

**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,** Under a Self-Determination Contract entered into between the Three Affiliated Tribes and pursuant to P.L. 93-638, the Three Affiliated Tribes operates a kidney dialysis unit (KDU) in New Town, North Dakota for the benefit of Tribal members and others in northwest North Dakota; and
- WHEREAS,** The KDU understands that the St. Alexius Medical Center is willing to provide at no cost to the Three Affiliated Tribes for a period of two years equipment for use by the KDU that will allow consultations between health care professionals at the KDU and other remote medical centers who have similar equipment, via simultaneous video and audio transmissions between the sites, a process commonly called "telemedicine"; and
- WHEREAS,** At this time, the primary remote consultation site would be the St. Alexius Medical Center, whose physicians are already working with the Three Affiliated Tribes as physician extenders and with the KDU; and
- WHEREAS,** Such services as will be provided through telemedicine consultation services will allow the Three Affiliated Tribes' KDU to improve substantially its service to its patients; and
- WHEREAS,** A contract for the provision of these services has been reviewed and revised by the Tribes' Legal Department and is ready for the signatures of the appropriate officials of each party;
- NOW, THEREFORE, BE IT RESOLVED,** That the Tribal Business Council hereby authorizes its Tribal Chairman or Vice-Chairman to execute the attached agreement for provision of telemedicine equipment to the Three Affiliated Tribes Kidney Dialysis Unit between the Three Affiliated Tribes and the St. Alexius Medical Center.


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, 5 were present at a Special Meeting thereof duly called, noticed, convened, and held on the 25th day of April, 1996; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 0 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 25th day of April, 1996.

Daylon Spotted Bear
Secretary, Tribal Business Council

ATTEST:



Chairman, Tribal Business Council

R#96-88-DSB
(Copy of Attachment)

TELEMEDICINE AGREEMENT FOR VIDEO TELEPRESENCE CONSULTATION

THIS AGREEMENT is made and entered this _____ day of _____, 1996, between St. Alexius Medical Center, Bismarck, North Dakota, and the Three Affiliated Tribes Kidney Dialysis Unit, New Town, North Dakota.

St. Alexius Medical Center and Three Affiliated Tribes KDU desire to cooperate in a program involving video telepresence consultations. The objective of such a cooperative program is the improvement of medical care for patients using state of the art telecommunication technology. In undertaking such care, the parties recognize that the patient is solely the responsibility of the attending physician and Three Affiliated Tribes KDU which have exclusive control over the patient and the care and treatment to be rendered.

In consideration of the mutual promises, covenants and conditions, the parties do agree as follows:

RESPONSIBILITIES OF ST. ALEXIUS MEDICAL CENTER:

1. St. Alexius Medical Center will have installed and maintained at its Bismarck facilities appropriate equipment needed in the opinion of St. Alexius Medical Center to carry out the services to be provided.
2. St. Alexius Medical Center will provide to Three Affiliated Tribes KDU the video telepresence equipment which, in the opinion of St. Alexius Medical Center is appropriate to the service. Attachment "A" represents an itemized list of this equipment. Equipment will

be provided to Three Affiliated Tribes KDU at no cost for a period of two (2) years.

3. St. Alexius Medical Center will be responsible for repair and maintenance of the video telepresence equipment located at Three Affiliated Tribes KDU.
4. St. Alexius Medical Center will be responsible for installation cost of telecommunication lines within Three Affiliated Tribes KDU and also the monthly telecommunications line expense between St. Alexius Medical Center and Three Affiliated Tribes KDU for the 2 year period.
5. St. Alexius Medical Center will provide initial orientation and training of staff regarding proper use of the Telemedicine equipment, and will be available for ongoing support as needs arise.

RESPONSIBILITIES OF THREE AFFILIATED TRIBES KDU:

1. Three Affiliated Tribes KDU agrees to provide adequate space for the equipment and video telepresence consultation. This can be an examination room or treatment area with sufficient space to accommodate the physician and patient.
2. Three Affiliated Tribes KDU agrees that it bears the entire and sole responsibility for the care and treatment of the patient within the institution along with the attending physician. All services furnished

by St. Alexius Medical Center shall be in addition to, and not in lieu of, the services normally furnished for adequate patient care by Three Affiliated Tribes KDU.

3. Three Affiliated Tribes KDU recognizes and agrees that the video telepresence consultation services provided by St. Alexius Medical Center and any advice rendered in connection therewith shall be advisory only. The decision to utilize or reject in whole or in part such information or advice shall be solely the responsibility of the attending physician and Three Affiliated Tribes KDU. In this connection the parties agree that no physician/patient, nurse/patient nor hospital/patient relationship is created between St. Alexius Medical Center and its personnel and patients at Three Affiliated Tribes KDU. No employer/employee relationship shall exist by reason of this agreement between St. Alexius Medical Center or any of its medical staff or personnel and Three Affiliated Tribes KDU or any of its medical staff or personnel. Three Affiliated Tribes KDU agrees to hold harmless St. Alexius Medical Center from any claims or actions by

patients at Three Affiliated Tribes KDU against St. Alexius Medical Center which may arise by reason of this agreement or any services furnished as a result of this agreement.

4. Three Affiliated Tribes KDU agrees that St. Alexius Medical Center shall not be responsible to Three Affiliated Tribes KDU or its patients for breakdowns or the failure to function properly of any of the mechanical, electrical, communications or other equipment involved in the performance of this Agreement.
5. Three Affiliated Tribes KDU represents to St. Alexius Medical Center that liability for bodily injury caused by the negligent or wrongful act or omission of any employee, or person acting under the direction of an employee of the Three Affiliated Tribes KDU while acting within the scope of his or her employment, is considered a government employee and therefore is covered by the Federal Tort Claims Act (FTCA), 28 United States Code S1346(b), in an unlimited amount, both as to per occurrence coverage and in the aggregate. Further, the Three Affiliated Tribes KDU represents to St. Alexius Medical Center that it

carries property damage insurance in excess of \$1,000,000. Such insurance shall be carried in companies acceptable to St. Alexius and the coverage provided therein shall not be reduced, modified, or discontinued during the term of this agreement without the consent of St. Alexius Medical Center.

6. Three Affiliated Tribes KDU agrees to designate a staff member/members to be the on-site Telemedicine resource and contact person.
7. Three Affiliated Tribes KDU will display a commitment to ensure that designated staff attend scheduled Telemedicine training sessions, and be able to demonstrate minimum competency in operating the equipment prior to assisting with any consultations.

COMMENCEMENT OF SERVICES:

The parties mutually agree that the target date for the commencement of such services will be 60-90 days following the signature of the contract by both parties. In setting such date the parties recognize that each party will provide its best efforts to facilitate the commencement of services on the target date. However, it is also recognized that delays may occur and no delay shall be considered a violation of this agreement.

TERMINATION:

This Agreement shall commence as of the date of its execution and shall remain in full force and effect until terminated pursuant to this provision. This Agreement may be terminated by either party upon 30 days written notice to the other. Notice shall be deemed to have been given when deposited in the United States mails, postage prepaid, addressed to the administrator of the Facility which is being informed of the termination.

Upon termination Three Affiliated Tribes KDU will return the video telepresence equipment to St. Alexius Medical Center. No termination charges will be assessed by St. Alexius Medical Center.

U.S. GOVERNMENT ACCESS TO BOOKS, DOCUMENTS, AND RECORDS:

To the extent that Section 952 of the U.S. Government's Omnibus Reconciliation Act of 1980 (the "Act"), amendments to the Act, or regulations promulgated under the Act are applicable to this Agreement, St. Alexius Medical Center agrees that until the expiration of four years after the furnishing of services under this Agreement, it shall, upon written request, make available to the Comptroller General of the United States, the Secretary of the Department of Health and Human Services, and their duly

authorized representatives, this Agreement and such books, documents, and records that are necessary to certify the nature and extent of cost under this Agreement or under any subcontract based on the services contracted for under this Agreement or under any subcontract based on the services contracted for under this Agreement. This provision shall apply only if the Facility Telepresence Agreement is subject to the laws of the United States and only if the value or cost of this Agreement and Supplement(s) to it equal ten thousand dollars (\$10,000) or more in any twelve (12) month period. The availability of St. Alexius Medical Center's books, documents, and records shall be subject at all times to such reasonable criteria and procedures for seeking and obtaining access as may be promulgated by regulations and other applicable laws. The Comptroller General or the Secretary must furnish a written request which gives a reasonable basis for seeking access to such books, documents, and records. St. Alexius Medical Center's disclosure under this paragraph shall not be construed as a waiver of any other legal rights to which St. Alexius Medical Center may be entitled under existing or future laws or regulations.

This Agreement has been executed as of the day stated in the opening paragraph.

Three Affiliated Tribes
Tribal Chairman

St. Alexius Medical Center
Administrator/CEO

Three Affiliated Tribes
Tribal Program Manager

Date: _____

Date: _____