.01.020 Establishment of Tribal Employment Preference Policy.
- 02.01.030 Application of Ordinance.
- 02.01.040 Establishment of Tribal Employment Rights Office and Office of TERO Director.
- 02.01.050 Notification of Requirements of Ordinance.
- 02.01.060 Powers and Duties of the TERO Director.
- 02.01.070 TERO Director: Qualifications.

02.01.080	TERO Director Compensation and Expenses.
02.01.090	Minimum Numerical Goals and Timetables for Indian Employment.
02.01.100	Training.
02.01.110	Tribal Hiring List
02.01.120	Counseling and Support Programs.
02.01.130	Preference in Contracting and Subcontracting.
02.01.140	Lay-Off of Workers.
02.01.150	Promotion.
02.01.160	Summer Students.
02.01.170	TERO Fee.
02.01.180	Union Agreement.
02.01.190	Content of Union Agreement.
02.01.200	Model Union Agreement.
02.01.210	Compliance Plan.
02.01.220	Compliance Reporting and On-site Inspections.
02.01.230	TERO Director Complaint Procedure.
02.01.240	Employee Complaint Procedure.
02.01.250	Employer and Union Complaint Procedure.
02.01.260	Request for Hearing.
02.01.270	Notice of Hearing.
02.01.280	Hearing Procedures.
02.01.290	Appeals.
02.01.300	Penalties for Violations.
02.01.310	Order to the Chemehuevi Tribal Police Department.
02.01.320	Reports to Tribal Council.
02.01.330	Relationship to Federal Laws.
02.01.340	Sovereignty.
02.01.350	Not Recognition of Unions.

**Section 02.01.010 Definitions.** As used in this ordinance, the following terms shall have the following meanings:

- A. "Chairman" means the Chairman of the Chemehuevi Tribal Council.
- B. "Commerce" means the exchange of goods, services, and/or property without reference to the locality where the exchange is carried out.
- C. "Council" means the Tribal Council of the Chemehuevi Indian Tribe.
- D. "EEOC" means the United States Equal Employment Opportunity Commission.
- E. "Employee" means any person paid wages, salary or stipend by any entity engaged in commerce on the Chemehuevi Indian Reservation, including the Chemehuevi Indian Tribe and its entities and enterprises.

- F. "Employer" means any person who engages in commerce within the exterior boundaries of the Chemehuevi Indian Reservation through paid agents or employees, including the Chemehuevi Indian Tribe, its agencies and enterprises. The term "Employer" includes any person acting as an agent, contractor or subcontractor of any employer, directly or indirectly, but shall not include the United States or any wholly owned government corporation, or any state or political subdivision thereof.
- G. "Indian" means any member of an Indian Tribe.
- H. "Indian Preference" means that members of the Chemehuevi Indian Tribe and other Indians, without regard to tribal affiliation, and tribally owned business entities are given preference over non-Indians in employment and training where the Chemehuevi tribal members and other Indians meet the minimum qualifications for the job or training program.
- I. "Indian owned business" means any commercial, industrial or other business activity or entity with not less than 51% Indian ownership.
- J. "Minimum Job Qualifications" means a satisfactory job history with the tribe or other employer including but not limited to; attendance, job performance and job knowledge.
- K. "Notice" means notification required to be given by the Chemehuevi Indian Tribe's TERO Director, the Tribal Council or the Tribal Court regarding TERO related matters. Notice shall be sufficient as to unnamed parties in an action, and in all instances where a specific person is not addressed, if it is published and posted in a public area within the Chemehuevi Indian Reservation boundaries for not less than five working days and is on file in the Chemehuevi Tribe's Tribal Employment Rights Office and open to public inspection.
- L. "Person" means both natural persons and artificial persons, including, but not limited to, corporations, trusts, partnerships, unions, agents, societies, sole proprietorships, and any organization, entity or group or combination acting as a unit.
- M. "Tribe" means the Chemehuevi Indian Tribe ("CIT").
- N. "Union or Labor Union" means any organization, agency or employee representation committee planned, associated or organized for the purposes of collective bargaining in which employees participate and that exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rate of pay, hours of employment, or conditions of work.
- O. "Reservation" means the Chemehuevi Indian Reservation and any land owned by the Tribe outside the exterior boundaries of the Reservation that is owned by the United States in trust for the Tribe.
- P. "Secretary" means the Secretary of Interior or his duly authorized representative.

**Section 02.01.020 Establishment of Tribal Employment Preference Policy.** To the extent permitted by law, the Tribe and its entities and all persons and entities doing business on the Reservation shall extend a preference in hiring according to the following priorities:

- A. Enrolled members of the CIT
- B. Indian spouses of enrolled members of the Tribe and, to the extent that a contract does not involve the expenditure of any federal or state funds, all spouses of enrolled members of the Tribe, both Indians and non-Indians;
- C. Members of other Indian tribes;
- D. Non-Indians.

The above persons listed in A through C above shall hereinafter be referred to collectively as the "preference persons."

**Section 02.01.030 Application of Ordinance.** All Employers are required to give preference to persons in the order of priority specified in Section 02.01.020 above, in hiring, promotion, training, temporary reduction in work force and all other aspects of employment, contracting and subcontracting. Employers must comply with this Ordinance and the rules, regulations and orders of the TERO Director, the Tribal Council, and Tribal Court relating to employment matters. The Indian preference requirements contained in this Ordinance shall be binding on all Employers, contractors and subcontractors and shall be deemed a part of all resulting subcontractor specifications. Employers shall have the initial and primary responsibility for ensuring that all contractors or subcontractors shall be subject to penalties provided herein for violation of this Ordinance if the contractor or subcontractor fails to comply.

**Section 02.01.040 Establishment of Tribal Employment Rights Office and Office of TERO Director.** The Tribal Council hereby establishes the Tribal Employment Rights Office ("TERO") and the Office of Director of the Tribal Employment Rights Office ("TERO Director" or "Director"). The TERO Director shall be responsible for implementation and enforcement of this Ordinance, and is authorized, with Tribal Council approval, to appoint such officers, agents and employees as he/she deems necessary to assist the TERO Director in carrying out his/her duties and responsibilities and which is provided for in the TERO budget approved by the Council. The TERO Director shall report directly to the Chemehuevi Tribal Council.

**Section 02.01.050 Notification of Requirements of Ordinance.** The TERO Director shall notify all Employers of the existence of this Ordinance and their obligation to comply with this Ordinance. All bid announcements issued by any entity of the Tribe shall contain a statement that the successful bidder will be obligated to comply with this Ordinance and all rules, regulations and orders of the TERO Director and include a copy of this Ordinance and any rules and regulations enacted to implement this Ordinance. The TERO Director shall send a copy of this Ordinance to every Employer operating on the Reservation and any amendments or revisions thereafter, within thirty days of the effective date of this Ordinance.

**Section 02.01.060 Powers and Duties of the TERO Director.** The TERO Director has jurisdiction and authority to:

- A. Require Employers to give preference to preferred persons, Tribal-owned and other Indian-owned businesses in the award of Contracts and Subcontracts;
- B. Require that Employers notify the TERO Director of all relevant open positions and hire non-Indians only after the TERO Director has certified that qualified preference persons are unavailable to fill the vacant job positions;
- C. Prohibit Employers from using qualification criteria or other personnel requirements that serve as barriers to preference persons being employed, unless the Employer can demonstrate that such criteria or requirements are required by business necessity;
- D. Require Employers to establish or participate in such training programs as the TERO Director deems necessary to increase the pool of preference persons eligible for employment on the Reservation;
- E. Establish and administer a Tribal Hiring Hall;
- F. Enter into agreements with unions to insure union compliance with this Ordinance;
- G. Hold hearings and subpoena witnesses and documents for the purpose of enforcing this Ordinance;
- H. Issue stop work orders and mandatory compliance orders where necessary to achieve the goals of this Ordinance and compliance with this Ordinance
- I. Require Employers to submit reports and take all actions deemed necessary by the TERO Director for the fair and vigorous implementation of this Ordinance;
- J. Formulate, adopt, amend and rescind rules, regulations and guidelines reasonably necessary to carry out the provisions of this Ordinance. In developing regulations to implement this requirement, the TERO Director shall adopt the EEOC guidelines on these matters to the extent that they are appropriate and not inconsistent with the provisions of this Ordinance. The TERO Director shall have the authority to impose requirements in addition to or in lieu of EEOC guidelines;
- K. Hire staff, expend funds appropriated by the Council and obtain and expend funding from federal, state, and other sources in carrying out the purposes of this Ordinance;
- L. Facilitate support programs to assist preference persons to retain employment;
- M. Enter into cooperative relationships with federal employment rights agencies,

such as EEOC and the Office of Federal Contract Compliance Programs;

N. Recommend actions to the Council to achieve the purpose and objectives of this Ordinance.

**Section 02.01.070 TERO Director: Qualifications.** The TERO Director shall have such education, training, and experience as the Tribal Council determines to be necessary for the position. Within thirty (30) days of the adoption of this Ordinance, the Executive Committee of the Council shall submit to the Council for approval a job description for the TERO Director listing the qualifications for the position, which shall not be inconsistent with the provisions of this Ordinance.

**Section 02.01.080 TERO Director Compensation and Expenses.** The TERO Director shall be compensated as determined by the Tribal Council and shall be reimbursed for expenses incurred in connection with carrying out his/her duties under this Ordinance, subject to the approval of the Council.

**Section 02.01.090 Minimum Numerical Goals and Timetables for Indian Employment.** The TERO Director may establish the minimum number of preference persons each Employer must employ on his/her work force during any year that the Employer is engaged in work on the Reservation. Numerical goals shall be expressed in terms of projects hours of preference persons' employment as a percentage of the total project hours worked by the Employer's work force in the job classification involved. Numerical goals shall be based on a survey of the available preference persons' labor force and of project employment opportunities.

A. For a new Employer, the goals may be established for the entire work force. The Employer shall meet with the TERO Director at least 45 days prior to beginning work and shall furnish the TERO Director with a precise list of the number and kinds of employees he expects to employ. The TERO Director shall then set specific goals and timetables for the Employer after considering any special factors or circumstances the Employer identifies as affecting his/her ability to meet the goals. The Employer shall incorporate the goals into the Employer's plan for complying with this Ordinance and shall agree in writing to meet those goals by signing a compliance agreement. Any Employer who fails to enter into such a written agreement will not be permitted to commence work on the Reservation.

B. For an existing Employer, the goals may be a percentage of the new employees expected to be employed during the ensuing year by the Employer. The Employer shall incorporate the goals into his/her plan for complying with this Ordinance and shall agree in writing to meet these goals by signing a compliance agreement.

C. For both new and existing Employers, the goals may be reviewed by the TERO Director at least annually and shall be revised as necessary to reflect changes in the number of preference persons available or changes in the Employers' hiring needs.

D. Each Employer shall submit a report when requested to the TERO Director

indicating the number of preference persons in the Employer's work force, the total number of persons employed, terminations, promotions, and training positions during the bi-weekly period, and other information required by the TERO Director.

D. Should the TERO Director have reason to believe that an Employer is violating this Ordinance by not meeting agreed-upon goals; he/she shall notify the Employer of the alleged violation pursuant to §02.01.230 of this Ordinance. The TERO Director shall bear the initial burden of proving the Employer has failed or is failing to meet his/her goals. Upon prima facie proof of such failure, the Employer shall bear the burden of proving that he/she has met or is meeting his/her goals or has made a good faith effort to meet his/her goals. It shall not be an excuse for such failure if the union with which the Employer has a collective bargaining agreement providing for exclusive referral failed to refer preference persons.

**Section 02.01.100 Training.** Every Employer may be required by the TERO Director to participate in training programs to assist preference persons to become qualified in the job classifications used by the Employer. Employers engaged in construction shall employ the maximum number of trainees or apprentices possible. The TERO Director shall set the ratio of preference person trainees to fully qualified workers after consultation with the Employer. For construction projects, the number of preference person trainees shall be no less than the minimum ratio established by the United States Department of Labor. Every Employer with a collective bargaining agreement with a union shall be required to obtain an agreement from the union to implement the training program. All trainees and apprentices employed pursuant to this Ordinance shall be Indian.

**Section 02.01.110 Tribal Hiring List.** The TERO Director shall establish and administer a Tribal Hiring Hall to assist Employers in placing preference persons. Employers may recruit and hire workers from whatever source, provided that no non-Indians are employed until a reasonable time period to locate qualified preference persons has elapsed or the Tribal Hiring Hall has certified that a qualified preference person is not available to fill the vacant job position. For purposes of this section, "reasonable time" shall be defined as follows: for construction jobs, the TERO Director shall be given 48 hours to locate and an additional 12 hours to refer a qualified preference person; for all other kinds of employment, the TERO Director shall have a minimum of 7 working days to locate and refer a qualified preference person. The TERO Director may grant a waiver of this time period upon a showing by the Employer that such time period imposes an undue burden upon the project. An Employer subject to a collective bargaining agreement with a union shall be exempt from this procedure if the union agrees to place in its referral list all names supplied to it by the TERO Director. However, if a union fails to meet its obligation to refer preference persons to an Employer, the TERO Director may require the Employer to accept preference person referrals from sources other than the union. If any non-Indian worker is found to be employed in a job in violation of this section, the Employer shall be required by the TERO Director to remove the employee summarily and shall be subject to the penalties provided in §02.01.300 of this Ordinance. Removal of employees will be subject to the hearing and appeal process set forth in this Ordinance.

**Section 02.01.120 Counseling and Support Programs.** The TERO Director may establish counseling referrals and other support programs and will make every effort to assist preference persons to obtain and retain employment. Every Employer shall be required to cooperate with the TERO Director regarding such counseling and support programs in conjunction with established tribal policies.

**Section 02.01.130 Preference in Contracting and Subcontracting.** Every Employer shall give preference in the award of any contract or subcontract to Indian-owned businesses. The TERO Director shall register and maintain a list of Indian-owned businesses, which shall be supplied to the Employers for their use. Employers shall not be required to take any extraordinary measures to identify or locate Indian-owned businesses.

**Section 02.01.140 Lay-Off of Workers.** In all lay-offs and reductions in work force, no preference person worker shall be terminated if a non-Indian worker in the same job classification is still employed; the non-Indian must first be terminated if the preference person possesses the qualification for the position in question. Qualified preference person workers shall be transferred to a crew to be retained so long as non-Indians in the same job classification are employed elsewhere on the job site.

**Section 02.01.150 Promotion.** Every Employer will make a good faith effort to apply the preferences set forth in Section 02.01.020 above to all promotion opportunities and shall encourage preference persons to seek such opportunities.

**Section 02.01.160 Summer Students.** Every Employer shall apply the preferences set forth in Section 02.01.020 above to summer student employment (with work permits). Employers shall make every effort to promote after-school, summer and vacation employment for Indian students.

**Section 02.01.170 TERO Fee.** The Tribe hereby imposes the following TERO fee on all applicable contracts:

A. For every Employer, with a construction contract in the amount of \$10,000.00 or more, shall pay a one-time fee of 2 % of the amount of the contract. The fee may be paid in installments over the term of the contract;

B. TERO fees shall be paid to the Tribe and shall be credited to the account of the Chemehuevi Tribal Employment Rights Office to meet its operating costs.

**Section 02.01.180 Union Agreement.** Every union with a collective bargaining agreement with an Employer must file a written agreement stating that the union will comply with this Ordinance and the rules, regulations and orders of the TERO Director, Tribal Council and Tribal Court. Until such an agreement is filed with the TERO Director, an Employer may not commence work on the Reservation.

**Section 02.01.190 Content of Union Agreement.** Every union agreement with an

Employer filed with the TERO Director must provide:

- A. Indian Preference. The union will give absolute preference to preference persons in job referrals regardless of the union referral list upon which a preference person's name appears;
- B. Cooperation with the TERO Director. The union will cooperate with the TERO Director in complying with the requirements of this Ordinance;
- C. Registration. The union will establish a mechanism allowing preference persons to register for the job referral list by telephone, mail, email, or other electronic means;
- D. Training Program. The union will establish journeyman upgrades, and advanced apprenticeship programs that are registered with the United States Department of Labor;
- E. Temporary Work Permits. The union will grant temporary work permits to preference persons who do not wish to join the union.

**Section 02.01.200 Model Union Agreement**. The TERO Director may provide a model union agreement for use by all unions who have a collective bargaining agreement with any Employer. This may be used for reference in formulating an agreement to be used for compliance purposes.

**Section 02.01.210 Compliance Plan**. Beginning on the effective date of this Ordinance, no new employer may commence work on the Reservation until it has met with the TERO Director or his/her agent and developed an acceptable plan for meeting its obligations under this Ordinance or any guidelines adopted by the TERO Director pursuant to this Ordinance.

**Section 02.01.220 Compliance Reporting and On-site Inspections**.. Employers shall timely submit reports and other information requested by the TERO Director. The TERO 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 and the rules, regulations and orders of the TERO Director. The TERO Director shall have the right to inspect and copy all relevant records of any Employer, subcontractor of any Employer, and any signatory union and shall have the right to speak to workers and conduct investigation on the job site. All information collected by the TERO Director shall be kept confidential unless disclosure is required during a hearing or appeal as provided in §02.01. 280 and §02.01.290 and, pursuant to a Compliance Plan.

**Section 02.01.230 TERO Director Complaint Procedure**. If the TERO Director believes that an Employer, contractor, subcontractor, or union has failed to comply with the Ordinance or any rules, regulations or orders of the TERO Director, it may file a complaint and notify such party of the alleged violation. The TERO Director will attempt to achieve an informal settlement of the matter, but if an informal settlement cannot be achieved, the TERO Director may request a hearing upon the matter pursuant to §02.01. 260.

**Section 02.01.240 Employee Complaint Procedure.** If an employee and candidate for employment believes that an Employer has failed to comply with this Ordinance or the rules, regulation or orders of the TERO Director, or believes he/she has been discriminated against by an Employer because he/she is a preference person, he/she may file a complaint with the TERO Director, who shall investigate and attempt to achieve an informal settlement of the matter. If an informal settlement cannot be achieved, the individual or TERO Director may request a hearing upon the matter pursuant to §02.01.260. If an Employer fires, lays off, or penalizes, in any manner, a preference person employee who utilizes the complaint procedure provided herein or exercises any right provided herein, the Employer shall be subject to the penalties provided in §02.01.300 of this Ordinance.

**Section 02.01.250 Employer and Union Complaint Procedure.** If any Employer or union believes that any provision of this Ordinance or any rule, regulation or order of the TERO Director is illegal or erroneous, a complaint can be filed with the TERO Director specifying the alleged illegality or error. Upon receipt of the complaint, the TERO Director shall investigate and attempt to achieve an informal settlement of the matter. If an informal settlement cannot be achieved, the Employer, union or TERO Director may request a hearing upon the matter pursuant to §02.01.260 .

**Section 02.01.260 Request for Hearing.** A request for a hearing by the TERO Director, an individual employee, an Employer, or a Union shall be made in writing. Notice shall be filed with the Council, and served on the other parties to the complaint.

**Section 02.01.270 Notice of Hearing.** If a hearing is requested by the TERO Director, an individual, an Employer, or union pursuant to this section, written notice of the hearing shall be given by the TERO Director to all parties concerned. The notice shall include a description of the nature of the hearing and shall advise parties of their right to be present at the hearing, to present testimony of witnesses and submit other evidence, and to be represented by counsel at their own expense. The Notice shall also state that the TERO Director may be represented by legal counsel.

**Section 02.01.280 Hearing Procedures.** Hearings shall be governed by the following rules of procedures:

- A. All parties may present testimony of witnesses and other relevant evidence and may be represented by counsel at their own expense;
- B. At the hearing, the TERO Director may receive advice and assistance from legal counsel;
- C. Hearings shall be governed by rules of practice and procedures adopted by the TERO Director. The Council shall not be bound by technical rules of evidence in the conduct of hearing under this Ordinance, and no informality in any proceeding shall invalidate any order, decision, rule or regulation made, approved or confirmed by the Council;

D. The Chairman of the Council shall preside over hearings or, in his/her absence, the Vice-Chairman. The Council may also appoint a hearing officer in lieu of the Chairman;

E. Any matter to be proved must be proven to the satisfaction of the Council by a preponderance of the evidence;

F. At the final close of the hearing, the Council may take immediate action or take the matter under advisement;

G. The Council's decision shall be in writing, shall be served on the parties by registered mail or in person and shall be issued no later than thirty (30) days after the close of the hearing.

**Section 02.01.290 Appeals.** An appeal to the Chemehuevi Tribal Court may be taken from any final order of the Council by any party adversely affected thereby. Upon appeal, the case shall be tried de novo. The appeal shall be taken by serving written notice of appeal on the TERO Director within twenty (20) days after the date of entry of the order. The notice of appeal shall:

A. Identify and attach the order from which appeal is taken;

B. Specify the grounds upon which reversal of the order is sought;

C. The original order of the Council shall be suspended pending the determination of the Chemehuevi Tribal Court. If the order of the Council is reversed or modified, the Court may by its mandate specifically direct the TERO Director, to make appropriate Ordinance language recommendations to the Council, for the purposes of revision or correction of the sections or words in question. All amendments, revisions or corrections of the Ordinance shall be sent to Employers, federal agencies, and other affected parties, and shall be posted in public places for a period of thirty (30) days on the Reservation.

**Section 02.01.300 Penalties for Violations.** Any Employer, contractor, subcontractor or union who violates this Ordinance or the rules, regulations or orders of the TERO Director shall be subject to penalties for such violations, including, but not limited to:

A. Denial of the right to commence or continue conducting business on the Reservation, suspension of all operations on the Reservation, and/or prohibition from engaging in future operations on the Reservation;

B. Payment of back pay and damages to compensate any injured party, an order to remove employees hired in violation of this Ordinance or the rules, regulation and orders of the TERO Director, and/or an order of the TERO Director requiring employment, promotion, and training of the person injured by the violation;

C. Imposition of monetary civil penalties of up to \$5,000.00 for each violation. Each day during which a violation exists, shall constitute a separate violation;

D. An order requiring changes in procedures and policies necessary to eliminate the violations, and

E. Any other order deemed necessary by the TERO Director to alleviate, eliminate, or compensate a person or entity for any violation.

**Section 02.01.310 Order to the Chemehuevi Tribal Police Department.** Tribal law enforcement officers are hereby expressly authorized and directed to enforce such cease and desist or related orders as may from time to time be properly issued by the TERO Director. Such orders shall require a judicial decree or order from the Tribal Court to render them enforceable. The tribal law enforcement officers shall not be civilly liable for enforcing such orders so long as the TERO Director signs the order.

**Section 02.01.320 Reports to Tribal Council.** The TERO Director shall, at the end of each fiscal quarter, report to the Council concerning the action he/she has taken within the ending fiscal quarter, and shall make such other reports and make recommendations for further ordinances, resolutions, and regulations as he/she may determine to be necessary.

**Section 02.01.330 Relationship to Federal Laws.** This Ordinance is consistent with Federal law which permits Indian preference in employment, including:

- A. Section 7(b) of the Indian Self-Determination Act, Public Law 93-638, as amended;
- B. Title VII, Section 703(l) of the Civil Rights Act of 1964;
- C. Executive Order 11246, Office of Federal Contract Compliance Programs, 1977.

To the extent that giving preference to non-Indian spouses of tribal members would violate applicable federal law, the TERO Director shall not require such preference to be given as otherwise provided for in this Ordinance.

**Section 02.01.340 Sovereignty.** Nothing contained in this Ordinance shall constitute a waiver of the Tribe's sovereign immunity or limit the application of the trust responsibility of the United States Government to the Tribe.

**Section 02.01.350 Not Recognition of Unions.** Nothing herein or any activity of the Tribal Employment Rights Office or TERO Director authorized hereby shall constitute tribal recognition of any union or tribal endorsement of any union activities on the Chemehuevi Indian Reservation.

Section 3. **Severability.** If a court of competent jurisdiction finds that any provisions of this Ordinance are invalid or illegal under applicable Federal or tribal law, such provisions shall be severed from this Ordinance. The remainder of this Ordinance shall remain in full force and

effect.

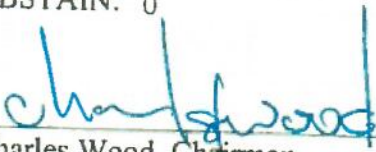
Section 4. Repeal.. All prior Ordinances enacted by the Council pertaining to or providing for an Indian or tribal member spouse preference in employment is hereby repealed.

Section 5. Effective Date. This Ordinance shall take effect upon enactment by the Tribal Council.

CERTIFICATION

The foregoing Ordinance was adopted at a duly convened meeting of the Chemehuevi Tribal Council, with a quorum present, held on the 28th day of March, 2009, by the following vote:

AYES: 9  
NOES: 0  
ABSENT: 0  
ABSTAIN: 0

  
Charles Wood, Chairman

ATTEST:  
  
Ronald Escobar, Secretary-Treasurer