



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

A Resolution entitled "Approval of Contract with Jackson & Associates, Inc."

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and

WHEREAS, The Three Affiliated Tribes Constitution and Bylaws authorizes and empowers the Mandan, Hidatsa and Arikara Tribal Business Council to engage in activity on behalf of and in the best interest and welfare of the Tribes and the enrolled members thereof; and

WHEREAS, Article VI Section 5 (c) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to administer funds within the exclusive control of the Tribes and to make expenditures from available funds for public purposes of the Tribes; and

WHEREAS, The Three Affiliated Tribes has negotiated with Jackson & Associates, Inc. to raise \$11,000,000.00 and create an endowment for the proposed Cultural Interpretive Center and Earth Lodge Village project; and

WHEREAS, The agreement between the Three Affiliated Tribes and Jackson & Associates, Inc. is for the amount of \$330,000.00 for a two year period plus reasonable expenses capped at \$ 68,000, with the first year amount of \$165,000 and the second year pending a successful capital campaign review after the first year; and

WHEREAS, The initial two year period of the Capital Campaign is to conduct and provide for the continuation of fund raising eleven million dollars (\$11,000,000) over a five year period; and

WHEREAS, The Tribal Council desires to approve said agreement a copy of which is attached hereto.

NOW, THEREFORE BE IT RESOLVED, That the Tribal Business Council of the Three Affiliated Tribes hereby approves of the attached contract with Jackson & Associates, Inc. the purpose of which is to conduct a capital and endowment campaign to raise eleven Million dollars, (\$11,000,000) over a five year period.

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. 6 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 9th day of October, 2003, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 5 members, 0 members opposed, 1 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 9th day of October, 2003.

Randy Phelan
Randy Phelan, Secretary
Tribal Business Council

ATTEST:
Tex G. Hall
Tex G. Hall, Chairman
Tribal Business Council

27. **RESOLUTION NO. 03-274-RP-DAKOTA DREAMS PROJECT:**

Councilman Wells moved for approval of a resolution of support for the Northwest Venture communities grant application. Councilman Wolf seconded the motion.

VOTE: 6 Ayes, 0 Nays, 0 Abstentions, 0 Not Voting. Motion carried.

~~28. **RESOLUTION NO. 03-275-RP-JACKSON & ASSOCIATES:**~~

~~Councilman Wells moved for approval of Jackson & Associates, Inc. contract subject to identification of the \$330,000, to include language that Jackson & Associates, Inc. will produce \$42,500, and a draft proposal or outline of work product (as defined A-M). Councilman Packineau seconded the motion.~~

~~VOTE: 5 Ayes, 0 Nays, 1 Abstention, 0 Not Voting. Motion carried.~~

29. **RESOLUTION NO. 03-276-RP-GROSS PRODUCTION TAX:**

Councilman Wells moved for approval of a resolution to assess Gross Production Tax retroactive to 1997. Councilman Spotted Bear seconded the motion.

VOTE: 6 Ayes, 0 Nays, 0 Abstentions, 0 Not Voting. Motion carried.

30. **RESOLUTION NO. 03-277-RP-EDUCATIONAL ADVISORY COMMITTEE:**

Councilman Wells moved for approval of a resolution creating an Educational Advisory Committee for the purpose of Education Code Development. Councilman Spotted Bear seconded the motion.

VOTE: 5 Ayes, 0 Nays, 0 Abstentions, 0 Not Voting. Motion carried.

31. **RESOLUTION NO. 03-278-RP-CIRCLE OF TRIBAL ADVISORS:**

Councilman Wells moved for approval of a resolution to provide an In-Kind match of 100% of \$10,000.00 for the 2004-05 Circle of Tribal Advisors (COTA) Tribal Enhancement Grants for the National Council of the Lewis and Clark Bicentennial. Councilman Phelan seconded the motion.

VOTE: 5 Ayes, 0 Nays, 0 Abstentions, 0 Not Voting. Motion carried.

32. **SOBRIETY CHECKPOINTS:**

Councilman Wells moved for approval of an annual sobriety checkpoint within the exterior boundaries of the Fort Berthold Indian Reservation, subject to TAT Legal review. Councilman Packineau seconded the motion.

VOTE: 5 Ayes, 0 Nays, 0 Abstentions, 0 Not Voting. Motion carried.

33. **FOUR BEARS WASTEWATER TREATMENT PROJECT 556MOA1:**

Councilman Wells moved for approval of a meeting with all parties (TERO Commission, Baranko Brothers, and TEK Industries) on Thursday, October 16, 2003. Councilman Phelan seconded the motion.

VOTE: 5 Ayes, 0 Nays, 0 Abstentions, 0 Not Voting. Motion carried.



5-0-1-0
see notes

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WHEREAS, The agreement between the Three Affiliated Tribes and Jackson & Associates, Inc. is for the amount of \$330,000.00 for a two year period plus reasonable expenses capped at \$ 68,000, with the first year amount of \$165,000 and the second year pending a successful capital campaign review after the first year; and

WHEREAS, The initial two year period of the Capital Campaign is to conduct and provide for the continuation of fund raising eleven million dollars (\$11,000,000) over a five year period; and

WHEREAS, The Tribal Council desires to approve said agreement a copy of which is attached hereto.

NOW, THEREFORE BE IT RESOLVED, That the Tribal Business Council of the Three Affiliated Tribes hereby approves of the attached contract with Jackson & Associates, Inc. the purpose of which is to conduct a capital and endowment campaign to raise eleven Million dollars, (\$11,000,000) over a five year period.

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, _____ were present at a _____ Meeting thereof duly called, noticed, convened and held on the ___ day of _____, 2003, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of _____ members, _____ members opposed, _____ members abstained, _____ members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [] Voting. [] Not Voting.

Dated this ___ day of _____, 2003.

ATTEST:

Randy Phelan, Secretary
Tribal Business Council

Tex G. Hall, Chairman
Tribal Business Council

Program Agreement

THIS AGREEMENT is made and entered into this 9th day of October, 2003, by The Three Affiliated Tribes, a North Dakota not for profit corporation with its principal offices located at 336 Main Street, P.O. Box 610, New Town, North Dakota 58763, (hereinafter referred to as "Client"), and Jackson & Associates, Inc., a Colorado corporation, with its principal offices located at 29713 Troutdale Scenic Drive, P.O. Box 2827, Evergreen, Colorado 80437-2827 (hereinafter referred to as "Jackson").

WHEREAS, Client desires to conduct a capital and endowment campaign to raise eleven million dollars (\$11,000,000) over a five year period and

WHEREAS, Jackson has been in business for over 30 years; directing, managing and supervising capital and endowment campaigns for non profit organizations;

NOW THEREFORE, for and in consideration of the covenants, representations, and payments, and other considerations herein set forth, Client and Jackson, agree as follows:

1. Client agrees to retain the services of Jackson to direct, manage and supervise a capital and endowment campaign (hereinafter referred to as the "Program") for and on behalf of Client over a minimum of twenty four (24) months beginning on or about October 6, 2003, and ending on or about September 30, 2005 (hereinafter referred to as the "Term of the Program"). After twenty four months (24) Jackson would be retained on a ninety (90) day renewable agreement. The Program's objective is to raise in immediate, pledged, deferred, in-kind gifts and grants, a goal to be determined by Jackson, after the first twelve (12) months and the completion of the major gifts phase. All gifts to Client and to the Program during the original term of this Agreement and any extension, including, but not limited to, immediate, pledged, deferred, in-kind gifts and grants shall be credited towards the Program's goal and objective.
2. During the Term of the Program, Jackson agrees to direct, manage and supervise for and on behalf of Client, the Program, using one or more Jackson employee(s). The Jackson employee(s) serving on Client's behalf during the Term of the Program shall work three (3) man weeks a month for the Client to organize, train, and direct Program volunteers; prepare written materials for Client's publication to publicize its Program; and assist in public awareness. Jackson' employee(s) shall work two (2) man weeks a month onsite for the client. All Jackson employees shall be under the direction, management and supervision of Jackson's principal offices and officers. Client agrees that the daily itinerary for all of Jackson's employees rests solely with Jackson. Jackson shall give Client benefit of its accumulated experience in counsel, supervision, and advice as needed throughout the Term of the Program.

Working with the Client, Jackson's employee(s) shall:

- a.) Design a campaign plan.
 - b.) Refine and complete a case statement.
 - c.) Select computer hardware and software, if needed.
 - d.) Assist in recruiting, training and motivating key leadership.
 - e.) Develop promotional materials, including brochures and audiovisuals.
 - f.) Implement a public awareness program.
 - g.) Develop alternative recognition programs.
 - h.) Research which pace-setting firms, individuals and grant resources to approach.
 - i.) Research and write a common grant application for grant prospects.
 - j.) Assist in recruiting training and motivating other volunteers.
 - k.) Set up ongoing fund-raising programs including planned giving.
 - l.) Provide Client with monthly written status report regarding Program.
 - m.) Do everything reasonably possible to advance the interests of the undertaking and to reach the Program objective during the Term of the Program.
3. At all times all Jackson employee shall strictly adhere to the ethical standards of the Association of Hospital Philanthropy and of the Association of Fund-Raising Professionals.
 4. Client shall use its best efforts to assist the Program to reach its objective by completing the following tasks under Jackson's direction and supervision:
 - a.) Hire or provide a full time office assistant who will work to assist Jackson reach the Program's objective.
 - b.) Enlist the cooperation of any and all needed volunteers through leadership lunches and personal visits; and
 - c.) Appoint its chief financial officer as its staff representative to the Program to
 - i) verify all contributions; and

- ii) render monthly reports in duplicate to both Client and Jackson's principal offices of each and every subscription received by the Program for such period, whether in the form of immediate, pledged, deferred, in-kind gifts or grants; and to report on all funds deposited for the period in the banking and/or financial institutions designated by Client for deposit of Program funds; and
 - d.) Client will assist with leadership lunches, participate in the steering committee, and assist with publicity and tasks to further the campaign as directed by Jackson; and
 - e.) Provide the cooperation with Jackson employee to bring mutual success to the Program; and
 - f.) Do everything reasonably possible to advance the interests of the undertaking and to reach the Program objective during the Term of the Program.
- 5. Jackson employee shall not request and Client represents and warrants that it shall not allow any Jackson employee to ever handle or to have temporary custody or access to Client or Program funds at any time. All funds raised and received shall be made payable to the Tribe or any nonprofit corporation or foundation formed by the Tribe for the purpose of raising money for the proposed Tribal Interpretive Center or like project. The Tribe shall establish a special account separate and distinct from other Tribal funds in which all funds raised and received by Jackson shall be deposited.
- 6. For Jackson's services over the twenty four (24) month period, Client agrees to pay to Jackson a fee of three hundred thirty thousand dollars (\$330,000), payable as follows:
 - a.) Forty Two Thousand five hundred dollars (\$42,500) to be paid upon signing of this Agreement; and
 - b.) Twenty three (23) payments of twelve thousand five hundred dollars (\$12,500) to be received at Jackson's principal offices on the first day of each month during the Term of the Program commencing November 1, 2003, and payable so as to be received by Jackson on or before the first day of each succeeding month thereafter until September 1, 2005.
- 7. Client will also pay all necessary, reasonable and approved program expenses not to exceed \$68,000 for the term of this Contract and \$17,000 in any six month period without the prior approval of Client. Program expenses include, but are not limited to, the round-trip travel of Jackson representative(s) from there home or to join there family elsewhere (not to exceed the average cost of round-trip travel home) every other week, automobile rental and mileage expenses, fully furnished lodging with cable, basic telephone, air-conditioning, utilities, and twenty-five dollars (\$25) a day for each Jackson employee for incidental expenses including meals, business telephones, office supplies, postage, printing and photocopy supplies, meeting costs and area travel expenses.

8. In the event Client fails to pay any payment when due, or within thirty (30) days thereafter, Client shall pay a re-billing fee of ten dollars (\$10) per month, and such unpaid amount shall bear interest at the rate of one and one-half percent (1.5%) per month compounded monthly (22.4% A.P.R). Said interest shall be charged from the due date thereof to the date of Jackson's receipt of payment at its Evergreen office. The charges shall be in addition to any other right that Jackson may assert, including reasonable attorney fees and court costs. Jackson shall have the right to terminate this Agreement for cause should any payment be more than thirty (30) days past due at Jackson's office.
9. Client and Jackson agree to keep the terms and contents of this agreement, fees and expenses confidential and not to reveal any of the contents of this Agreement to any third party or parties, including future inquiries and/or reference requests by either party.
10. Client may terminate this Agreement at any time without cause upon thirty (30) days written notice to Jackson, and in such event Client shall pay only the monthly payments due and payable, and expenses incurred, through the thirtieth (30th) day following the date of receipt of the written notice of termination. Also, in such event, the chief financial officer of Client will report in writing to Jackson and Client as to the total immediate, pledged, deferred, in-kind gifts and grants received by the Client and the program by the thirtieth (30th) day following notice of termination. Jackson may only terminate this agreement for cause. Failure by the Tribe to cooperate with Jackson in its pursuit of the objectives of this agreement or to meet Jackson's reasonable demands shall constitute cause for termination.
11. If all fees have been timely received by Jackson when due and the Program concluded successfully, upon written request by Client, Jackson will:
 - a.) Provide without fee or expense to Client, consultation by correspondence, telephone, e-mail or fax for one year following the program.
 - b.) Sixty (60) days prior to the conclusion of this Agreement between Jackson and Client, Jackson employee will provide to Client a plan and extension option to advance Client's future interests in ongoing giving programs.
12. Client retains the option of requesting a change in the Jackson employee assigned to the Program.
13. In the event an associate of JACKSON shall be incapacitated or unavailable for service by reason of accident, illness, or otherwise, for a period of ten (10) or more consecutive business days, JACKSON agrees to supply, without additional fee (but with additional

expenses within the budgeted amount), the services of a suitable replacement, if necessary, or extend its services. In such event, JACKSON will extend its service to CLIENT for a period of time equal to that period of time that no service by an associate of JACKSON was provided to CLIENT.

14. Jackson is an independent contractor for Client. Jackson shall be solely responsible for payment of all employment taxes of the Jackson employees assigned from time to time to the Program.
15. Client and Jackson agree not to hire for any purpose or to otherwise compensate hereafter any person employed or contracted for by the other party during the Term of the Program, and for a period of two (2) years after its termination, including any extension thereof. A fee of \$25,000 shall be paid for employing or contracting the other party's employee or contract person. The parties expressly intend this provision to be specifically enforceable between them, with the aggrieved party entitled to both injunctive relief and damages, if any, including the costs and reasonable attorney fees incurred in response to any breach or threatened breach of this provision.
16. This Agreement as signed constitutes the entire Agreement between Client and Jackson. Client agrees that no representations have been made or relied upon which may alter the terms and conditions of this Agreement. Any revision of this Agreement must be made in writing and validly executed by a duly authorized representative of Client and of Jackson. If any provision herein is deemed invalid or unenforceable, it shall be considered to be deemed amended so as to be valid or enforceable and shall not invalidate the remaining provisions of this Agreement.
17. Each party shall indemnify, defend and hold the other party and its officers, employees and agents harmless from and against any and all expense including but not limited to reasonable attorney's fees and court costs, loss, liability and claims of any kind for damage to property of or for injury to such party, directly or indirectly arising from or in any way connected to performance under this Agreement.
18. Neither party shall assign this Agreement without the written consent of the other party.
19. The undersigned individuals acknowledge, represent and warrant that they have been duly authorized to execute this Agreement on behalf of Client and Jackson, respectively.

IN WITNESS WHEREOF, Client and Jackson have signed and sealed this instrument this _____ day of _____ 2003

The Three Affiliated Tribes
P.O. Box 610
New Town, North Dakota 58763

Jackson & Associates, Inc.
P.O. Box 2827
Evergreen, CO 80437-2827

By _____

By: _____

Printed Name: Tex G. Hall
Its: Tribal Chairman

Printed Name: Bryan Jackson
Its: President and CEO

State of North Dakota)

SS.

County of _____)

Sworn to and subscribed to in my presence by _____, as
_____ of _____ on this _____ day of _____, 2003.
Witness my hand and official seal.

Notary Public for the State of North Dakota
My commission expires _____

State of Colorado)

SS.

County of Jefferson)

Sworn to and subscribed to in my presence by Bryan Jackson, as President and CEO of Jackson & Associates, Inc., on this _____ day of _____, 2003. Witness my hand and official seal.

Harriet Jackson: _____
Notary Public for the State of Colorado
My commission expires June 7, 2006

27. RESOLUTION NO. 03-274-RP—DAKOTA DREAMS PROJECT:

Councilman Wells moved for approval of a resolution of support for the Northwest Venture communities grant application. Councilman Wolf seconded the motion.

VOTE: 6 Ayes, 0 Nays, 0 Abstentions, 0 Not Voting. Motion carried.

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