



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

*A Resolution entitled, "Forbearance Agreement, Security and Settlement Agreement – Lake Sakakawea & Associates, LLC"*

**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; and

**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; and

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

**WHEREAS,** The Constitution of the Tribe 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,** Pursuant to a Participating Lease dated as of December 9, 2002, between the Tribe and Tribal member Dale Little Soldier, later assigned by Mr. Little Soldier to a company controlled by him, Lake Sakakawea & Associates, LLC ("LSA"), LSA was to develop, obtain financing for, and construct a gaming and entertainment complex (the "Casino Project") on land held in trust for Mr. Little Soldier; and

**WHEREAS,** On July 2, 2008, the Tribal Business Council approved Resolution 08-100-BLB, "Rescission of Tribal Council Resolutions 07-229-VJB and 08-22-MP concerning Approval of the Proposed Twin Buttes/Little Soldier Casino Project," thereby rescinding approval of the Casino Project; and

**WHEREAS,** On July 11, 2008, LSA and Mr. Little Soldier sent the Tribe a Notice of Default, Specification of Dispute, and Appointment of Arbitrator, asserting breach of the Participating Lease, seeking damages of over \$20 million for such breach, and commencing arbitration pursuant to Section 33 of the Participating Lease; and

**WHEREAS,** The arbitration panel held a hearing on the dispute on April 21-24, and issued an award on May 22, 2009, which was amended on June 5, 2009; and





- WHEREAS,** The arbitration panel, with one arbitrator dissenting, awarded LSA and Mr. Little Soldier \$6,145,743.95 plus interest, and ordered the Tribe to indemnify Mr. Little Soldier and LSA from a suit brought against them by Totten Builders; and
- WHEREAS,** LSA filed an action against the Tribe in the district court for Burleigh County, North Dakota, to confirm the award, *Lake Sakakawea & Associates, LLC v. Three Affiliated Tribes*, 08-09-C-01308; and
- WHEREAS,** On August 5, 2009, the court entered a judgment against the Tribe and in favor of plaintiff LSA in the amount of \$6,307,138.95, plus interest at 7% per annum; and
- WHEREAS,** It is in the Tribe's best interests to avoid garnishment proceedings and execution of the judgment; and
- WHEREAS,** On August 21, 2009, the Tribal Business Council adopted Resolution No. 09-132-VJB, "Forbearance Agreement and Waiver of Appeal Rights," which authorized the Chairman to execute an agreement with LSA entitled "Forbearance Agreement and Waiver of Appeal Rights" which agreement provided that LSA would forbear from executing upon the judgment or initiating garnishment proceedings to enforce the judgment until September 1, 2009, and that in exchange the Tribe agreed to waive its right to appeal the judgment in the Burleigh County court action; and
- WHEREAS,** The Tribe wishes to obtain further forbearance of execution of the judgment; and
- WHEREAS,** The Tribe is arranging loans to pay the judgment against it in the Burleigh County action; and
- WHEREAS,** on August 25, 2009, Dale Little Soldier executed a Confession of Judgment in *Dallas Delorme d/b/a Totten Builders and Supply vs. Dale Little Soldier, individually, and Lake Sakakawea & Associates, LLC* (Benson County Civil No. 03-09-C-18-1) (the "Totten Builders Action"), and on August 27, 2009, judgment was entered in that case in favor of plaintiff Dallas Delorme and against defendant LSA in the amount of \$875,000 plus accrued interest of \$62,424.65, on which interest is accruing at \$167.81 per day from August 25, 2009; and





**WHEREAS,** The Tribe and LSA are negotiating an agreement entitled “Forbearance, Security and Settlement Agreement,” a draft of which is attached hereto, the essential terms of which shall be as follows:

1. LSA agrees to forbear from executing upon the judgment or initiating garnishment proceedings to enforce the judgment until October 15, 2009.
2. If the Judgment is not paid by October 15, 2009, LSA may begin proceedings to enforce the Judgment, but LSA agrees to cooperate with regard to the closing on any loan the proceeds of which the Tribe intends to use to pay all or any part of the Judgment.
3. The parties shall agree that the Tribe shall pay \$700,000 in full satisfaction of its obligation to pay the judgment in the Totten Builders claim against LSA.
4. The Tribe agrees to provide LSA a security interest and lien against all payments received under any oil and gas tax agreement between the Tribe and the State of North Dakota (the “State”), and any tax assessed by the Tribe on the production or extraction of oil.
5. Within 3 days of execution of the Forbearance, Security and Settlement Agreement, the Tribe will establish with Wells Fargo Bank, National Association (the “Collection Bank”) a segregated deposit account in the name of Tribe (the “Collection Account”) which will at all times be subject to a control agreement (the “Control Agreement”) in favor of LSA providing for “control” (within the meaning of Section 9-104 of the Uniform Commercial Code) of the Collection Account by LSA.
6. LSA agrees to deliver at closing on any loan documentation showing: (1) the Tribe’s satisfaction of the Judgment, (2) LSA’s release of its judgment lien upon the property mortgaged to secure the Loan, (3) LSA’s release of its security interest, liens, and rights of set off against the Collateral, and (4) any other related documentation that the Tribe or the Tribe’s lender may reasonably request to evidence release of the judgment lien or the Tribe’s satisfaction of the Judgment.
7. The Tribe waives its immunity from suit in state court regarding any dispute or claim arising out of the agreement, and waives any right it may have to require such dispute or claim to be heard in a court or other dispute forum of the Tribe.

**NOW THEREFORE BE IT RESOLVED,** that the Tribal Council hereby determines that no law, ordinances, rules, regulations, resolutions or other actions of the Tribal Council or any of the agencies or instrumentalities of the Tribe, either written or established by custom or tradition: (a) prohibit the Tribal Council from approving the matters herein approved, the execution, delivery or performance of any of the Forbearance, Security and Settlement Agreement, the “Control Agreement,” or the consummation of the transactions contemplated therein; or (b) create any





obligation of the Tribal Council to submit these matters for approval of or consent from any officer, body, agency or instrumentality of the Tribe, or any vote by members of the Tribe, except for such approvals and consents that have already been obtained and are in full force and effect; and

**NOW, THEREFORE BE IT FURTHER RESOLVED**, that the Tribal Business Council hereby approves the Forbearance, Security and Settlement Agreement once tendered to the Tribe by LSA, provided that it contains the essential terms set out above, and subject to legal review, and subject to Tribal Business Council Resolution No. 09-137-VJB relating to the judgment in the Totten Builders Action, and authorizes the Chairman to execute and deliver it; and

**NOW THEREFORE BE IT FURTHER RESOLVED**, that upon execution of the Forbearance, Security and Settlement Agreement by the Chairman and an authorized signor for Lake Sakakawea & Associates, LLC and delivery of the same by each party to the other, the Forbearance, Security and Settlement Agreement, shall constitute a valid and binding obligation of the Tribe under the Constitution and all laws of the Tribe; and

**NOW, THEREFORE BE IT FURTHER RESOLVED**, that the Tribal Business Council hereby authorizes the Treasurer to execute and deliver the Control Agreement contemplated by the Forbearance, Security and Settlement Agreement, subject to prior review and approval of the Control Agreement by legal counsel; and

**NOW THEREFORE BE IT FURTHER RESOLVED**, that upon execution of the Control Agreement by the Treasurer and authorized signors for Lake Sakakawea & Associates, LLC and Wells Fargo Bank, National Association and delivery of the same by each party to the others, the Control Agreement shall constitute a valid and binding obligation of the Tribe under the Constitution and all laws of the Tribe; and

**NOW THEREFORE BE IT FURTHER RESOLVED**, that any law, ordinances, judgments, decisions, orders, resolutions, rules, regulations or other action, of the Tribe, any instrumentality or agency of the Tribe (exclusive of the Tribe's Constitution), or any of the officers, employees, or agents, of the foregoing, whether written, unwritten or established by tradition that are in effect and are in conflict with or inconsistent with the terms of this Resolution, the transactions contemplated herein, or any provision set forth in the Forbearance, Security and Settlement Agreement or the Control Agreement, are hereby repealed and annulled to the extent of such conflict or inconsistency, and this Resolution shall supersede the same.






**CERTIFICATION**

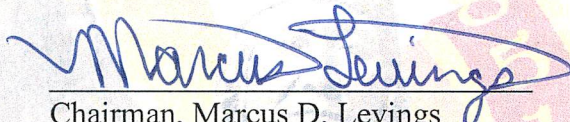
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 6 were present at a Special Meeting thereof duly called, noticed, convened and held on the 2nd day of September, 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 2nd day of September, 2009.

**ATTEST:**

  
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Executive Secretary, V. Judy Brugh.  
Tribal Business Council

  
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Chairman, Marcus D. Levings  
Tribal Business Council

