



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

*A Resolution entitled "Directive to the Office of Trust Fund Management to Transfer \$15,000,000.00 From the Three Affiliated Tribes Economic Recovery Fund To Financial Institutions To Be Identified by The Tribes."*

**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,** To provide additional compensation to the Tribe for the United States' taking of one hundred and fifty-six thousand acres of reservation lands in connection with the Garrison Dam, the United States Congress enacted the "Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act" (Public Law 102-575, Title XXXV) (the "Act"); and

**WHEREAS,** The Act established the "Three Affiliated Tribes Economic Recovery Fund" (the "Trust Fund") in the United States Treasury and required a percentage of receipts by the Eastern Division of the Pick-Sloan Missouri River Basin Project described in the Act to be deposited into the Trust Fund, resulting in the sum of \$149,200,000 being deposited into the Trust Fund; and

**WHEREAS,** Under the Act, the United States Secretary of the Interior (the "Secretary") is required to deposit the interest that accrues on deposits to the Trust Fund ("Trust Interest") in a separate account in the United States Treasury; and such interest is declared to be available, without fiscal year limitation, for use by the Secretary to make payments to the Tribe for educational, social welfare, economic development, and other programs, subject to the approval of the Secretary; provided that no part of the principal of the Trust Fund is available for making such payments, and no part of any moneys in the Trust Fund may be distributed to any member of the Tribe on a per capita basis; and

**WHEREAS,** 25 U.S.C. §161(a) provides that all funds held in trust by the United States and carried in principal accounts on the books of the United States Treasury to the credit of Indian tribes shall be invested by the Secretary of the Treasury, at the request of the Secretary, in public debt securities with maturities suitable to the

needs of the fund involved, as determined by the Secretary, bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities; and

**WHEREAS,** The Secretary's foregoing investment responsibilities are presently handled by the Office of Trust Fund Management, which is within the OST and the Secretary's responsibilities under the Act relative to permitting withdrawals of Trust Interest from the Trust Fund for purposes permitted by the Act are presently handled by the Bureau of Indian Affairs within the Department of the Interior (the "BIA"); and

**WHEREAS,** Under 25 CFR 115.815, a tribe desiring to request amounts from a tribal trust account "may [m]ake a written request to the BIA or the OTFM that is signed by the proper authorizing official(s), list the amount of trust funds to be withdrawn, provide any additional documentation or information required by law to withdraw certain trust funds, and must include a tribal resolution approving the withdrawal of the specified amount of trust funds; . . . ."; and

**WHEREAS,** The Tribes have retained interest earnings on the \$149.2 million in the amount of \$30 million; and

**WHEREAS,** The Tribes may transfer any portion of or the entire \$30 million; and

**WHEREAS,** The Tribes have already transferred \$15 million (of the \$30 million) to BNC Bank (\$14 million) and Native American Bank (\$1 million); and

**WHEREAS,** The Tribal Business Council finds that it would be in the best interest of the Tribes to transfer the remaining \$15 million to another financial institution or financial institutions for day-to-day management so that these funds may be readily available for general governmental purposes; and

**WHEREAS,** The Tribal Business Council desires to have OTFM transfer the remaining \$15 million to a financial institution or financial institutions to be identified by the Tribal Business Council.

**NOW, THEREFORE, BE IT RESOLVED,** that the Tribal Business Council hereby directs OTFM to transfer \$15 million to a financial institution or financial institution as instructed by the Tribes' Chairman and Treasurer.

**NOW THERE FOR IT BE RESOLVED,** that the Tribal Business Council hereby directs the OTFM to sell \$15,000,000 of bonds and/or government overnighters and to immediately transfer these funds to a financial institution or institutions as directed by the Three Affiliated Tribes; and

**BE IT FURTHER RESOLVED,** that the Tribal Business Council hereby acknowledges that OTFM may sell the bonds and/or government overnighters at a loss or a gain depending on the

bond rates at the time of the sale and the Tribal Business Council hereby directs OTFM to sell the bonds and/or government overnighters in the most prudent fashion so as to minimize any loss and maximize any gain resulting from the sale; and

**BE IT FURTHER RESOLVED**, the \$15,000,000 will be transferred by OTFM into a private placement and invested and a portion of the invested funds shall be used to secure a line of credit in an amount needed to meet the needs of the Tribe's 2006 budget and cover any shortfall to this budget.

**BE IT FINALLY RESOLVED**, that OTFM is to make available for draws by the Three Affiliated Tribes all interest earnings exceeding \$149,200,000 and that any and all Resolutions that conflict with this instruction are hereby rescinded.

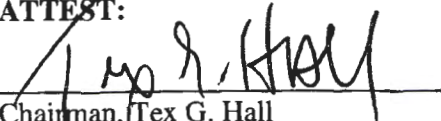
**CERTIFICATION**

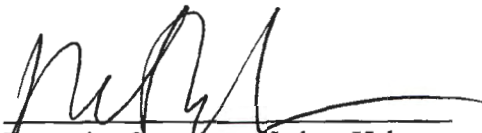
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 5 were present at a TBC Meeting thereof duly called, noticed, convened and held on the 13<sup>th</sup> day of January, 2006, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 5 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 13<sup>th</sup> day of January, 2006.

ATTEST:

  
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Chairman, Tex G. Hall  
Tribal Business Council

  
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Executive Secretary, Nathan Hale  
Tribal Business Council