

**COEUR D'ALENE TRIBE
NATURAL RESOURCES DEPARTMENT**

Contract for 2014 Fall Planting

This Contract is entered into between the Coeur d'Alene Tribe, ("Tribe"), P.O. Box 408, Plummer, ID, 83851, by and through its Coeur d'Alene Tribal Forestry Program ("Program") and _____ ("Contractor") by and through its agent _____, located at _____.

Recitals

- A. The Coeur d'Alene Tribe is a sovereign nation, recognized by executive order and other federal law, with its own government, unique culture and history and a variety of natural resources on its Coeur d'Alene Reservation, including timber reserves and forestlands, and
- B. The Coeur d'Alene Tribe wishes to contract with an entity whose agents possess the skills and capabilities to plant and protect seedlings within the Coeur d'Alene Reservation for a period in fall, 2014, and
- C. The above-named Contractor claims to possess such skills and capabilities.
- D. The foregoing Recitals are hereby incorporated into and made an integral part of this Contract.
- E. The Coeur d'Alene Tribe's Forest Development Forester and/or Technician Norris Boothe and/or Ron LaSarte will be the Tribe's Contract Representative.
- F. The Contractor's Representative is _____.

Terms

Contractor agrees to perform such professional services as are set forth in this Contract, and the Tribe agrees to pay Contractor such amounts as are specified in this Contract, all upon the following terms and conditions:

1.0 Scope of Services

- 1.1 Approximate planting block boundaries are shown on the map attached hereto as Exhibit A. If all part(s) of any planting block cannot be burned this fall, they may be removed from this contract.
- 1.2 Contractor agrees to plant approximately 31,200 conifer seedlings on approximately 91.9 acres according to planting specifications described in Exhibit B, which is attached hereto and which is hereby fully incorporated into and made a part of this Contract.
- 1.3 Contractor shall install mesh protective tubes secured by bamboo stakes around 2500 seedlings in the Eagle Interplant block (portions of 18.5 acres).
- 1.4 Contractor shall perform all required services in connection with this project, including furnishing all necessary professional and clerical personnel, transportation, supplies and equipment.

2.0 Term and termination

- 2.1 The Contractor will begin work as soon as practicable after receiving the signed copy of this Contract and the notice to proceed.
- 2.2 The Contract will terminate on **November 30, 2014** or upon completion of contracted services.
- 2.3 This Contract may be terminated by the Coeur d'Alene Tribe or by the Contractor without cause upon 10 days written notice, or sooner if both parties agree. This Contract shall terminate if tribal funds cease to be available.
- 2.4 The Tribe may terminate this contract without penalty or cost at any time if the work being performed by the Contractor is determined by the Tribe, in its sole discretion, not to be reasonably satisfactory.
- 2.5 Either party may terminate this contract upon a breach by the other.
- 2.6 If this agreement is terminated pursuant to this section, the terminating party shall send written notice of same. The Contractor will receive payment only for accomplished work completed to contract specifications, less any adjustments per section 2.7.

2.7 If this agreement is terminated by the Tribe pursuant to provision 2.4, the costs incurred by the Tribe in hiring a replacement contractor will be deducted from the contract amount due.

3.0 Payment

3.1 The total amount to be paid under this contract, contingent upon the Coeur d’Alene Tribe’s approval of the Contractor’s work, is as shown below.

Planting Block	Units (acres or trees)	Bid Rate per Acre or Tree	Bid Rate per Block
Chsp'a #1	24.0 ac.	\$	\$
Chsp'a #2 top	8.5 ac.	\$	\$
Chsp'a #4	40.9 ac.	\$	\$
Eagle Interplant	2500 trees	\$	\$
Install Tubes	2500 trees	\$	\$
Totals:			\$

3.2 The total bid price for each tract shall be the basis for payment, unless circumstances limit or expand the area planted in any tract. In such event the area actually planted will be determined by Global Positioning System and multiplied by the bid rate per acre.

3.3 The Program shall inspect each block for work quality, as specified in Exhibit B, Section III INSPECTIONS AND ACCEPTANCE.

3.4 The Program shall furnish an inspection report to the Contractor, showing the work quality and actual acres for accepted planting block(s) and any adjustments required by Exhibit B, Section III. INSPECTIONS AND ACCEPTANCE, subsection D. Penalties and/or subsection E. Acceptance and Payment.

3.5 The Program shall pay the Contractor for accepted blocks upon submission of periodic invoices specifying the amount due according to cost per acre shown in Section 3.1 and any adjustments per Section 3.4.

4.0 Tribal Employment Rights Ordinance (TERO)

Contractor is required to complete a TERO Compliance Plan and have it approved before initiating work. Contractor is responsible for filing payroll reports and following all aspects of the TERO in hiring and conduct of the work. Contact James Nilson at (208)686-6107 about TERO related questions.

5.0 Performance Bond

Contractor shall post a performance bond in the amount of \$_____ (5% of total bid price) to secure satisfactory performance of this contract, to be refunded upon final completion and approval of all obligations. In the event Contractor fails to satisfactorily perform this contract, the performance bond will be forfeited. Contractor shall not be held responsible for planting any areas that are removed from the contract because they cannot be burned this fall.

6.0 Independent Contractor

Both parties agree that Contractor will act as an independent contractor in the performance of its duties under this contract. Contractor shall be responsible for payment of all applicable fees including federal, state and local taxes arising from its activities under this contract. Contractor is also responsible for obtaining all necessary federal or local permits in order to perform such work. The Tribe assumes no responsibility for damage to property, Contractor or employee injuries.

7.0 Indemnification

The Contractor shall indemnify and hold harmless the Tribe and its guests, agents, and employees from and against all claims, damages, losses and expenses, including but not limited to attorney’s fees arising out of or resulting from the performance of the Contractor’s duties pursuant to this Contract, provided that any such claim, damage, loss or

expense is caused in whole or in part by any negligent act or omission of the Contractor, anyone directly employed by the Contractor or anyone for whom the Contractor may be liable, regardless of whether or not such act or omission is in part that of a party indemnified hereunder.

8.0 Assignment and delegation, subcontracting

The Contractor may not assign the rights nor delegate the duties described under this Contract, nor subcontract any part of the work to be performed pursuant to this Contract without the Tribe’s written approval. The Tribe may attach any reasonable conditions or limitations to the employment of any subcontractor.

9.0 Binding Effect

This Contract is for the benefit only of the parties hereto and shall inure to and bind the parties hereto and their respective heirs, legal representatives, successors and assigns.

10.0 Notice

Any notice under this agreement shall be in writing and delivered in person or by public or private courier service (including the U.S. Postal Service Express Mail) or certified mail with return receipt requested or by facsimile. All notices shall be addressed to the parties at the following addresses or at such other addresses as the parties may from time to time direct in writing.

For the Coeur d’Alene Tribe:

Name: Kurt Mettler, Forest Manager
Address: P.O. Box 408, 850 A Street, Plummer, ID 83851
Phone: 208-686-1315
Fax: 208-686-1855

For the Contractor:

Name: _____
Address: _____
Phone: _____
Fax: _____

Any notice shall be deemed to have been given on the earlier of (a) actual delivery or refusal to accept delivery, (b) the date of mailing by certified mail, or (c) the day facsimile delivery is verified. Actual notice, however and from whoever received, shall always be effective.

11.0 Forum

This contract shall be governed by the laws of the Coeur d’Alene Tribe.

12.0 Sovereign Immunity

Nothing in this Contract shall be construed as a waiver or diminishment of the Coeur d’Alene Tribe’s inherent sovereign immunity.

13.0 Severability

The terms of this Contract are severable such that if any term or provision is declared by a court of competent jurisdiction to be illegal, void, or unenforceable, the remainder of the provisions shall continue to be valid and enforceable.

14.0 Non-waiver

The delay or failure of the Tribe to exercise any of its rights under this Contract for a breach by the Contractor shall not be deemed to be a waiver of such rights, nor shall the same be deemed to be a waiver of any subsequent breach by the Contractor, either of the same provision or otherwise.

15.0 Representations

The Contractor represents and warrants that it has the full right and legal authority to enter into and fully perform this Contract in accordance with its terms without violating the rights of any third party and that it has all governmental licenses, permits or other authorizations necessary to perform the duties herein described. The individual executing this Contract on behalf of Contractor represents and warrants that he or she is duly authorized to execute and deliver this Contract on behalf of Contractor in accordance with duly adopted organizational documents or agreements.

16.0 Insurance

16.1 Contractor warrants that worker's compensation insurance is purchased for all employees of Contractor engaged in the performance of work under this Contract and shall provide the Tribe with a Certificate of Insurance to verify the same prior to the execution of this Contract. Any change in status of such insurance shall be immediately reported to the Tribe.

16.2 Contractor shall provide comprehensive general liability insurance in an aggregate amount of not less than one million dollars (\$1,000,000.00) which does not exclude the type of work being performed by Contractor under this contract. This requirement may be satisfied by obtaining appropriate endorsement for this particular project to any umbrella policy of liability insurance Contractor maintains. Proof of such coverage is required prior to execution of this contract and any changes in the status of such insurance shall be immediately reported to the Tribe.

17.0 Warranties

Contractor warrants that all Contractor and Contractor's employees will be properly certified to perform the work described herein, and that all laws, licenses and other requirements to perform said work will be complied with by Contractor. Contractor agrees to warrant remedy any activities/work without cost to the Tribe. The Tribe shall notify Contractor of such discrepancies within one year of Contractor's completion of work under this contract. Otherwise such warranty expires.

18.0 Proprietary Rights and Confidentiality

The Contractor may, in the process of performing his or her duties under the terms of this Contract, have access to records, materials, research, products, services, inventions, processes, designs, drawings, engineering, marketing or finances which is designated in writing to be confidential or proprietary, or if disclosed orally, is confirmed promptly in writing as having been disclosed as confidential or proprietary. Contractor warrants that he will not disclose any such information to anyone for any purpose without express written authorization by the Tribe.

19.0 Entire Agreement; Modification

This Contract and its Attachments constitute the entire understanding between the parties with respect to the subject matter herein. It may not be amended except by an agreement signed by the authorized representatives of the Tribe and the Contractor.

20.0 Cultural Resources Management (CRM) Compliance

20.1 The Contractor and Contractor's staff will participate in a 1 hour cultural resource awareness training session with CRM staff, provided free of charge, prior to or within 2 days of starting work.

20.2 If suspected or actual cultural resources are encountered during the work, the CRM staff will be notified immediately. Assessment will begin as soon as possible, generally the same day or the next day.

CRM staff contacts are:

John Hartman: 208-301-0014 cell or 208-686-8402 office.

Jill Wagner: 208-582-1347 cell or 208-686-1572 office.

20.3 Work may continue OUTSIDE a 150' radius around the suspected/actual cultural resource. Once an assessment has been made by CRM and Forestry staff, procedures will be developed to proceed with work or to change the plan for work depending on the assessment.

20.4 No photos of suspected or actual cultural resources are to be taken.

20.5 In the case of possible human remains, the standard CRM procedures are to be followed. A copy can be provided upon request.

IN WITNESS WHEREOF, the parties agree to the provisions set forth herein as evidenced by the signatures of their authorized representatives below:

CONTRACTOR:

Date: ___/___/___

COEUR D'ALENE TRIBE

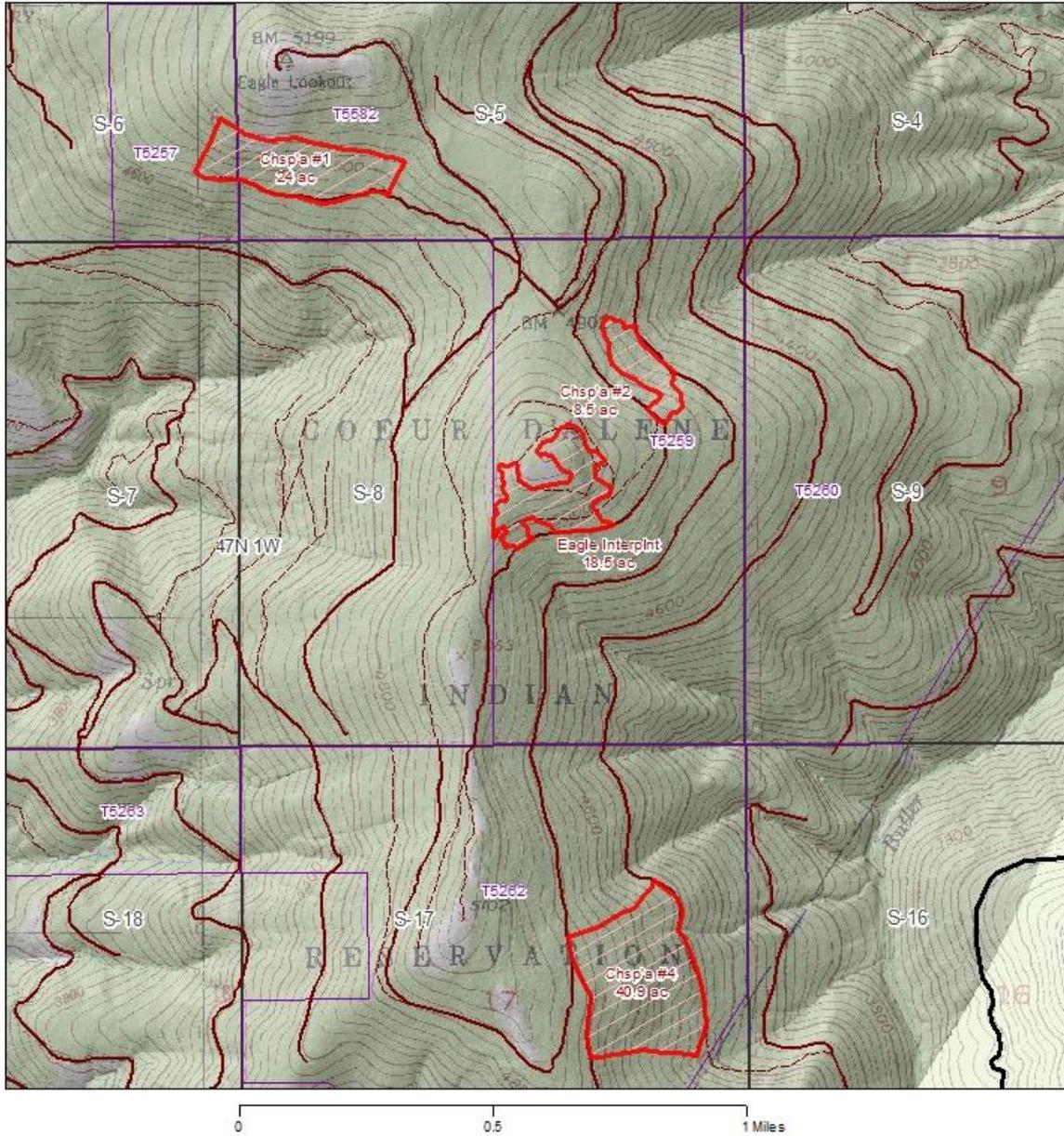
Alfred M. Nomee, Natural Resources Director

Date: ___/___/___

Robert A. Matt, Administrative Director

Date: ___/___/___

Exhibit A Fall 2014 Planting Contract
 Coeur d'Alene Reservation



The information depicted on this map is the result of digital analysis performed on a database consisting of information from a variety of governmental and other credible sources. The accuracy of the information presented is limited to the collective accuracy of the database on the date of the analysis. The information is believed to be accurate and reasonable efforts have been made to ensure the accuracy of the map. However, the Coeur d'Alene Tribe expressly disclaims any liability for damages or liability that may arise from the use of this map. This product is the property of the Coeur d'Alene Tribe and its use is hereby restricted. In particular, only those parties who have received express written permission from the Coeur d'Alene Tribe may disseminate, copy, publish or release the information contained herein.

File Name: abooth@gorralt.mxd
 For information on this map or other maps please contact us at abooth@coeurtribe-nn.gov

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Map produced by N. Boothe

Date: 9/24/2014

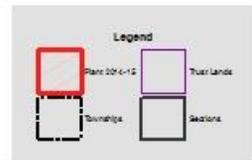


Exhibit B: Planting Specifications and Inspections

I. PRESCRIPTION

A. Chsp'a'a qhalqwhn planting blocks: Coeur d'Alene Tribal Forestry plans to burn and plant approximately 73.4 acres of the Chsp'a'a qhalqwhn Logging Unit in fall, 2014. Although portions of the blocks may have unburned fuels, no herbicide application is planned for these blocks. Any portions that cannot be burned may be removed from the planting contract.

B. The Eagle Interplant will be difficult planting due to rocks, elksedge, shrubs and some beargrass. Approximately 55% of the 18.5 acres in the interplant block are not plantable due to existing trees or rock, so bids will be accepted by the tree (for an estimated 2500 seedlings). The intent is to fill in seedlings between rocky areas and/or replace existing true fir seedlings with white pine. Spot spray with Imazapyr will be applied under separate contract to spots marked with bamboo stakes. The restricted entry interval for Imazapyr is 12 hours, and planting will not be allowed during that time. The stakes should be removed while planting in sprayed spots, then replaced for installing protective tubes. Contractor will use the stakes to support protective mesh tubes to protect seedlings from big game.

Table 1 shows more details of the planting sites, and Table 2 shows the prescribed specifications.

Table 1: Site Details

Planting Block	Total Area	Ground Cover	Aspect	Elevation	Slope (Percent)
Chsp'a #1	24	slash & brush - burn planned	SSW	4800'	35%
Chsp'a #2 top	8.5	brush/slash - burn planned	NE	4800'	40%
Chsp'a #4	40.9	brush/slash - burn planned	E	4500'	45%
Eagle Interplant	18.5	sedge/trees/brush - spot spray	NE-S	5,100	30%
Totals:	91.9				

Table 2: Planting Prescription.

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Planting Block	Area (Acres)	Scalp Size	Target Spacing	5 cu.in. Plugs	8 in ³ Plugs	Total Seedlings	T/Ac to Plant
Chsp'a #1	24	12" x 12"	10' X 12'	6,600	2,925	9525	397
Chsp'a #2 top	8.5	12" x 12"	10' X 12'	2,400	900	3300	388
Chsp'a #4	40.9	12" x 12"	10' X 12'	11,400	4,475	15875	388
Eagle Interplant	18.5	12" x 12"	highly variable		2500	2500	~135
Totals:	91.9			20,400	10,800	31200	

During planting, each tree shall be planted near the middle of a "scalp" cleared of vegetation, ash and plant litter.

II. SPECIFICATIONS: Adapted from “Plug Seedling Handling and Planting Guidelines”, D. L. Miller and R. M. Schaefer III, Potlatch Corporation, Wood Products, Western Division, 4-25-83

A. Planting Bags.

1. Fill bags just prior to planting.
2. Moisten roots if soil mix is dry.
3. Shelter seedlings from wind and sun when filling bags.
4. Don't pack bags tightly – seedlings should pull out easily without stripping roots.
5. Do not use gas- or oil-soaked planting bags.

B. Planting Spot Selection (Microsite).

1. Plant in soil, avoiding rock, deep duff, rotten wood and compacted soil or roads.
2. Don't plant in standing water or in soil that was pushed on top of slash or brush.
3. Shade – Where possible, plant on the north or northeast side of logs, stumps, rocks or brush clumps. Where not possible, use small rocks, scalped sod or sticks to shade block the base of trees. Place shade on the downhill side of the tree on slopes over 25%. On more gentle terrain place shade on the south/southwest side of the tree.
4. Vegetation – Scalp clumps of brush, ferns or grass that cannot be avoided.
5. Animals – Avoid game and livestock trails. Do not plant in gopher tunnels.
6. Compaction – Avoid planting in compacted dozer or skidder tracks.
7. Avoid planting on top of gopher mounds and in the bottom of ditches, gullies or trenches.
8. Select planting spot within 2 feet of tree spacing specified in Table 2 to find a better site, and do not plant within 10 feet of established pines, western larch or Douglas-fir.
9. Any seedling or sapling with more than half of its foliage fading (yellowish to orange in color) or with dead top shall not be considered an established tree.

C. Planting Spot Preparation.

1. Ash, duff or litter – Scalp to mineral soil around planting hole.
2. Dry or blackened soil – Foot scalp to reach moist soil.
3. Grass, brush or forbs – Remove vegetation from the prescribed scalp size in Table 2, so that seedling will not come into contact with herbicide before it dries.

D. Planting.

1. Planting tools must be able to open a hole, 1 inch longer than the plug and 2 inches wide at the bottom. Roots shall not be trimmed or damaged by the contractor.
2. Open the planting hole near the center of the scalped planting spot.
3. The undisturbed side of hole will be less than 30 degrees from vertical, so roots do not lean.
4. Gently remove seedling from planting bag or container after the hole has been prepared. Do not wrench seedlings from bag. Remove one seedling at a time. Do not carry seedlings in hand while walking between holes.
5. Plug must be straight in the hole, with roots pointing downward and not bent at the bottom.
6. Do not plant trees in a leaning position; roots shall be oriented approximately perpendicular to the ground surface.
7. Do not twist the plug into the hole or compress the plug to fit a hole that should be dug deeper or wider.
8. Fill the hole from bottom to top, packing soil firmly to prevent air pockets around roots.
9. Keep snow, duff, rocks, ashes and dry soil from the planting hole.

10. Planting depth: Plant the top of the plug $\frac{1}{2}$ to $\frac{3}{4}$ inch below top of hole, so the soil surface is between the root collar and lowest needles. Soil should not be mounded around the tree to compensate for a shallow hole – dig the hole deeper.
11. The planting hole shall be closed completely, with no slit left that may open as soil dries.
12. Planted tree should withstand a firm tug on several needles, and soil in the root zone should not be loose or densely packed.

E. Progression through Planting Blocks.

1. The contractor shall manage planting crews to work from one edge to another through each planting block to achieve a clear distinction between planted and unplanted portions of the block. This will facilitate daily inspections, as well as acreage adjustments, if necessary.
2. If the area planted has been adjusted for any reason, it will be traversed by Tribal Forestry with a GPS unit to determine the actual acreage for payment.

F. Weather: Follow weather guidelines for planting from Cleary, B. D. et al, “Regenerating Oregon’s Forests”, 1978, Oregon State University Extension Service, Corvallis, Oregon to determine acceptable planting weather.

G. Seedling Handling, Transport and Storage at planting sites.

1. Tribal Forestry shall deliver seedlings to planting sites as scheduled by the contractor’s representative.
2. Seedlings shall be protected from weather and mechanical injury during transport and storage by careful handling of boxes, protective tarps or natural shade.
3. Seedlings shall be stored in shipping boxes until ready to be planted, and in planting bags until the planting hole is prepared.
4. After completion of each day of planting, the contractor shall return any excess seedlings, in their shipping boxes, to Tribal Forestry.
5. The contractor shall take reasonable care of shipping boxes to allow them to be returned to the nursery. All other debris, including plastic bags used to package seedlings and litter from lunches shall be removed from the planting site daily.
6. If any mold, dry roots, sour roots, frozen roots or other seedling quality concerns are found by the contractor, such seedlings shall be withheld from planting until examined by Tribal Forestry.

H. Installing Seedling Protection Tubes

1. The Tribe will provide 3.25” x 18” flexible mesh tree tubes, cable ties and 3’ long bamboo or cedar stakes for 2500 seedlings.
2. The contractor shall place tubes over planted seedlings so that the bottom of the tube is flush with the soil surface and secured by 2 cable ties to the stake. Crews must take care not to damage seedlings during installation. If installed after buds break, the candles are especially sensitive to breakage.
3. Stakes shall be pushed at least 12 inches into the soil and oriented perpendicular to the soil surface.

III. INSPECTIONS AND ACCEPTANCE: Acceptance of work and payment will be based on inspections by Tribal Forestry. Daily inspections will follow the planting crew as closely as possible, and the contractor is encouraged to observe the inspections. Copies of inspection cards shall be available to the contractor on request.

A. Inspection Procedures for Planting.

1. Approximately one (1) percent of each planting block will be inspected, using circular plots, 1/50 or 1/100 acre in size. Plots will be located throughout the planted area on a systematic

grid from a randomly located first plot. Plot centers will be located and marked on the ground with flagging. The plot number will be written on flagging near or on plot center.

2. Above Ground: Inspectors shall check all seedlings on the plot, up to the number of planting spots available. On each plot, number of planting spots, planted trees and satisfactory trees will be recorded, considering items listed below. The planting quality card contains a column labeled "DT" for dropped trees that will displace an otherwise satisfactory tree on the closest plot. The specifications in Section II will be considered in determining satisfactory trees.

3. Below Ground: At least one seedling per plot will be checked below ground by carefully digging from the side until the roots are exposed. If a plot contains 6 or more seedlings, two trees will be dug for below ground inspection. A tree that is not satisfactory above ground will not be examined below ground. The below ground inspection is targeted at root condition, straightness of roots and planting hole and prevention of air pockets and foreign material around roots.

4. Planting Quality: Planting quality will be calculated from totals for all plots within each completed planting block to determine acceptability. Planting Quality will be the product of the proportion of total planted trees that are satisfactory above ground and the proportion of trees examined below ground that are satisfactory.

A = Total satisfactory trees (not including trees excess of planting spots),

B = Total number of planting spots,

Above ground quality = A/B .

C = Total satisfactory trees below ground,

D = Total number of trees examined below ground.

Below ground quality = C/D .

Planting quality = (Above ground quality x Below ground quality) x 100.

B. Inspection Procedure for Seedling Protection.

1. Approximately one (1) percent of the planting block will be inspected, using circular plots, 1/50 acre in size. Plots will be located throughout the planted area on a systematic grid from a randomly located first plot. Plot centers will be located and marked on the ground with flagging. The plot number will be written on flagging near or on plot center.

2. Inspectors shall check all seedlings on the plot, up to the number of planting spots available. On each plot, number of planted trees, satisfactory protected trees and unsatisfactory trees will be recorded. Codes normally associated with planting quality will be disregarded. The final column labeled "NR" indicates trees in excess of the number of planting spots that were not rated and shall not be included in the "No. of Trees" column.

3. Satisfactory trees shall be undamaged seedlings protected by well anchored tree tubes, with stakes anchored at least 12 inches into the soil and perpendicular to the ground.

4. Unsatisfactory trees include missed trees or those with damage to terminal buds or missing damage to foliage, trees with loose tubes or with tubes leaning more than 15 degrees from a line perpendicular to ground level.

5. Protection Quality = (total number of satisfactory trees / total number of trees) x 100.

C. Actual Acres.

1. Estimated and actual acres are based on horizontal distance.

2. Whenever the area planted is physically different than the estimated area shown in the contract, completed planting blocks shall be traversed using a global positioning system (GPS) receiver to calculate actual acreage for payment. Such differences may arise from portions that cannot be planted due to seedling shortage or site conditions, or from expansion of area planted.

3. The actual acres shall be included in the inspection report for each planting block and if different than the estimated acres, shall be used to adjust payments using the bid price per acre.

D. Penalties.

1. Wasted trees due to improper planting, seedling handling or root pruning will be deducted from payment to the contractor at the rate of thirty-five cents (\$0.35) per tree whenever they result in planting quality of less than 80%.

2. Garbage left on or near the planting block by the contractor after notification by Tribal Forestry shall result in penalties for littering in the amount of \$100.00 per offense to be deducted from payments to the contractor.

E. Acceptance and Payment.

The following standards shall apply for planting quality and seedling protection:

1. Each completed block with quality of ninety percent (90%) or more shall be accepted by the Tribe for payment at 100% of the bid price per block.

2. Payment for any completed block with quality between eighty and ninety percent (80-90%) shall be based upon the quality percentage times the bid price per block.

3. No payment will be made for any blocks where quality is less than eighty percent (80%).

4. Payments for completed planting blocks and/or spray blocks shall be submitted up to twice per month upon invoice by the contractor.

F. Unsatisfactory Performance.

1. If the work quality falls below eighty percent (80%), the contractor will be notified and ordered to improve the quality of planting. If work quality is not improved to at least 80% within two working days, the contract may be terminated.

2. Second Inspection: If the contractor requests a second inspection of any planting block, the Tribe will inspect different plots to calculate an amended work quality. If the amended work quality is within 5 percentage points of the previous inspection, then the contractor shall pay the cost of the second inspection. If the second inspection amends the work quality by more than 5 percentage points, then the Tribe shall pay the cost of both inspections.

3. Rework will be allowed for unsatisfactory performance if there is a reasonable expectation of successfully improving the work quality. Examples include filling in gaps in the planting or spot spraying or straightening tree tubes. A second inspection of the reworked area will be the basis for payment.