



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

A resolution entitled, *“Meaning of Article IX, Section 2 of Tribal Constitution”*

WHEREAS, This Nation has accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act and has adopted a Constitution and By-laws pursuant to said Act;

WHEREAS, The Constitution and By-laws of the Three Affiliated Tribes (“Tribe”) was adopted by membership of the Tribe on May 15, 1936 pursuant to the Indian Reorganization Act of 1934 and duly approved by the Secretary of the Interior;

WHEREAS, Article III of the Constitution of the Tribe provides that the Tribal Business Council is the governing body of the Tribe;

WHEREAS, The Constitution of the Tribe 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 Tribe and of the enrolled members thereof;

WHEREAS, The Tribe is in need of funds for the following purposes: (1) housing; (2) to make up a shortfall in tribal operating funds; and (3) to pay the judgment in *Lake Sakakawea & Associates, LLC v. Three Affiliated Tribes*, 08-09-C-01308 (N.D. Dist. Ct. Burleigh Cnty), or to set aside monies to pay such judgment in the event the Tribe appeals but the judgment is affirmed, or to obtain a stay of the judgment pending appeal;

WHEREAS, The Tribe has arranged a loan from Chippewa Valley Bank (hereafter “Bank”) for such purposes;

WHEREAS, To secure the loan, the Bank has requested that the Tribe grant to the Bank a mortgage on lands held in fee simple by the Tribe (hereafter the “Subject Fee Lands”);

WHEREAS, Article IX of the Constitution, entitled Land, addresses the powers of the Tribal Business Council to manage “Tribal lands.” Section 2 of that article provides, in pertinent part, as follows:

SEC. 2. The un-allotted lands of the Fort Berthold Reservation and all lands which may hereafter be acquired by the Three Affiliated Tribes or by the United States in trust for the Three Affiliated Tribes, shall be held as tribal lands, and no part of such land shall be mortgaged, sold or ceded, except as permitted by law and then only with the consent and approval of the Secretary of the Interior. Tribal lands shall not be allotted to individual Indians but may be assigned to members of the Three Affiliated Tribes, or leased, or otherwise used by the Tribes, as hereinafter provided.



WHEREAS, Federal law does not require or authorize the Secretary to grant or approve of grants of mortgages over Tribal lands;

WHEREAS, The Superintendent of the Fort Berthold Agency, Bureau of Indian Affairs, was approached and refused to approve of the mortgages at issue;

WHEREAS, It is unclear under Article IX, Section 2, whether lands owned by the Tribe in fee simple are "Tribal lands" and if so whether the Tribe must obtain the approval of the Secretary of the Interior (hereafter "Secretary") of a mortgage on such lands;

WHEREAS, The Tribal Business Council has previously mortgaged or otherwise dealt with its interests in fee lands without the approval or consent of the Secretary;

WHEREAS, Article VI, Section 3 of the Tribal Constitution grants to the Tribal Business Council "all necessary sovereign authority – legislative and judicial – for the purpose of exercising the jurisdiction granted by the People in Article I of this Constitution";

WHEREAS, The Tribal Business Council, as the governing body of the Tribe, wishes to resolve the ambiguity presented by that Article IX, Section 2 of the Tribal Constitution, and to clarify that it is the position of the Tribe that Article IX, Section 2 does not require the consent of the Secretary to the sale or mortgage of tribal fee lands;

WHEREAS, Construing Article IX, Section 2 of the Tribal Constitution so as not to require the consent of the Secretary to the sale or mortgage of tribal fee lands resolves the ambiguity in a way that will enable the Tribal Business Council to mortgage fee lands to raise monies for tribal programs and projects, and to allow the Tribal Business Council to exercise its sovereign powers without the consent of the Secretary where no such consent is required by federal law;

NOW, THEREFORE BE IT RESOLVED, that the Tribal Business Council hereby construes Article IX, Section 2 of the Tribal Constitution as requiring the consent and approval of the Secretary of the Interior of a mortgage, sale or cession of Tribal lands only in the case of lands held in trust for the Tribe or subject to a restraint on alienation, and not in the case of lands owned by the tribe in fee simple;

NOW, THEREFORE BE IT FURTHER RESOLVED, that until the Tribe obtains a release of the mortgage(s) on the Subject Fee Lands, the provisions of this Resolution setting forth the construction of Article IX, Section 2 of the Tribal Constitution constitutes the law of the Tribe and may be relied upon by (1) counsel to the Tribe in providing an opinion as to Article IX, Section 2 of the Tribal Constitution, and (2) Chippewa Valley Bank and its successors and assigns in regards to the mortgages on the Subject Fee Lands and related transaction.




CERTIFICATION

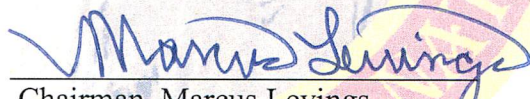
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 5 were present at a Special Meeting thereof duly called, noticed, convened, and held on the 18th day of August 2009; 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 18th day of August 2009.

ATTEST:


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


Chairman, Marcus Levings
Tribal Business Council
Three Affiliated Tribes

