

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

- 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 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 VI, Section 3(a) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to present any claims or demands of the Tribes and to assist members of the Tribes in presenting their claims or grievances before any agency of government; and
- WHEREAS,** Article VI, Section 5 (d) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to negotiate with agencies of the United States Government on behalf of the Tribes; and
- WHEREAS,** The Three Affiliated Tribes have enacted and are currently implementing the Tribal Employment Rights Ordinance and certain supplementary statutory and regulatory laws for the purpose of exercising their legal right to compel employers doing business on the Fort Berthold Reservation to grant preference to (1) qualified and available Indian individuals in employment and training opportunities and to (2) qualified and available Indian-owned firms in the award of contracts and subcontracts; and
- WHEREAS,** There exists substantial legal support for the policy of Indian preference in employment and contracting in federal statutory and regulatory law, e.g., Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e et seq.), the Indian Self-Determination and Education Assistance Act (25 U.S.C. §450 et seq.), the federal regulations implementing the latter Act (25 C.F.R. §271.44), and the federal regulations promulgated by the Office of Federal Contract Compliance Programs (41 C.F.R. §60-1.5(a)(6)); and

WHEREAS, Chapter 6, Sections C through F of the Tribal Employment Rights Ordinance prescribe a tier system in the context of Indian preference in contracting, whereby employers subject to such preference requirements are obligated to grant primary preference in the award of contracts to qualified and available Indian-owned firms which have been formally certified by the Tribal Employment Rights Commission and whose principal places of business are located within the exterior boundaries of the Fort Berthold Reservation, without regard to tribal affiliation; and

WHEREAS, Federally funded employers doing business on the Fort Berthold Reservation, such as the Bureau of Indian Affairs, the Indian Health Service, and the Fort Berthold Housing Authority, are not only subject to the Indian preference requirements mandated by the Tribal Employment Rights Ordinance, but are also mandated to grant preference in contracting to Indian-owned firms pursuant to governing federal statutes, regulations, and/or internal agency policies; and

WHEREAS, The irony inherent in the implementation by the Three Affiliated Tribes of their Tribal Employment Rights Ordinance is constituted by the substantially greater degree of success with which the Tribes have historically met in securing compliance by non-Indian Reservation employers with their contracting preference requirements, than in securing such compliance by the above-identified federally funded agencies whose respective responsibilities and endeavors are theoretically to be undertaken for the benefit of the Indian people on the Reservation; and

WHEREAS, In the case of the Bureau of Indian Affairs, the Indian Health Service, and the Fort Berthold Housing Authority, each of said federally funded agencies has failed to consistently comply with the applicable requirements prescribed by the Tribal Employment Rights Ordinance in the award of their respective construction contracts on the Fort Bethold Reservation, which failure makes a mockery of the attempt by the Tribes to exercise and enforce their right to Indian preference in contracting and is seriously detrimental to their efforts to enforce the Tribal Employment Rights Ordinance prescriptions against non-Indian employers doing business on the Reservation; and

WHEREAS, On behalf of the Tribal Employment Rights Office and the members of the Tribes who have been directly aggrieved by the failure of the above-identified agencies to consistently comply with the relevant requirements set forth in the

Ordinance, the Tribal Business Council has determined that said agencies must forthwith and in good faith commence their respective pursuit of the practical implementation, in the context of Indian preference, of the Indian policy espoused by recent federal administrations, wherein federal and federally funded agencies are mandated to work with Indian tribes on a government-to-government basis and to assist tribes in their pursuit of economic development on their respective reservations;

NOW, THEREFORE, BE IT RESOLVED, That the Tribal Business Council of the Three Affiliated Tribes hereby respectfully and generally mandates that the Bureau of Indian Affairs, the Indian Health Service, and the Fort Berthold Housing Authority forthwith fully and consistently comply with the applicable Indian preference in contracting requirements prescribed by the Tribal Employment Rights Ordinance and supplementary statutory and regulatory laws of the Three Affiliated Tribes.

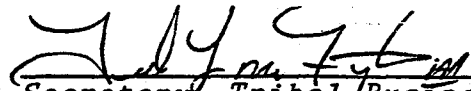
BE IT FURTHER RESOLVED, That the Tribal Business Council of the Three Affiliated Tribes hereby respectfully and specifically mandates that the Bureau of Indian Affairs, the Indian Health Service, and the Fort Berthold Housing Authority each give to the Tribal Employment Rights Office of the Three Affiliated Tribes reasonable written notice of their respective anticipated contracts for any and all construction projects to be performed within the exterior boundaries of the Fort Berthold Reservation, said reasonable written notice to be given prior to the development of any and all bid solicitation documents relating to the respective projects.

BE IT FURTHER RESOLVED, That the Tribal Business Council of the Three Affiliated Tribes hereby directs the staff of the Tribal Employment Rights Office to forthwith schedule a meeting with the appropriate representatives of the Bureau of Indian Affairs, the Indian Health Service, and the Fort Berthold Housing Authority, at which meeting the Tribal Employment Rights Office staff shall review and discuss with such representatives of said agencies the applicable Indian preference in contracting requirements prescribed by the Tribal Employment Rights Ordinance and supplementary statutory and regulatory laws of the Three Affiliated Tribes.

C E R T I F I C A T I O N

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, 6 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 13th day of October, 1988; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Dated the 13th day of October, 1988.


Secretary, Tribal Business Council

ATTEST:


Chairman, Tribal Business Council