



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

**A Resolution entitled: “TAT 28 – Approval of \$3,000,000.00 Loan with Marshall Group to be Secured by Pledge of the Full Faith and Credit of the Tribe and Excess Casino Revenues”**

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

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

**WHEREAS,** In accordance with an Amended Gaming Compact dated September 29, 2001, between the Tribe and the State of North Dakota (the “Compact”), the Tribe engages in class III gaming within the meaning of the Indian Regulatory Act of 1988, as amended; and

**WHEREAS,** The Tribe has pledged certain gaming-related revenues (the “Casino Revenues”) from the Four Bears Casino & Lodge owned and operated by the Tribe on its reservation (together with related facilities, the “Casino Facilities”) to secure certain obligations of the Tribe pursuant to a First Amended and Restated Depository Agreement, dated as of July 23, 2004 (the “Casino Revenues Depository Agreement”), between the Tribe and First National Bank & Trust Co. of Williston (the “Depository”); and

**WHEREAS,** The Casino Revenues Depository Agreement provides that certain excess revenues (the “Excess Casino Revenues”) may be released to the Tribe after the application of Casino Revenues as provided therein; and

**WHEREAS,** The Tribe entered into an Excess Pledged Revenues Depository Agreement, dated as of January 19, 2006 (the “Excess Pledged Revenues Depository Agreement”), among the Tribe, BankFirst, a South Dakota bank, and First National Bank & Trust Co. of Williston (the “Excess Pledged Revenues





Depository Agreement”) to pledge the Excess Casino Revenues to secure certain existing and future obligations of the Tribe; and

**WHEREAS,** The Tribal Council has been advised that it is desirable purchase certain new equipment and renovate certain portions of the Four Bears Casino & Lodge owned and operated by the Tribe on its reservation (together with related facilities, the “Casino Facilities”)(the “Project”); and

**WHEREAS,** Marshall Financial Group, LLC, a Delaware limited liability company (“Marshall”), has submitted the following proposal (the “Financing Proposal”) to provide a loan (the “Loan”) to finance the Project and transaction costs:

(a) the amount of the Loan would (i) be in a total amount of approximately \$3,000,000; (ii) bear interest for the first twelve (12) months at an annual rate equal to the “Effective Prime Rate” reported by Bloomberg Market Data, L.P. (the “Bloomberg System”) as of the close of business or, if the Bloomberg System ceases to report such rate, then an alternative rate chosen by the Lender in good faith, plus 2.10%, as determined on the closing date, and on July 1, 2009 and each July 1 thereafter, the Loan will be reset to bear interest at a rate equal to the “Effective Prime Rate” plus 2.10%, and the interest rate shall at all times include a servicing fee payable to Marshall in an amount equal to .10% of the outstanding balance of the Loan, and (iii) require consecutive monthly installment of principal and interest payments that will be sufficient to amortize in full the Loan principal balance and all interest thereon over a period of 56 months; the terms of the Loan would be set forth in a loan agreement (the “Loan Agreement”), and the Tribe’s obligation to pay principal and interest on the Loan would be evidenced by a promissory note (the “Note”); and

(b) the payment obligation of the Tribe under the Loan would be secured by a pledge of Excess Casino Revenues pursuant to the Excess Pledged Revenues Depository Agreement and by the full faith and credit of the Tribe (but with no recourse as against Casino Revenues (other than Excess Casino Revenues) and certain other “Protected Assets” as defined in the Loan Agreement); and

**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 proposed actions described above are in the public interest and promote the welfare of the Tribe.

1.2 The Tribal Business Council hereby approves the Loan, the terms of Financing Proposal, and the Tribe's execution, delivery and performance of the Loan Agreement, the Note, and all other agreements, instruments or other documents reasonably necessary to effect the Financing Proposal (the "Loan Documents") all in such forms as shall be approved by 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 Documents by an Authorized Representative.

1.3 The Chairman, Secretary, and Treasurer of the Tribe, together with any other person who under the laws of the Tribe are permitted to act on behalf of the Tribe in the event of the absence or incapacity of the Chairman, Secretary or Treasurer (each, an "Authorized Representative") are hereby authorized and directed to execute the Loan Documents, and to execute such other documents 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 Loan; so long as such provisions substantially comply with the terms set forth in EXHIBIT A attached hereto, including those related to:

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 Loan by binding arbitration.

Section 3. Non-Impairment; Enforceability of Obligations. None the Tribe, the Tribal Business Council, nor any branch, division, authority, agency, instrumentality or enterprise of the Tribe (each, a "Tribal Party") shall ever be permitted to adopt or take any resolutions or other action that has the effect of impairing any contractual rights of any third party under any of the Loan Documents, and any such resolution or action to the contrary shall be void and of no effect; and if any future Tribal Party should ever allow any such resolution or other action, this Tribal Business Council recognizes that such impairment may result in an event of default under the Loan Documents and may violate provisions of the Constitution. Upon execution and delivery of any Loan Document as herein authorized, the Loan Document shall become a valid and binding obligation of the Tribe, enforceable in accordance with its terms, and the provisions thereof shall constitute the law of the Tribe.





EXHIBIT A  
CERTAIN LEGAL PROVISIONS

**Section 1. Governing Law and Construction.** The Loan Documents 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 to 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 Marshall. The Tribe acknowledges that Marshall has relied upon them in entering into the Loan Documents.

**Section 2. Limited Waiver of Sovereign Immunity.** Nothing in the Loan Documents 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 Document; 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, that no recourse for the enforcement of remedies for a breach of the Note or the Loan Agreement shall be available against the "Protected Assets" described in the Loan Agreement. The Tribe expressly submits to and consents to the court jurisdictions as described in Section 3 below, including as provided in such Section the jurisdiction 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, or any other court of competent jurisdiction, 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.

**Section 3. Arbitration.** Any dispute, claim or controversy arising out of or relating to the Loan Agreement or any Loan Document, or the breach thereof, or the making of the 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 1, 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 of competent jurisdiction could order or grant, including, without limitation, equitable remedies, specific performance of any obligation created under this Loan Agreement, and 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 or if such court shall not have jurisdiction or shall otherwise fail to timely act, in any other court of competent jurisdiction, 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.



Section 4. Miscellaneous Matters.

4.1 Any resolutions or other actions of the Tribal Business Council or of the Tribal Executive Committee, including Resolution No. 05-173NH of the Tribal Business Council and any other prior resolutions that are in conflict with or inconsistent with the terms of this Resolution are hereby to such extent repealed and annulled. This Resolution shall supersede any prior or currently existing resolutions or other actions of the Tribal Business Council or Tribal Executive Committee that are contrary to the actions authorized or contemplated herein or in a Loan Document.

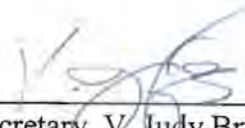
4.2 If any provision of this Resolution or the application of any provision of this Resolution is held to be invalid, the remainder of the Resolution shall not be affected.

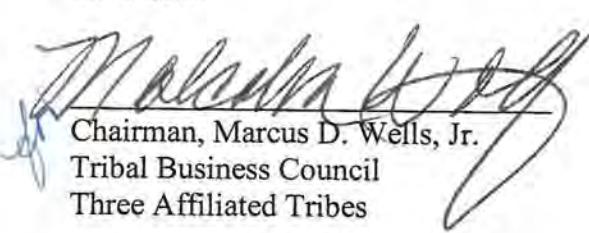
**CERTIFICATION**

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 Meeting thereof duly called, noticed, convened and held on the 15 day of May, 2008, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 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 15 day of May, 2008.

  
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Secretary, V. Judy Brugh  
Tribal Business Council  
Three Affiliated Tribes

**ATTEST:**  
  
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Chairman, Marcus D. Wells, Jr.  
Tribal Business Council  
Three Affiliated Tribes