

REQUEST FOR QUOTES
STATEMENT OF WORK
BACKHOE EXCAVATION SERVICES

**Roadbed Sampling from Test Pits in the
Town of Neihart, Montana**

for the

**CARPENTER SNOW CREEK MINING DISTRICT SUPERFUND SITE
NEIHART COMMUNITY SOILS AREA OPERABLE UNIT 1 (OU1)
CASCADE COUNTY, MONTANA**

RFQ No. - CORA980.117.003.004

July 6, 2011

Prepared by



Prime Contractor: Pacific Western Technologies, Ltd.
11049 W 44th Ave, Suite 200
Wheat Ridge, CO 80033
(303) 274-5400

Project Engineer: Bruce D. Peterman, PE, PG
(303) 274-5400 x45

Project Manager: Catherine D. LeCours
Office - Helena, MT
(406) 457-5495

Client: U.S. Environmental Protection Agency

Site Names: Roadbed Sampling in Neihart, MT

**EXCAVATION OF TEST PITS FOR ROADBED SAMPLE COLLECTION
USING BACKHOE EXCAVATION SERVICES
Town of Neihart, Montana**

INTRODUCTION

Pacific Western Technologies Ltd. (PWT) is issuing this Request for Quotes (RFQ) for backhoe and excavation services for collection of subsurface soil samples of road base materials at various road segment locations throughout the town of Neihart, Montana (Figures 1 and 2). There are 3.5 miles of unpaved roads and alleys in the town of Neihart. Samples are to be collected of roadbed materials within designated road areas (Figure 3) of the town. A total of 400 test pits are to be sampled throughout the unpaved roads in Neihart, Montana. Exact locations of test pits will be established in the field at the direction of the PWT Field personnel. Test pits are shallow and of limited extent. Dimension details of the test pits are described further in Section 1.0 of this RFQ. PWT expects the Subcontractor to propose appropriate size and mobility of equipment to complete the test pits.

The quotes for requested services are to be bid as Firm-Fixed-Price, by contract line item, and include all the work efforts and limitations described in this statement of work (SOW). PWT's standard Purchase Order Terms and Conditions are provided with the Bid Forms in Attachment 2.

Tetra Tech EM, Inc. (TT) is a team contractor on PWT's contract with the Environmental Protection Agency (EPA). Supplemental materials (standard procedures and practices) may be provided by TT within this RFQ and TT field staff will also be working with PWT staff on completion of site work activities.

SUBMISSION OF QUOTATION

Quotes are due to the PWT Headquarters office in Wheat Ridge, Colorado. No site visit is planned, but bidders are expected to be familiar with the site areas and general working conditions at the sites. Please direct your quotation and ALL required bid documentation to:

Pacific Western Technologies, Ltd. 11049 W. 44th Avenue, Suite 200 Wheat Ridge, CO 80033	Attention: Mr. Chuck Champion RFQ No. CORA 980.117.003.004-ROADS
---	---

DUE DATE: One original (signed by the authorized company agent) and two copies of the proposal must be received on or before:

Tuesday, July 12, 2011 4:30 p.m. MDT

Email quotation submissions are acceptable in unchangeable **PDF format ONLY**. Fax submissions are also acceptable to 303 274-6160. However, both email and fax submissions **MUST** be followed-up with **HARDCOPY** signed quotations and quantities as referenced above. Email quotations to both the PWT Contract Representative and PWT Technical Representative at the following email addresses. PWT suggests bidders require return receipts on emails and/or confirm via phone for emails and/or faxes.

EMAILS: cchampion@pwt.com and bpeterman@pwt.com

Telephone: Chuck Champion 303 274-5400 x43
Bruce Peterman 303 274-5400 x45 or 303 319-5808 cell

Field work **MUST** begin during the week of **July 18, 2011** or **July 25, 2011** and the exact mobilization date will be scheduled with the successful bidder.

PROJECT BACKGROUND

Proposed work efforts include excavating small test pits for road base sampling efforts. The test pits are needed for collection of subsurface samples for subsequent laboratory testing. Sample collection will be completed by PWT Field personnel once the test pits are excavated.

The scope of work for this RFQ is limited to backhoe services for excavation, backfilling test pits following sample collection, and keeping a daily tally sheet to record test pits completed. Sample collection from the test pits will be completed by PWT Field personnel.

Excavation at each test pit site location has the potential to encounter metals contamination in the soils and mine tailings. The primary metals of concern are lead, zinc, cadmium, copper, and arsenic with other accessory metals. Specific action levels have not been determined for the road segment sites at this time.

PWT will layout and be responsible for final test pit locations, logging the pits, collecting the samples, and sample shipment.

1.0 COMPLETION OF TEST PITS

PWT requires backhoe and excavation services at 400 test pit sampling sites for roads within the town of Neihart, Montana. The work task descriptions and assumptions are as follows:

- There will be 400 test pits to be excavated and sampled.
- Test pits are limited to roads within the town of Neihart, Montana, see Figure 3.
- Exact test pit sampling locations may vary per site conditions
- Locations of test pits will be provided to the Subcontractor by the PWT representatives in the field.
- Utility locations will be managed by the PWT representatives in the field.
- Test pit sampling areas will be 12-15 inches wide, about 12 inches deep, 18 inches in length.
- The Subcontractor is expected to utilize smaller and mobile backhoe/excavation equipment for excavating test pits.
- Once subsurface samples are collected the locations will be backfilled with the materials removed and compacted by driving the equipment over the excavated area several times.
- The Subcontractor is expected to keep a test pit tally sheet to record daily work efforts. The tally sheet records shall be reviewed daily (end of shift) and signed off by PWT representatives to ensure payment. The tally sheet shall include the date, road segment, test pit, time installed, time backfilled, and approval signatures. PWT will approve the format prior to initiation of work.
- Expected total duration to complete all sampling locations is 10 working days.
- Provide firm fixed-price bid per the Bid Sheet provided in Attachment 2.
- Backhoe operator **MUST** be *40-hour HAZWOPER* trained with current 8-hour OSHA updates. Proof of training **MUST** be provided with the bidder's quotation package.

All test pits will be completed in accordance with this SOW and the PWT Subcontractor Health and Safety Plan Minimum Requirements (Attachment 1). The test pits will be installed using a backhoe and

sample collection shall be completed by materials brought to the surface. The proposed road areas are shown in Figure 3 and the test pit locations are to be field located and are subject to change based on field conditions. Activities will be conducted to minimize damage to the surrounding areas. PWT will be performing all sampling and logging of subsurface materials from the test pits. Test pits will be backfilled with the materials removed after sampling and compacted.

2.0 DECONTAMINATION

Prior to commencement of backhoe / excavation operations and before leaving the site, all equipment and tools will be cleaned using dry decontamination methods or other methods as provided by the Subcontractor. The Subcontractor is responsible for cleaning any established decontamination area after use. If alternate decontamination procedures are typically implemented by the Subcontractor, then these procedures should be presented to PWT and be in accordance with accepted industry practices.

3.0 INVESTIGATION DERIVED WASTE (IDW)

Attempts shall be made to return to the test pits all soils generated during excavation activities. Any soils that cannot be returned to the test pits are assumed to be non-hazardous waste and may be stockpiled in designated locations as directed by PWT field representatives. The Subcontractor shall be required to collect, contain, and dispose of all garbage and incidental waste materials generated by its onsite work activities. The subcontractor shall be responsible for providing drums for PPE disposal, excess soils/cuttings, and decon water. The subcontractor shall also be responsible for any analysis for IDW related materials required for disposal. For purposes of this bid, the subcontractor shall assume all IDW is non-hazardous and that all soils can be returned to the excavated areas.

4.0 HEALTH AND SAFETY REQUIREMENTS

Excavation at each test pit location has the potential for metals contamination from mine tailings. The primary metals of concern are lead, zinc, copper, cadmium, and arsenic with other accessory metals. PWT will collect soil samples for analyses of metals by appropriate EPA Methods to quantify concentrations of metals in each test pit. Potential chemical hazards may exist, including the incidental ingestion and inhalation of these contaminants.

Because of these hazards and the regulatory status of this site, all contractor field personnel must have 40-hour OSHA HAZWOPER training, including a current 8-hour annual refresher (per 29 CFR 1910.120). The contractor must provide current OSHA HAZWOPER certificates for their field personnel at the start of the project. In addition, contractor personnel must conduct and attend daily tailgate health-and-safety briefings, which will be attended by the PWT on-site health and safety officer. The subcontractor must have their own Health and Safety Plan (HASP) for general site operations. The subcontractor shall develop their own Task Specific Health and Safety Plan (THASP) for this work effort per the minimum requirements provided in Attachment 1. PWT's THASP will be provided to the successful bidder for site specific information. Both plans must be provided to PWT prior to initiating field work. The subcontractor will also be required to read and sign the PWT Site-Specific Health & Safety Plan.

It is expected that all excavation related operations will be performed in accordance with Personal Protective Equipment (PPE) Level D. In addition, traffic vests should be worn at all times on the project.

Work will be conducted using the following PPE for Level D protection:

- Steel-toed boots
- Protective gloves

- Hard-hat
- Eye protection
- Hearing protection
- Traffic Vest

5.0 PROJECT BIDDING REQUIREMENTS AND PROVISIONS

For bidding purposes, it is anticipated that four hundred (400) test pits will be completed and sampled within roads in the town of Neihart, Montana. The Subcontractor shall complete the PWT Bid Form provided along with their cost estimate basis and assumptions (Attachment 2).

PWT reserves the right to change locations, quantity, or depth of test pit and test pits based on field conditions. Optional contract line items are reserved for approval by PWT.

Additional project requirements consist of the following:

- The Subcontractor will provide a Firm-Fixed-Price bid based on the specifications provided in this SOW. The Subcontractor shall complete the PWT Bid Forms (Attachment 2) and provide details of their cost estimate basis and assumptions. The following items should be included in the cost build up by the Subcontractor.
 1. The cost per test pit requested using the estimated aerial extent provided for the test pits. The subcontractor should include full crew costs in the proposed rates and provide any important qualifying assumptions to the bid.
 2. The cost for site access issues relating to road segments.
 3. Development of the THASP and related safety documentation.
 4. All other support costs such as mobilization/demobilization, utility concerns, etc.

The pricing structure is set up such that costs for services will be determined by the number of test pits that are completed and verified on a daily basis. This allows for cost control on the project if there is a need for project shutdown due to inclement weather or other constraints.

- The Subcontractor will supply all equipment and supplies necessary to complete all test pits and required backfill and compaction of test pits. All test pits shall be completed that ensure the proper collection of the following:
 1. Soil and/or mine tailings for geologic logging purposes.
 2. Soil and/or mine tailings for sample collection purposes.
- All test pits will be backfilled with excavated materials.
- The Subcontractor will work under their company HASP and the THASP. The THASP shall be provided to PWT prior to starting work. The Subcontractor is still required to work within the overall PWT Site-Specific Health & Safety Plan. The Subcontractor will be required to read and sign off on the required forms of the PWT Site-Specific Health & Safety Plan prior to starting field work.

- The subcontractor will provide all required PPE for their employees. Orange construction cones should also be provided for the backhoe and support vehicles working on site.
- The subcontractor will supply paint for marking test pit locations, both before and after the pits are completed allowing for location control, by others.
- PWT will collect all analytical samples.
- PWT will make provisions for the utility clearances.
- PWT will initially mark all test pit locations in the field.
- EPA currently has access agreements with property owners covering all EPA's contractors.

6.0 INSURANCE

The selected Subcontractor shall, as a minimum requirement, provide the insurance coverage's listed under Purchase Order Terms and Conditions (Attachment 2). A certificate of insurance meeting these requirements **MUST** be provided before contract award.

As part of the quotation, bidders must submit evidence and/or proof of insurance for the required coverage and limits.

7.0 SCHEDULE

Field work **MUST** begin during the week of **July 18, 2011** or **July 25, 2011**. The Subcontractor will mobilize and maintain adequate materials to satisfactorily complete each task as specified in this SOW.

Questions of a technical nature concerning this SOW should be addressed to Bruce Peterman, PWT at (303) 274-5400, Ext. 45, (303) 319-5808 cell or by email at: bpeterman@pwt.com.

ATTACHMENTS

1. Subcontractor Health and Safety Plan Minimum Requirements
2. PWT Bid Forms and PWT Standard Purchase Order Terms and Conditions



Legend

- ROADS**
- INTERSTATE HIGHWAY
 - US HIGHWAY
 - STATE ROUTE
 - NATIONAL FOREST LAND
 - CASCADE COUNTY

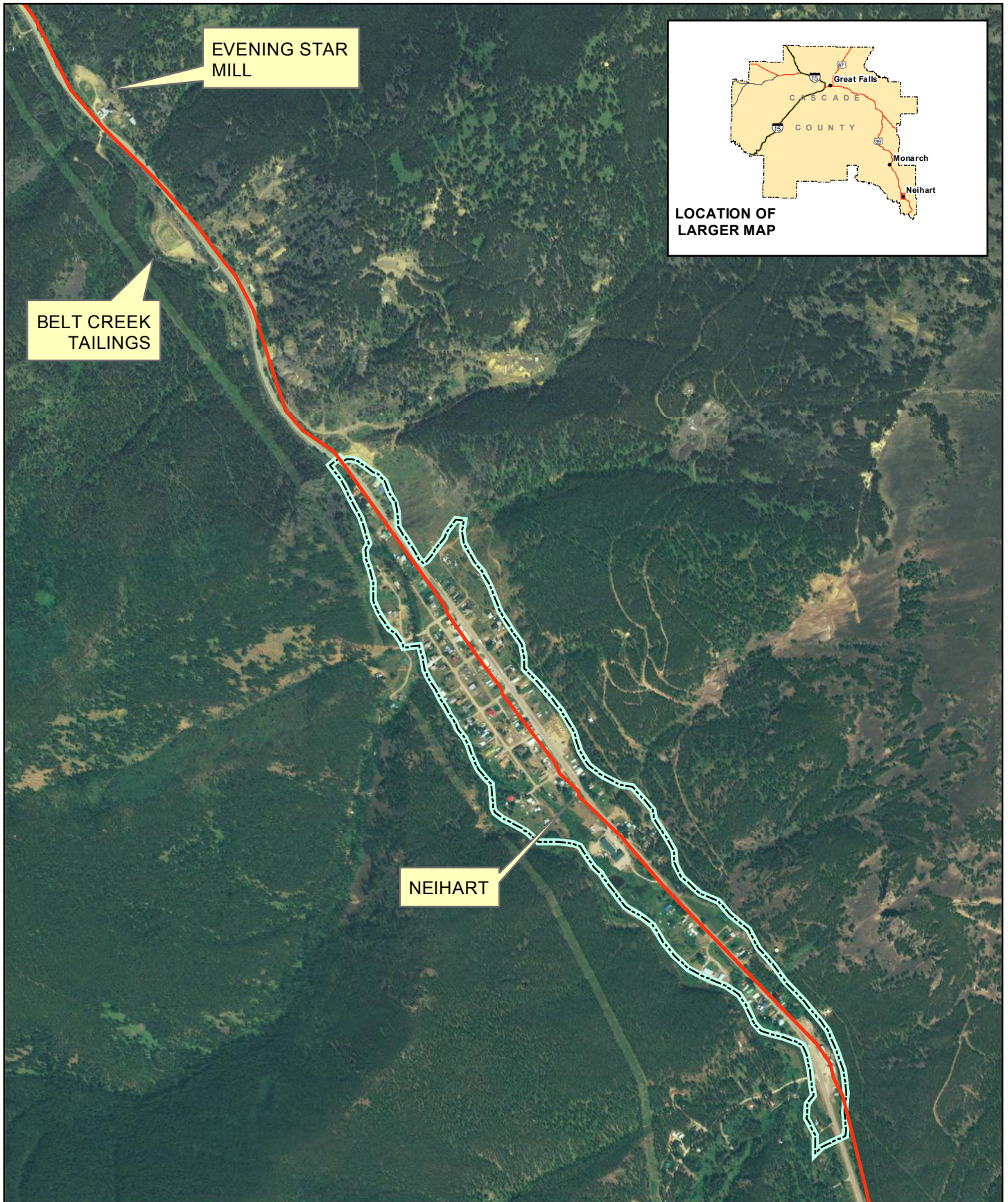
0 4 Miles



CARPENTER SNOW CREEK SUPERFUND SITE



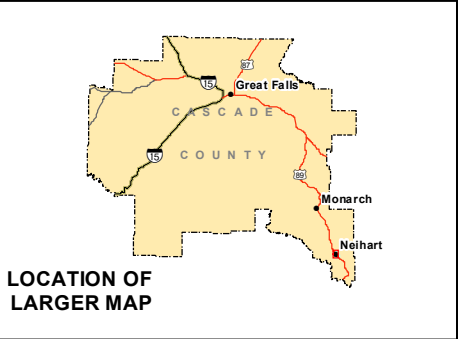
FIGURE 1
SITE LOCATION MAP OF OU 1
TOWN OF NEIHART



EVENING STAR MILL

BELT CREEK TAILINGS

NEIHART



- Legend**
- US HIGHWAY
 - NEIHART TOWN BOUNDARY
 - CASCADE COUNTY

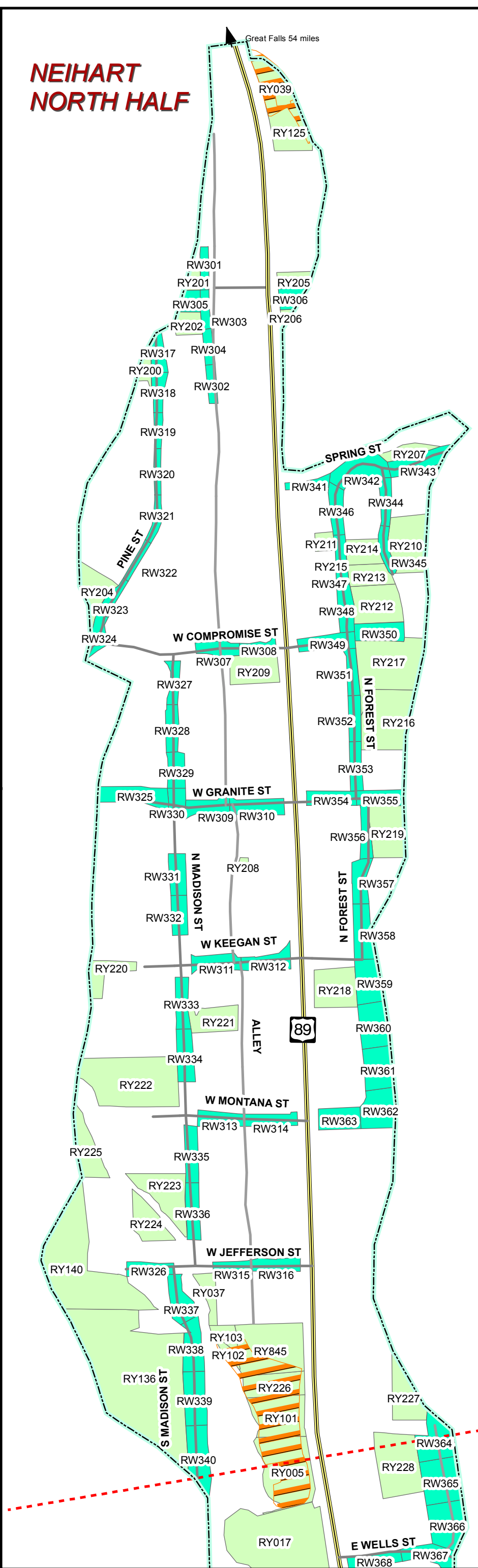


CARPENTER SNOW CREEK SUPERFUND SITE

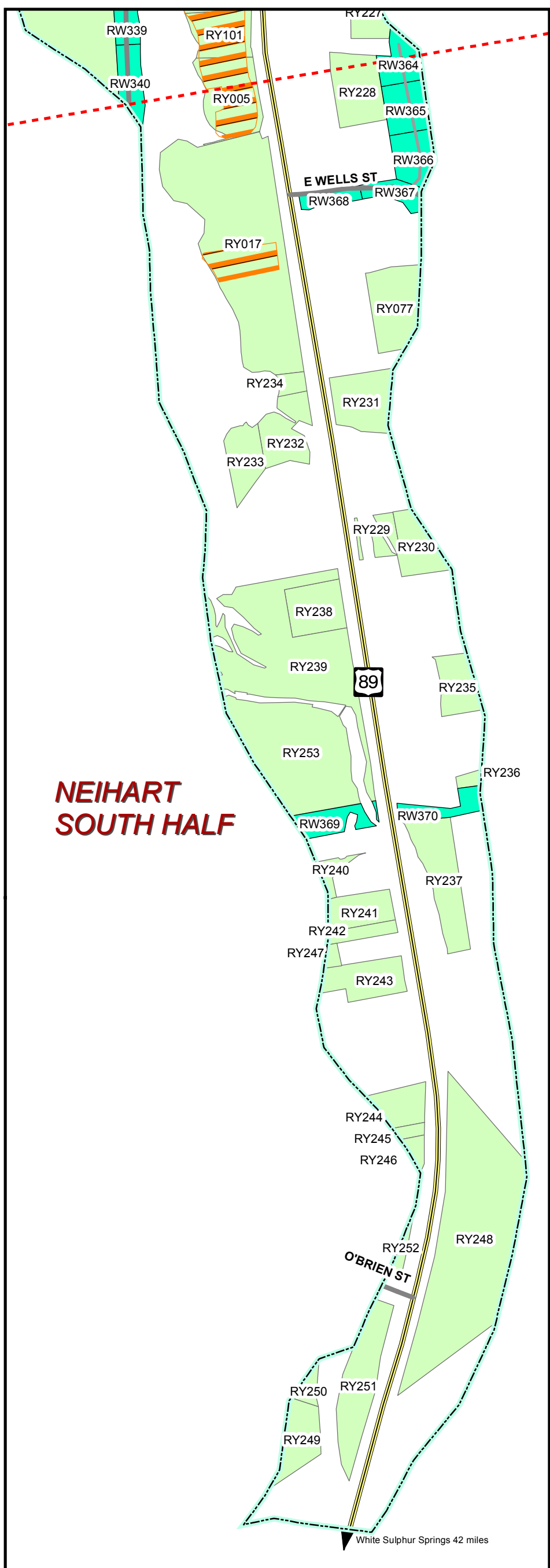


FIGURE 2
SITE LAYOUT MAP OF OU 1

NEIHART NORTH HALF



NEIHART SOUTH HALF



CARPENTER SNOWCREEK SUPERFUND SITE
REMEDIAL DESIGN ADDENDUM TO THE CDM 2008 SAP - MAY 2011

FIGURE 3
SAMPLING LOCATIONS

LEGEND

ROADS	ROAD SEGMENTS - PROPOSED SAMPLES
US HIGHWAY	PARCELS - PROPOSED SAMPLES
SECONDARY	PREVIOUS REMOVAL ACTIONS
TOWN LIMITS	

FIG3_CSC_SAP_SAMPLING_LOCATIONS_TALOID_051111.mxd
GIS Map by ERM Tetra Tech HE

ATTACHMENT 1

Subcontractor Health and Safety Plan Minimum Requirements

REMEDIAL ACTION

CARPENTER SNOW CREEK MINING DISTRICT SUPERFUND SITE
NEIHART COMMUNITY SOILS AREA OPERABLE UNIT 1 (OU1)
CASCADE COUNTY, MONTANA

BACKHOE EXCAVATION SERVICES

Roadbed Sampling from Test Pits in the Town of Neihart, Montana

U.S. EPA Contract No. EP-W-06-006
RFQ No. - CORA980.117.003.005



SUBCONTRACTOR HEALTH AND SAFETY PLAN Minimum Requirements

Prepared for

United States Environmental Protection Agency (USEPA)

Revision	Prepared	Checked	Approved	Date
1	B. Peterman	L. Todd	C. Le Cours	4/18/11

**Backhoe Excavation Services - Roadbed Sampling from Test Pits in the
Town of Neihart, Montana
Subcontractor Health and Safety Plan
Minimum Requirements**

TABLE OF CONTENTS

1.0	PURPOSE	1
2.0	APPROACH TO SAFETY.....	2
2.1	Stop Work Authority.....	2
2.2	Substance Abuse.....	2
3.0	GENERAL REQUIREMENTS.....	2
4.0	TASK-SPECIFIC HEALTH AND SAFETY PLAN	4
5.0	HEALTH AND SAFETY ROLES AND RESPONSIBILITIES.....	4
5.1	Health and Safety Representative/Site Safety and Health Officer	4
5.2	Competent Person(s).....	5
6.0	SITE CONDITIONS AND POTENTIAL HAZARDS	5
6.1	Safety Hazards	5
6.2	Chemical Hazards	6
6.3	Physical Hazards	6
6.4	Biological Hazards	6
7.0	HAZARD CONTROL	7
8.0	PERSONAL PROTECTIVE EQUIPMENT.....	7
9.0	SITE MONITORING	8
10.0	SITE CONTROLS.....	8
11.0	WORKER TRAINING AND QUALIFICATION.....	9
12.0	SAFETY MEETINGS AND BRIEFINGS.....	9
13.0	SITE INSPECTIONS AND OVERSIGHT	9
14.0	ENFORCEMENT	10
15.0	INCIDENT AND ACCIDENT NOTIFICATION, REPORTING, AND INVESTIGATION.....	10
16.0	EMERGENCY PROCEDURES/EMERGENCY INFORMATION	10
17.0	RECORDS AND REPORTS.....	10
18.0	SAFETY-RELATED FACILITIES, EQUIPMENT, AND SUPPLIES.....	10
19.0	PERSONAL AIR MONITORING.....	11

**Backhoe Excavation Services - Roadbed Sampling from Test Pits in the
Town of Neihart, Montana
Subcontractor Health and Safety Plan
Minimum Requirements**

ACRONYMS

AHA	Activity Hazard Analysis
CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
H&S	Health and Safety
HSS	Health and Safety Supervisor
HST	Health and Safety Technician
MSDS	Material Safety Data Sheet
OU	Operable Unit
OSHA	Occupational Safety and Health Administration
PPE	Personal Protective Equipment
PWT	Pacific Western Technologies
THASP	Task-Specific Health and Safety Plan

**Backhoe Excavation Services - Roadbed Sampling from Test Pits in the
Town of Neihart, Montana
Subcontractor Health and Safety Plan
Minimum Requirements**

1.0 PURPOSE

The purpose of this document is to provide minimum health and safety (H&S) requirements to aid the successful bidder (Subcontractor) in preparing a Task Specific Health and Safety Plan (THASP). The THASP is required for this project and must be finalized prior to performing the scope of work on the **Carpenter Snow Creek Mining District Superfund Site Neihart Community Soils Area Operable Unit 1 (OU1)** project. The Subcontractor is responsible for identifying, evaluating, and controlling the health and safety hazards that may be encountered while performing the scope of work by the Subcontractor and lower-tier subcontractors working under the subcontract, and is responsible for providing and maintaining a safe and healthful workplace free of recognized hazards. The THASP will be reviewed and accepted by the Contractor (PWT) prior to starting work on the project.

The THASP shall be prepared to address the requirements of this document as well as the health and safety considerations identified in the **Request for Quotes / Statement of Work BACKHOE EXCAVATION SERVICES - Roadbed Sampling from Test Pits in the Town of Neihart, Montana, July 6, 2011.** It should be noted that specifications may require preparation of several individual plans to address site safety, first aid, as listed below:

Description
Complete List of Hazardous Materials (LHM) and Material Safety Data Sheets (MSDS)
List of Personnel
Site Safety and Health Plan (SSHP)
Safety Program
Medical Facilities Plan

For the purposes of this Subcontract, it is acceptable to combine all of this information in the Task Specific Health and Safety Plan (THASP). All requirements identified of this Minimum Requirements documents shall be met and if there are any conflicts between the other health and safety plans and this *Subcontractor Health and Safety Plan Minimum Requirements Document*, the most stringent requirement shall apply.

The Carpenter Snow Creek site is located in Cascade County, near the town of Neihart, in the Little Belt Mountains southeast of Great Falls, Montana. The site is in an historic mining district, and due to the impact of mining activities, groundwater, soils and some streams are contaminated with heavy metals and arsenic.

The Carpenter Snow Creek Mining District (CSC District) Superfund site is located adjacent to and includes the town of Neihart. Mining began in the CSC District when prospectors from Barker discovered silver deposits near the future town of Neihart. The CSC District's mines primarily yielded silver, lead, and zinc ores. After 1883, only those mines with high grade silver ore continued to operate. Later during the period from 1915-1919, the use of the flotation process allowed the mining of lower grade silver ore. During the 1940s, lead and zinc were produced in large quantities for World War II. The CSC District has been largely inactive since the 1960s, although some mines have reported mine exploration and some sporadic production.

**Backhoe Excavation Services - Roadbed Sampling from Test Pits in the
Town of Neihart, Montana
Subcontractor Health and Safety Plan
Minimum Requirements**

2.0 APPROACH TO SAFETY

The THASP should demonstrate the Subcontractor has policies and procedures in place to ensure that a safety based culture will be maintained throughout the life of the project and demonstrated through behavior-based safety activities. These behavior based safety activities may consist of safety awareness programs, safety training, safety briefings and documenting job, task, or worker observations along with constructive feedback provided by other workers or supervisors. The Subcontractor shall participate in behavior-based safety activities that may be directed by the Contractor.

2.1 Stop Work Authority

It is PWT policy that all workers have the responsibility and authority to stop work if they believe that an imminent danger situation exists, and immediately report this situation to their supervisor. This policy shall be adopted by the Subcontractor and incorporated into the THASP. All imminent danger situations shall be immediately reported to their supervisor and the Project Health and Safety (H&S) Representative.

2.2 Substance Abuse

The Subcontractor shall have a written substance abuse policy. The use, sale, and/or possession of controlled substances and alcohol are prohibited at the job site. The Subcontractor shall also ensure that required substance abuse testing of workers (including lower-tier subcontract workers) is performed, and shall inform workers of the requirement for substance abuse testing. Worker substance abuse testing is required prior to work at the site (pre-employment or pre-work) and "for cause." Substance abuse testing may be required following worker involvement in an accident or incident.

3.0 GENERAL REQUIREMENTS

The THASP shall be prepared and submitted along with other specified submittals prior to the start of work. Work will not commence until the Subcontractor's THASP has been reviewed and accepted by the Contractor and EPA. Significant changes to the project scope of work that require updates to the THASP will require review and acceptance by the Contractor and EPA prior to implementation.

The Subcontractor shall implement an on-site health and safety program to ensure compliance with the THASP developed by the Subcontractor. The Subcontractor is responsible for identifying, evaluating, and controlling the health and safety hazards presented by performing the scope of work, and is responsible for providing and maintaining a safe and healthful workplace free of recognized hazards. The Subcontractor shall also comply with any other H&S requirements as directed by the Contractor during the course of work on the project.

The Subcontractor shall comply with all applicable federal, state, and local regulations and requirements relating to worker health and safety, in particular the applicable portions of Title 29, Code of Federal Regulations, Part 1910, and Part 1926. Applicable requirements of Part 1926 include but are not limited to:

**Backhoe Excavation Services - Roadbed Sampling from Test Pits in the
Town of Neihart, Montana
Subcontractor Health and Safety Plan
Minimum Requirements**

- Subpart C, General Safety and Health Provisions
- Subpart D, Occupational Health and Environmental Controls (including Occupational Noise Exposure and Hazard Communication)
- Subpart E, Personal Protective and Life Saving Equipment
- Subpart G, Signs, Signal, and Barricades
- Subpart O, Motor Vehicles and Mechanized Vehicles (including Equipment, Motor Vehicles, and Material Handling Equipment)
- Subpart V, Power Transmission and Distribution (including Overhead and Underground Lines)
- Subpart M, Fall Protection

The Subcontractor is responsible for demonstrating the environmental health and safety qualifications for any personnel or lower-tier subcontractors performing work as Health and Safety Representative under this subcontract. Lower-tier subcontractors must either follow the Subcontractors H&S requirements or may work under more stringent requirements.

The onsite Supervisor and/or Foreman and the Health and Safety Representative (HSR) performing work under this subcontract will have completed OSHA 40 Hour HAZWOPER Training and shall provide documentation that their 8 Hour OSHA HAZWOPER Refresher training is current. In addition, the onsite Supervisor and/or Foreman responsible for supervising work activities onsite and the HSR shall have completed and provide documentation of the 8-hour Supervisor OSHA HAZWOPER training. *It is not anticipated that hazardous waste or hazardous substances will be encountered during implementation of this project. However, if any hazardous materials or substances are encountered the Subcontractor shall implement all requirements of 29 CFR 1910.120 and 29 CFR 1926.65.* The Subcontractor shall also have someone on site that has been trained in standard first aid measures and cardiopulmonary resuscitation (CPR).

The Contractor will perform periodic project oversight to ensure that the Subcontractor implements health and safety requirements.

The following general safe work practices will apply for each task involving field work at the site:

- A "buddy system" will be used for all field activities with buddies assigned prior to the initiation of each task. Each worker will be responsible for monitoring the location and condition of his buddy at all times while in the exclusion and contaminant reduction zones (see below) and will assist his buddy in PPE decontamination as needed.
- Personnel will not eat, chew gum or tobacco, smoke, take medicine or perform any other practice that increases the likelihood of hand to mouth transfer of potentially hazardous substances from gloves, unwashed hands or equipment when in the exclusion or contaminant reduction zones.
- No one is to carry "strike-anywhere" matches or cigar/cigarette lighters.
- Personnel will stand upwind of all intrusive activities involving disturbance of the ground surface (e.g., soil excavation).

**Backhoe Excavation Services - Roadbed Sampling from Test Pits in the
Town of Neihart, Montana
Subcontractor Health and Safety Plan
Minimum Requirements**

Breaks will be offered to all site workers. A five-minute break per hour may be taken by any worker, although it is not mandatory. Breaks may be taken while in the exclusion zone; however no water will be available in the exclusion zone. Water may be consumed in the contaminant reduction zone. Please note: An exclusion zone is not required unless suspected or known hazardous waste is encountered at the site.

4.0 TASK-SPECIFIC HEALTH AND SAFETY PLAN

The Subcontractor shall develop a THASP for this project. The THASP shall address:

- the potential hazards presented by this project and associated hazard control measures,
- the minimum health and safety requirements identified herein,
- any other safety measures deemed necessary by the Subcontractor.

The Subcontractor is responsible for implementing and complying with the THASP. The following sections identify the minimum components of the THASP.

5.0 HEALTH AND SAFETY ROLES AND RESPONSIBILITIES

The Subcontractor is responsible for providing the necessary health and safety staff for implementation of the project. The THASP should include an organization chart and identify the roles and responsibilities of the H&S personnel. The Subcontractor shall provide any additional staff they deem necessary to meet health and safety requirements and ensure project completion in a safe manner.

5.1 Health and Safety Representative/Site Safety and Health Officer

The Subcontractor shall designate and provide at least one Health and Safety Representative (HSR) to support the work in the field. The HSR shall be available at the field site location during field operations (i.e., adequate safety oversight in the field must be maintained). The HSR shall possess the requisite knowledge and experience to manage an effective health and safety program on-site and implement applicable health and safety plans and procedures. The HSR shall have OSHA 40 Hour HAZWOPER Training and shall provide documentation that their 8 Hour OSHA HAZWOPER Refresher training is current. The HSR shall meet the requirements for a "site safety and health supervisor or official" defined by OSHA as the individual located on a construction site who is responsible to the employer and has the authority and knowledge necessary to implement the site safety and health plan and verify compliance with applicable safety and health requirements.

For this project, the HSR shall have completed OSHA Supervisor HAZWOPER training and have a minimum of 5 years health and safety experience, preferably in the construction industry, drill rigs, soil boring installation, and excavation. The Subcontractor shall provide access to a Certified Industrial Hygienist or Certified Safety Professional for the HSR to consult with or request the presence of as deemed necessary by the Subcontractor or Contractor.

The HSR shall have the necessary knowledge and background to conduct a comprehensive monitoring program which will establish relevant data on which to assess employee exposures and adequacy of personal protective equipment and procedures

**Backhoe Excavation Services - Roadbed Sampling from Test Pits in the
Town of Neihart, Montana
Subcontractor Health and Safety Plan
Minimum Requirements**

The Subcontractor shall provide a qualified alternate HSR as necessary when the primary HSR is absent from the site.

5.2 Competent Person(s)

The Subcontractor shall provide on-site personnel who meet the "competent person" requirements of 29 CFR 1926.32 and other applicable OSHA standards as necessary for safe project completion. Specific activities that may be conducted that require a competent person include, but are not limited to, the following:

- Approval of personal protective equipment (PPE) or other controls to maintain exposures below permissible exposure limits
- Lockout/Tagout
- Earthwork Operations
- Trenching / Test Pits
- Materials Handling (slings, rigging) Inspections
- Excavation Inspections
- Fall Protection
- Electrical Safety
- Use of Air Monitoring Equipment

6.0 SITE CONDITIONS AND POTENTIAL HAZARDS

General site conditions and potential hazards are outlined below. The Subcontractor is responsible for conducting any additional research and analysis they deem necessary to identify other site conditions that may affect worker health and safety. Subcontractor work practices, personnel, and equipment used on-site shall also be considered in this analysis.

If any unexpected materials are identified during remediation activities, the Contractor shall be notified immediately and work redirected until the material can be characterized. The Subcontractor shall initiate any modifications to their health and safety requirements appropriately.

6.1 Safety Hazards

Potential safety hazards associated with this scope of work include, but are not limited to, the following:

- Hazards associated with rock fall and slope stability
- Hazards due to intrusive soil activity (excavation or riprap, scaling, drilling)
- Hazards associated with drilling activities using Hollow Stem Augers
- Hazard associated with soil boring installation and subsurface sample collection
- Hazards associated with walking and working surfaces such as slips, trips, and falls
- Hazards associated with remediation road traffic, haul traffic, and other equipment traffic
- Hazards associated with the operation of construction equipment, motor vehicles, generators, power tools, and hand tools
- Hazards associated with materials handling operations
- Hazards associated with overhead electrical lines and underground utilities

**Backhoe Excavation Services - Roadbed Sampling from Test Pits in the
Town of Neihart, Montana
Subcontractor Health and Safety Plan
Minimum Requirements**

6.2 Chemical Hazards

There is the potential for exposure to hazardous contaminants, and potentially hazardous materials used for drilling and earthwork activities at the project site. These chemicals shall be addressed in the Subcontractor's THASP and included in the Subcontractor on-site Hazard Communication Program. Material Safety Data Sheets (MSDS) shall be submitted as an attachment to the Subcontractor's THASP. The THASP shall also include a list of hazardous materials (LHM). Potential chemical hazards associated with this scope of work include, but are not limited to, the following:

- Exposure to crystalline silica found in the native soil.
- Exposure to lead in soil and tailings material
- Exposure to arsenic in soil and tailings material
- Exposure to zinc in soil and tailings material
- Exposure to cadmium in soil and tailings materials

Provide the appropriate MSDSs before and update the LHM prior to delivery of any hazardous materials to the jobsite.

6.3 Physical Hazards

Potential physical hazards associated with this scope of work include, but are not limited to, the following:

- Heavy equipment
- Falling rock/unstable slopes
- Site access via bridge and river crossing
- Trenching/Excavation
- Temperature extremes (heat and cold stress)
- Exposure to noise and vibration
- Adverse weather conditions (snow, hail, sleet, lightning, etc.)
- Underground and overhead utilities
- Fire
- Falls from elevated surfaces or platforms
- Noise exposure from equipment
- Confined space
- Surface water (flooding)

6.4 Biological Hazards

Potential biological hazards may include wildlife, rattlesnakes, rodents, insects, irritant or injurious plants, and biological materials that have the potential for causing the following diseases: West Nile Virus, Lymes Disease, Psittacosis, Hantavirus, and Plague.

**Backhoe Excavation Services - Roadbed Sampling from Test Pits in the
Town of Neihart, Montana
Subcontractor Health and Safety Plan
Minimum Requirements**

7.0 HAZARD CONTROL

The Subcontractor shall control hazards for this project by performing work in accordance with regulatory requirements and the Subcontractor's THASP. The Subcontractor THASP shall be supplemented with Subcontractor activity hazard analyses (AHAs), or similar procedures, which shall be submitted as part of the THASP. The AHAs should identify the work activity being performed, the hazards associated with each step of the activity, the actions required to mitigate the hazards and the personal protective equipment (PPE) requirements. Additional control measures as deemed necessary by the Subcontractor shall be identified in Subcontractor AHAs, safety procedures, or safety programs. Existing Subcontractor safety procedures may be substituted for a written AHA if these procedures specifically address the work practices and hazard control measures to be used for this project. At a minimum, the Subcontractor shall demonstrate adequate hazard controls for the following activities in the THASP and a written AHA:

- Site mobilization
- Temporary facilities and controls (electrical hookup, sanitary facilities)
- Utility location and clearance
- Personnel and equipment cleaning
- Facility and equipment maintenance activities
- Vehicle and heavy equipment operation
- Traffic control / Site access
- Excavation/cleaning of rock and debris
- Scaling operations on ditch sidewalls (if required)
- Removing riprap, tailings, and liners, if encountered
- Compaction of materials
- Soil boring and test pit installation
- Placing drill cuttings and test pit materials
- Materials handling (earthwork, borrow operations, soil amendments)
- Materials stockpiling (if required)
- De-mobilization

8.0 PERSONAL PROTECTIVE EQUIPMENT

The Subcontractor is responsible for establishing PPE requirements for all activities in accordance with 29 CFR 1910.132 and the Subcontractor's THASP. The PPE requirements for each activity shall be detailed in the Subcontractor THASP and/or AHAs. The Subcontractor shall provide and ensure the use of all necessary PPE for the project (excluding the Contractor and other oversight personnel) to reduce worker exposure to hazards. The Subcontractor is responsible for training, issuance, maintenance, cleaning, inspection, and storage of worker PPE used on-site in accordance with the Subcontractor THASP. The minimum required PPE for field activities may include the following:

- Hard hats
- Safety glasses with side shields
- Steel-toed safety boots
- High-visibility (i.e., orange) traffic safety vests
- Hearing protection as needed around heavy equipment

**Backhoe Excavation Services - Roadbed Sampling from Test Pits in the
Town of Neihart, Montana
Subcontractor Health and Safety Plan
Minimum Requirements**

It is not anticipated that respiratory protection should not be required for the project. The Subcontractor should implement engineering and administrative controls to minimize exposure to particulates associated with all drilling, earthwork, scaling, and soil boring installation. If the Subcontractor determines that respirators are required, the Subcontractor is responsible for implementing a written respiratory protection program in accordance with 29 CFR 1910.134 and ensuring that a current fit-test record, medical qualification, and training documentation for each respirator user are maintained at the site.

Subcontractors with personnel that may be required to wear respiratory protection during the site remediation field activities shall have developed and implemented a respiratory protection program (RPP), including procedures for respirator fit testing. In these cases, prior to initiation of field activities, the Subcontractor shall provide PWT with respirator fit test documentation for personnel who may participate in the site remediation. Copies of fit test documentation for on-site personnel will be kept at the site during the performance of field activities.

It is not anticipated that hazardous waste or hazardous substances will be encountered during implementation of this project. However, if any hazardous materials or substances are encountered the Subcontractor shall implement all requirements of 29 CFR 1910.120 and 29 CFR 1926.65.

9.0 SITE MONITORING

The Subcontractor shall provide all health and safety monitoring they deem necessary for the protection of workers and in accordance with the Subcontractor's THASP. Monitoring may include but not be limited to:

- Direct Reading Exposure Monitoring
- Integrated Personal Air Monitoring (silica, heavy metals, etc...)
- Noise Monitoring
- Heat Stress monitoring
- Cold Stress monitoring

The Subcontractor shall outline the frequency and types of air monitoring and personnel monitoring they will implement. The Subcontractor shall provide the analytical method, sampling technique and sampling/monitoring equipment to be used.

10.0 SITE CONTROLS

The Subcontractor shall maintain site access and control at each primary work area that effectively restricts unauthorized personnel and vehicle entry and ensures positive accountability for all project personnel, work areas, and support areas. Site access and control shall be provided for temporary facilities and equipment parking and maintenance areas, work areas, construction and haul traffic, management of remediation roads, maintenance of storage/staging areas, management and proper disposal of waste materials, clean-up of material or petroleum spills, and vehicle and equipment cleaning. Fence, barricade, or mark work areas to prevent unauthorized personnel access into restricted areas.

The Subcontractor shall maintain site-access logs for each work area, requiring personnel entering the work areas to identify their name, date, company, and contact information at a minimum.

**Backhoe Excavation Services - Roadbed Sampling from Test Pits in the
Town of Neihart, Montana
Subcontractor Health and Safety Plan
Minimum Requirements**

All Subcontractor-generated waste shall be properly collected, contained and labeled (if temporarily staged), managed and disposed in accordance with the Subcontractor's waste management plans and procedures, and shall be managed in accordance with applicable federal, state, and local regulations. The procedures used for collection, labeling, and disposal of potentially contaminated PPE shall be specified in the Subcontractor THASP.

11.0 WORKER TRAINING AND QUALIFICATION

The Subcontractor is responsible for ensuring that on-site workers have adequate training to complete their work in a safe manner. Documentation of worker training and qualification shall be maintained on-site. The following minimum training is required for field personnel working on this project.

- OSHA 40 Hour HAZWOPER Training and current 8 Hour OSHA HAZWOPER Refresher Training (Note: Mandatory for the Site Supervisor and Foreman. Only required for workers in the event hazardous waste or substances are encountered at the job site.)
- OSHA 10 Hour Construction Industry Outreach Training
- Site-specific training on the Subcontractor THASP. Training on the Subcontractor THASP shall also be provided to the Contractor and oversight personnel as necessary for site entry
- Hazard Communication Training
- First Aid and Cardiopulmonary Resuscitation Training (at least two personnel)
- Respiratory protection training in accordance with 29 CFR 1910.134 for those subcontractor personnel exposed to silica above 1/2 the TLV for silica

Medical Surveillance is required for all personnel working onsite. The medical surveillance shall include a baseline blood lead and zinc protoporphyrin levels. The medical surveillance shall meet the requirements outlined in 29 CFR 1910.120 (f), *Medical Surveillance*.

12.0 SAFETY MEETINGS AND BRIEFINGS

The Subcontractor shall conduct safety meetings in accordance with the Subcontractor's THASP. The following safety meetings are applicable to this project:

- Preconstruction H&S Review Meetings
- Daily Safety Briefings

Describe assigned employee tasks and their potential hazards, review AHAs, coordinate activities, and identify methods and precautions to prevent injuries, plan for emergencies, describe any changes in the THASP, and get worker feedback on conditions affecting safety and health. Records of the briefing topics and attendance logs shall be maintained for all safety meetings identifying the date of the meeting or briefing, name of personnel attending, company and contact information.

13.0 SITE INSPECTIONS AND OVERSIGHT

The Subcontractor shall be responsible for conducting inspections, developing and implementing corrective actions so that H&S deficiencies do not recur, and correcting any H&S deficiencies in a timely manner. The Contractor or oversight personnel may conduct oversight H&S inspections at any time in Subcontractor work areas.

**Backhoe Excavation Services - Roadbed Sampling from Test Pits in the
Town of Neihart, Montana
Subcontractor Health and Safety Plan
Minimum Requirements**

14.0 ENFORCEMENT

A safety deficiency notice may be issued by the Contractor to the Subcontractor for unsafe conditions, unsafe acts, or noncompliance with subcontract or regulatory requirements. The Subcontractor shall implement appropriate corrective actions in a timely manner or work stoppage could result. Issuance of a safety deficiency notice to the Subcontractor by the Contractor could result in enforcement actions up to and including subcontract termination, loss of site access, and/or other action depending on the circumstances as determined by the Contractor.

15.0 INCIDENT AND ACCIDENT NOTIFICATION, REPORTING, AND INVESTIGATION

The Subcontractor shall report and investigate all H&S incidents and accidents. The Subcontractor shall develop and implement corrective actions to prevent recurrence of the incident or accident. The Subcontractor shall provide proper notification(s). All H&S incidents and accidents shall be documented on an incident/accident report form and provided to the Contractor as soon as practicable, but no later than the end of the work shift. The Subcontractor shall provide the Contractor with documentation of completion of corrective actions for evaluation. The Contractor may require modification or additional corrective actions on the basis of the evaluation.

16.0 EMERGENCY PROCEDURES/EMERGENCY INFORMATION

The Subcontractor shall develop and implement a written task-specific emergency response action plan in compliance with 29 CFR 1926.65 (I) and 29 CFR 1910.120 (I) as part of the THASP. The Subcontractor shall train all employees regarding provisions of the plan. Emergency contact information including names and phone numbers of responsible Subcontractor personnel and local ambulance, fire, and police support shall be included in the THASP, along with directions to the nearest emergency medical facility.

17.0 RECORDS AND REPORTS

The Subcontractor is responsible for maintaining any and all health and safety-related records and reports for their activities required by law, regulation, or this Subcontract. The Subcontractor shall maintain any required safety, compliance, and training records in accordance federal, state, and local regulations (e.g., records of injuries and accidents, training records, fit test records, medical approval forms, monitoring results, etc.). A copy of all applicable training records, fit test records, medical approval forms, and monitoring data must be maintained at the job site and shall be made available to the Contractor upon request.

18.0 SAFETY-RELATED FACILITIES, EQUIPMENT, AND SUPPLIES

The Subcontractor is responsible for identifying, providing, and maintaining all safety-related facilities, equipment, and supplies necessary for the project. Minimum Subcontractor requirements include, but are not limited to, the following:

- Fire extinguishers - All construction equipment and project trailers shall be equipped with at least one fire extinguisher (5 lb., Type ABC minimum). Fire extinguishers shall be inspected at least monthly. An inspection tag shall be attached to all fire extinguishers

**Backhoe Excavation Services - Roadbed Sampling from Test Pits in the
Town of Neihart, Montana
Subcontractor Health and Safety Plan
Minimum Requirements**

- First aid - A first aid kit that is adequately sized for field operations shall be readily accessible to site workers
- Emergency eyewash/showers - Emergency eyewash meeting OSHA requirements shall be provided
- Communications - Communications means for field team workers shall be provided by the Subcontractor. The subcontractor will provide radios to the Contractor for intra-project communication between the subcontractor and the Contractor
- Sanitary facilities - Adequate sanitary facilities (restrooms and hand washing facilities) shall be provided for worker use
- Lighting - Adequate lighting for field operations as necessary to meet OSHA requirements shall be provided. A minimum of three to five foot-candles for all work areas shall be maintained.
- Signs - Appropriate informational, caution, warning, and danger signs shall be posted in work areas as necessary
- Barricades and site control devices - The Subcontractor shall erect barricades, traffic cones, caution tape, and similar site-control devices in the work area as necessary
- Personal Protective Equipment - Personal protective equipment deemed necessary for safe work operations shall be provided
- Spill cleanup materials - Means and materials to contain and control any on-site or on-road spills of fuels, coolants, lubricants, or other potentially hazardous materials
- Hazardous materials storage and dispensing facilities - Adequate hazardous materials storage and dispensing facilities (e.g., flammable storage cabinets, containment areas) required for project operations shall be provided
- Monitoring equipment - Necessary health and safety monitoring equipment shall be provided

The remediation Subcontractor is responsible for ensuring on-site equipment, machinery, facilities, and vehicles are operated in a safe and healthful manner.

19.0 PERSONAL AIR MONITORING

Personnel working at the site, particularly those in areas near active operations could potentially be subject to airborne contaminant levels that exceed Occupational Safety and Health Administration (OSHA) exposure limits. Personal air monitoring shall be conducted for all activities in which personnel are potentially exposed to airborne dusts that may contain silica, lead, arsenic, or other potential contaminants if observed at the site. The Remediation Subcontractor's HSR, with support from a CIH, shall determine personal monitoring requirements for their employees.

ATTACHMENT 2

PWT Bid Forms
and
PWT Standard Purchase Order Terms and Conditions

**Carpenter Snow Creek Mining District Superfund Site
Neihart Community Soils Area Operable Unit 1 (OU1)
EXCAVATION OF TEST PITS FOR ROADBED SAMPLE COLLECTION**

COST SCHEDULE - Backhoe and Excavation Services

SCHEDULE A - Road Sampling Efforts

CLIN	Supplies or Services	Quantity	Unit	Unit Price	Amount
A-1	Mobilization to Site and Setup	1	lump sum		\$
A-2	Preparation for Sample Locations and Schedule Coordination	1	lump sum		\$
A-3	Backhoe Support for Road Sampling in Town of Neihart.	400	test pits		\$
A-4	Field Tracking - Daily Test Pit Tally Forms (10 days estimated)	1	lump sum		\$
A-5	Demobilization from Site and Final Cleanup	1	lump sum		\$
A-6	Development of Subcontractor THASP / Review of PWT SSHASPs	1	lump sum		\$
TOTAL FOR SCHEDULE					\$

Notes:

- 1 Quantities are conservatively estimated and NOT to be construed as a guaranteed order quantity.
- 2 Mobilization and Demobilization tasks should not exceed 25 percent of the total project costs.
- 3 Prices should be provided for each CLIN. Option CLIN's and quantities will be authorized as needed by PWT.
- 4 Safety Documentation THASP task for working within the Town of Neihart shall cover Road Sampling efforts.

PURCHASE ORDER TERMS AND CONDITIONS

PACIFIC WESTERN TECHNOLOGIES, LTD.

1. Complete Contract: This Order is expressly limited to the terms and conditions contained herein. Any additional or conflicting terms contained in any acknowledgement, bid, quotation or any other documentation provided the Seller shall have no effect and hereby rendered null and void. This Order may be used in connection with purchase releases under formal written contracts and, in such cases, the contract term shall prevail.

2. Non-Disclosure: Seller shall consider all information, including technical, commercial and financial information, furnished by Buyer in any manner to be confidential and shall not disclose any such information to any other person or use such information for any purpose other than performing this Order. Seller's obligation of confidentiality under this paragraph may apply to agreements, drawings, specifications, correspondence or other documents prepared by Seller for Buyer, or vice versa, in connection with this Order. Unless specifically agreed to in writing, no information disclosed in any manner at any time by Seller to Buyer shall be deemed confidential and Seller shall have no rights against Buyer with respect thereto. All intellectual property, drawings, designs, tangible materials and documents produced for Buyer hereunder which are subject to or may be copyrighted under the Federal Copyright Act shall be deemed to be "works made for hire" and title to and ownership of such tangible materials and documents shall at all times be in the Buyer. Seller agrees that Buyer will suffer irreparable harm in the event of a breach of Seller's obligation hereof, and that monetary damages will be inadequate to compensate for such breach. Accordingly, in addition to other rights and remedies, Buyer will be entitled to injunctive relief in order to restrain any such breach by Seller, its employees, or agents.

3. Goods and Services: As used herein, the word "Goods" shall mean the equipment, materials, supplies, and other items to be delivered hereunder, and the word "Services" shall mean work, labor, and other services to be performed hereunder. It is acknowledged that Services may include Goods.

4. Title: Seller warrants full, clear, and unrestricted title in Buyer to all Goods and Services sold under this PO, free and clear of any and all liens, restrictions, reservations, and encumbrances.

5. Prices: Prices for all Goods and Services are as noted on the face hereof subject to any Seller's discounts or reductions prevailing on the date of shipment. All such prices are complete and no additional charges of any type shall be added without Buyer's prior express written consent.

6. Terms of Payment: Unless specifically stated otherwise on the face hereof, Buyer shall pay Seller within 30 days from receipt of Seller's dated invoice. Buyer may withhold or set-off from any amounts due to Seller, any amounts owed by Seller to Buyer for any reason whatsoever.

7. Performance: Time is of the essence. Seller expressly acknowledges Buyer may sustain substantial losses if Seller fails to perform on time. Seller shall immediately notify Buyer if Seller is or will be unable to perform on time and acknowledges that such notification shall not relieve Seller of its obligations hereunder.

8. Risk of Loss: Seller shall bear all risk of loss or damage in connection with Goods or Services until Buyer has unconditionally accepted goods or Services in accordance with the terms hereof, provided Seller shall continue to bear such risks for any Goods or Services for which Buyer has revoked its acceptance hereunder.

9. Inspection and Acceptance: Payment for Goods and Services shall not constitute acceptance thereof. Buyer shall have the right to inspect such Goods and Services and to reject any or all of such Goods and Services which are in Buyer's judgment defective or non-conforming. Goods and Services rejected and goods supplied in excess of quantities called for herein may be returned to Seller at Seller's expense. In addition to Buyer's other rights, Buyer may charge Seller all expense of unpacking, examining, repacking, and reshipping such goods. In the event Buyer receives Goods with defects or non-conformity, regardless of appearance upon initial examination, Buyer reserves the right to require replacement, as well as payment for damages. Nothing contained in this Order shall relieve Seller from the obligation of testing, inspecting, and quality control. Title to Goods or Services will shift to Buyer on Buyer's unconditional acceptance or use thereof. Buyer's court will be accepted as final and conclusive on shipments not accompanied by Sellers itemized packaging list.

10. Revocation of Acceptance: Buyer has the right to revoke its acceptance of and reject any and all Goods or Services which fail to meet the terms of this Order, where such failure becomes known to Buyer only after its acceptance of such Goods or Services and was not reasonably discoverable by Buyer before then, and Buyer's rights and remedies shall be the same as if Buyer had rejected such Goods or Services prior to Buyer's acceptance thereof.

11. Cancellation, Mitigation, and Termination: If Seller breaches or fails to comply fully with any part of the terms and conditions hereof or its obligations hereunder, or breaches any warranty of Seller contained herein or arising in connection herewith, or becomes unable to conduct its normal business operations, Buyer shall have the right to immediately terminate this order, in whole or in such part as Buyer in its sole judgment may deem expedient, without any liability to Seller except with respect to Goods or Services previously delivered to, and accepted by, Buyer.

12. Qualified Independent Contractor: Seller represents that it is fully experienced and properly qualified to perform requirements of this Order and that it shall at all times during the performance of this Order be in compliance with all applicable federal, state, and local laws, rules and regulations. Nothing contained herein shall create any employment, partnership, agency or similar relationship between Seller and Buyer.

13. Acceptance of Site and Working Conditions: If and to the extent that the work covered by this Order is carried out at any premises owned, leased, or reasonably controlled by Buyer, Seller represents that it has examined and is acquainted with all conditions of such premises and its surroundings, and assumes any and all risks associated with such conditions. Seller agrees to abide by all safety rules and regulations of Buyer.

14. Warranty: Seller warrants that all Goods and Services furnished under this Order shall be free from defective materials or workmanship, be new unless otherwise specified herein, and conform to Buyer's specifications and Seller's samples, labeling and advertisements. All Goods shall be adequately contained, packaged, marked and labeled. Seller further warrants all Goods or Services furnished hereunder shall be merchantable and fit for Buyer's intended purposes. Inspection, test, acceptance, use of or payment for Goods and Services furnished hereunder shall not affect Seller's obligation under this warranty. Seller's warranty shall run to Buyer, its successors, assigns and customers, and any other party which the Buyer is correspondingly or similarly liable with respect thereto. Seller agrees to promptly replace or correct defects of any Goods or Services not conforming to the foregoing warranty, without expense to Buyer, when notified of such nonconformity by Buyer. In the event Seller fails to correct defects in or replace non-conforming Goods or Services promptly, Buyer, after

reasonable notice to Seller, may make such corrections or replace such Goods and Services and charge Seller for the costs incurred by Buyer in doing so. The warranties, rights or remedies provided by the Buyer herein are not exclusive and are in addition to any other rights or remedies provided by law or in equity, all warranties, rights and remedies being cumulative.

15. Patient indemnity: Seller warrants that Goods and Services provided hereunder are produced, sold and may be used for Buyer's intended purposes, free of patent infringements. Seller will settle or defend, at its expense, and will indemnify Buyer for any damages, costs or expenses of attorney's fees resulting from all proceedings or claims against Buyer, Buyer's customers, its subsidiaries and affiliates, and their respective customers, for infringement or alleged infringement by the Goods or Services furnished hereunder, or any part of use thereof, of patents, copyrights, trade secrets, or other proprietary rights of a third party.

16. Indemnity: Seller agrees to protect, indemnify, defend and hold Buyer, its subsidiaries, affiliated entities, officers, directors, and employees harmless from any and all loss, damage, liability, cost and expense (including reasonable attorney's fees) (i) arising out of or in any way connected with any and all claims and actions (whether meritorious or not) asserted with respect to any death, sickness or injury to persons (including, without limitation, any employee of Buyer) or damage to property or the environment, or (ii) otherwise arising out of or in any way connected with (a) any defect or alleged defect in the Goods or Services; (b) the design or construction thereof; (c) any substances used in production of any Goods or Services; (d) the use or disposition in any manner of such Goods or Services; (e) the failure of the Goods or Services to conform with Buyer's specifications of this Order, or any applicable law, rule or regulation; or (f) any misrepresentation by, or breach of any warranty of Seller with respect to the Goods or Services.

17. Insurance: Seller shall at all times maintain at its expense, such insurance in companies reasonably satisfactory to Buyer as will fully protect Seller and Buyer from all claims under Worker's Compensation and Occupational Disease Acts, and for any other claims for bodily injury, including death and for property damage, which may arise from performance of this Order. Such insurance coverage shall include blanket contractual liability insuring the indemnification obligation contained in this order. Insurance shall be primary and shall provide at least \$1,000,000.00 in coverage. In the event the performance of this Order takes place on Buyer's premises, certificates of insurance showing compliance with this section must be furnished to Buyer before any Service may commence or Goods are furnished and Buyer may also, in its sole discretion, require additional insurance coverage. Such certificates shall provide a minimum of 30 days advance notice to the Buyer prior to any cancellation, intent of non-renewal, or material change to the terms and conditions of the required coverage. Upon request, Buyer shall be named as additional insured on each such policy.

18. Assignment and Subcontracting: Seller shall not assign this Order or subcontract any of the work hereunder without prior written consent of Buyer. Any such assignment, in whole or in part, voluntarily, or otherwise, without the proper consent of Buyer, shall be void, and any such assignment or subcontracting shall be a breach hereof.

19. Limitation of Liability: Buyer's liability hereunder shall be limited to, and Seller's sole remedy shall be, action for the purchase price of Goods or Services delivered to and accepted by Buyer as provided herein, subject to any and all of the Buyer's rights of adjustment or set-off as provided herein. In no event shall Buyer's liability exceed the total purchase price indicated on the accompanying PO hereof or include any liability for incidental or consequential damages arising in connection with any Goods or Services.

20. Modifications: Buyer shall have the right by written supplement to make changes in the specifications and drawings for Goods or Services covered by this Order. If Seller believes that such changes may affect the price or completion date for this Order, Seller shall notify Buyer in writing (with adequate supporting documentation) within 5 days after the receipt of such supplements, and thereafter Buyer and Seller shall amend this Order, in writing, to equitably adjust the price and/or delivery date to reflect the effects of such change, and during such time period, Seller shall not suspend performance of this Order.

21. Waiver: Failure of Buyer at any time to require performance of any provision of this Order shall not limit Buyer's rights to enforce the provision, nor shall any waiver by Buyer of any breach of any provision constitute a waiver of or prejudice Buyer's right otherwise to demand strict performance of the provision or any other provisions.

22. Separability: The invalidity or unenforceability, in whole or in part, of any provision, term or condition hereof shall not affect the validity and enforceability of the remainder of such provision, term or condition or of any other provision, term or condition.

23. Advertising/Publicity: Seller shall not advertise or publish the fact that Buyer has placed this or any other Order with Seller, nor any information relating to this or any other Order be disclosed without Buyer's written permission.

24. Force Majeure: Buyer may delay performance due to causes beyond control. Seller shall hold any Goods and delay any Services at Buyer's request until the delaying cause has been removed.

25. Governing Law: These Terms and Conditions and the transactions contemplated hereby shall be governed by, and construed and enforced in accordance with, the laws of the State of Colorado and, to the extent applicable, The United States of America, in each case without regard to its conflict of law rules, and Seller submits to the jurisdiction of the courts of the State of Colorado.

26. Government Contracting Provisions: Seller shall maintain, and shall require any subcontractors and/or suppliers to maintain adequate books and records of all data necessary for an accurate determination by Buyer of all costs and fees related to this Order which may be reimbursable to Buyer under other agreements (including government contracts). Such original books and records shall be open to inspection by a representative of Buyer during reasonable business hours during the term of this Order and for five years thereafter. If so directed by Buyer, because of requirements applicable to Buyer as a government contractor, Seller shall maintain controls and procedures as required by applicable acquisition regulations, and Buyer shall provide Seller with all schedules necessary to complete and obtain approval of proposals for government contracts and the performance of government contracts.

27. Survival: The obligations of Seller under this Order, including without limitation, the warranties, indemnities, and non-disclosure provisions shall survive delivery to, and acceptance and payment by Buyer.