

**RESOLUTION OF THE TRIBAL BUSINESS COUNCIL OF  
THE THREE AFFILIATED TRIBES OF THE  
FORT BERTHOLD RESERVATION**

*A Resolution entitled "Authorization for the Chairman to Negotiate and Execute Up to a \$ 5,000,000 Revolving Line of Credit with a Financial Institution for General Operating Purposes of the Tribe."*

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

**WHEREAS,** Article VI, Sections 3, 5(a), 5(c), and 5(j) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council shall have the power to manage the economic affairs of the Three Affiliated Tribes and to administer funds within the exclusive control of the Tribes and thereby has the power to borrow funds that are necessary for the Tribe to continue exercising all of the powers of government; and

**WHEREAS,** The Tribal Business Council finds that the revenues of the Tribe do not always coincide with expenditures and that revenues owed or coming to the Tribe might not be received by the Tribe at the same pace as Tribal expenses become due; and

**WHEREAS,** The Tribal Business Council further finds that it would be prudent and a good business practice to obtain a line of credit of up to \$ 5,000,000 from a bank to be utilized by the Tribe for general governmental purposes in order to bridge the gap between the payment of expenses and the receipt of revenues; and

**WHEREAS,** BNC Bank of Bismarck, North Dakota (hereinafter, the "Bank") has submitted a proposal indicating that it would like to extend a line of credit to the Three Affiliated Tribes; and

**WHEREAS,** The Bank has also indicated that it would not require a Tribal guarantee or JTAC funds held by the United States Department of Interior's Office of Trust Fund Management ("OTFM") provided said line of credit is secured by deposits with said bank; and

**WHEREAS,** The Tribal Business Council could transfer up to \$ 5,000,000 from the Interest Earnings from the Economic Recovery Fund to the BNC Bank of Bismarck, North Dakota or any other financial institution to secure a revolving line of credit as this amount reflects the approximately the amount of liquid assets the Tribe presently has on account (the Interest Earning from the Economic Recovery Fund) with ("OTFM"); and

**WHEREAS,** The Bank has also proposed to discount the interest on the revolving line of credit if the Tribe deposits \$5,000,000 with the Bank; and

**WHEREAS,** The Tribal Business Council has determined that using obtaining a revolving line of credit is in the best interests of the Tribe and is necessary to sustain the stable operation of the Tribal government; and

**WHEREAS,** The Tribal Business Council desires to obtain a revolving line of credit from BNC or any other financial institution that is willing provide the Tribe the most competitive rates.

**NOW, THEREFORE, BE IT RESOLVED,** by the Tribal Business Council of the Three Affiliated Tribes as follows:

Section 1. Approval and Authorizations

- 1.1 The Tribal Business Council hereby determines that the foregoing proposed actions are in the public interest and promote the welfare of the Tribe.
- 1.2 The Tribal Business Council hereby approves the Financing Terms, in so far as they require Tribal approval, and the Tribe's execution, delivery and performance of all Loan Documents, Assignment Agreements and any other related documents reasonably necessary to effect the Loans (the "Loan Documents") in such forms as are approved by the an Authorized Representative (defined below) and legal counsel for the Tribe, which approvals shall be deemed to have been conclusively given upon the execution of the Loan Document by an Authorized Representative.
- 1.3 The Chairman, Secretary, or Treasurer of the Tribe, individually or together with any other person who under the laws of the Tribe are permitted to act on behalf of the Tribe, (each, an "Authorized Representative") are hereby authorized and directed to execute the Loan Documents, and to execute such other documents, including the buy-out agreement and take such actions as are required or desirable to effect the purposes of this Resolution.

Section 2. Limited Waiver of Sovereign Immunity; Jurisdiction and Arbitration.

Provisions in the Loan Documents relating to the following matters are hereby expressly authorized, approved and adopted as the law of the Tribe with respect to the Loans; so long such provisions substantially comply with the terms set forth in Exhibit A attached hereto:

- 2.1 The choice of governing laws, the limited waivers of sovereign immunity, the consents to jurisdiction and waivers of the doctrines of abstention and exhaustion of tribal remedies; and
- 2.2 The obligation to resolve disputes related to the Loans by binding arbitration.

Section 3. Minimum Terms of the Loan Documents.

3.1 The Chairman is hereby authorized to negotiate the terms of the revolving line of credit with a financial institution and execute the same along with the other authorized representatives provided the following "minimum" terms are included in the Loan Documents:

**Borrower:** Three Affiliated Tribes of the Fort Berthold Indian Reservation

**Purpose:** New - revolving line of credit for general Tribal purposes

**Loan Amount:** \$5,000,000

**Loan Type:** Open-end, multiple-advance line of credit

**Term:** 12 months

**Final Maturity:** August 1, 2005

**Payments:** Monthly interest beginning September 1, 2004

**Base Loan Interest Rate:** Federal Funds Rate Plus 2.25%

**Interest Rate Floor:** None

**Interest Rate Ceiling:** None

**Current Effective Loan Rate:** 3.50%

**Base Deposit Interest Rate:** Federal Funds Rate Plus 0.25%

**Current Effective Deposit Rate:** 1.50%

**Origination Fee:** None

**Transaction Fees:** All other hard costs incurred now or in the future relating to the subject financing including but not limited to legal expenses, filing fees, etc.

**Security:** Control agreement and security interest covering a minimum of \$5,000,000 in Borrower deposits maintained at the Bank.

**Guarantee:** None

**Prepayment Penalty:** None

*Final Rate of Interest*

**Final Rate of Interest:**

The Base Interest Rate above shall be reduced by the following basis points if Borrower maintains minimum average collected balances, measured quarterly, in other products or services from the Bank or its affiliates as follows:

- 25 basis points     Deposit Account Balances. If Borrower maintains with the Bank combined minimum average balances of \$ 6,000,000 in deposit accounts.
- 75 basis points     Deposit Account Balances. If Borrower maintains with the Bank combined minimum average balances of \$8,000,000 in deposit accounts.
- 100 basis points     Deposit Account Balances. If Borrower maintains with the Bank combined minimum average balances of \$10,000,000 in deposit accounts.
- 25 basis points     Deposit Account Balances or Insurance Services. If Borrower maintains with the Bank combined minimum average balances of \$400,000 in deposit accounts, or insurance products purchased from Bank's insurance affiliate, as measured by annual premiums of \$400,000 (this \$400,000 of combined deposit balances is in addition to the combined balances utilized for the other identified rate reductions presented within this Agreement). The purchase of insurance from Bank's affiliate is not a condition to the granting of this credit.

Average balances for purposes of determining the Final Rate of Interest will be measured January 1, April 1, July 1, and October 1 of each year. Any rate reduction that is based on average balances maintained at the Bank will remain in effect for the three months following each measurement date.

**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 8th day of July 2004, 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 8<sup>th</sup> day of July 2004.

## EXHIBIT A

## CERTAIN LEGAL PROVISIONS

**0.1. Governing Law and Construction.** The Loan Documents applicable to the Tribe 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. Whenever possible, each provision of the Loan Documents and any other statement, instrument or transaction contemplated hereby or thereby or relating hereto or thereto shall be interpreted in such manner as to be effective and valid under such applicable law, but, if any provision of the Loan Documents or any other statement, instrument or transaction contemplated hereby or thereby or relating hereto or thereto shall be held to be prohibited or invalid under such applicable law, such provision shall be ineffective only of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of the Loan Documents or any other statement, instrument or transaction contemplated hereby or thereby or relating hereto or thereto. The parties shall endeavor in good-faith negotiations to replace any invalid, illegal or unenforceable provisions with a valid provision the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provision. The provisions of this Section are irrevocable and may not be rescinded, revoked or amended without the prior written consent of the Lender. The Tribe acknowledges the Lender has relied upon them in entering into the Loan Documents.

**0.2. Limited Waiver of Sovereign Immunity.** Nothing in this Loan Agreement 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 Loan Documents; and provided further that the Tribe's consent to suit is only as to arbitration and to court action initiated consistent with the Loan Documents, and provided further, provided that no recourse for the enforcement of remedies for a breach of the Note or this Loan Agreement shall be available except as against Assignment Payments. The Tribe expressly submits to and consents to the court jurisdictions as described in \_\_\_\_\_, including as provided in such Section the jurisdiction of the Tribal Court of The Three Affiliated the 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 proceeding.

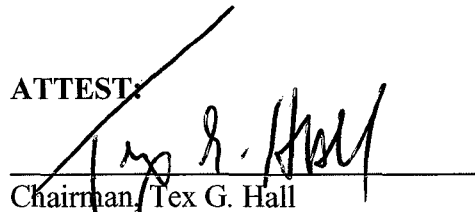
**0.3. Arbitration.** Any dispute, claim or controversy arising out of or relating to this Loan Agreement or any Loan Document, or the breach thereof, or the making of this Loan Agreement or any Loan Document, including claims of fraud in the inducement (hereinafter referred to as the "Financing Disputes"), shall be settled by arbitration under the rules of commercial arbitration of the American Arbitration Association (the "AAA") and Title 9 of the U.S. Code, as modified by this Section.


Any party may, by written notice to the other parties after such a controversy has arisen hereunder, appoint one arbitrator. The other parties to the controversy shall, by written notice, within twenty (20) days after the receipt of such notice by the first party, appoint a second

arbitrator, and in default of such appointment the first arbitrator appointed shall be the sole arbitrator. When two (2) arbitrators have been appointed as hereinabove provided, they shall, if possible, agree on a third arbitrator who shall be appointed by written notice signed by both of them within thirty (30) days thereafter with a copy mailed to each party hereto within ten (10) days after such appointment; provided that if the two arbitrators cannot agree upon a third, they shall apply to the AAA for such appointment.

No arbitrator shall be related to or affiliated with, or shall have represented in a legal capacity any party hereto. The arbitrators shall apply the governing law specified in Section 8.25, and shall follow such rules of discovery and evidence as the United States District Court for the State of North Dakota would apply. Within sixty (60) days of commencement of the arbitration actions, and after receiving evidence and hearing witnesses, if any, the arbitrators shall render their award, accompanied by findings of fact and a statement of reasons for the decision. The arbitrators shall have the authority to award in connection with a Financing Dispute any remedy or relief that a court or competent jurisdiction could order or grant, including, without limitation, equitable remedies, specific performance of any obligation created under this Loan Agreement, the issuance of an injunction. The award of the majority of the arbitrators shall be conclusive and binding upon the parties. Any award rendered therein 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.

ATTEST:

  
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Chairman, Tex G. Hall  
Tribal Business Council

  
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Executive Secretary, Randy Phelan  
Tribal Business Council