



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

A Resolution Entitled: "Request to the Bureau of Indian Affairs for Negotiated Guaranteed Maximum Price and Square Footage Reduction for Twin Buttes K-8 Replacement School".

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, The Constitution of the Three Affiliated 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, 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, 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

WHEREAS, Article VI, Section 5 (d) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the power to negotiate with Federal, State and local governments on behalf of the Tribe and to advise and consult with representatives of the interior Department on all activities that may affect the Fort Berthold Reservation; and

WHEREAS, pursuant to Resolution 05-66 NH Dated April 22, 2005 the Tribal Business Council authorized the Tribe to participate as a grantee for federal matching funds under the Tribal School Construction Demonstration Program for the replacement of the Twin Buttes School; and

WHEREAS, The Tribe and the Twin Buttes School District successfully received a Congressional appropriation in the amount of \$3,944,000 under the Tribal School Construction Demonstration Program for the construction of a new elementary school in Twin Buttes, North Dakota as set out Public Law 108-447, Consolidated Appropriations Act of 2004; and

WHEREAS, Pursuant to Public Law 108-108, which established the Tribal School Construction Demonstration Program, the Tribe was required to commit a tribal match of 50 percent of the costs of construction of the New School; and





WHEREAS, the Tribe entered into a Indian Self-Determination Agreement GTA04T301K1 with the Secretary of the Interior in September 2005 to receive the grant funds and construct the Twin Buttes Replacement School; and

WHEREAS, as required by the Grant and BIE and BIA regulations the Tribe prepared a program of requirements (POR) for the design of the school that required a school that be designed with approximately 36,689 square feet which is far above the actual need of the Twin Buttes Community based on current and projected student population; and

WHEREAS, the Tribe and its design team have completed the design phase of the new Twin Buttes School according to the requirements of the POR, the BIA design guidelines and the construction budget has been established at \$7,709,119.11 for the construction of the new Twin Buttes Demonstration School and construction bids received exceeded the available budget by almost \$4 million dollars and were consequently rejected; and

WHEREAS, The Design Team, Project Management and the BIA have agreed to pursue acquisition of a construction contractor via a Negotiated Guaranteed Maximum Price process giving the contractor the ability to suggest value engineering alternatives to reduce construction costs; and

WHEREAS, The Design Team, Project Management and the BIA, thru an interview and proposal process, believe that it is in the Tribe's best interest to work with Flintco Constructive Solutions as the contractor for the Twin Buttes Demonstration School; and

WHEREAS, Even with maximum value engineering options, construction costs still exceed the construction budget and Project Management and the Design Team feel that the only way the Tribe can meet the budget is by working with the Twin Buttes School Board and the BIA to reduce the square footage of the new school building and the design team has come up with a plan for reducing the square footage of the building that will allow the Tribe to build the school within the available budget; and;

WHEREAS, The Program of Space Requirements (POR) was determined for compliance with BIA OFMC/OIEP Education Space Criteria Handbook, but exceeds the required needs of the Twin Buttes Demonstration School, and space reductions will not adversely affect the overall design intent of the facility nor compromise the quality of education at the Twin Buttes Demonstration School; and

WHEREAS, The BIA is not willing to support a Waiver Request to consider a realistic change in the POR square footage requirements to reduce the size of the school; and





WHEREAS, The Tribal Business Council finds that in order to successfully complete this Project and construct a school that is financially feasible and that is designed at a capacity that is appropriate for the Twin Buttes school district that it is imperative that the BIA cooperate with the Tribe and authorize a waiver on certain space requirements for the construction of the school; and

NOW THEREFORE BE IT RESOLVED that The Tribal Business Council of the Three Affiliated Tribes hereby requests that the Bureau of Indian Affairs work with the Tribe to continue value engineering the present design and reduce the size of the Twin Buttes Replacement School to meet the construction budget of \$7,709,119.11; and

BE IT FURTHER RESOLVED that Tribal Business Council hereby requests the following changes to the Program of Requirements for the design of the school be authorized by the BIA:

1. Eliminate Male and Female PE Office and toilet and shower as there is no staffing for these spaces;
2. Reduce Locker Room size
3. Eliminate Executive Director Office as there is no staffing for this space;
4. Eliminate audio/visual storage space from library;
5. Reduce Computer lab and incorporate into Library Space
6. Reduce the size of the 8th grade Science Classroom
7. Reduce the size of the 6th grade art classroom
8. Reduce the size number of toilet facilities.
9. Any other reductions in space that are determined reasonable based on the population and needs of the school and community.

BE IT FINALLY RESOLVED, that the Tribal Business Council approves the Negotiated Guaranteed Maximum Price contractor acquisition process.

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, 5 were present at a **Regular TBC** Meeting thereof duly called, noticed, convened and held on the **20th** day of **October**, 2011, 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 [X] Voting. [] Not Voting.

Dated this 20th day of October, 2011.





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

ATTEST:

Tribal Chairman Tex G. Hall
Tribal Business Council
Three Affiliated Tribes

