



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

A Resolution entitled, "Approval of Financial Advisor Agreement with Steven W. Erickson and Michael Frank for Refinancing of Tribal Debt"

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 III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and

WHEREAS, The Tribal Business Council of the Three Affiliated Tribes seeks to refinance the Tribes' existing debt including balloon payments that are due in 2009; and

NOW, THEREFORE BE IT RESOLVED, The Tribal Business Council of the Three Affiliated Tribes hereby approves the financial advisory services agreement with Steven Erickson and Michael Frank to seek out and secure financing provided all approved changes are completed by the Tribal Legal Department; and

BE IT FURTHER RESOLVED, the Chairman shall be authorized to sign the completed agreement following the required legal review.

RESCINDED
DATE May 14th 2009
NEW RES# _____

FINANCIAL ADVISORY AGREEMENT

BETWEEN

THREE AFFILIATED TRIBES

AND

STEVEN W. ERICKSON AND MICHAEL FRANK

THIS ADVISORY AGREEMENT (this "Agreement") is made and entered into this 27th day of April __, 2009 between Steven W. Erickson ("Erickson") and Michael Frank ("Frank") (collectively, the "Advisors") and the Three Affiliated Tribes (the "Tribe").

RECITALS

- A. The Tribe is a federally recognized Tribe located in the State of North Dakota, United States of America, acting through its duly authorized officers who are empowered to so act.
- B. Erickson is an individual residing in the State of Minnesota
- C. Frank is an individual residing in the State of Minnesota.
- D. The United States holds land in trust for the benefit of the Tribe.
- E. The Tribe has debt outstanding that is secured either by casino revenues from the Four Bears Casino general revenues of the Tribe or interest earnings from the JTEC Fund.
- F. The Tribe needs to refinance the existing debt in 2009 since there are balloon payments due on a substantial amount of the debt in 2009.
- G. The Tribe has plans to develop certain essential governmental projects.
- H. The Tribe has plans to expand the hotel at the Four Bears Casino and undertake certain improvements at the Casino.
- I. The Tribe seeks and desires the advice and consultation of Erickson and Frank (collectively, the ("Advisor") with respect to the provision of financing to the Tribe with regard to refinancing the existing debt, financing the construction and equipping of

certain essential governmental projects and financing improvements to the Casino and the Advisor wishes to provide such services.

IN CONSIDERATION of the above recitals and the mutual covenants contained herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 ADVISORY SERVICES

The Tribe hereby engages the Advisor to perform the following advisory services on an exclusive basis during the Term defined below:

- (a) Develop a strategic plan for the financings including cash flow analysis, structured financing alternatives, and debt schedule analysis; evaluation and financial analysis of the proposed financings will be included in that plan.
- (b) Contact the financing sources, prepare the financing package, and meet with the financing sources.
- (c) Advise and assist the Tribe in negotiating the terms and conditions of the proposed financings including but not limited to the term of the financings, the interest rate on the financings, the amortization of the financings, the financial covenants included in the legal documents and the fees and expenses to be incurred in connection with the financings.
- (d) Prepare and update, as needed, a timetable and assignment of primary responsibilities to inform all parties to the financings of the times at which various steps will be completed and who will be primarily responsible for such steps.
- (e) Assist the Tribe in the assessment, collection and review of the due diligence materials required to complete the financings.
- (f) Assist the Tribe in reviewing all legal documents in connection with the financings, including architectural and construction contracts.

ARTICLE 2 COMPENSATION

Advisory Fees. Erickson and Frank will share a fee equally based upon the following criteria:

Current Lenders: 1% (one percent) of the principal amount of the financing Erickson and Frank are able to successfully secure for the Tribes if the source of the financing are lenders and/or financial institutions that the Tribes' are currently indebted to.

New Lenders: 1 ½% (one and one half percent) of the principal amount of the financing Erickson and Frank are able to successfully secure for the Tribes if the source of the financing are lenders and/or financial institutions that the Tribes' are not currently indebted to.

In addition to the fee, Erickson and Frank will be reimbursed for all direct out-of-pocket expenses incurred by Erickson and Frank in their role as Financial Advisor. The out-of-pocket expenses incurred will be do and payable on a monthly basis. Any out of pocket expenses shall be capped at \$10,000.00 for the entire agreement.

ARTICLE 3 TERM

The term of this Agreement shall commence with the execution and delivery hereof and shall end upon the closing of the financings.

ARTICLE 4 MISCELLANEOUS

- 4.1 **Relationship.** Erickson and Frank shall perform their duties hereunder as independent contractors and not as an agent. Erickson and Frank shall have no authority to bind the Tribe with respect to any matter.
- 4.2 **No Partnership.** Neither the execution and performance of this Agreement is intended to be, nor shall it be construed to be, the formation of a partnership or a joint venture between the Tribe and Erickson and Frank.
- 4.3 **Conflict of Interest.** Erickson and Frank shall disclose any possible conflict of interest in writing to the Tribe and the Tribe may terminate this agreement if it determines that a conflict of interest exists, without penalty, upon payment of Erickson's and Frank's out-of-pocket expenses only. Erickson and Frank shall not pay any amount to any member of the Tribe or retain the services of any member or member owned company, or member's spouse, without the prior approval of the Tribe.

4.4 **Confidentiality.** Erickson and Frank acknowledge that all information related to Erickson's and Frank's work under this Agreement, including all findings, reports, and other information provided directly or indirectly by the Tribe in connection with the Agreement or developed, compiled, or created by Erickson and Frank in performing its services under this Agreement, is confidential and proprietary information owned by, and of great value to the Tribe. All such information not otherwise available to the public will be held in confidence by Erickson and Frank, except (i) as required to be disclosed pursuant to subpoena or other judicial or administrative order or legal process; (ii) as necessary or desirable to be disclosed in connection with Erickson's and Frank's services hereunder; (iii) as lawfully obtained or developed by Erickson and Frank from a third party not required (to the knowledge of Erickson and Frank) to maintain the confidentiality of such information.

Erickson and Frank shall not use any of the proprietary information described in this paragraph for anyone other than the Tribe's benefit. The Tribe authorizes Erickson and Frank to disclose this proprietary information to the potential financing sources in connection with the financings.

4.5 **Not a Management Contract.** This Agreement is not, and shall not be deemed to be, a management contract pursuant to the Indian Gaming Regulatory Act. The management of all gaming operations will be performed by the Tribe or another party unrelated to Marshall and Frank hired by the Tribe.

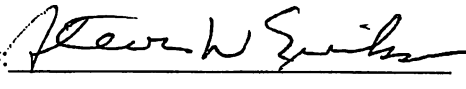
4.6 **Limited Waiver of Sovereign Immunity, Jurisdiction.** The Tribe hereby provides a limited waiver of sovereign immunity of the Tribe with respect to any claim or dispute between the Tribe and Erickson and Frank arising out of this agreement. The parties consent to the jurisdiction of the Fort Berhold Tribal Court and any judgment shall be expressly limited to the the terms and non-trust assets contained within the agreement and shall not include any punitive damages.

4.7 **Governing Law.** This Agreement shall be governed by the laws of the Three Affiliated Tribes, exclusive of any rules applying to choice or conflicts of law.


4.8 **Entire Agreement; Modification; Assignability.** This Agreement represents the entire understanding between the Tribe and Erickson and Frank and all prior discussions and negotiations are merged into it. This Agreement may not be modified except in writing by each of the parties. The Tribe and Erickson and Frank shall not assign this Agreement without first obtaining the written consent of the other party.

IN WITNESS HEREOF, this Agreement is signed, sealed and entered into the day and year above first written and duplicate originals by the undersigned parties who represent and warrant that they have the authority to do so.

STEVEN W. ERICKSON

By: 

Michael Frank

By: 

THREE AFFILIATED TRIBES

By: _____
Its: _____

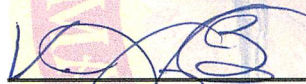


CERTIFICATION

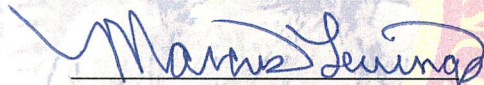
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 6 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the April 9, 2009; 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 9 day of April 9th, 2009.


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

ATTEST:


Tribal Chairman, Marcus D. Levings
Tribal Business Council
Three Affiliated Tribes

