



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

*A Resolution entitled, "Approval of Mortgage Loan Referral Agreement with Bremer Bank".*

**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 5(a) of the Constitution of the Three Affiliated Tribes specifically grants to the Tribal Business Council the authority to manage all economic affairs and enterprises of the Tribe;

**WHEREAS,** It is the considered judgment of the Tribal Business Council that Housing opportunities for the people of the Three Affiliated Tribes can be improved through greater access to residential finance and capital through programs offered by private lenders serving the Native American community;

**WHEREAS,** Bremer Bank desires to underwrite loans that will be referred by the Tribe's Housing Program; and

**WHEREAS,** Bremer Bank and the Tribe's Housing Program have negotiated a mortgage loan referral agreement that will govern their business relationship; and

**WHEREAS,** The Tribal Housing Program recommends that the Tribal Business Council approve said mortgage loan referral agreement a copy of which is attached to this resolution.

**NOW THEREFORE, BE IT RESOLVED,** That the Tribal Business Council hereby approves the mortgage loan referral agreement and authorizes the Chairman of the Tribal Business Council and the Director of the Three Affiliated Tribes Tribal Housing Division to execute the agreement on behalf of the Tribe and the Tribal Housing Program.



**MORTGAGE LOAN REFERRAL AGREEMENT**

**Effective Date:** June 10, 2004

**Bank:** Bremer Bank, N.A.

**Referrer:** Three Affiliated Tribes  
Tribal Housing Division

**Address:** 20 1<sup>st</sup> ST SW  
PO Box 1548  
Minot ND 58701

**Address:** 404 Frontage Road  
New Town, ND 58763

This Agreement is entered into between the Bank and the Referrer. In consideration of the mutual agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the Bank and the Referrer agree as follows:

- 1) **Applications.** From time to time the Referrer may refer Applicants for Bremer Residential Real Estate Loans for 1-4 unit owner-occupied properties to the Bank and the Bank, in its sole discretion, may offer to make loans to the Applicants. This Agreement governs all referrals made to the Bank on and after the date of this Agreement. The Bank will have no obligation to make Residential Real Estate Loans to any Applicant/s referred by Referrer.
- 2) **Warranties and Representations.** In connection with all Applicants referred to the Bank, the Referrer represents and warrants to the Bank:
  - a) The Referrer will make all disclosures required by, and will otherwise comply with, all applicable federal, state and local laws, statutes, regulations, rules and interpretations relating to mortgage lending.
  - b) The Referrer will hold the Bank harmless from any suits resulting from any actions taken by the Referrer related to other actions performed on behalf of the Applicant by the Referrer that did not involve the Bank.
  - c) The Referrer will notify the Bank immediately of any fraud or misrepresentation by the Applicant, which come to the attention of the Referrer. These Representations and Warranties by Referrer will survive the Referrer's referral of any Applicant to the Bank and the termination of this Agreement.
- 3) **Referrer's Duties.** The Referrer will discuss with the Applicant the Residential Real Estate lending process, the types of loans available from Bremer and Bremer's role in the process. If the Referrer believes that the Applicant may qualify for a Bremer Residential Real Estate Loan, the Referrer will deliver the following information to the Bank in form and substance acceptable to the Bank:
  - a) The Application as presented on Fannie Mae Form 1003, as it may be amended from time to time;
  - b) The related documents used by the Referrer to verify income, debts, assets and equity in the subject property;
  - c) Title Status Report, if applicable, and approved lease for leasehold land.
  - d) Any other supporting documentation requested by the Bank.The Bank will communicate to the Referrer and the Applicant the status of the Bremer application.
- 4) **Bank's Duties.** The Bank will underwrite all Applications for Residential Real Estate Loans received from the Referrer according to its standard underwriting procedures and will communicate a credit decision to the Customer and the Referrer within seventy-two (72) hours after receiving a complete Application from the Referrer.
  - a) The Referrer hereby agrees that it will charge no fees to the Applicant for referring the Application to Bremer.
- 5) The Bank will indemnify and hold the Referrer harmless from any suits and all losses, liabilities, damages, costs and expenses, including but not limited to reasonable attorneys' fees and legal expenses, relating in any way to any such breach, violation or action with respect to all actions performed by the Bank to underwrite the Residential Real Estate Loan.
  - a) The Bank, in its sole judgement, will determine whether a qualified and closed loan will be sold to an investor or retained in its portfolio. For each qualified closed referral sold to an investor, the Bank will pay to the referrer .75% of the loan amount. For each qualified referral retained in the Bank's portfolio, the Bank will pay .50% of the loan amount.

- 6) **Indemnification.** In addition, if there is a breach of any of the above warranties or representations, or any other violation of this Agreement by the Referrer, or if any Applicant takes any action against the Bank for services performed by Referrer, the Referrer agrees to indemnify and hold harmless the Bank from all losses, liabilities, damages, costs and expenses, including but not limited to reasonable attorneys' fees and legal expenses, relating in any way to any such breach, violation or action.
- 7) **Financial Information.** At the Bank's request, the Referrer will provide the Bank with financial statements and other information about Referrer as the Bank may from time to time request. All such statements and information shall be in form and substance acceptable to the Bank. Failure to provide this information in a timely manner which is acceptable to the Bank is grounds for cancellation of this Agreement.
- 8) **Liability Insurance.** Referrer shall maintain, for its own operations, at all times during the term of this Agreement at its own expense, such insurance as is required by applicable legal requirements, and that is otherwise appropriate given the nature of its business.
- 9) **Confidentiality.** Referrer agrees that it will not use or disclose to any other party Bremer's proprietary information or information about our clients or their relationship with Bremer without the prior written consent of Bremer.
- 10) **Other Provisions.** Neither the Referrer nor any of the Referrer's directors, officers, employees, partners, agents or attorneys shall be considered an employee or agent of the Bank, and no such person or entity has any authority to act on behalf of the Bank or to bind the Bank in any way. This Agreement constitutes the entire understanding and agreement of the parties with respect to the subject matter of this Agreement, and supersedes and replaces all agreements and all other prior understandings and agreements between the parties. This Agreement may be amended by a writing signed by both parties. This Agreement binds and benefits the Referrer and the Bank and may not be assigned without the Bank's prior written consent
- 11) **Tribal Business Entity Representation.** The person/s signing below represents that he/she has/have the representative capacity and authority to execute this Agreement on behalf of the tribal business entity.
- 12) **Cancellation.** Either party may cancel this Agreement without cause by providing written notice to the other of cancellation. Cancellation of this Agreement does not relieve the Referrer of Warranties and Representations made in Section 2 of this Agreement.
- 13) **Term.** The Agreement has an initial term of 90 days, from and including the Effective Date, and will automatically renew for additional one-year terms if no notice is provided.
- 14) **No Agency.** This Agreement does not create a relationship of agency, joint ventures, partners, employees, servants, or fiduciaries by and between Referrer and Bank, and none of the terms and conditions contained herein shall be so construed. Neither party shall have the power to bind or obligate the other, except as set forth in this Agreement.
- 15) **Use of Name.** Neither party shall use the names or trademarks of the other party or of any of the respective party's affiliated entities in any advertising, publicity, endorsement, or promotion unless prior written consent has been obtained for the particular use contemplated.

**15) Governing Law and Waiver of Immunity.**

**0.1. Governing Law and Construction.** The Agreement shall be governed by, and construed in accordance with the laws of the Tribe, provided that in the absence of applicable Tribal law, the substantive laws of the State of North Dakota and applicable federal law shall govern.

**0.2. Limited Waiver of Sovereign Immunity.** Nothing in this Limited Waiver of Sovereign Immunity shall be deemed to be a waiver of the Tribe's sovereign immunity from suit, except to the extent that the Tribe hereby provides a limited waiver of its sovereign immunity and consents to be sued should an action be commenced to determine and enforce the obligations of the parties under any Agreement; and provided further that the Tribe's consent to suit is only as to arbitration and to court action initiated consistent with this Limited Waiver of Sovereign Immunity. The Tribe expressly submits to and consents to the jurisdictions of the Tribal Court of the Three Affiliated Tribes of the Fort Berthold Reservation in the first instance and, after seeking relief in such Tribal Court, to the United States District Court for the District of North Dakota, in connection with any injunctive relief sought prior to arbitration, or to give effect to any relief ordered or award obtained in any arbitration proceedings. This Limited Waiver of Sovereign Immunity is intended to allow Bremer Bank to recover any amounts due and owing under the Agreement upon the unlikely event of breach by the Tribe.

**0.3. Arbitration.** Any dispute, claim or controversy arising out of or relating to this Agreement shall be settled by arbitration under this rules of commercial arbitration of the American Arbitration Association (the "AAA") and Title 9 of the U.S. Code.

Any award rendered through arbitration against the Tribe may be entered in and/or enforced in Tribal Court, or if such court shall not have jurisdiction or shall otherwise fail to timely act in the United States District Court of the State of North Dakota (or any federal appellate court), or if such Court shall not have jurisdiction or shall otherwise fail to timely act, in any other court of competent jurisdiction. Any review of the arbitration decision and award shall be limited to enforcement of the decision and award and the findings of the arbitrator(s) shall not be re-litigated. The parties further acknowledge and agree that any party may apply to the Tribal Court of the Tribe in the first instance and, after seeking relief from such Tribal Court, to the United States District Court for the State of

North Dakota, and seek injunctive relief so as to maintain the status quo until such time as the arbitration award is rendered or the controversy is otherwise resolved. Each of the parties hereby agrees that this arbitration provision is valid and enforceable and therefore waives any defense or assertion to the contrary.

**16) Severability.** If any provision of this Agreement is invalid under any applicable statute or rule of law, it is, to that extent, severable from other provisions of this Agreement, and the remaining portions shall continue in full force and effect.

**17) Assignability.** This Agreement, to the extent it may be assigned, shall be binding upon and inure to the benefit of the parties hereto and their respective successors in interest, except that Referrer may not assign this Agreement to any person or entity without the written consent of Bank.

Executed as of the date first above written.

**Bremer Bank, N.A.**

**Three Affiliated Tribes**

**By:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Name:** Brent J. Mattson

**Name:**

**Title:** President

**Title:** Chairman

**Date:**

**Date:** 7-9-04

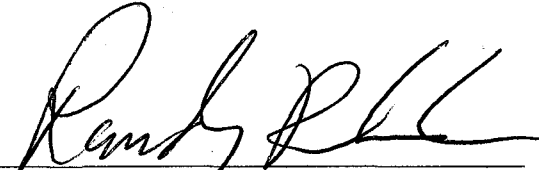


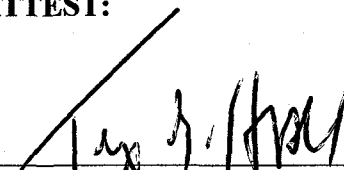
**CERTIFICATION**

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 seven members of whom five constitute a quorum, and 7 were present at a **Regular** Meeting thereof duly called, noticed, convened, and held on the 29<sup>th</sup> day of **June**, 2004; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 0 not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman  Voting  Not voting.

Dated this 29<sup>th</sup> day of June, 2004.

  
\_\_\_\_\_  
Tribal Secretary, Randy Phelan  
Tribal Business Council  
Three Affiliated Tribes

**ATTEST:**  
  
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Tribal Chairman, Tex G. Hall  
Tribal Business Council  
Three Affiliated Tribes