

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

- 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 the enrolled members thereof; and
- WHEREAS,** Article VI, Section 5 (1) of the Constitution of the Three Affiliated Tribes specific authorizes and empowers the Tribal Business Council to adopt regulations regarding the procedures of tribal agencies; and
- WHEREAS,** The Tribe has borrowed, and continues to borrow, money from various sources and to pledge collateral as security therefore pursuant to various forms of agreements; and
- WHEREAS,** The Tribe's ability to borrow money has sometimes been hindered due to uncertainty regarding the authority of the Tribe, by and through the Tribal Business Council, to borrow money under the terms of the Tribal Constitution; and
- WHEREAS,** The Tribal Business Council, as the governing body of the Tribe, has interpreted Article VI, Sections 3, 5(c) and 6, and Article IX, Section 6, of the Tribal Constitution to authorize the Tribe, by and through the Tribal Business Council, to borrow money, and desires to formally adopt said interpretation.
- NOW, THEREFORE BE IT RESOLVED,** That the Three Affiliated Tribal Business Council does hereby find and declare that the Three Affiliated Tribes, by and through the Tribal Business Council, is authorized to borrow money by virtue of Article VI, Sections 3, 5(c) and 6, and Article IX, Section 6, of the Constitution and Bylaws of the Three Affiliated Tribes of the Fort Berthold Reservation; and
- BE IT FURTHER RESOLVED,** That the Three Affiliated Tribes Tribal Business Council has found and declared that the Tribe, by and through the Tribal Business Council, is authorized to borrow money under the Tribal Constitution in accordance with the interpretation of the various sections of the Tribal Constitution as set forth herein below:

1. Under Article VI, Section 3, the Tribal membership has delegated 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 ...” Article I declares that the sovereign authority of the Tribe extends to all persons and all lands within the Fort Berthold Reservation, as well as such other persons and lands which may subsequently come within the Reservation, except as otherwise provided by law. The Tribe continues to possess all aspects of its sovereignty except that which has been expressly withdrawn by treaty or statute, or by implication as a necessary result of its so-called independent status. The power to borrow money is a traditional sovereign power. Because the Tribal Business Council may borrow money on behalf of the Tribe pursuant to the authority vested by Article VI, Section 3.

2. Under Article VI, Section 5(c), the Tribal Business Council may “administer any funds or property within the exclusive control of the Tribes to make expenditures from available Tribal funds for public purposes of the Tribes” “The terms “any funds.” Trust funds are a special category of funds held in the United States Treasury or invested by the Bureau of Indian Affairs to the credit of a tribe pursuant to law or treaty. The references to “any funds” and “Tribal funds” within Article VI, Section 5(c) are therefore properly construed to mean monies from loans, Tribal taxes, business operations and other typical services. The power of the Tribes, by and through the Tribal Business Council, to borrow money for public purposes is implicit in the power of the Tribal Business Council “to administer any funds . . . to make expenditures from available Tribal funds for public purposes of the Tribes” The Tribal Business Council may borrow money on behalf of the Tribe for public purposes pursuant to the authority vested by Article VI, Section 5(c).

3. Under Article VI, Section 6, the Tribal Business Council “may exercise such further powers as may in the future be delegated to the Three Affiliated Tribes of the Fort Berthold Reservation by the Secretary of the Interior or by any other official or agency of the Government.” The Tribal Constitution was adopted on May 15, 1936, pursuant to, and shortly after, the adoption of the Indian Reorganization Act. Article VI, Section 6, empowers the Tribal Business Council to exercise powers, in addition to those otherwise identified in the Tribal Constitution, which may generally be exercised by tribal government bodies pursuant to federal law enacted subsequent to adoption of the Tribal Constitution. Pursuant to the Indian Tribal Governmental Tax Status Act of 1982, 26 U.S.C. 7871, “Indian tribal governments” may issue tax exempt debt under the Internal Revenue Code similar to that of state and local governments. As such, Article VI, Section 6, authorizes the Tribes, by and through the Tribal Business Council, to issue bonds pursuant to said Act. The issuance of bonds is the equivalent of borrowing money.

4. Under Article IX, Section 6, the Tribal Business Council is “authorized and empowered to acquire by purchase . . . or otherwise any lands or interests in land for and on behalf of the Three Affiliated Tribes under such terms as may be as may be agreed upon provided the acquisition is approved by the Secretary of the Interior.” The power of the Tribe, by and through the Tribal Business Council to borrow money for the purchase of land is implicit in the power of the Tribal Business Council “to acquire by purchase . . . or otherwise any lands or interests in land” in that the power to borrow money generally accompanies the power to purchase land. The Tribal Business Council may borrow money on behalf of the Tribe to acquire land pursuant to the authority vested by Article IX, Section 6.

Pursuant to the foregoing interpretation of the Tribal Constitution, the Tribal Business Council has found and declared that the Tribe, by and through the Tribal Business Council, is generally empowered to borrow money by virtue of the Tribe’s sovereign status and in accordance with the delegation of “all necessary sovereign authority” by the Tribal membership under Article VI, Section 3. The Tribal Business Council has also found and declared that the Tribe, by and through the Tribal Business Council, is empowered to borrow money for public purposes under Article VI, Section 5(c), to the extent authorized by any federal laws enacted subsequent to the adoption of the Tribal Constitution under Article VI, Section 6 and for the acquisition of land under Article IX, Section 6; and

BE IT FURTHER RESOLVED, that the interpretation herein of the Tribal Constitution shall be binding now and hereafter on the Three Affiliated Tribes Tribal Courts and on all other Three Affiliated Tribal governmental agencies, notwithstanding any other language in tribal law to the contrary hereto; and

BE IT FURTHER RESOLVED, that the Three Affiliated Tribes Tribal Business Council, based on the interpretation herein of the Tribal Constitution, hereby concludes and provides that the pending Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, General Obligation Bonds, Series 1999, dated March 1, 1999 - \$3,045,000, and all agreements and instruments here before and/or hereafter executed by the Tribe, by and through the Tribal Business Council, in connection therewith, including but not limited to the accompanying Bond Ordinance and Loan and Escrow Agreement, constitute a borrowing of money which is authorized by the Tribal Constitution and otherwise permissible under all other Tribal law, and that the owner(s) of said Bond(s) and all other interested persons are entitled to rely on the interpretation of the Tribal Constitution herein; and

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

- 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 the enrolled members thereof; and
- WHEREAS,** Article VI, Section 5 (1) of the Constitution of the Three Affiliated Tribes specific authorizes and empowers the Tribal Business Council to adopt regulations regarding the procedures of tribal agencies; and
- WHEREAS,** The Tribe has borrowed, and continues to borrow, money from various sources and to pledge collateral as security therefore pursuant to various forms of agreements; and
- WHEREAS,** The Tribe's ability to borrow money has sometimes been hindered due to uncertainty regarding the authority of the Tribe, by and through the Tribal Business Council, to borrow money under the terms of the Tribal Constitution; and
- WHEREAS,** The Tribal Business Council, as the governing body of the Tribe, has interpreted Article VI, Sections 3, 5(c) and 6, and Article IX, Section 6, of the Tribal Constitution to authorize the Tribe, by and through the Tribal Business Council, to borrow money, and desires to formally adopt said interpretation.
- NOW, THEREFORE BE IT RESOLVED,** That the Three Affiliated Tribal Business Council does hereby find and declare that the Three Affiliated Tribes, by and through the Tribal Business Council, is authorized to borrow money by virtue of Article VI, Sections 3, 5(c) and 6, and Article IX, Section 6, of the Constitution and Bylaws of the Three Affiliated Tribes of the Fort Berthold Reservation.
- BE IT FURTHER RESOLVED,** That the Three Affiliated Tribes Tribal Business Council has found and declared that the Tribe, by and through the Tribal Business Council, is authorized to borrow money under the Tribal Constitution in accordance with the interpretation of the various sections of the Tribal Constitution as set forth herein below:

1. Under Article VI, Section 3, the Tribal membership has delegated 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 ...” Article I declares that the sovereign authority of the Tribe extends to all persons and all lands within the Fort Berthold Reservation, as well as such other persons and lands which may subsequently come within the Reservation, except as otherwise provided by law. The Tribe continues to possess all aspects of its sovereignty except that which has been expressly withdrawn by treaty or statute, or by implication as a necessary result of its so-called independent status. The power to borrow money is a traditional sovereign power. Because the Tribal Business Council may borrow money on behalf of the Tribe pursuant to the authority vested by Article VI, Section 3.

2. Under Article VI, Section 5(c), the Tribal Business Council may “administer any funds or property within the exclusive control of the Tribes to make expenditures from available Tribal funds for public purposes of the Tribes “ The terms “any funds.” Trust funds are a special category of funds held in the United States Treasury or invested by the Bureau of Indian Affairs to the credit of a tribe pursuant to law or treaty. The references to “any funds” and “Tribal funds” within Article VI, Section 5(c) are therefore properly construed to mean monies from loans, Tribal taxes, business operations and other typical services. The power of the Tribes, by and through the Tribal Business Council, to borrow money for public purposes is implicit in the power of the Tribal Business Council “to administer and funds . . . to make expenditures from available Tribal funds for public purposes of the Tribes . . . “ The Tribal Business Council may borrow money on behalf of the Tribe for public purposes pursuant to the authority vested by Article VI, Section 5(c).

3. Under Article VI, Section 6, the Tribal Business Council “may exercise such further powers as may in the future be delegated to the Three Affiliated Tribes of the Fort Berthold Reservation by the Secretary of the Interior or by any other official or agency of the Government.” The Tribal Constitution was adopted on May 15, 1936, pursuant to, and shortly after, the adoption of the Indian Reorganization Act. Article VI, Section 6, empowers the Tribal Business Council to exercise powers, in addition to those otherwise identified in the Tribal Constitution, which may generally be exercised by tribal government bodies pursuant to federal law enacted subsequent to adoption of the Tribal Constitution. Pursuant to the Indian Tribal Governmental Tax Status Act of 1982, 26 U.S.C. 7871, “Indian tribal governments” may issue tax exempt debt under the Internal Revenue Code similar to that of state and local governments. As such, Article VI, Section 6, authorizes the Tribes, by and through the Tribal Business Council, to issue bonds pursuant to said Act. The issuance of bonds is the equivalent of borrowing money.

4. Under Article IX, Section 6, the Tribal Business Council is “authorized and empowered to acquire by purchase . . . or otherwise any lands or interests in land for and on behalf of the Three Affiliated Tribes under such terms as may be as may be agreed upon provided the acquisition is approved by the Secretary of the Interior.” The power of the Tribe, by and through the Tribal Business Council “to acquire by purchase . . . or otherwise any lands or interests in ;and” in that the power to purchase land, The Tribal Business Council may borrow money on behalf of the Tribe to acquire land pursuant to the authority vested by Article IX, Section 6.

Pursuant to the foregoing interpretation of the Tribal Constitution, the Tribal Business Council has found and declared that the Tribe, by and through the Tribal Business Council, is generally empowered to borrow money by virtue of the Tribe’s sovereign status and in accordance with the delegation of “all necessary sovereign authority” by the Tribal membership under Article VI, Section 3. The Tribal Business Council has also found and declared that the Tribe, by and through the Tribal Business Council, is empowered to borrow money for public purposes under Article VI, Section 5(c), to the extent authorized by any federal laws enacted subsequent to the adoption of the Tribal Constitution under Article VI, Section 6 and for the acquisition of land under Article IX, Section 6.

BE IT FURTHER RESOLVED, that the interpretation herein of the Tribal Constitution shall be binding now and hereafter on the Three Affiliated Tribes Tribal Courts and on all other Three Affiliated Tribes Tribal Courts and on all other Three Affiliated Tribal governmental agencies, notwithstanding any other language in tribal law to the contrary hereto.

BE IT FURTHER RESOLVED, that no future interpretation of the Tribal Constitution which is contrary to the interpretation adopted herein shall be applied retroactively.

BE IT FURTHER RESOLVED, that the Three Affiliated Tribes Tribal Business Council, based on the interpretation herein of the Tribal Constitution, hereby concludes and provides that the pending Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, General Obligation Bonds, Series 1999, dated March 1, 1999 - \$3,045,000, and all agreements and instruments here before and/or hereafter executed by the Tribe, by and through the Tribal Business Council, in connection therewith, including but not limited to the accompanying Bond Ordinance and Loan and Escrow Agreement, constitute a borrowing of money which is authorized by the Tribal Constitution and otherwise permissible under all other Tribal law, and that the owner(s) of said Bond(s) and all other interested persons are entitled to rely on the interpretation of the Tribal Constitution herein.

BE IT FURTHER RESOLVED, that the foregoing interpretation of the Constitution and Bylaws of the Three Affiliated Tribes in no way affects the rights of Tribal members to exercise their rights under Section VIII of the Constitution entitled "Referendum".

BE IT FURTHER RESOLVED, that the Chairman of the Tribal Business Council is authorized to take any and all actions necessary to fulfill the intent of this Resolution.

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, 7 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 12th day of March, 1999; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 3 members, 2 members opposed, 1 members abstained, 1 members not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 12th day of March, 1999.

Secretary, Tribal Business Council

ATTEST:

Chairman, Tribal Business Council

BE IT FURTHER RESOLVED that the foregoing interpretation of the Constitution and Bylaws of the Three Affiliated Tribes in no way affects the rights of Tribal members to exercise their rights under Section VIII of the Constitution entitled "Referendum"; and

BE IT FURTHER RESOLVED, that the Chairman of the Tribal Business Council is authorized to take any and all actions necessary to fulfill the intent of this Resolution.

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, 7 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 12th day of March, 1999; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 3 members, 2 members opposed, 1 members abstained, 1 members not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 12th day of March, 1999.

Daylon Spotted Bull
Secretary, Tribal Business Council

ATTEST:

[Signature]
Chairman, Tribal Business Council