

TITLE 25
LUMMI NATION CODE OF LAWS
TRIBAL EMPLOYMENT RIGHTS ORDINANCE
(TERO)

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TITLE 25
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(TERO)

Chapter 25.01 General Provisions

25.01.010 Short Title

This ordinance shall be cited as the “Lummi Tribal Employment Rights Ordinance” and may also be referred to as the “Lummi TERO”.

25.01.020 Employment and Training Policy

(a) The Lummi Indian Business Council (LIBC) realizes that it is important to create employment and training opportunities and to eradicate discrimination against Lummi Tribal Members and other Native Americans on or near the Lummi Reservation. An integral part of attaining this goal is by structuring employment and training opportunities and to provide for the hiring of Native Americans who are qualified, and through training where there are no sufficient qualified Native Americans to meet the employment opportunities. The LIBC may impose such fees and taxes as are necessary to achieve these goals.

(b) Title VII of the 1964 Civil Rights Act prohibits preferential employment on the basis of race, color, sex, national origin and religion. However, Section 703, 42 U.S.C. 2000e-2 (i), states that, “Nothing contained in this subchapter shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.”

(c) The Bureau of Indian Affairs in its regulations 25 CFR 3271.44 implementing the Indian Self Determination Act, Public Law 93-638, provides for Indian Preference in employment training, contracting, and subcontracting of all contracts negotiated or let on behalf of an Indian Tribe pursuant to the Act.

(d) In January 1977, the Office of Federal Contract Compliance Program (OFCCP) issued regulations which state,

“Work on or near Indian Reservations. It shall not be a violation of the equal opportunity clause for a construction or non-construction contractor to extend a publicly announced preference in employment to Indians living on or near an Indian Reservation. However, contractors or subcontractors extending such a preference shall not discriminate among Indians on the basis of religion, sex, or tribal affiliation, and the use of such preference shall not excuse a contractor from complying with the other requirements contained in this chapter.”

The use of the word “near” would include all that area where a person seeking employment could reasonably be expected to commute to and from work in the course of a work day.

25.01.030 Authority

The authority for this ordinance is Article VI, Section 1(p), and Article VI, Section 2 of the Constitution and By-laws, as amended, of the Lummi Tribe of the Lummi Reservation, Washington.

25.01.040 Jurisdiction and Applicability

(a) Lands Subject to the Jurisdiction of this Title. Unless otherwise exempted in Subsection (d) below, this Title shall apply on all of the following lands:

- (1) lands within the exterior boundaries of the Lummi Reservation;
- (2) lands owned by the Lummi Nation outside the Lummi Reservation boundaries;
- (3) lands held in trust for the Lummi Nation by the United States regardless of location;
- (4) lands where the Lummi Nation funds construction projects;
- (5) other lands and areas subject to the jurisdiction of the Lummi Nation pursuant to Article I of the Lummi Constitution, as Amended; and
- (6) other lands as authorized in a Memorandum of Understanding/Agreement as permitted by this Title and applicable federal and state law.

(b) Employers Subject to the Jurisdiction of this Title. Unless otherwise exempted in Subsection (d) below, this Title shall apply to all Construction Employers that are performing Construction Work or soliciting and awarding contracts or subcontracts for Construction Work, if any such Construction Work occurs within the lands subject to the jurisdiction of this Title listed in Subsection (a) above, including:

- (1) Construction Employers, as that term is defined in LCL §25.02.010(g);
- (2) Construction Employers awarded contracts or subcontracts directly from the LIBC, federal, state and local governments;

(3) LIBC and all LIBC commercial enterprises, tribally owned corporations, and other political subdivisions, when performing Construction Work or soliciting and awarding contracts or subcontracts for Construction Work; and

(4) Construction Employers outside of the exterior boundaries of the Lummi Reservation as permitted by this Title and applicable federal and state laws as authorized in any Memorandum of Understanding/Agreement between the entity and the Lummi Nation.

(c) Notwithstanding the remainder of this Title, LCL §25.10.020 applies to all persons and businesses required to obtain a business license pursuant to LCL §30.04.040 for the limited purpose of imposition of the TERO Business Fee.

(d) Employers Exempt from the Jurisdiction of this Title. The regulations of this Title shall not apply to the following:

(1) any regular employment pursuant to the personnel policies of the LIBC or its enterprises, tribally owned corporations, or political subdivisions, or by federal, state, or other local governments, or the subdivisions of such governments. Regular employees shall be limited to the rights and remedies provided in the duly adopted manuals or procedures for those employees. The LIBC and its enterprises, tribally owned corporations, and political subdivisions shall provide for Lummi and Native employment preference in their personnel policies. Employees hired by the LIBC and its enterprises, tribally owned corporations, or political subdivisions to perform construction work as a temporary, special project, or contract employee are not considered regular employees;

(2) federal, state or local governments when directly soliciting and awarding contracts or subcontracts for Construction Work; and

(3) homeowners building a dwelling that is intended to be their main residence. Secondary or multiple homes will not be eligible for the exemption.

25.01.050 Federal Requirements

Employers subject the jurisdiction of this Title shall ensure compliance with federal preference or other preference regulations for projects using federal funds. Such federal restrictions may prohibit or restrict the restrictive bidding processes or any other process that gives preference under this Title.

25.01.060 NAHASDA Tribal Housing

Native American Housing Assistance and Self-Determination Act (NAHASDA) project wages shall not be paid less than those required by the U.S. Secretary of Labor under the Davis-Bacon Act (40 U.S.C.) for the locality in which the work is to be performed. If Davis-Bacon wages are not required for such a particular NAHASDA project, wages shall not be paid less than the wage scale rates set forth in the Lummi Prevailing Wage Schedule approved pursuant to this Title.

25.01.070 Application of LIBC Policies

(a) All Employers subject to the jurisdiction of this Title shall comply with all applicable LIBC policies or procedures, including, but not limited to, the LIBC Procurement Policy. In the event that any LIBC policy or procedure conflicts with the requirements of this Title, this Title will prevail.

(b) The LIBC and its enterprises, tribally owned corporations, or political subdivisions shall not be exempt from the requirements of Title 25 by hiring temporary or special project employees to perform Construction Work

through the regular personnel hiring procedures. Any personnel action by the LIBC or its enterprises, tribally owned corporations, or political subdivisions to hire temporary or special project employees to perform Construction Work shall be deemed an action to contract for Construction Work for the limited purpose of applicability of this Title and shall not modify the employee-employer relationship in any other way.

25.01.080 Conflict of Interest

Any individuals shall be disqualified from any actions under this Title, including the decision process of employment or contracting, when they have a personal interest or ownership in or involve an immediate family member. This may include personal relationships where there is a perception or appearance that they cannot act fair and without bias.

25.01.090 Regulations

The Commission shall issue rules, regulations and guidelines in the same manner, and with the same procedure, as the LIBC enacts ordinances.

25.01.100 Severability

If for any circumstances, provisions or sections of this Title are held invalid by an appropriate court with jurisdiction, the remainder of the Title and other provisions or sections will not be affected in the application of the Title to any other Construction Employer covered by this Title.

25.01.110 Effective Date

This Title shall be effective from the date of its approval by the LIBC through an enactment resolution.

25.01.120 Publication of Ordinance

The Commission shall notify and send a copy of this Title to every Construction Employer

operating on any of the land subject to this Title and all other interested parties and federal agencies. All bid announcements issued by federal, state, and tribal agencies, or other private, or public entities shall contain a clause or statement that the successful bidder will comply with this Title and where applicable all other rules, regulations, and guidelines of the Commission. All tribal and federal agencies responsible for issuing business and/or other tribal permits and contracts with prospective employers for reservation activities shall be responsible for advising prospective Construction Employers of their obligations under this Title and the rules, regulations, guidelines, compliance plans, and orders of the Commission.

Chapter 25.02 Definitions of Terms

25.02.010 Definitions

As used in this Title:

- (a) “Building” shall have the same mean as that in the 2015 International Building Code (IBC) and Amendments thereafter, published by the International Code Council.
- (b) “Chair” shall mean the chair of the Lummi Tribal Employment Rights Commission.
- (c) “Commercial Enterprise” shall mean any activity by the LIBC, or other federal, state, or local governments that is not a traditional function of government as defined by the United States Internal Revenue Service.
- (d) “Commission” shall mean the Lummi Tribal Employment Rights Commission.
- (e) “Commissioner” shall mean a member of the Lummi Tribal Employment Rights Commission.
- (f) “Compliance Plan” shall mean an agreement between a Construction Employer and the Lummi TERO Office, setting forth how the Construction Employer will meet Native Preference hiring and contracting goals, and that they will comply with this Title. A Safety Plan shall be attached and incorporated into all Compliance Plans.
- (g) “Construction Employer” shall mean:
 - (1) any person, company, contractor, subcontractor, business, firm, partnership, corporation, joint venture, or any other natural or artificial person, organization, or association of persons or entities, that is performing Construction Work or soliciting and awarding contracts or subcontracts for Construction Work, if any such Construction Work occurs on the lands subject to the jurisdiction this Title set forth in LCL §25.01.040(a).
 - (2) “Construction Employer” includes the LIBC and all LIBC commercial enterprises, tribally owned corporations, or other political subdivisions, when performing Construction Work, soliciting and awarding contracts or subcontracts for Construction Work, or hiring temporary, contract, or special project employees to perform Construction Work, if any such Construction Work occurs on the lands subject to the jurisdiction this Title set forth in LCL §25.01.040(a).
 - (3) The term is intended to be as broad and encompassing as possible to ensure maximum coverage of this Title over all employment and contracting activities related to Construction Work that occurs on any of the lands subject to the jurisdiction this Title set forth in LCL §25.01.040(a).

- (h) “Construction Site” or “On-Site” shall mean any site in which Construction Work in relation to a project is carried out.
- (i) “Construction Work” or “Construction” shall include, but is not limited to, doing one or more of the following:
- (1) engineering or erecting any new structure, dwelling, or building;
 - (2) remodeling, converting, renovating, altering, assembling, fitting-out, commissioning, de-commissioning, removing, dismantling, demolishing, repairing, or maintaining, a structure, dwelling, or building, including painting, decorating, and landscaping;
 - (3) preparing land or area for a structure, dwelling, or building, including but not limited to site clearance, exploration, investigation (but not site survey), excavation, and the laying or installing of the foundations of an intended structure, dwelling, or building; and
 - (4) work carried out on any infrastructure, equipment, support facilities, including the installation, commissioning, maintenance, repair, or removal of mechanical, electrical, gas, compressed air, hydraulic, telecommunication, computer system or similar services which are normally fixed within a structure, dwelling, or building.
- (j) “Contractor” shall mean any person, company, contractor, subcontractor, business, firm, partnership, corporation, joint venture, or any other natural or artificial person, organization, or association of persons or entities, awarded contracts for Construction Work.
- (k) “Core Crew” shall mean the essential, permanent employees of a Construction Employer.
- (l) “Day” shall mean a calendar day, unless specified otherwise.
- (m) “Director” shall mean the Director of the Lummi TERO Office.
- (n) “Dwelling” shall mean any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence, temporary or permanent, by one or more families.
- (o) “EEOC” means the Equal Employment Opportunity Commission of the United States.
- (p) “Employee” shall include all persons earning wages or other remuneration for Construction Work performed on any lands subject to the jurisdiction of this Title.
- (q) “Engaged in Work” – a Construction Employer is “engaged in work” if during any portion of a business enterprise or specific project, contract or subcontract, the Construction Employer or any of his employees spends time performing work on any lands subject to the jurisdiction of this Title or on other lands and areas under the terms of a Memorandum of Understanding/Agreement between the Construction Employer and Lummi Nation.
- (r) “Immediate Family Member” means a parent, child, spouse, domestic partner, brother, sister, grandparent, grandchild, aunt, uncle, niece, nephew, or first cousin, by blood, marriage or adoption.
- (s) “LCL” means the Lummi Nation Code of Laws.
- (t) “LIBC” means the Lummi Indian Business Council, the governing body of the Lummi Nation.
- (u) “LIBC commercial enterprise, tribally owned corporation, or other political subdivisions” includes, but is not limited to,

the Lummi Tobacco Company, Lummi Commercial Company, Silver Reef Hotel Casino Spa, Lummi Development Holding Company, and all entities within the definition of LCL §28.12.010, Lummi Housing Authority, Lummi Tribal Sewer and Water District, and Lummi Nation Construction Company.

(v) “Local Native American” means any Native American person residing within the Lummi Reservation or Whatcom County for at least sixty (60) days.

(w) “Native American” or “Indian” means any person enrolled in any Indian tribe or Native entities of the State of Alaska which is recognized by the Secretary of the Interior as eligible for the special programs or services provided by the Bureau of Indian Affairs and is listed in the Federal Register under Pub. L. 103-454, Act of Nov. 2, 1994.

(x) “Native Preference” means that all other qualifications being equal, qualified Native Americans are given preference over non-Native Americans in all aspects of construction employment, including but not limited to, hiring, training, promotions, layoffs, contracting and subcontracting, in the preference order set forth in Chapter 25.05 of this Title.

(y) “Non-Local Native American” shall mean all Native Americans who are not Local Native Americans within the definition in Subsection (v) above.

(z) “Notice” as it is required to be given by the Director shall be sufficient if it is published in a legal newspaper distributed within Whatcom County and posted in a public place within the Lummi Reservation as to: unnamed parties in an action; all interested persons who are not parties to an action; and in all instances where a specific person is not addressed.

(aa) “OFCCCP” means the Office of Federal Contract Compliance Programs of the United States.

(bb) “Person” shall include both natural persons and artificial persons, including, but not limited to, corporations, trusts, partnerships, unions, agents, societies, sole proprietorships, and estates of decedents.

(cc) “Project” shall mean any activity which includes or is intended to include construction work.

(dd) “Qualified” shall mean those job-related qualifications that are essential for performing the basic responsibilities of a position, including any essential qualifications concerning education, training and job-related experience.

(ff) “Structure” shall have the same meaning as that in the 2015 International Building Code (IBC) and Amendments thereafter, published by the International Code Council.

(gg) “TERO” shall mean the Lummi Tribal Employment Rights Office.

(hh) “TERO Hiring Hall” means a source established and administered by TERO that contains information of Native American employees and their job training, past work history, job interests, and other employment information, that may be used by Construction Employers in placing Native Americans in job positions.

(ii) “Union” or “Labor Union” means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with Construction Employers concerning grievances, labor disputes, wages, rate of pay, hours of employment, or conditions of work.

(jj) "Wages" means payment for Construction Work performed for another.

Chapter 25.03 Lummi Tribal Employment Rights Commission

25.03.010 Establishment of the Lummi Tribal Employment Rights Commission

(a) The Commission is hereby created to administer the TERO in accordance with this Title and shall adopt bylaws under which it shall operate internally.

(b) The Commission shall consist of five (5) regular commissioners and one (1) alternate commissioner, appointed by the LIBC for staggered three (3) year terms. There shall also be one (1) council member of the LIBC who will act as an ex-officio member of the Commission. At all times, the Commission shall be comprised of at least (2) regular commissioners who each have a minimum of five (5) years of construction work experience.

(c) There is no limitation on the number of terms a commissioner may serve. Ex-officio members of the Commission are non-voting members. The alternate commissioner shall not vote unless at least one regular commissioner is not present at a meeting.

(d) The Commission shall elect its officers from within its membership for one year terms. The Chair of the Commission shall preside over commission meetings and shall be authorized to sign required documents in accordance with the powers of the Commission. The Vice-Chair of the Commission shall preside in the absence of the Chair.

(e) The Commission may be compensated as directed by the LIBC, but shall be reimbursed for any expenses incurred in connection with carrying out their duties

under this Title under the reimbursement policies of the LIBC.

25.03.020 Duties and Powers of the Commission

(a) The Commission is delegated such authority to carry out the duties under this Title, subject to the review of the LIBC, including, without limitation, the explicit duty to:

(1) appoint and supervise the Director under the personnel policies of the LIBC; the Commission shall not supervise other TERO personnel;

(2) make recommendations to the LIBC and its senior staff concerning the operations and performance of the TERO Program;

(3) establish and enforce TERO rules, regulations, and guidelines to implement the provisions of this Title;

(4) establish, assess, and collect such TERO fees and taxes authorized by this Title and as are appropriate and necessary to operation of the TERO Program;

(5) enforce the Native Preference provisions of this Title;

(6) investigate, report and take such regulatory actions as are needed, regarding compliance with this Title;

(7) notify the Office of the Reservation Attorney immediately of any court action; and

(8) safeguard the jurisdiction of the Lummi Nation on all lands within the jurisdiction of this Title.

(b) The Commission shall have the power to:

(1) take all necessary action to implement this Title;

(2) develop and present to the LIBC for approval recommendations to adopt, amend, or rescind rules, regulations, guidelines, and standard operating procedures necessary to carry out the provisions of this Title and the activities of the Commission;

(3) develop and present to the LIBC for approval recommendations to adopt, amend, or rescind TERO organizational policy, procedure, or practices that are identified as a barrier, hindrance, and/or direct violation of this Title;

(4) make recommendations to LIBC on amendments to this Title;

(5) use the LIBC Human Resources Department to hire and terminate commission employees and to set salaries pursuant to a salary schedule and budget approved by the LIBC;

(6) require Construction Employers to establish or participate in job training programs as the Commission deems necessary to increase the pool of Native Americans eligible for employment or increase their level of expertise;

(7) prohibit Construction Employers from using job qualification criteria or personnel requirements that may bar Native Americans from employment unless such criteria are required by business necessity. Commission regulations may adopt EEOC guidelines or may adopt additional requirements to eliminate employment barriers unique to Native Americans and the Lummi Nation;

(8) recommend that the LIBC enter into agreements with unions to insure union compliance with this Title;

(9) enter in Memorandums of Understanding/Agreement with Construction Employers with the approval of LIBC by resolution;

(10) recommend that the LIBC enter into cooperative agreements with federal and state agencies to eliminate discrimination against Native Americans both on and off the Lummi Reservation;

(11) require Construction Employers to give preference to Native American owned businesses in the award of contracts and subcontracts, consulting and sole sourcing;

(12) impose contract and subcontract Native Preference requirements;

(13) subject to the appropriation of funds by the LIBC for this purpose, establish and administer apprenticeship, training, and counseling programs to assist Native Americans in obtaining and retaining employment and provide for the full or partial payment of union dues for tribal member apprentices who are unemployed;

(14) issue subpoenas for witnesses and documents, enter cease and desist orders against Construction Employers, hold hearings, and enter orders in accordance with this Title;

(15) require Construction Employers to submit reports and take all action deemed necessary by the Commission for implementation of this Title; and

(16) take such other actions as are necessary to achieve the purposes and objectives of the TERO established in this Title.

Chapter 25.04 Tribal Employment Rights Office

25.04.010 Establishment of Lummi Tribal Employment Rights Office

The Lummi Tribal Employment Rights Office (TERO) is hereby established with the full supervisory authority vested in the Director.

25.04.020 Director of Lummi Tribal Employment Rights Office

(a) The Director shall be appointed by the Commission under the personnel policies of the LIBC and shall report directly to the Commission and to the LIBC.

(b) The Director shall have the authority and duty to:

- (1) hire and supervise TERO staff pursuant to the personnel policies of the LIBC;
- (2) obtain and expend funds from federal, state, or other sources;
- (3) perform any other duties which are necessary for fulfilling the purposes of this Title or which may be assigned by the Commission;
- (4) draft, update and enforce the Lummi Prevailing Wage Schedule;
- (5) propose to the Commission regulations, rules, procedures, and guidelines to implement this Title;
- (6) investigate violations, obtain subpoenas and cease and desist orders from the Commission, issue warnings and citations, assess penalties or issue other remedies for violations of this Title, petition the Lummi Tribal Court for enforcement action, and take such action as is necessary for the implementation of this Title;
- (7) approve and enter Compliance Plans, including Safety Plans, with Construction Employers and impose numerical hiring goals and timetables that reflect the available Native Preference labor pool and other employment opportunities for each job classification;
- (8) require that Construction Employers have training or apprentice programs to provide preference to Native Americans;

(9) establish and maintain a TERO Hiring Hall that maintains a record of qualified, employable Native Americans that can be used by Construction Employers or other employers to fill vacancies;

(10) assist Native American workers find jobs, either through the TERO Hiring Hall or through other employment opportunities outside the Lummi Reservation, and network and develop new employment opportunities;

(11) work cooperatively with other tribal programs to establish counseling, education, training, substance abuse treatment, and other support programs for Native American workers to assist them in acquiring and retaining employment;

(12) require monthly reports and on-site inspections from Construction Employers to ensure compliance with this Title;

(13) assist any Native American aggrieved by a violation of this Title in filing a TERO complaint, where appropriate, and provide public education and information materials to the community on the duties and responsibilities of TERO and the Commission;

(14) establish and maintain advocacy support services to assist any Native American worker in resolving employment issues with their employer;

(15) review, certify and maintain the NAOB Registry;

(16) develop and maintain a list of Construction Employers that are debarred or ineligible to bid on contracts and subcontracts;

(17) ensure that 100% of the workforce is qualified Native Preference workers, when possible;

(18) ensure pre and post-bid awards are in accordance with this Title, including non-tribal business awards and subcontracts of Construction Employers;

(19) work cooperatively with federal and state officials responsible for enforcing occupational safety and health requirements over Construction Employers to insure the maximum enforcement of such requirements;

(20) enter in Memorandums of Understanding/Agreement with Construction Employers with the approval of LIBC by resolution;

(21) expend funds appropriated by the LIBC for the TERO Program and to seek funding from federal, state or other sources to supplement LIBC appropriations, subject to the LIBC approval;

(22) establish numerical hiring goals and timetables specifying the maximum number of Native Americans a Construction Employer must hire by craft or skill level; and

(23) delegate any of the duties, responsibilities or functions of the Director set forth in this Title to TERO staff, unless prohibited by personnel policies, delegation limitations, or policies set by the Commission.

25.04.030 Responsibility Standards of Director

- (a) The Director has the responsibility to:
- (1) administer TERO in accordance with this Title, the approved operational budget, and that fiscal year's approved Work Plan;
 - (2) develop policies and procedures for the Commission to review and implement

which removes employment barriers and supports the intent of this Title;

(3) represent TERO at LIBC meetings, committee, board and commission meetings, TERO administrative and Commission hearings, and appear at court hearings;

(4) provide monthly reports to the Commission and prepare General Council presentations on TERO programs;

(5) negotiate with Construction Employers regarding their workforce; and

(6) secure additional funding from alternative sources (e.g. federal and/or state funding sources, private foundations, and public agencies) if necessary for the continued adequate functioning of TERO.

Chapter 25.05 Employment Regulations

25.05.010 Native Preference in Employment

(a) Construction Employers shall give Native Preference in hiring, promotion, training, layoffs, recall, and all other aspects of employment. Such Construction Employers shall also comply with the rules, regulations, guidelines, compliance plans, and orders of the Commission.

(b) For tribally funded construction employment, Native Preference shall be given in the following priority order:

- (1) enrolled members of the Lummi Nation that are veterans;
- (2) enrolled members of the Lummi Nation;
- (3) other Native Americans who are a parent or legal guardian of: a child enrolled in the Lummi Nation or of a

biological child born to a Lummi Tribal Member;

(4) other Native Americans who are a spouse of an enrolled member of the Lummi Nation;

(5) biological child or grandchild of an enrolled member of the Lummi Nation whether or not that person is enrolled or enrollable;

(6) other Local Native Americans; and

(7) other Non-Local Native Americans.

(c) Where contractual agreements or other state or federal laws or requirements prohibit preference by Tribal Affiliation, Native Preference in construction employment shall first be given to qualified, Local Native Americans and then to qualified, Non-Local Native Americans.

(d) When there is a Memorandum of Understanding/Agreement between a Construction Employer and the Lummi Nation, preference will be given as set forth in the memorandum.

25.05.020 Hiring Requirements

(a) Construction Employers may recruit and hire Native Preference employees from whatever sources available and by whatever process chosen, provided that Native Americans are given hiring preference in the priority set forth in LCL §25.05.010.

(b) Construction Employers may use the TERO Hiring Hall to assist in placing qualified Native Americans in job positions.

(c) A Construction Employer may not hire a non-Native American in violation of the Compliance Plan until the Director has certified that no qualified Native American is available to fill the vacancy. The Director shall have 48 hours from the time of notice from the Construction Employer of the

vacancy needs to locate and refer a qualified Native American. The Director shall first attempt to fill the vacancy using a Native American worker in the priority set forth in LCL §25.05.010; if not successful, the Director should attempt to locate Native American referrals from TERO programs of other Indian Tribes.

25.05.030 Job Qualifications and Requirements

(a) No Construction Employer may use excessive or unnecessary job skill qualifications to serve as a barrier to the employment of Native Americans and which are not required by business necessity.

(b) TERO must demonstrate that the criterion or personnel requirement is a barrier to Native American employment. The burden will then be on the Construction Employer to demonstrate that such criterion or requirement is required by business necessity. If the Construction Employer fails to meet this burden, it will be required to eliminate the criteria or requirement at issue.

(c) Where TERO and the Construction Employer are unable to reach an agreement on the matter of job qualification criteria and personnel requirements, the Director shall make the final determination. The Construction Employer may appeal this decision to the Commission pursuant to the procedures set forth in LCL §25.09.090. Notwithstanding, LCL §25.09.110, the Commission's decision is final and cannot be further appealed.

25.05.040 Core Crew of Permanent and Key Employees

(a) A Construction Employer may, if necessary, have a core crew of employees that

are exempt from the Native Preference regulations of this Title.

(b) A core crew is necessary if:

(1) there are unique or specialized qualifications that are essential for the operation of the business; and

(2) it would place an unreasonable burden or cost on the Construction Employer to hire individuals other than its core crew.

(c) If a Non-Native core crew is necessary, as determined by the Director, such core crew shall not exceed five percent (5%) of the total employees of the Construction Employer working within this jurisdiction and five percent (5%) of the total hours of payroll of the employees working within this jurisdiction. The Director may, at his discretion, grant a Construction Employer a larger core crew upon a satisfactory demonstration by the Construction Employer that a larger core crew is necessary due to the unique or specialized positions that are essential for the operation of the business.

(d) Core crew employees must have been regular employees (not temporary, contract, or special project) of the Construction Employer for at least six (6) months. For any core crew employee that has worked for the Construction Employer less than six (6) months, the Construction Employer must set forth evidence acceptable to the Director that its hiring actions were not intended to circumvent the Native Preference regulations of this Title.

25.05.050 Union Agreements

(a) Any Construction Employer who has a collective bargaining agreement with one or more unions shall obtain written agreements from said union(s) stating that the union shall comply with the Native Preference regulations

of this Title and all other regulations, rules, and guidelines promulgated pursuant to the authority of this Title.

(b) Such Construction Employer may make initial job referral requests to the union. However, if the union does not have a qualified Local Native American worker on any of its out-of-work lists, the union shall contact TERO. If TERO can identify a qualified Native American worker, in the priority set forth in LCL §25.05.010, that worker shall be referred through the union hiring hall to the construction site. Native American worker referred by TERO who do not wish to become a member of the union shall not be required to join the union or pay union dues or fees.

(c) Such union agreements shall be subject to the approval of the Commission, the Director, and the LIBC. Such agreements and approval do not constitute official tribal recognition or sanction of any union and unions have no jurisdiction or authority over any activities operated pursuant to the sovereign immunity of the Lummi Nation. Until such agreement is filed with the Director, the Construction Employer shall not commence work on any of the lands subject to the jurisdiction of this Title.

25.05.060 Training

(a) Upon the request of the Director or Commission, all Construction Employers shall participate in training programs to assist Native Americans to become qualified in the various job classifications used by the Construction Employer. If a Construction Employer is not participating in a union apprenticeship program, the LIBC shall make a best effort to bear the costs of such training or apprenticeship program but Construction Employers will also be required to bear part of the cost.

(b) Subject to the availability of funding, TERO may establish and administer an “On the Job” (OJT) training program which may pay up to 50% of the hourly wage of any trainee in the program.

(c) For construction work on the lands subject to this Title, all trainees or apprentices shall be Native American in the priority set forth in LCL §25.05.010. Construction Employers with collective bargaining agreements with unions may use union apprenticeship programs so long as they obtain agreements from the union to use only Native American apprentices on projects on the lands subject to this Title.

(d) Native Americans participating in apprenticeship or training programs with the Construction Employer, a union, a college or trade school, or through the OJT program, shall be considered in meeting the employment preference goals set forth in the Construction Employer’s Compliance Plan.

25.05.070 Promotion

Construction Employers shall give qualified Local Native Americans preferential consideration, in the priority set forth in LCL §25.05.010, for all promotion opportunities and shall encourage Native Americans to seek such opportunities. For all supervisory positions filled by Non-Local Native Americans or non-Native Americans, the Construction Employer shall file a report with TERO stating which Local Native Americans, if any, applied for the job, the reasons why they were not given the job, and what efforts were made to inform the Local Native American workers about the job opportunity.

25.05.080 Termination and Layoff

(a) Native American employees shall have seniority for retention with respect to termination or layoff.

(b) For tribally funded construction employment, termination or layoff shall be conducted in the following order:

- (1) non-Native American employees;
- (2) other Non-Local Native Americans;
- (3) other Local Native Americans;
- (4) biological child or grandchild of an enrolled member of the Lummi Nation whether or not that person is enrolled or enrollable;
- (5) other Native Americans who are a spouse of an enrolled member of the Lummi Nation;
- (6) other Native Americans who are a parent or legal guardian of: a child enrolled in the Lummi Nation, or of a biological child born to a Lummi Tribal Member;
- (7) enrolled members of the Lummi Nation; and
- (8) enrolled members of the Lummi Nation that are veterans.

(c) Where contractual agreements or other state or federal laws or requirements prohibit preference by Tribal Affiliation, Local Native Americans shall be the last to be terminated or laid off.

(d) If the Construction Employer lays off by crew, classifications or other categories, qualified Native American employees shall be transferred to crews or positions that will be retained in the priority set forth in LCL §25.05.010.

(e) This section does not apply to the core crew of permanent and key employees.

25.05.090 Establishment of a Lummi Prevailing Wage Schedule and Minimum Wage

(a) The Director shall promulgate a Lummi Prevailing Wage Schedule in accordance with this Section. Such Lummi Prevailing or Minimum Wage shall only apply to Construction Employers subject to the jurisdiction of this Title.

(b) The Lummi Minimum Wage shall be the Washington State Minimum Wage; or, in the event that the LIBC enacts a Lummi Nation Minimum Wage – no less than the Lummi Nation Minimum Wage.

(c) The Lummi Prevailing Wage Schedule shall be the lowest wage that a Construction Employer can pay any employee by trade or craft. A prevailing wage need not limit or put a cap on all employees in a particular trade or craft.

(d) The Lummi Prevailing Wage Schedule shall, at minimum, include a wage scale for all trades and crafts listed in the Washington Administrative Code, Chapter 296-127.

(e) The Director shall base any proposed Prevailing Wage Schedule on reasonable and reliable wage data for the Lummi Nation and Whatcom County, Washington.

(f) The Director shall submit the proposed Prevailing Wage Schedule to the Commission for its approval.

(g) Upon approval of a proposed Prevailing Wage Schedule by the Commission, the proposed schedule shall be submitted to LIBC for approval and adoption by resolution. The Lummi Prevailing Wage Schedule shall become final only upon LIBC approval by resolution.

(h) The Director shall review the schedule annually and propose schedule changes in accordance with the provisions of this Section.

25.05.100 Compliance with the Lummi

Prevailing Wage Schedule and Minimum Wage

(a) All Construction Employers shall comply with the Lummi Prevailing and Minimum Wage Schedule in their Compliance Plan unless exempted under LCL §25.05.110.

(b) No Construction Employer shall pay any employee less than the Lummi Minimum Wage.

25.05.110 Exemptions to the Lummi Prevailing Wage Schedule

(a) Notwithstanding the Lummi Prevailing Wage Schedule, no Construction Employer otherwise subject to the Lummi Prevailing Wage Schedule, shall pay Native American employees a wage less than the wage paid to the Construction Employer's core crew workers performing the same job duties.

(b) Construction Employers who have entered into a Memorandum of Understanding/Agreement with the Lummi Nation shall pay wages according to the terms established in the memorandum.

(c) Construction Employers are not subject to the Lummi Prevailing Wage Schedule if federal or state prevailing wages (e.g. Davis-Bacon Act or Washington State Labor and Industries wages) are required or agreed upon pursuant to any statute or law, contract, grant, collective bargaining agreement, memorandum of understanding/agreement, or any other agreement, obligation or requirement. The Construction Employer shall pay such federal or state prevailing wages in lieu of the Lummi Prevailing Wage Schedule.

25.05.120 Other Wage Requirements

(a) All Native Preference construction employees shall be paid at an hourly wage rate. Employees who work more than 40

hours in a work week shall be paid overtime at a rate of time and one half times their regular rate of pay. Flex time and compensatory time off (“comp time”) shall not be given in lieu of overtime pay. This Title does not limit the number of hours of overtime that may be scheduled; the number of hours that may be worked in a day, or the number of days that may be worked in a week; so long as the employee is at least 16 years old.

(b) Men and women employed by the same Construction Employer who perform jobs requiring equal duties and responsibilities shall be paid the same rate of pay.

Chapter 25.06 Construction Contracting and Subcontracting Regulations

25.06.010 Native Preference in Construction Contracting and Subcontracting

(a) All Construction Employers engaged in construction work on the lands subject to the jurisdiction of this Title shall give preference in any contract or subcontract awarded to qualified businesses listed on the TERO Native American Owned Business (NAOB) Registry. Preference may be further restricted or limited as required and/or allowed under this Chapter.

(b) Businesses are NAOB certified by the Director under Chapter 25.07 of this Title.

(c) To receive preference, the NAOB must be on the current TERO NAOB Registry prior to the time of bidding. The Construction Employer shall be prohibited from using excessive or unnecessary qualification criteria that excludes NAOBs. However, this Title shall not prevent the rejection of any bid or proposal on the grounds that the bid is non-responsive or non-responsible.

(d) When federal or state funding is utilized in a project, the Construction Employer shall comply with federal or state preference requirements if applicable.

(e) Where contractual agreements or other state or federal laws or requirements prohibit preference by Tribal Affiliation, Native Preference shall first be given to NAOB firms owned by Local Native Americans.

25.06.020 Subcontractors

The requirements of this Title shall apply to all subcontractors. All Construction Employers engaged in contracting covered by this Title shall ensure that their contractors and subcontractors are in compliance with this Title.

25.06.025 TERO Consultation Required in LIBC Procurement Process

(a) In the event that LIBC has adopted a Procurement Policy, such Procurement Policy shall, at a minimum, require that:

(1) the Contracting Officer, Purchasing Manager, or any other LIBC employee who shall administer procurement transactions, notify the TERO Director of all construction contracting and procurement transactions prior to the awarding of the contract;

(2) the LIBC shall consult with the TERO Director to determine whether there are Native Preference workers or NAOBs qualified to perform the construction work proposed in the contract;

(3) the TERO Director shall be a required signatory on all LIBC construction contracts;

(4) no contracted Construction Work may commence until the TERO Director has signed the LIBC contract and a

Compliance Plan has been approved by the Director; and

(5) the LIBC shall notify all Construction Employers directly awarded contracts by LIBC that they must comply with Title 25.

25.06.030 Bid Award Process

(a) All businesses on the NAOB Registry must be given the opportunity to bid on the construction work in which they meet the technical qualifications. The Construction Employer shall be prohibited from using excessive or unnecessary qualification criteria for businesses on the NAOB Registry.

(b) A Construction Employer may select its contractors or subcontractors in any manner or procedure it so chooses, provided that the regulations of this Title are followed. However, contracts and subcontracts shall not be awarded to debarred, suspended or ineligible contractors listed with any federal, state or tribal entity.

(c) A responsive and responsible bid includes, but is not limited to, one where the bidder meets the technical qualification and is willing to perform the work at a reasonable price. Some of the determining factors that may be considered are, but not limited to, the bidder’s capabilities, qualifications, scheduling, pricing and preference.

(d) “Qualifications” with respect to contracting and subcontracting, shall mean a demonstrated ability to perform the terms of the contract and may include evaluation of prior performance, safety records, prior or pending litigation or complaints regarding performance, prior TERO violations, financial stability, or similar factors which are directly relevant to the bidder’s ability to perform satisfactorily. This evaluation includes both prior dealings with the Lummi Nation and with any other jurisdiction.

25.06.040 Competitive Bid Award

(a) If the Construction Employer uses competitive bidding to be awarded to the lowest bidder, preference in the award shall be provided in the following priority:

(1) for tribally funded projects, the award shall be made to a certified, qualified Lummi NAOB which submits a responsive and responsible bid so long as the bid does not exceed the lowest bid by 10%. If more than one Lummi NAOB submits a qualifying bid, first preference shall be given to the Lummi Small Business NAOB for award of the contract;

(2) If no Lummi NAOB submits a qualifying bid, or where contractual agreements or other state or federal laws or requirements prohibit preference by Tribal Affiliation, the award shall be made to a certified, qualified NAOB with the lowest responsive and responsible bid if that bid does not exceed the lowest bid by the percent/amount detailed in the following table, with first preference to a qualified Local NAOB firm;

When the lowest responsive bid is:	Bid Preference Amount is:
Less than \$100,000	10% of the bid
At least \$100,000, but less than \$200,000	9% of the bid
At least \$200,000, but less than \$300,000	8% of the bid
At least	7% of the

\$300,000, but less than \$400,000	bid
At least \$400,000, but less than \$500,000	6% of the bid
At least \$500,000, but less than \$1,000,000	5% of the bid
At least \$1,000,000, but less than \$2,000,000	4% of the bid
At least \$2,000,000, but less than \$4,000,000	3% of the bid
At least \$4,000,000, but less than \$7,000,000	2% of the bid
\$7,000,000 or more	1% of the bid

(3) If no certified, qualified NAOB submits a responsive bid within the stated ranges of the total bid price of the lowest non-NAOB responsive bid, award shall be made to the non-NAOB bidder with the lowest responsive bid.

(b) Any NAOB awarded a contract because its bid was within the proscribed percentages of the lowest bid, as outlined in Subsection (a) above, shall not be requested nor required to lower their bid to match the lowest bid amount.

25.06.050 Requests for Proposal

(a) If the Construction Employer selects its contractors or subcontractors by an invitation to submit a request for proposal (RFP), the RFP shall clearly define the particulars concerning the RFP, including the rating system that provides for assignment of points for the relative merits of submitted proposals. The RFP documents shall identify all rated factors, including price or costs, or any significant sub-factors that will be considered in awarding the contract, and shall state the relative importance the Construction Employer places on each evaluation factor and or sub-factor.

(b) The RFP shall set aside a percentage of the total number of available rating points for the provision of Native Preference in the award of contracts and subcontracts. The percentage or number of points set aside for preference and the method for allocating these points shall be clearly defined in the RFP and shall include, at minimum, the following:

(1) For tribally funded projects:

(i) A Lummi NAOB shall automatically be awarded 15% of the available rating points;

(ii) A Local NAOB shall automatically be awarded 10% of the available rating points; and

(iii) A Non-Local NAOB shall automatically be awarded 5% of the available rating points.

(2) For all projects that are not tribally funded:

(i) A Local NAOB shall automatically be awarded 15% of the available rating points; and

(ii) A Non-Local NAOB shall automatically be awarded 10% of the

available rating points.

(3) the RFP shall award points for all proposals which propose training Native Preference employees and points for the number of available Native Preference jobs proposed. The percentage or number of points set aside for preference and the method for allocating these points shall be clearly defined in the RFP.

(b) A Construction Employer shall require contractors responding to an RFP issued as a part of this Section to use the same point system as stated in the RFP when considering procurement of subcontracted work. The RFP shall explain the criteria to be used by the contractor in evaluating proposals submitted by subcontractors.

(c) Preference in the award of contracts and subcontracts that are let under a RFP shall be provided as follows:

(1) if the Construction Employer selects its contractors or subcontractors through a RFP process then the contract award shall be made to the qualified, certified NAOB with the highest total points awarded for their proposal based upon the rating system as established in the RFP after taking all proposal items into consideration.

(d) The Director shall be notified of the RFP criteria, posting location, list of estimated construction projects, capital improvement projects and plans. TERO shall be updated of these standard contractor and subcontractor listings.

25.06.060 Restrictive Bidding

(a) A Construction Employer may select its contractors or subcontractors by limiting or restricting bidding to small businesses on the TERO NAOB Registry on identified projects. For tribally funded projects, if the

Construction Employer identifies a project that can be limited to small business and there are two or more qualified, certified Lummi NAOB firms on the TERO Registry that are likely to submit responsive and responsible bids, and there are no bidding requirements that would preclude such a restriction, the entity shall restrict bidding to only Lummi NAOB small businesses. When contractual agreements or other state or federal laws or requirements prohibit preference by Tribal Affiliation, such bidding restriction shall be limited to NAOB small businesses owned by Local Native Americans.

(b) When there are two or more certified, qualified NAOB firms on the TERO Registry that are likely to submit responsive bids, then the Construction Employer may restrict bidding only to NAOB firms.

(c) If the Construction Employer has restricted or limited bidding to only certified, qualified NAOB firms, then the bid award shall be made to the lowest responsive and responsible bid. If only one NAOB submits a responsive and responsible bid, the entity shall proceed as follows:

(1) accept the one responsive bid should the entity determine that the NAOB responsive bid is at a reasonable price;

(2) negotiate a reasonable price with the responsive NAOB should the entity determine that delays caused by re-advertising the work would subject the project to higher costs; or

(3) reject all bids and re-advertise for bids without restricting or limiting competition to NAOB firms.

25.06.070 Sole Sourcing and Negotiated Awards

(a) If the Construction Employer selects its contractors or subcontractors through sole

sourcing, negotiations or other informal process, it may not enter into a contract with a non-NAOB certified firm unless it has contacted every NAOB certified firm in the relevant field, as listed by the TERO Program, and has determined that there is no NAOB available that meets the technical qualifications to perform the work at a reasonable price.

(b) Unless contractual agreements or other federal or state laws or requirements prohibit preference by Tribal Affiliation, a Lummi NAOB certified firm shall be given a right of first refusal for the work. If prohibited, Native Preference shall first be given to Local NAOB firms.

(c) The Construction Employer shall engage in negotiations with the NAOB to negotiate the price and terms of the contract for the work. If good faith negotiations do not result in a contract within thirty (30) days after commencement of negotiations, the Construction Employer letting the contract may put the contract out for competitive bid in a manner consistent with LCL §25.06.040.

25.06.080 Imminent Need and Emergency Award Process

Construction Employers may contract for imminent need and/or emergency repair or work on a time and materials basis. An imminent need and/or emergency shall be defined as repair or work that must be started within 24 hours of the time the Construction Employer first learned of the need for the repair or work. Each Construction Employer shall maintain a list of qualified contractors to utilize under these circumstances, and shall make a good faith effort to rotate qualified contractors used in an imminent need and/or emergency circumstance.

25.06.090 Bid Collusion

(a) Bid Collusion is strictly prohibited for contracts awarded under this Title and subject to penalty and enforcement by TERO. Bid collusion shall include but is not limited, to price fixing, bid rigging, allocation schemes, conflicts of interest, or any other action or inaction that restricts competition or impacts project pricing. Furthermore, any practice involving or comparable to informing a competitor of the amount of the bid or offering them an opportunity to underbid will be considered bid collusion.

(b) If a Construction Employer suspects that a contractor has engaged in bid collusion, it shall refer the matter to TERO for investigation. The Construction Employer shall provide TERO with all documentation supporting its concern. If TERO makes a finding that bid collusion did occur, the bid will be disqualified and penalties shall be issued accordingly.

(c) TERO reserves the right to exercise all available equitable and legal remedies, including withholding of contract payment and assessment of any penalties authorized under Chapter 25.08 of this Title. Additionally, the following specific penalties shall apply:

(1) cancellation of the contract and debarment from contracting with the Lummi Nation may be imposed for willful repeated violations. Individuals debarred from contracting may not bid or participate in any contracts as owners or key employees of other companies during the period of debarment. In the event a contractor is engaged in work on any lands subject to the jurisdiction of this Title at the time it is found to have engaged in bid collusion, the Construction Employer in its discretion, may require that the contractor to

complete their current contracted work, and during this period, the contractor shall be suspended from bidding and/or performing any other work. The debarment period imposed shall commence when the current work is completed.

(2) any contractor found to have engaged in bid collusion may be liable for damages for any losses suffered by another firm as determined and assessed by the Commission. Any firm claiming a loss has the burden to provide the documentation and evidence to the Commission to prove its losses.

(d) Any contractor disputing a TERO determination on bid collusion may appeal in accordance with the procedures of Chapter 25.09 of this Title.

25.06.100 Compliance Plan

(a) All Construction Employers, including those who are the recipients of contracts directly awarded by LIBC, federal, state or local government, are required to submit a Compliance Plan to the Director prior to the final execution of the contract. No Construction Employer may commence work until they have completed a Compliance Plan and the plan is approved by the Director. Construction Employers engaged in work without an approved Compliance Plan shall be required to stop work until an acceptable plan has been submitted and approved by the Director.

(b) The Director shall consult with each Construction Employer to develop a Compliance Plan which, at a minimum, establishes:

(1) the goal of 100% Native Preference employment (excluding the core crew) in each job classification if qualified Native Americans are reasonably available when

the Plan is adopted to fill all job positions anticipated by the Construction Employer in the job classification. If qualified Native Americans are not available, the Director may approve a plan to provide for goals less than 100% Native American employment in affected job classifications. The Director shall not approve a plan where the job classifications of flagger or laborer are less than 100% Native American employed unless there is a significant and compelling reason that Native American employees are unavailable;

(2) the core crew including their job classification and wage, how long they have worked for the Construction Employer, and any other information established by TERO;

(3) whether the construction work requires access to a sensitive area requiring background check clearances and for which job classifications such clearances are necessary;

(4) a Safety Plan pursuant to LCL §25.06.130;

(5) applicable wage scale provisions (federal, state, or Lummi), prevailing wage standards and salary compensation terms pursuant to Chapter 25.03 of this Title;

(6) monthly reporting requirements to the Director on the number of Native Americans employed and how many hours they worked for each job classification, a record of persons hired, fired or promoted during the reporting period, and a statement regarding compliance with the hiring goals set forth in the plan. The general contractor will also complete an exit interview with the Director upon completion of the contract.

(c) Compliance Plans shall be reviewed periodically and revised as necessary to reflect

changes in the number of Native Americans available or changes in the employer's hiring plans.

(d) Construction Employers shall comply with the Compliance Plan. A compliance plan shall constitute a binding agreement, the terms of which shall be fully enforceable by TERO. Any violation of an executed Compliance Plan shall be a violation of this Title.

25.06.110 Compliance Plans for Unions

All Construction Employers with collective bargaining agreements shall enter into a Compliance Plan as set forth in LCL §25.06.100. Such Compliance Plan shall include all written signed union agreements, as required pursuant to LCL §25.05.050. Until such Compliance Plan and union agreements are filed and approved by the Director, the Construction Employer shall not commence work within this jurisdiction.

25.06.120 Safety Standards

(a) All Construction Employers shall comply with all local, state, and federal laws pertaining to safety, health and environmental protection while working under the jurisdiction of this Title, including any tribal occupational safety and health requirements adopted in this Title.

(b) The TERO Director and TERO staff shall be trained and educated in local, state, and federal laws pertaining to safety, health and environmental protection.

(c) The TERO Director or TERO staff shall report to the applicable local, state or federal authorities, any construction site that he or she reasonably believes to be unsafe.

(d) The TERO Director or TERO staff may assist in referring Native Preference workers to local, state or federal agencies that investigate and enforce workplace safety,

health and environmental protection and provide information about where to file a workplace safety complaint. The TERO Office should also have literature, information, or brochures from local, state or federal agencies that enforce workplace safety, health and environmental protection available to Native Preference workers.

25.06.130 Safety Plan

(a) All Construction Employers shall provide to TERO a written Safety Plan as part of their Compliance Plan. The Safety Plan shall provide for the protection of health and environment of employees and other persons and prevent damage to property, materials, equipment and the physical environment.

(b) The Safety Plan shall include a description of how accidents will be prevented and a complete procedure for what the Construction Employer and employees shall do if an accident or injury does occur, which shall include a requirement that the Construction Employer notify TERO within one (1) business day of any accident or injury. The TERO Office will maintain a record of all accident or injury notifications for ten (10) years after the date of the incident. The Safety Plan shall also list all previous safety or labor and industry findings, violations or claims assessed against the Construction Employer from any jurisdiction.

(c) No Construction Employer may commence work until a Safety Plan is submitted and approved by the Director as part of the Compliance Plan. Any Construction Employer who commences work prior to an approved Safety Plan, fails to provide such Safety Plan or fails to follow or carry out such plan shall be deemed in violation of this Section and subject to the penalties under this Title.

(d) If an employee is injured on the job, the Construction Employer may re-classify the employee's job classification only after consultation with the Director and submission and approval by the Director of a revised Compliance Plan.

(e) No employee shall be pressured, harassed, or influenced in any way if he or she reports an injury on the construction site.

(f) TERO shall provide all Native Preference employees with a copy of the Safety Plan associated with their current job including the plan's procedure if an accident or injury occurs.

25.06.140 Reporting and On-Site Inspections

(a) Construction Employers shall submit monthly reports to the Director on the number of Native Americans employed and how many hours they worked for each job classification, a record of persons hired, fired or promoted during the reporting period, and a statement regarding compliance with the hiring goals set forth in the plan.

(b) Construction Employers shall submit reports, and other information, including but not limited to contract documents, certified payroll, and personnel records, if requested by the Commission, Director, or TERO Compliance Officers.

(c) The Commission, Director, and TERO Compliance Officers shall have the right to make periodic on-site inspections during regular working hours of all Construction Employers in order to monitor compliance with this Title and rules, regulations, and orders of the Commission. The Commission, Director, and TERO Compliance Officers shall have the right to inspect and copy all relevant records of any Construction Employer, signatory union, contractor, and

subcontractors and shall have the right to speak to workers and conduct on-site investigations.

Chapter 25.07 Native American Owned Businesses (NAOB)

25.07.010 Definition of NAOB

The term "Native American Owned Business" (NAOB) is a certified Native American-owned firm or entity which shall include any commercial, industrial, or other business firm or entity in which fifty-one (51%) or more of the ownership is held by and fifty-one (51%) or more of the actual management and control is exercised by one or more Native Americans which percentages shall be certified by the TERO Office.

25.07.020 Certification of NAOB

(a) The TERO Office shall certify all applicants seeking to be NAOB certified for preference in contracting.

(b) To be considered for certification, the applicant shall submit a complete certification application to the TERO Office which includes:

(1) documentation of membership in any Indian tribe or Native entities of the State of Alaska which is recognized by the Secretary of the Interior as eligible for the special programs or services provided by the Bureau of Indian Affairs and is listed in the Federal Register under Pub. L. 103-454, Act of Nov. 2, 1994 and Proof of at least 51% Native American ownership;

(2) business license certifications, business structure documents (sole proprietor, partnerships, incorporations, LLC), insurance and bonding capabilities;

(3) (industry standards) portfolio that includes proof of the experience and staff expertise in the specific field listed,

resume of jobs completed, and references; or business plan that includes proof of the experience and staff expertise in the specific field, projected financials and references; and

(4) any other documentation or pertinent information required by TERO.

(c) TERO shall have sole discretion in determining licensing requirements under this Section. TERO shall require all other necessary licensing documentation specific for the service provided as determined by TERO. TERO reserves the right to exempt certain requirements if deemed not necessary for the type of service provided.

(d) TERO shall review the status of all certified NAOBs on an annual basis. Each NAOB shall update its information annually. TERO shall maintain a comprehensive registry listing all certified NAOB entities. For compliance and enforcement purposes, TERO shall require each NAOB to maintain separate UNI numbers, Tax ID numbers, and maintain the minimum insurance requirements for each NAOB.

25.07.030 NAOB Ownership Requirements

(a) The following factors shall be applied in identifying NAOB firms and minimum ownership requirements for the applicable certification categories. The purpose of this identification is for awarding contracts under Chapter 25.06 of this Title and other restrictive bidding opportunities in this Title.

(1) Percentage and Control

(A) Lummi NAOB: Must be 100% owned by a Lummi Tribal Member or Members. The owner(s) must exercise majority control of the business and be substantially involved in the day-to-day management and operations.

(B) Local NAOB: Must be at least 51% owned by a Local Native American and the majority owner must exercise majority control of the business, including Board of Directors, and be substantially involved in the day-to-day management and operations.

(C) Non-Local NAOB: Must be at least 51% owned by a Non-Local Native American and the majority owner must exercise majority control of the business and be substantially involved in the day-to-day management and operations.

(2) Value

(A) The Native American owner(s) must establish that they provide real value for their stated ownership interests by providing legal documents such as stock ownership, capital, assets, structure, management, control, financing and salary commensurate with the value of their ownership share.

(3) Profits

(A) The Native American owner(s) will receive a percentage of all profits equal to their ownership interest. Any provision that gives a non-Native American owner a greater share of the profits, such as but not limited to management fees, equipment rental fees or bonuses will result in decertification. Salary scales are subject to review by TERO to ensure the relative salaries being paid to Native American and non-Native American owners are consistent with the skills of the parties and are not being used to circumvent the requirements of this Title.

(4) Technical Qualifications

(A) The NAOB will be required to submit sufficient documentation to verify that it has the technical and administrative qualifications to be certified in the specific category requested including the Native American owner(s) having the skill and expertise to perform the work.

(b) Small Business NAOB. The Director may certify any NAOB as a “Small Business NAOB.” A small business NAOB is defined as a NAOB with gross revenue less than \$500,000.00 as reported annually on its federal income tax return or its return filed with the Department of Revenue over the previous year. Owners with interest in two or more businesses on the TERO NAOB Registry do not qualify for the small business category unless the combined gross revenue for the businesses do not exceed \$500,000.00. In order to qualify under this category, the business must provide the necessary documentation to the Director for TERO determination, and certify, under penalty of perjury, that it is owned and operated independently from all other businesses.

25.07.040 Brokers, Vendors, Suppliers, and Distributors

In order to obtain certification under this Title, Brokers, Vendors, Suppliers and Distributors must own, operate or maintain a store, warehouse, or other establishment in which the materials, supplies, articles or equipment being provided are kept in stock and regularly sold or leased to the public in the usual course of business. Relevant documentation, as determined by TERO, shall be provided to TERO upon request. This requirement shall not apply where the applicant demonstrates proof that it is not customary and usual in the particular business industry to keep the materials, supplies, articles or equipment in stock.

25.07.050 Joint Ventures

(a) Joint venture documents between certified NAOBs shall be submitted to TERO for review. Joint ventures between NAOB and non-NAOB firms will be certified on a project-by-project basis at the discretion of the Director. At a minimum, the NAOB must successfully demonstrate the following:

- (1) the Native American ownership and control complies with the requirements as defined in this section;
- (2) the NAOB has entered into the joint venture with the non-NAOB to provide limited backup capabilities such as bonding, specialized expertise, or capital; and
- (3) the non-NAOB will mentor the NAOB to increase the expertise and value of the NAOB.

(b) No joint venture shall qualify for preference if the Native American ownership in the joint venture is less than 51% or fails to demonstrate the majority control of the business at any time; which may result in a violation or de-certification. The owners must have prior experience, training, occupational ties or sufficient knowledge in the business that the joint venture is engaged in such that they are qualified to serve in the senior level positions.

25.07.060 Decertification of NAOB

(a) A NAOB is subject to decertification by the Director if the business has engaged in prohibited activities or has changed ownership and control so that it no longer meets the definition or requirements for certification. Failure to notify the Director in writing of any change in ownership, control, or operations shall also be grounds for decertification.

(b) The Director may review and recommend corrective action or training for a

NAOB with multiple non-performance contract issues or multiple violations of this Title. If the NAOB refuses or does not comply with the Director's directives, it may be decertified.

25.07.070 NAOB Appeal to Commission

(a) Denial of certification or decertification of a NAOB by TERO may be appealed to the Commission pursuant to the procedures set forth in LCL §25.09.090. Notwithstanding, LCL §25.09.110, the Commission's decision is final and cannot be further appealed.

(b) A firm that has been denied certification or decertified may not re-apply for a period of time as determined by the Commission.

Chapter 25.08 Penalties and Fees

25.08.010 Penalties for Violation

(a) Any Construction Employer or union who violates this Title or the rules, regulations or orders of TERO or the Commission shall be subject to sanctions including but not limited to:

- (1) denial of the right to commence or continue business on all lands and areas subject to this Title pursuant to LCL §25.01.040;
- (2) suspension of all operations on all lands and areas subject to this Title pursuant to LCL §25.01.040;
- (3) an order to summarily remove employees hired in violation of this Title or rules, regulations and order of the Commission;
- (4) imposition of monetary civil penalties not to exceed the greater of \$5,000 per day for each violation or \$10,000 per violation;

(5) prohibition from engaging in any future operations on all lands subject to the jurisdiction of the Lummi Nation;

(6) an order requiring employment, promotion, training, or back pay to any Native American adversely effected by the violation;

(7) an order requiring changes in procedures and policies necessary to eliminate the violations; and

(8) an order making any provisions deemed by the Commission necessary to alleviate, eliminate, or compensate for any violation.

25.08.020 Compliance Plan Penalty

In addition to the penalties set forth in LCL §25.08.010, failure to obtain or adhere to the terms of an approved Compliance Plan, or supplying false information to TERO, shall subject the non-complying Construction Employer to monetary penalties of up to \$5,000 per violation per day. Penalties are to be assessed by the Director.

25.08.030 Safety Plan Penalty

In addition to the penalties set forth in LCL §25.08.010, failure to obtain or adhere to the terms of an approved Safety Plan or any provision of LCL §25.06.130, shall subject the non-complying Construction Employer to monetary penalties of up to \$5,000 per violation per day. Penalties are to be assessed by the Director. These penalties are in addition to any penalties that may be assessed by federal or state authorities.

25.08.040 Debarred Contractor List

(a) The Director shall maintain a list, entitled the TERO Debarred Contractor List, listing all Construction Employers that are debarred from contracting on any construction project within the jurisdiction of this Title and who may not bid, be awarded, or participate as

owners or key employees of other companies during the period of debarment.

(b) Construction Employers may only be placed on the TERO Debarred Contractor List if they are assessed a penalty which includes a period of debarment for violations of this Title pursuant to LCL §25.08.010 or if they are on a federal, state or other tribal government debarment or ineligibility list (including but not limited to the Washington State Labor and Industries Debarred Contractor List and the United States Department of Labor OFCCP Debarred Companies List).

(c) No debarment assessed as a penalty for violations of this Title shall exceed ten (10) years. The Director shall determine the length of debarment based on the severity of the violation and whether the Construction Employer has had previous violations of this Title. Any Construction Employer who is debarred shall be notified in writing of how long the debarment will be and when the date of debarment expires.

(d) Unless the Commission terminates the debarment period early pursuant to Section (e) below, the Debarred Construction Employers shall remain on the TERO Debarred Contractor List for violations of this Title until the date of their debarment expiration and until all penalties issued by the Director pursuant to LCL §25.08.010 are paid, completed or satisfied in full.

(e) A Construction Employer debarred for violations of this Title may petition the Commission to be removed from the TERO Debarred Contractor List prior to the expiration date of their debarment penalty as follows:

- (1) all TERO penalties, fines and fees are paid, completed or satisfied in full prior to the petition; and

(2) an owner or entity soliciting the bids submit an affidavit of support requesting the Commission terminate the debarment period early.

(f) Any Construction Employer on the TERO Debarred Contractor List solely because it is on a federal, state or other tribal government debarment or ineligibility list shall be removed from the TERO Debarred Contractor List after it is removed from the federal, state or other tribal debarment or ineligible list which initially listed the Construction Employer.

(g) If the debarred Construction Employer disagrees with the Director's decision to place it on the TERO Debarred Contractor List, the Construction Employer has the right to appeal pursuant to LCL §25.09.090 and LCL §25.09.110.

Chapter 25.09 Enforcement

25.09.010 Exhaustion of Remedies Required

All remedies under this Chapter must be exhausted before going to the Lummi Tribal Court.

25.09.020 Due Process

All persons, agencies, departments, and Construction Employers shall have the rights to due process through a fair and non-biased process.

25.09.030 Retaliation

No Construction Employer shall punish, terminate, harass, or otherwise retaliate against any employee or other person who has exercised his or her rights under the regulations of this Title or assisted another to do so. Further, any Construction Employer who harasses or abuses an employee of TERO carrying out official duties under this Title

may be summarily removed from the lands subject to the jurisdiction of this Title. A Construction Employer shall be responsible for the actions of all its employees, supervisory or otherwise, and for the actions of its subcontractors and their employees in regard to the prohibitions of this section.

25.09.040 Complaints

(a) Any individual, group of individuals, or organization that believes that any Construction Employer, the TERO Program, or the Commission, has violated or is in violation of any requirements imposed by this Title or the rules, regulations and guidelines promulgated pursuant to the authority of this Title, may file a complaint with the Director.

(b) Such complaint must:

- (1) be in writing;
- (2) be filed with the Director within fourteen (14) business days from the date of the last action or omission upon which the complaint is based;
- (3) state the basis for the alleged violation of this Title and include a detailed account of the facts surrounding the alleged violation(s) including all supporting documentation and evidence; and
- (4) include the remedy that the complainant is seeking.

(c) Upon receipt of a complaint properly filed pursuant to this Section, the Director shall have a duty to complete an investigation or dismiss the matter for lack of jurisdiction.

(d) If any complaint shall be regarding the actions or decisions of the Director or if the Director has a conflict of interest, the TERO Compliance Officer shall be delegated to administer the complaint process described in this Section. If both the Director and the TERO Compliance Officer are unable to carry

out the complaint process because the complaint concerns their actions or decisions or there is a conflict of interest, this complaint process shall be delegated to the Commission.

(e) No complaints shall be directly brought before the Commission and no individual commissioners shall be contacted to discuss the complaint unless such complaint is delegated to the Commission pursuant to Subsection (d) above. All complaints must be brought in accordance with the procedures of this Section.

(f) No person, whether the complainant, an alleged violator, or any other person shall harass, intimidate or bully either the Director, TERO staff, or the Commission. Acts of harassment, intimidation or bullying may be reported to law enforcement and subject violators to criminal and/or civil penalties and, in some instances, the TERO complaint may be dismissed.

25.09.050 TERO Jurisdiction Determination

Upon receipt of a complaint, the Director shall conduct a preliminary review to determine if TERO has jurisdiction over the complaint. If the Director makes a determination that the complaint does not allege a violation of this Title, the complaint shall be immediately dismissed, and/or referred to the proper department or agency.

25.09.060 Complaint Process and Determination

(a) Upon determination that TERO has jurisdiction over the matter, the Director will:

- (1) notify the party against whom the complaint is against in writing, specifying the alleged violation(s);
- (2) meet with the complainant;

(3) attempt to remedy the issue through an informal settlement of the alleged violation;

(4) complete the investigation within ten (10) calendar days of the date on which the complaint is filed unless an extension has been granted by the Commission. Such an extension shall not exceed thirty (30) calendar days.

(b) If the parties are unable to resolve the dispute informally, the Director shall make a formal determination in writing of the findings and the basis for finding TERO violations occurred. The formal determination shall also include all steps, remedies and penalties ordered by the Director to come into compliance. If the Director finds insufficient evidence to establish that a violation occurred, the file shall be closed and notice of closure shall be provided to both parties.

(c) If either the complainant or the violator disagrees with the Director's final determination, the party has the right to appeal pursuant to LCL §25.09.090 and LCL §25.09.110.

25.09.070 Investigations

(a) The Director, or his agent, shall have full investigative authority as deemed necessary to determine whether a violation of any provision of this Title has occurred or to aid in prescribing rules, regulations, and guidelines hereunder.

(b) All reported incidents shall be investigated under the following guidelines:

(1) all information shall be kept confidential to the fullest extent possible; unless disclosure is required for further investigation, or during a hearing or appeal. However, TERO shall not allow the goal of confidentiality to be a deterrent to an effective investigation;

(2) TERO will not allow retaliation against any parties that may be included in the investigation or complaint process and may withhold the name of the complaining party if there is reason to believe that such party may be subject to retaliation; and

(3) a Construction Employer may not be held liable for such acts of its employees, if the employer is able to establish that they took immediate and appropriate corrective action.

(c) If a Construction Employer refuses to permit TERO staff from entering onto business premises during business hours or from reasonably inspecting or copying documents, the Director may impose a violation with fines.

(d) If the Director is forced to seek enforcement of a Commission subpoena in Lummi Tribal Court, the court shall order, in addition to the penalties authorized by this Title, the assessment of attorney's fees and costs against the party found in violation of the Commission subpoena.

25.09.080 Remedies and Fines

(a) The Director and TERO Compliance Officers shall have broad authority to issue citations with a warning, assess penalties and fines, and order other remedies permitted under this Title. All citations, warnings, penalties, fines and all other remedies shall be provided to the violator in writing, a copy shall be maintained by the TERO Office, and reported to the Commission.

(b) Once penalties are assessed, they cannot be waived by any person, committee, or entity except through the appeal process set forth in LCL §25.09.090, §25.09.100, and §25.09.110.

(c) If the Director believes that immediate action is necessary to prevent irreparable harm

resulting from an alleged violation of this Title, the Director may request the Commission to issue a temporary order for immediate interim injunctive relief not to exceed fourteen (14) days.

25.09.090 Appeal of Director Decision to Commission

(a) Either party (the complainant or violator) to a complaint made pursuant to this Chapter may request a hearing before the Commission to appeal the Director's final determination issued pursuant to LCL §25.09.060.

(b) Such Appeal must:

- (1) be in writing;
- (2) be filed with the Chair of the Commission within ten (10) calendar days of the issuance of the Director's written decision;
- (3) be served on the Director and the other party to the complaint; and
- (4) include the remedy that the petitioner is seeking.

(c) The filing of an appeal to the Commission shall not operate to stay the operation of the action ordered by the Director unless the Commission shall so order.

25.09.100 Hearing Procedure of Commission

(a) Upon receipt of a petition for appeal, the Chair shall cause the Commission to hold a review hearing to consider the merit of the petition.

(b) All parties and the Director shall be given at least five (5) business days notice prior to the date of the Commission's review hearing.

(c) All parties shall have the right to be present at and participate in the hearing.

(d) All parties shall have the right to be represented by counsel at their own expense, provided that the counsel is admitted to practice before the Lummi Tribal Court. The Commission shall have the advice and assistance of the LIBC Office of the Reservation Attorney.

(e) All parties may present testimony of witnesses and other evidence and to cross-examine witnesses called by any other party.

(f) The Commission may request testimony from the Director to provide any information deemed necessary or relevant to making its decision.

(g) The Chair or the Vice-Chair of the Commission shall preside over the hearing.

(h) The Commission may receive any evidence it deems relevant to the Petition. No formal rules of evidence or procedure need to be followed, but the Commission shall proceed to ascertain all the facts in a reasonable and orderly fashion.

(i) Any matter to be proven must be done to the satisfaction of the Commission by a preponderance of the evidence.

(j) All testimony shall be given under oath.

(k) The hearing may be continued at the discretion of the Commission, should it deem such action advisable.

(l) Within fifteen (15) business days from the final close of the hearing, the Commission shall issue a written decision setting forth the reasons for its decision. Within two (2) business days of rendering its decision, the Commission shall serve a copy of the decision upon each party, the Director, and the

Chairman of LIBC. Such service may be made by first class mail or personal service.

(m) A complete recording of the proceeding shall be made and a copy of all records, documents and evidence shall be maintained by the Director at the TERO Office.

25.09.110 Appeal of Decision to Lummi Tribal Court

Except as otherwise limited by this Title, any person aggrieved by a decision of the Commission issued pursuant to LCL §25.09.100, may file a Notice of Appeal with the Lummi Tribal Court. The LIBC specifically waives its immunity from suit in the Lummi Tribal Court for the sole and limited purpose of the appeals permitted under this section, and for the awarding of equitable relief only, and not for the award of monetary damages. A Notice of Appeal shall be filed with the Court within ten (10) calendar days of the Commission decision, and shall not operate to stop the effect of the Commission decision unless the Court shall so order. The Court shall limit its review on appeal to the issue of whether the person appealing was given due process before the Commission, or if the Commission committed an error of law. Relief given to the person appealing to the Court shall be limited to a declaration of the correct law and a grant of a new hearing before the Commission.

Chapter 25.10 Taxes and Fees

25.10.010 Employment Rights Tax

(a) An Employment Rights Tax to raise revenue for the operation of the TERO Program is hereby authorized to be imposed by the Commission.

(b) Every Construction Employer with a construction contract of \$5,000 or more shall pay tax of five percent (5%) of the total

amount of the contract. The tax may be paid in installments over the length of contract.

(c) To ensure that the Employment Rights Tax is imposed and collected to the fullest extent, no Construction Employer shall be permitted to divide one construction project into smaller construction contracts that are each under \$5,000. The Director shall have the authority to determine that separate construction contracts each under \$5,000 are, in fact, one construction project and may impose the Employment Rights Tax on the total amount of each of the separate construction contracts. The Construction Employer may appeal this decision to the Commission pursuant to the procedures set forth in LCL §25.09.090. Notwithstanding, LCL §25.09.110, the Commission's decision is final and cannot be further appealed.

25.10.020 Change Order Fee

(a) Any Construction Employer is required to notify the Director at least twenty-one (21) calendar days in advance of any project cost increase or delay due to work order changes or modifications. The Construction Employer shall be assessed the Employment Rights Tax, set forth in LCL §25.10.010 on the increased amount of the project.

(b) The Director shall calculate the Employment Rights Tax due on the adjusted cost of the project and notify the Construction Employer in writing. The Construction Employer shall have thirty (30) calendar days from the date of written notification to pay the tax.

(c) If the Construction Employer fails to pay the Employment Rights Tax due as a result of project cost increases, the Director may order the Construction Employer to cease work until the tax is paid.

(d) The Director may also impose a change order fee up to a \$5,000 for failing to notify the Director of project cost increases or delays at least twenty-one (21) calendar days in advance or failing to pay the Employment Rights Tax on increased project costs within thirty (30) calendar days.

25.10.030 Compliance Fee

A Compliance Fee to raise revenue for the operation of the TERO Program is hereby authorized and may be imposed on Construction Employers engaged in Construction Work on or near the Reservation or other lands subject to the jurisdiction of this Title as may be permitted by and set forth in a Memorandum of Understanding/Agreement with an entity (including but not limited to WSDOT or a federal transportation agency managing the transportation construction project).

Chapter 25.11 Collection and Enforcement

25.11.010 Collection of Taxes and Fees

(a) All taxes and fees are due and shall be paid in full by any Construction Employer prior to commencing Construction Work on the lands subject to the jurisdiction of this Title, unless other arrangements are agreed to, in writing, by the Director or set forth in a Memorandum of Understanding/Agreement.

(b) The Director shall be responsible for notifying the Construction Employer of all taxes and fees, including the type of tax and fees, the amount due, the date due, and the possible consequences if the Construction Employer fails to comply.

(c) If a Construction Employer fails to pay the tax and fees by the day it commences work on the lands subject to the jurisdiction of the this Title, interest shall begin accruing on that date at the rate of 12% per annum. If the taxes

and fees are not paid by the 15th day after the Construction Employer commences work, the Director shall cite the Construction Employer for non-compliance and impose remedial actions and penalties provided for in Chapter 25.08 of this Title, including the suspension of all operations until paid. The Director may also petition the Lummi Tribal Court for an order of enforcement.

25.11.020 Collection of Monetary Penalties

All monetary penalties shall be paid within thirty (30) calendar days from the date of the citation. If the penalties are not paid within forty-five (45) calendar days from the date of the citation, the Director shall cite the Construction Employer for non-compliance and impose remedial actions and penalties provided for in Chapter 25.08 of this Title, including the suspension of all operations until paid.

If a Construction Employer fails to pay the penalty within thirty (30) calendar days from the date of the citation, interest shall begin accruing on that date at the rate of 12% per annum.

The Director may also petition the Lummi Tribal Court for an order of enforcement after the period to appeal the penalty to the Commission has run.

25.11.030 Deposit and Use of Taxes, Penalties and Fees Collected

(a) All taxes, penalties and fees assessed under this Title shall be paid to the Lummi Accounting Office.

(b) Such taxes, penalties and fees shall be deposited in a restricted revenue account for reallocation within the TERO Program and the Commission. These funds shall be under the management of the Commission for redistribution to support the operation of the

TERO Program, the Commission, training programs, and job development. Any unused funds in this account shall be carried over to the TERO budget for the next fiscal year. No taxes, penalties or fees shall be waived by any person, committee, or entity.

25.11.040 Court Enforcement

(a) The Director shall have authority to seek enforcement of any TERO penalty, tax, or fee in the Lummi Tribal Court, if necessary. The Court shall have jurisdiction over proceedings brought by the Director. If the party fails to comply with a TERO penalty after its appeal period has run, and the Director is forced to enforce the order in the Court, attorney’s fees and costs, and any other such other sanctions in addition to those contained in the order that the Court deems just and reasonable may be assessed by the Court.

(b) Construction Employers that do not comply with the provisions of this Title and leave the lands subject to the jurisdiction of this Title before enforcement actions are imposed, collected or issued by the Court, or Construction Employers that fail to comply with the Court’s enforcement order, shall be denied the right of contracting or doing further business on the lands subject to the jurisdiction of this Title.

25.11.050 Police Enforcement of Cease and Desist Orders

The Lummi Nation Police Department is hereby expressly authorized and directed to enforce such cease and desist orders as may from time to time be properly issued by the Commission against a Construction Employer. Such orders do not require a judicial decree or order to render them enforceable. The police shall not be civilly liable for enforcing such orders so long as the order is duly signed by the Commission.

Chapter 25.12 Lummi Workforce Protection Act.

[reserved]

Chapter 25.13 Lummi Occupational Safety and Health Administration Act.

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