



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

***A Resolution entitled, "Three Affiliated Tribes Tribal Business Corporation Act"***

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

**WHEREAS,** The Constitution of the Three Affiliated 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 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 Three Affiliated Tribes ("Tribes") has determined that it is in the best economic interest to continue the pursuit of the economic development projects such as the Clean Fuels Refinery Project (the "Project") on behalf of the Mandan, Hidatsa & Arikara Nation (the "Nation"); and

**WHEREAS,** The Business Council has determined that it is in the best interest of the Nation to establish the Three Affiliated Tribes Tribal Business Corporation Act; and

**WHEREAS,** Said Corporation Act will allow businesses to incorporate under Tribal Law thereby expanding the economic opportunities within the exterior boundaries of the Fort Berthold Indian Reservation; and

**WHEREAS,** The Business Council has determined that it is the best interest of the Nation to expand the economic opportunities through enactment of a new Corporation Act.

**NOW THEREFORE BE IT RESOLVED,** that the Tribal Business Council hereby ordains and enacts the Tribal Business Corporation Act; and

**BE IT FURTHER RESOLVED,** the Tribal Business Council hereby waives all provisions of the Three Affiliated Tribes Procedures for Enacting Tribal Codes in its enactment and approval of the Tribal Business Corporation Act; and

**BE IT FURTHER RESOLVED,** the approved Tribal Business Corporation Act shall be formally reformatted for inclusion in the Three Affiliated Tribes Code of Laws; and

**BE IT FINALLY RESOLVED,** that the Chairman is hereby authorized to take such further actions as are necessary to carry out the terms and intent of this resolution.






**CERTIFICATION**

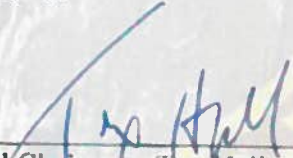
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum. 5 were present at a **Regular TBC Meeting** thereof duly called, noticed, convened and held on the 28<sup>th</sup> day of **November, 2011**, 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 28<sup>th</sup> day of **November, 2011**.

**ATTEST:**

  
\_\_\_\_\_  
Tribal Secretary V. Judy Brugh  
Tribal Business Council  
Three Affiliated Tribes

  
\_\_\_\_\_  
Tribal Chairman, Tex Hall  
Tribal Business Council  
Three Affiliated Tribes



**THREE AFFILIATED TRIBES  
TRIBAL BUSINESS CORPORATION ACT**

**Section 1. Title**

This Ordinance shall be known as the Three Affiliated Tribes Tribal Business Corporation Act.

**Section II. Purpose**

Corporations may be organized under this Act for any lawful purposes.

**Section III. Definitions**

- (a) "Corporation" means a corporation for profit subject to the provisions of this Ordinance.
- (b) "Articles" means the original or restated articles of incorporation, articles of consolidation, charter or other documents evidencing the creation of a corporate entity and all amendments thereto.
- (c) "Shares" means the units into which the ownership interests in a corporation are divided.
- (d) "Shareholder" means the person in whose name shares are registered in the records of the corporation.
- (e) "Authorized Shares" means the shares of all classes which the corporation is authorized to issue.
- (f) "Net Assets" means the amount by which the total assets of a corporation exceed the total debts of the corporation.

**Section IV. General Powers**

Each corporation shall have power:

- (a) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation.
- (b) To sue and be sued, complain and defend, in its corporate name.
- (c) To have a corporate seal which may be altered at its pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

- (d) To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use and otherwise dealing with, real or personal property, or any interest therein, wherever situated.
- (e) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets, except for tribal trust property to which it may have an interest in.
- (f) To lend money and use its credit for any lawful purpose.
- (g) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, associations, partnerships or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.
- (h) To make contracts and guarantees and incur liabilities, borrow money, issue its notes, bonds and other obligations by mortgage or pledge of all or any of its property and income, except for any interest in tribal trust property.
- (i) To lend money for its corporate purposes, invest or reinvest its funds, and take and hold real and personal property as security/collateral for the payment of funds so loaned or invested.
- (j) To conduct its business, carry on its operations and have offices and exercise the powers granted by this Ordinance, within or without the exterior boundaries of the Fort Berthold Indian Reservation.
- (k) To elect or appoint officers and agents of the corporation, and define their duties and fix their compensation.
- (l) To make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of the Three Affiliated Tribes for the administration and regulation of the affairs of the corporation.
- (m) To make donation for the public welfare or for charitable, scientific, educational or cultural purposes.
- (n) To transact any lawful business.
- (o) To pay pensions and establish pension plans, pension trusts, profit sharing plans, stock option plans, stock bonus plans or other incentive plans for any or all of its directors, officers and employees.

(p) To be partner, member, associate, manager or associate of any partnership, joint venture, trust or other enterprise.

(q) To have and exercise all powers necessary or convenient to effect its purposes.

**Section V. Corporate Name**

The Corporate name:

(a) Shall contain the words "corporation," "company," "incorporated," or "limited," or the abbreviation of any such word.

(b) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than the purpose or purposes contained in its articles of incorporation.

(c) Shall not be the same as, or deceptively similar to, the name of any corporation existing under the laws of the Three Affiliated Tribes, or any name the exclusive right to which is, at the time, reserved in the manner provided in this Ordinance, or the name of a corporation which had in effect a registration of its corporate name as provided in this Ordinance.

**Section VI. Registered Office and Registered Agent**

Each corporation organized pursuant to this Act shall have and continually maintain on the Fort Berthold Indian Reservation:

(a) A registered office which may be, but need not be, the same as its principle place of business.

**Section VII. Service of Process on Corporation**

The registered agent appointed by the corporation shall be an agent of the corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

**Section VIII. Authorized Shares**

Each corporation shall have power to create and issue the number of shares stated in its articles of incorporation. Such shares may be divided into one or more ~~classes, any or all of which classes may consist of shares with par value or shares~~ without par value with such designations, preferences, limitations, and relative rights as shall be stated in the articles of incorporation. The articles of

incorporation may limit voting rights for the shares of any class to the extent not inconsistent with the provisions of this Act.

Without limiting the authority herein contained, a corporation, when so provided in its articles of incorporation, may issue shares of preferred or special classes:

- (a) Subject to the right of the corporation to redeem any of such shares at the price fixed by the articles of incorporation for the redemption thereof;
- (b) Entitling the holders thereof to cumulative, noncumulative or partially cumulative dividends;
- (c) Having preference over any other class or classes of shares as to the payment of dividends;
- (d) Having preference in the assets of the corporation over any other class or classes of shares upon the voluntary or involuntary liquidation of the corporation; and
- (e) Convertible into shares of any other class or into shares of any series of the same or any other class, except a class having prior or superior rights and preferences as to dividends or distribution of assets upon liquidation, but shares without par value shall not be converted into shares with par value unless that part of the stated capital of the corporation represented by such shares without par value is, at the time of conversion, at least equal to the aggregate par value of the shares into which the shares without par value are to be converted for the amount of any such deficiency is transferred from surplus to stated capital.

#### **Section IX. Payment for Shares**

The consideration for the issuance of shares may be paid, in whole or in part, in cash, in other property, tangible or intangible or in labor or service actually performed for the corporation.

Neither promissory notes nor future services shall constitute payment or part payment for this issuance of shares of a corporation.

#### **Section X. Certificate Representing Shares**

The shares of a corporation may or may not be represented by certificates signed by the President or a Vice President and the Secretary of the corporation. However, shares shall be recorded in the corporate records.

## **Section XI. Liability of Shareholders**

A holder of shares of a corporation shall be under no obligation to the corporation or its creditors with respect to such shares other than the obligation to pay to the corporation the full consideration for which such shares were issued or to be issued.

## **Section XII. By-Laws**

The initial by-laws of the corporation shall be adopted by its board of directors. The power to alter, amend or repeal the by-laws or adopt new by-laws, subject to repeal or changed by action of the shareholders, shall be vested in the board of directors.

## **Section XIII. Articles of Incorporation**

The articles of incorporation shall set forth:

- (a) The name of the corporation.
- (b) The period of duration; this may be perpetual.
- (c) The purpose or purposes for which the corporation is organized which may be stated to be, or to include the transaction of any or all lawful business for which corporations may be incorporated under this Act.
- (d) The aggregate number of shares which the corporation shall have authority to issue, if such shares are to consist of one class only; the par value of each of such shares, or a statement that all of such shares are without par value, or, if such shares are to be divided into classes, the number of shares of each class, and a statement of the par value of the shares of each such class or that such shares are to be without par value.
- (e) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations and relative rights in respect of the shares of each class.
- (f) If the corporation is to issue the shares of any preferred or special class in a series, then the designation of each series and a statement of the variations regarding the relative rights and preferences as between such series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish such series and fix and-determine the variations-in-the-relative-rights-and-preferences-as-between parties.

- (g) If any preemptive right is to be granted to shareholders, the provisions therefor.
- (h) Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision, restricting the transfer of shares and any provision which is required or permitted to be set forth in the by-laws pursuant to this Ordinance.
- (i) The address of its initial registered office, and the name of its initial registered agent at such address.
- (j) The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors are duly elected pursuant to the bylaws.
- (k) The name and address of each incorporator. It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this Ordinance.

#### **Section XIV. Filing of Articles of Incorporation**

Duplicate originals of the articles of incorporation shall be delivered to the Tribal Secretary for the Three Affiliated Tribes. If the Tribal Secretary finds that the articles of incorporation conform to tribal law, the Secretary shall:

- (a) Endorse on each such duplicate originals the word "filed" and the month, day and year of the filing thereof;
- (b) Maintain one such duplicate original in the Tribal Secretary's office; and
- (c) Issue a certificate of incorporation to which the Secretary shall affix the duplicate original and return it to the incorporators.

#### **Section XV. Effect of Issuance of Certificate of Incorporation**

The corporate existence shall begin upon the issuance of the certificate of incorporation by the Tribal Secretary.

#### **Section XVI. Right to Amend or Restate Articles of Incorporation**

~~A corporation may amend or restate its articles of incorporation at any time.~~



## **Section XVII. Articles of Amendment or Restatement**

Any amended or restated articles of incorporation shall be executed by its President or a Vice President and its Secretary upon passage by the Board of Directors at duly called meeting of the Board.

## **Section XVIII. Filing of Amended or Restated Articles**

Duplicate originals of the amended or restated articles shall be delivered to the Tribal Secretary for the Three Affiliated Tribes. If the Secretary determines that the amended or restated articles conform to Tribal Law, the Secretary shall:

- (a) Endorse on each duplicate original the word "filed" and the month, day and year of such filing thereof;
- (b) Maintain one such duplicate original in the Tribal Secretary's office; and
- (c) Issue a certificate of amendment to which the Secretary shall affix the other duplicate original and return to the corporation.

## **Section XIX. Effect of Certificate of Amendment or Restatement**

The amendment or restatement shall become effective and the articles of incorporation shall be deemed to be amended or restated accordingly upon the issuance of the certificate of amendment or restatement by the Secretary,

## **Section XX. Voluntary Dissolution by Incorporators**

A corporation which has not commenced business and which has not issued any shares may be voluntarily dissolved by its incorporators at any time in the following manner:

- (a) Articles of dissolution shall be executed in duplicate by a majority of the incorporators, and verified by them, and shall set forth:
  1. The name of the corporation.
  2. The date of issuance of its certificate of incorporation.
  3. That none of its shares has been issued.
  4. That the corporation has not commenced business.
  5. That the amount, if any, actually paid in on subscriptions for its shares, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto.

6. That no debts of the corporation remain unpaid.
  7. That a majority of the incorporators elect that the corporation be dissolved.
- (b) Duplicate originals of the articles of dissolution shall be delivered to the Tribal Secretary. If the Secretary finds that the articles of dissolution conform to law, the Secretary shall:
1. Endorse on each of such duplicate originals the word "filed" and the month, day and year of the filing thereof.
  2. File on of such duplicate originals in the Tribal Secretary's office.
  3. Issue a certificate of dissolution to which the Secretary shall affix the other duplicate original.

The certificate of dissolution, together with the duplicate originals of the articles of dissolution affixed thereto by the Secretary, shall be returned to the incorporators, or their agent. Upon issuance of such certificate of dissolution by the Secretary, the existence of the corporation shall cease.

#### **Section XXI. Voluntary Dissolution by Consent of Shareholders**

A corporation may be voluntarily dissolved by the written consent of all of its shareholders.

Upon the execution of such written consent, a statement of intent to dissolve shall be executed in duplicate by the corporation's President or a Vice President and its Secretary, and verified by one of the officers signing such statement, which statement shall set forth:

- (a) The name of the corporation.
- (b) The names and respective addresses of its officers.
- (c) The names and respective addresses of its directors.
- (d) A copy of the written consent signed by all shareholders of the corporation.
- (e) A statement that such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys' thereunto duly authorized.

## **Section XXII. Voluntary Dissolution by Act of Corporation**

A corporation may be dissolved by the act of the corporation, when authorized in the following manner:

- (a) The board of directors shall adopt a resolution recommending that the corporation be dissolved and directing that the question of such dissolution be submitted to a vote at a meeting of shareholders, which may be either an annual or a specially called meeting for such purpose.
- (b) Written notice shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this Ordinance for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or special, shall state that the purpose, or one of the purposes of such meeting is to consider the advisability of dissolving the corporation.
- (c) At such meeting, a vote of shareholders entitled to vote shall be taken on such resolution to dissolve the corporation. Such resolution shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the resolution shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon.
- (d) Upon the adoption of such resolution, a statement of intent to dissolve shall be executed in duplicate by the corporation by its President or a Vice President and by its Secretary and verified by one of the officers signing such statement, which statement shall set forth:
  1. The name of the corporation.
  2. The names and respective addresses of its officers.
  3. The names and respective addresses of its directors.
  4. A copy of the resolution adopted by the shareholders authorizing the dissolution of the corporation.
  5. The number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class.
  6. The number of shares voted for and against the resolution, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against the resolution, respectively.

### **Section XXIII. Filing of Statement of Intent to Dissolve**

Upon the filing with the Tribal Secretary of a statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, the corporation shall cease to carry on its business, except insofar as may be necessary for the winding up thereof, but its corporate existence shall continue until a certificate of dissolution has been issued by the Tribal Secretary or until a decree dissolving the corporation has been entered by a court of competent jurisdiction.

### **Section XXIV. Procedure after Filing of Statement of Intent to Dissolve**

After the filing with the Tribal Secretary the statement of intent to dissolve:

- (a) The corporation shall immediately cause notice thereof to be mailed to each known creditor of the corporation.
- (b) The corporation shall proceed to collect its assets, convey and dispose of such of its properties as are not to be distributed in kind to its shareholders, pay, satisfy and discharge its liabilities and obligations and do all other acts required to liquidate its business and affairs, and, after paying or adequately providing for the payment of all its obligations, distribute the remainder of its assets, either in cash or in kind, among its shareholders according to their respective rights and interests.
- (c) The corporation, at any time during the liquidation of its business and affairs, may make application to a court of competent jurisdiction to have the liquidation continued under the court's supervision.

### **Section XXV. Articles of Dissolution**

When all debts, liabilities and obligations of the corporation have been paid and discharged, or adequate provision has been made therefor, and all of the remaining property and assets of the corporation have been distributed to its shareholders, articles of dissolution shall be executed in duplicate by the corporation by its president or a vice president and by its secretary and verified by one of the officers signing such statement, which statement shall set forth:

- (a) The name of the corporation.
- (b) That all debts, obligations and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.
- (c) That all the remaining property and assets of the corporation have been distributed among its shareholders in accordance with their respective rights and interests.

- (d) That no legal action or administrative proceeding is pending against the corporation in any court or federal, state or tribal agency, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit or administrative proceeding.

#### **Section XXVI. Filing Articles of Dissolution**

Duplicate originals of such articles of dissolution shall be delivered to the Tribal Secretary. If the Secretary finds that such articles of dissolution conform to Tribal Law, the Secretary shall:

- (a) Endorse on each of such duplicate originals the word "filed" and the month, day and year of the filing thereof;
- (b) Maintain one of such duplicate originals in the Tribal Secretary's office; and
- (c) Issue a certificate of dissolution to which the Secretary shall affix the other duplicate original.

The certificates of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the Secretary, shall be returned to the registered agent of the dissolved corporation. Upon the issuance of such certificate of dissolution, the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by shareholders, directors or officers.

#### **Section XXVII. Involuntary Dissolution**

A corporation may be dissolved involuntarily by a decree of Three Affiliated Tribal Court in an action filed in the name of the Mandan Hidatsa and Arikara Nation by its Legal Department when it is established that:

- (a) The corporation procured its articles of incorporation through fraud; or
- (b) The corporation has continued to exceed or abuse the authority conferred upon it by law; or
- (c) The corporation has failed for thirty (30) days to appoint and maintain a registered agent on the Fort Berthold Indian Reservation; or
- (d) The corporation has failed for thirty (30) days after change of its registered officer or registered agent to file in the Tribal Secretary's office a statement of change.

## **Section XXVIII. Venue and Process**

Every action for the involuntary dissolution of a corporation shall be commenced by the Nation's Legal Department in the name of the Three Affiliated Tribes in the appropriate Tribal or Federal jurisdiction. Summons shall issue and be served as in other civil actions.

## **Section XXIX. Jurisdiction of Tribe and/or Federal Court to Liquidate Assets and Business of Corporation**

The Three Affiliated Tribes Tribal Courts shall have full power to liquidate the assets and business of a corporation:

(a) In an action by a shareholder when it is established:

- (1) That the directors are deadlocked in the management of the corporate affairs and the shareholders are unable to break the deadlock, and that irreparable injury to the corporation is being suffered or is threatened by reason thereof; or
- (2) That the acts of the directors or those in control of the corporation are illegal, oppressive or fraudulent; or
- (3) That the shareholders are deadlocked in voting power, and have failed, for a period which includes at least two (2) consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors; or
- (4) That the corporate assets are being misapplied or wasted.

(b) In an action by a creditor:

- (1) When the claim of the creditor has been reduced to judgment and an execution thereon returned unsatisfied and it is established that the corporation is insolvent; or
- (2) When the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.

(c) Upon application by a corporation which has filed a statement of intent to dissolve, as provided in this Act, to have its liquidation continued under the supervision of the court.

(d) When an action has been filed by the Nation's Legal Department to dissolve a corporation and it is established that liquidation of its business and affairs should precede the entry of a decree of dissolution.

It shall not be necessary to make shareholders parties to any such action or proceeding unless relief is sought against them personally.

### **Section XXX. Procedure in Liquidation of Corporation by the Tribe and/or Federal Court**

In proceedings to liquidate the assets and business of a corporation the court shall have power to issue injunctions, to appoint a receiver or receivers, with such powers and duties as the court from time to time may direct, and to take such other proceedings as may be requisite to preserve the corporate assets wherever situated, and carry on the business of the corporation until a full hearing can be had.

After a hearing upon such notice as the court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a liquidating receiver or receivers with authority to collect the assets of the corporation by subscribers on account of any unpaid portion of the consideration for the issuance of shares. Such liquidating receiver or receivers shall have authority, subject to the order of the court, to sell, convey, and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The assets of the corporation or the proceeds resulting from a sale, conveyance or other disposition thereof shall be applied to the expenses of such liquidation and to the payment of the liabilities and obligations of the corporation, and any remaining assets or proceeds shall be distributed among its shareholders according to their respective rights and interests. The order appointing such liquidating receiver or receivers shall state their powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings.

The court shall have power to allow from time to time, as expenses of the liquidation, compensation to the receiver or receivers and to attorneys in the proceeding, and to direct the payment thereof out of the assets of the corporation or the proceeds of any sale or disposition of such assets.

A receiver or receivers of a corporation appointed under the provisions of this section shall have authority to sue and defend in all courts in his own name as receiver or receivers of such corporation. The court appointing such receiver or receivers shall have exclusive jurisdiction of the corporation and its property, wherever situated.

### **Section XXXI. Filing of Claims in Liquidation Proceedings**

In proceedings to liquidate the assets and business of a corporation the court may ~~require all creditors of the corporation to file with the clerk of the court or with the receiver or receivers, in such form as the court may prescribe, proofs under oath of their respective claims. If the court requires the filing of claims it shall fix a date, which shall be not less than four (4) months from the date of the order, as~~

the last day for the filing of claims, and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed. Prior to the date so fixed, the court may extend the time for the filing of claims. Creditors and claimants failing to file proofs of claim on or before the date so fixed may be barred, by order of the court, from participating in the distribution of the assets of the corporation.

#### **Section XXXII. Discontinuance of Liquidation Proceedings**

The liquidation of the assets and business of a corporation may be discontinued at any time during the liquidation proceedings when it is established that cause for liquidation no longer exists. In such event the court shall dismiss the proceedings and direct the receiver or receivers to redeliver to the corporation all its remaining property and assets.

#### **Section XXXIII. Decree of Involuntary Dissolution**

In proceedings to liquidate the assets and business of a corporation, when the costs and expenses of such proceedings and all debts, obligations and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed to its shareholders, or in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts and obligations, all the property and assets have been applied so far as they will go to their payment, the court shall enter a decree dissolving the corporation, whereupon the existence of the corporation shall cease.

#### **Section XXXIV. Filing of Decree of Dissolution**

In case the court shall enter a decree dissolving a corporation, it shall be the duty of the clerk of such court to cause a certified copy of the decree to be filed with the Tribal Secretary. No fee shall be charged by the Tribal Secretary for the filing thereof.

#### **Section XXXV. Survival of Remedy after Dissolution**

The dissolution of a corporation either (1) by the issuance of a certificate of dissolution by the Tribal Secretary, or by (2) a decree of a court when the court has not liquidated the assets and business of the corporation as provided in this Ordinance, or (3) by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers or shareholders, for any right or claim existing or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two (2) years after the date of such dissolution. Any such action or proceeding by or ~~against the corporation may be prosecuted or defended by the corporation in its corporate name.~~ The shareholders, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of



duration, such corporation may amend its articles of incorporation at any time during such period of two (2) years so as to extend its period of duration.

**Section XXXVI. Survivability**

If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any part of this ordinance, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this Act. The effect thereof shall be confined to part of this Act as adjudged to be invalid or unconstitutional.

**Section XXXVII. Effective Date**

This Act shall be in full force and effect according to its terms from and after the date of enactment by the Three Affiliated Tribes Business Council.

**Section XXXVIII. Reports**

Each company incorporated under this Act shall file an annual report with the Tribal Secretary. The Tribal Secretary has the authority to issue a certificate of good standing for each company incorporated under this Act. The certificate of good standing is proof to the public that the company exists as a legal entity and is good standing with the Three Affiliated Tribes' Corporation Laws.

**Section XXXIV. Fees**

The Tribal Secretary is authorized to set a schedule of fees for the filing of the Articles of Incorporation and any amendments and or restatements thereto. The fees associated with such filings shall go towards offsetting the costs associated with the implementation of this Act.

**Section XXXV. Reservation of Right.**

The Tribe reserves the right to amend or repeal provisions of this Act. A corporation incorporated under or governed by this Act is subject to this reserved right.

**Section XXXVI. Corporation Wholly Owned by the Tribe.**

The provisions of this Act shall to apply to all corporations incorporated under this Act and wholly owned by the Nation and shall override any other provisions in this Code to the contrary subject to Sec. XXXVII of this Act.

**Section XXXVII. No Waiver of Sovereign Immunity.**

By the adoption of this Act, the Tribe does not waive its sovereign immunity or consent to suit in any court, federal, tribal or state, and neither the adoption of this Act, nor the incorporation of any corporation hereunder, shall be construed to be a waiver of the sovereign immunity of the Tribe or a consent to suit against the Tribe in any such court.

**Section XXXVIII. Authority**

This Act is enacted by the Three Affiliated Tribes Business Council under the authority vested in said Business Council by Article III, Section 1 of the Nation's Constitution.

As Approved by Resolution 11-\_\_\_\_\_-VJB (November \_\_, 2011)