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

A Resolution Entitled Waiver of Application of the TERO Tax to the Construction Contract for the Construction of the new Elbowoods Health Care Facility"

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act and having adopted a Constitution and By-laws pursuant to said Act; and

WHEREAS, Article III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and

WHEREAS, The Constitution of the Three Affiliated Tribes 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, Article VI, Section 5 (l) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the power to adopt resolutions regulating the procedure of the Tribal Business Council and other Tribal agencies and Tribal officials on the Reservation; and

WHEREAS, The Tribe has enacted a Tribal Employment Rights Ordinance (TERO), pursuant to Resolutions no. 83-122-S and No. 93-40-JJR, which requires that Indian people, and particularly members of the Three Affiliated Tribes, be preferred in employment opportunities and contracting projects that occur within the Fort Berthold Indian Reservation; and

WHEREAS, The Tribal Employment Rights Ordinance also imposes a TERO tax on contracting activities which occur within the Fort Berthold Indian Reservation, without exception, which is used, in part, for funding of the TERO office, and

WHEREAS, Congress enacted into law Public Law 108-437 which authorizes the appropriation to the Secretary of Health and Human Services $20,000,000 for the construction of, and such other sums as are necessary for the other expenses relating to, a rural health care facility on the Fort Berthold Indian Reservation; and
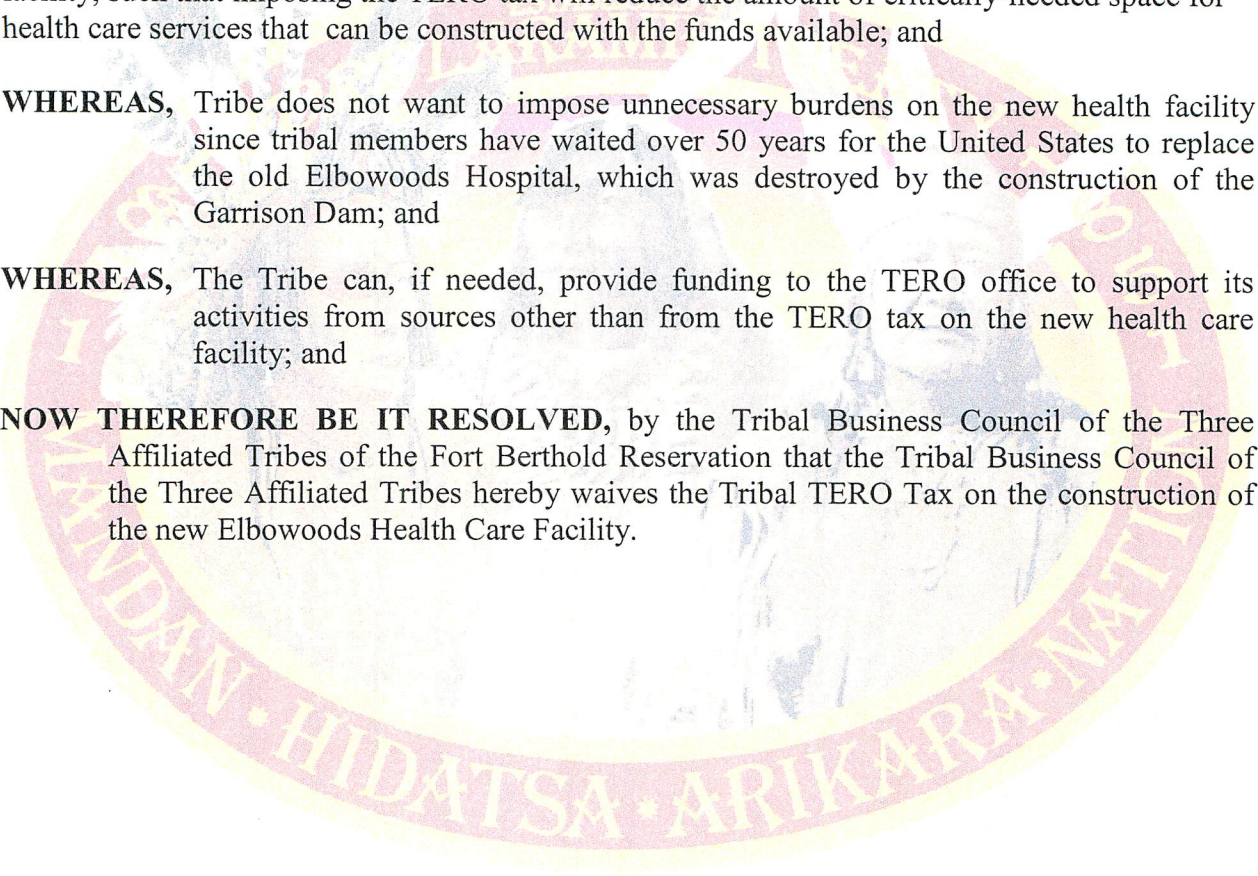
1

WHEREAS, The Elbowoods Memorial Healthcare facility is being designed and constructed by the U.S. Army Corps of Engineers; and

WHEREAS, The TERO tax will have an adverse impact on the construction of the new Elbowoods Health Care Facility since Congress is providing a limited amount of money for that facility, such that imposing the TERO tax will reduce the amount of critically-needed space for health care services that can be constructed with the funds available; and

WHEREAS, Tribe does not want to impose unnecessary burdens on the new health facility since tribal members have waited over 50 years for the United States to replace the old Elbowoods Hospital, which was destroyed by the construction of the Garrison Dam; and

WHEREAS, The Tribe can, if needed, provide funding to the TERO office to support its activities from sources other than from the TERO tax on the new health care facility; and

NOW THEREFORE BE IT RESOLVED, by the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation that the Tribal Business Council of the Three Affiliated Tribes hereby waives the Tribal TERO Tax on the construction of the new Elbowoods Health Care Facility.

CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 5 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 10th day of July 2009; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [✓] voting. [ ] not voting.

Dated this 10th day of July 2009.

ATTEST:

_____
Tribal Secretary, V. Judy Brugh
Tribal Business Council
Three Affiliated Tribes

_____
Tribal Chairman, Marcus Levings
Tribal Business Council
Three Affiliated Tribes