



RESOLUTION NO. 09-171-VJB

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

A Resolution entitled: "Directive to the Office of Trust Fund Management to Make Available for Draws by the Three Affiliated Tribes Interest Earnings From the Three Affiliated Tribes Economic Recovery Fund in the Amount of \$676,000.00 ."

WHEREAS, This Nation has accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and

WHEREAS, Article III, Section 1 of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and

WHEREAS, Article VI, Section 5(a) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council shall have the power to manage all economic affairs of the Three Affiliated Tribes; and

WHEREAS, Article VI, Section 5 (c) of the Constitution provides that the Tribal Business Council has the power to administer all funds within the exclusive control of the Tribes and to make expenditures from available tribal funds for public purposes of the Tribes; and

WHEREAS, Article VI, Section 5 (d) provides that the Tribal Business Council has the power to negotiate with the federal government on behalf of the Tribes; and

WHEREAS, In order to provide additional compensation to the Tribes for the United States' taking of one hundred and fifty-six thousand acres of reservation lands in connection with the construction of 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 for the benefit of the Tribes; and



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WHEREAS, pursuant to the Act, the United States Secretary of the Interior (the “Secretary”) is required to deposit the interest that accrues on deposits into 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 Tribes 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, Pursuant to 25 CFR 115.815, an Indian tribe desiring to request amounts from a tribal trust account may make a written request to the BIA or the OTFM that is signed by the proper authorizing official(s), lists the amount of trust funds to be withdrawn, provides any additional documentation or information required by law to withdraw certain trust funds, and includes a tribal resolution approving the withdrawal of the specified amount of trust funds;; and

WHEREAS, There are currently interest funds in the amount of \$676,000.00 available from the Three Affiliated Tribes Economic Recovery Fund and the Tribal Business Council desires to request this amount from the OTFM to be used for continued operations of the Three Affiliated Tribes general fund budget in accordance with the Act; and



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NOW, THEREFORE, BE IT RESOLVED, that the Tribal Business Council of the Three Affiliated Tribes pursuant to its constitutional authority and pursuant to 25 CFR 115.815 hereby requests and directs the OTFM to make available for draws by the Three Affiliated Tribes interest earnings from the Three Affiliated Tribes' Economic Recovery Fund in the amount of \$676,000.00 to be used for the purposes authorized by Public Law 102-575 including, education, social services and economic development pursuant to the Tribes General Fund operating budget which is attached herewith.

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 Special Meeting thereof duly called, noticed, convened and held on the 18th day of November, 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 November, 2009

ATTEST:

for Frank Whitecalf
Chairman, Marcus Levings
Tribal Business Council

Judy Brugh
Executive Secretary, V Judy Brugh
Tribal Business Council