



**RESOLUTION OF THE GOVERNING BODY
OF THE THREE AFFILIATED TRIBES
OF THE FORT BERTHOLD INDIAN RESERVATION**

A Resolution entitled, "Rescission of Project Labor Agreement for Four Bears Bridge Project"

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and

WHEREAS, The Constitution of the Three Affiliated Tribes (the "Tribe") generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

WHEREAS, The Tribe and its leaders worked hard to ensure that funds were made available from Congress for the construction of a new bridge across the Missouri River to replace the existing Four Bears Bridge; and

WHEREAS, The Tribe has previously approved, in Resolution No. 03-067-RP, a "Project Labor Agreement" (PLA) with the labor unions active in North Dakota to require that contractors on the Four Bears Bridge project would utilize apprentices enrolled in a Union sponsored apprenticeship training program certified by the U.S. Department of Labor; and

WHEREAS, The North Dakota Department of Transportation, who is constructing the Four Bears Bridge, and the Federal Highway Administration (FHWA), part of the U.S. Department of Transportation, which agency is responsible for supplying the funds for the bridge, have cited Federal regulations, based on a Presidential Executive Order, No. 13202 as amended by EO No. 13208, that prohibits such PLAs; and

WHEREAS, The affected labor unions have agreed that the PLA for this project must be withdrawn for the sole purpose of allowing the Four Bears Bridge project to go forward as scheduled; and

WHEREAS, As a result of the discussion with the State of North Dakota about the PLA, other issues relating to the application and implementation of the Tribal Employment Rights Ordinance ("TERO") have arisen to which the FHWA has responded threatening the State of North Dakota that unless these issues are resolved to the satisfaction of the FHWA, the authority to expend funds on the Four Bears Bridge project will be withdrawn; and

WHEREAS, The Tribe has also previously approved a Memorandum of Understanding with the State of North Dakota in which the State has agreed to allow the Tribe's TERO ordinance to apply to the Four Bears Bridge Project, and that understanding is stated in the Bid Specifications that bidders on the bridge project have already received; and

WHEREAS, The Tribe is continuing to negotiate with the State and the FHWA to ensure that the Tribe's TERO ordinance will be honored prior to the bid opening on the bridge project which is now scheduled for February 14, 2003;

NOW THEREFORE BE IT RESOLVED that the Tribal Business Council hereby rescinds any part of any resolution which approved and authorized the execution of the Project Labor Agreement, and hereby declares the Agreement to be null and void, and authorizes the

PROJECT LABOR AGREEMENT

THREE AFFILIATED TRIBES OF NORTH DAKOTA THREE AFFILIATED EMPLOYMENT RIGHTS OFFICE AND CONSTRUCTION CRAFT UNIONS

PURPOSE:

This Agreement is entered into by and among the Three Affiliated Tribes of North Dakota (Tribes), the Three Affiliated Employment Rights Office (TERO), and North Dakota State Building & Construction Trades Council (Union).

PURPOSE AND SCOPE:

This Agreement applies to the new Three Affiliated Tribes 4 Bears Bridge BRN-7-023(015)046 on the Fort Berthold Indian Reservation. It represents a concerted effort among the parties to provide opportunities for family wage employment; to provide safe, healthy, and clean working environments and working conditions; to provide ongoing apprenticeship, training, employment, and career path opportunities and to provide affordable family health care and the ability to retire with dignity.

TRIBAL SOVEREIGNTY:

All federally recognized Indian Tribes possess inherent sovereign jurisdiction and authority over their territories and the affairs of the Tribes and all parties signatory to this agreement acknowledge that sovereign authority governs the terms of this agreement. The parties agree that the sovereign immunity and authority of the Tribes shall remain intact and unabridged throughout the life of this agreement and that the Three Affiliated Tribes Board Tribal Council shall decide all issues regarding tribal sovereignty and their decision shall be both final and binding.

TERO RECOGNITION:

The Three Affiliated Tribes of North Dakota has adopted a Tribal Employment Rights Ordinance. The Union and all other parties agree to recognize the rights, responsibility and authority and agree to abide by the ordinance. The parties recognize that the ordinance has a primary commitment to employment of Indian tribal members and hiring of Indian preference employees.

UNION RECOGNITION:

The Tribes and TERO recognize the right of the Union to enter into a collective bargaining agreement with the general contractor(s) for this construction project and to act, as a party to that agreement, as the exclusive bargaining representatives of all construction-craft employees performing work on the Fort Berthold Indian Reservation with respect to wages, hours of work, and all other terms and conditions of employment, provided that:

- A. Native American preference contractors shall not be required to recognize the Union as exclusive bargaining representative of their employees.
- B. Indian preference employees may choose not to be members of, or pay dues in lieu of membership, to the Union.
- C. All Non-Native American preference contractors will be signatory to the appropriate craft Union Agreement.

LABOR LIAISON:

If the Tribes so choose, the Unions will appoint a labor liaison. Such appointment is subject to approval of the Tribes. The labor liaison will serve as a point of contact in questions arising from the implementation and interpretation of this agreement. The liaison will help facilitate discussions concerning the execution and application of this agreement and notify the appropriate parties of meetings, concerns, or other items of interest.

INDIAN PREFERENCE WORKERS:

The Union agrees that it shall modify, for this project only, any applicable master labor agreements so as to allow TERO to dispatch qualified Indian preference workers to employers signatory to such agreements. The Union and TERO shall mutually establish hiring-hall rules consistent with the Three Affiliated Employment Rights Ordinance requirements, which shall include first-hire priority rights for all local Indian preference employees. The TERO shall provide a dispatched form, a copy of which shall be forwarded to the signatory employer and the Union upon dispatch of the employees.

NON-UNION WAGE AND BENEFITS:

If the Indian preference contractor of an employee chooses not to join the Union, the following pay schedule will be applicable:

1. Wages will be in accordance with the applicable Union scale.
2. Health, training, and retirement benefits will be made available by the contractor, consistent with the contractors standard benefits package. Should the non-union employees choose not to participate in any portion of the contractor's benefits coverage, a pro-rata amount will be paid directly to the employee at the time of their separation from the project and will be reflected on their final paycheck.
3. The difference between the non-union contractors benefits package and the Union package will be paid direct to the employee at the time of their separation from the project and will be reflected on their final paycheck.
4. Training fund benefits shall be paid by the employer to the appropriate union training fund as directed by the TERO and will not be paid to the employee after separation.

APPRENTICESHIP AND TRAINING:

The parties recognize the necessity for specialized training and agree to indenture qualified Tribal apprentice candidates in bona fide apprenticeship programs registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training or a State Apprenticeship Council, including registered Tribal Apprenticeship Programs. Existing apprenticeship standards and ratios shall be recognized for hiring Indian preference apprentices for the life of this agreement. To insure on the job experience for Tribal members indentured in these registered apprenticeship programs, the Three Affiliated Tribes agrees to encourage the utilization of apprentices by all construction contractors performing work within Tribal territories by including apprentice utilization language in the bid specifications. The Tribes have the option of providing other training for non-union Indian preference employees.

NATIVE AMERICAN DIRECT ENTRY INTO REGISTERED APPRENTICESHIP:

Native Americans who have secured work through this agreement may receive direct entry into apprenticeship as a registered apprentice provided:

1. The employer is a Apprenticeship Program Sponsor registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training or an equivalent State Apprenticeship Council (SAC).
2. The applicant has met the minimum qualifications set forth in the Sponsor's apprenticeship standards for the relevant occupation.
3. The applicant has received pre-apprenticeship training for the relevant occupation.

RESOLUTION OF DISPUTES:

In the event any issue arises pertaining to the interpretation or application of this Agreement, the parties shall arrange for a meeting to be conducted at the earliest mutually-convenient time. In the event the Union and TERO representatives cannot resolve any issue within thirty (30) days after it having been brought to the parties' attention, the issue will be referred to the TERO Commission for final and binding determination.

The foregoing procedure shall constitute the exclusive method for resolving issues arising under this agreement. No part to this Agreement may resort to economic action (e.g., strike, slow-down, cessation of work or non-dispatch of personnel) to resolve any dispute between the parties throughout the life of this agreement.

The grievance procedure found in the appropriate craft's local labor agreement shall apply to all disputes arising under said Agreement. The TERO shall have the right to dispatch a representative to any grievance proceeding in which an Indian preference employee is involved.

UNION MEMBERSHIP:

Although Union membership is not required for Indian preference employees, Tribes agrees to allow Union representatives and/or training agents to demonstrate the benefits of Union membership to all trainees. Tribes further agree to encourage Tribal members and other natives to join the respective craft Union.

AMMENDMENTS TO THE AGREEMENT:

This agreement may be amended at any time during the life of the agreement by mutual consent between all parties.

TERMINATION:

This agreement may be terminated with 30 days written notice by the party wishing to terminate.

For the Three Affiliated Tribes:

Signature

Title

Date

For the TERO:

Signature

Title

Date

For the Unions:

Signature

Title

Date



Chairman to execute an Agreement with the labor unions who signed the PLA that will rescind the PLA; and

NOW THEREFORE BE IT FURTHER RESOLVED that the Tribal Business Council hereby authorizes the Chairman of the Mandan, Hidatsa and Arikara Nation to negotiate and execute any and all agreements necessary to ensure that to the maximum extent possible, the Tribe's TERO ordinance will be complied with during the construction of the Four Bears Bridge, including any agreement that will determine the extent of the application of the TERO ordinance to this project.

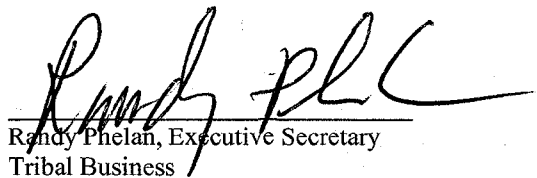
CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, ___ were present at a _____ Meeting thereof duly called, noticed, convened and held on the 5th day of February, 2003, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of ___ members, ___ members opposed, ___ members abstained, ___ members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman Voting. [] Not Voting.

Dated this 5th day of February, 2003.

ATTEST:


Randy Phelan, Executive Secretary
Tribal Business

Tex G. Hall, Chairman
Tribal Business Council