



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

A Resolution entitled: “*Approving Interim TERO Ordinance and TERO Regulation Amendments*”

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, In May of 1983, the Three Affiliated Tribes Council passed a Tribal Resolution establishing the Tribal Employment Rights Office (TERO), exercising its inherent sovereign powers by placing Indian Preference on employers working within the Exterior Boundaries of the Fort Berthold Indian Reservation; and

WHEREAS, The governing body of the Mandan, Hidatsa and Arikara Nation has an obligation on behalf of its constituents and members to govern business licenses and enforce Indian preference in employment and contracting and has delegated such control to TERO with the understanding that the Tribal chain of command allows the Tribal Business Council to intervene on a case by case basis or for times of certain duration; and

WHEREAS, on August 11, 2016 Resolution No. 16-175-LKH “resolved that the Chairman is authorized to develop and implement interim guidelines, with input from the TERO Commission, that clarify the requirements of eligibility for Indian preference under the TERO and its Regulations, and to reassess the eligibility of Indian firms for Indian preference under the TERO and its Regulations according to a proper interpretation of the TERO and its implementing Regulations.” The August 11, 2016 Resolution No. 16-175-LKH further stated that there are Indian owned firms that “act as fronts for non-Indian companies in order to obtain Indian preference;” and

NOW THEREFORE BE IT RESOLVED, that the Tribal Council hereby acknowledges and supports the efforts of TERO, on behalf of the allottees and the MHA Nation and approve the following changes to the TERO Ordinance:



1. That the TERO Commission is directed to establish a system which abolishes the Ordinance mandate of “preference in contracting and subcontracting to qualified firms that are certified by the TERO as 51% or more Indian-owned and controlled” and replace it with a system for **certifying Indian firms** as Indian preference eligible based on factors that reflect bona fide ownership and management in the day to day operation of the business of the Firm where preference is given at levels based on factors that reflect Indian preference, such as the percentage of the firm that is actually owned and managed by tribal members and other factors consistent with the purpose of the TERO Ordinance;
2. Chapter 16 regarding Business Licensing shall come under the TERO Regulations for the TERO Commission to administer;
3. Chapter 17 (but not subchapter 2 of Chap. 17) regarding Commerce and Trade shall come under the TERO Regulations for the TERO Commission to administer, subchapter 2 regarding liquor shall remain under the exclusive domain of the MHA Tribal Business Council;

BE IT FINALLY RESOLVED, the Tribal Chairman is hereby authorized to take such action as is necessary to carry out the terms and intent of this Resolution.

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, 7 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 16th day of December, 2016, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 7 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 16th day of December, 2016.

ATTEST:

Tribal Secretary, Fred W. Fox
Tribal Business Council
Three Affiliated Tribes

Tribal Chairman, Mark N. Fox
Tribal Business Council
Three Affiliated Tribes