

**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 of the enrolled members thereof; and

**WHEREAS,** Article VI, Section 5(c) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to administer the funds within the exclusive control of the Tribes and to make expenditures from available Tribal funds for public purposes of the Tribes; and

**WHEREAS,** The Tribe has determined that it would be in the best interests of the Tribe and its enrolled members to acquire funds to 1) pay off the remaining indebtedness owed to Miller & Schroeder Investments Corporation for the buy-out of the Management Contract with Bruce H. Lien Co. entered into in February, 1997, in the approximate amount of \$4,200,000; and 2) to borrow funds to expand the 4 Bears Casino and Lodge facilities, which will include, among other things, a multi-purpose building, approximately 40 additional rooms for the hotel, a swimming pool, an amphitheater, a marina, a fine dining restaurant and a cruise yacht and other general improvements to the layout of the casino and related facilities, with the total cost of the improvements and the loan repayment being capped at \$12,200,000, which improvements will generate significant additional revenue for the Tribe and its members over the next 20 years; and

**WHEREAS,** The Tribe has determined that Miller & Schroeder Investments Corporation ("Miller & Schroeder"), an investment securities firm, (the "Lender") has the ability, as set forth in its engagement letter attached hereto, to provide the necessary financing for a total loan package of \$15,200,000 (the "Loan") plus all costs associated with closing of the Loan and the execution of a promissory note or issuance of bonds, both taxable and non-taxable, to be secured first by revenues from the operation of the 4 Bears Casino and Lodge, second by a general obligation of the Tribe, and third, by a pledge of interest funds that are presently available to the Tribe as a result of the passage of Title XXXV of P.L. 102-575, 106 Stat. 4731, the Equitable Compensation Act (the "Act") for the Three Affiliated Tribes and Standing Rock Sioux Tribe, in an amount not more, as of any date, than the outstanding principal amount owing by the Tribe on the Loan plus maximum interest coming due in the two months following such date, on that part of the Loan proceeds that are taxable which will be obtained through a promissory note or issue of taxable bonds in the name of the Tribe. Said Act created for the Tribe a fund on deposit with the U.S. Treasury in the amount of 149.2 million to be held in perpetuity for the benefit of the Tribe, the interest

from which became available to the Tribe on October 1, 1997, and which interest has now accumulated, as of November 23, 1999, in the amount of \$ \$44,087,911.52 according to information obtained and in the possession of the Office of Trust Funds Management of the Department of Interior, and which is now available to the Tribe at its request and upon the approval of the Secretary of the U.S. Department of Interior, in accordance with the provisions of the Act; and

**WHEREAS,** The Tribe has determined that the contemplated uses of the funds to be borrowed through the efforts of Miller & Schroeder through the issuance of both tax-exempt and taxable bonds or the issuance of a promissory note are within the stated purposes for which funds of the Act may be used, which purposes include economic development and other programs of the Tribe; and

**WHEREAS,** The Loan shall be structured in accordance with the attached term sheets, and the terms are summarized as follows: 1) the term of the taxable portion of the loan, (the "Taxable Loan") which is approximately \$8,000,000, subject to legal review of the entire loan to determine which portions are taxable and non-taxable, shall be for 7 (seven) years, amortized over 15 (fifteen) years, and with a fixed interest rate for the first 3 (three) years of the taxable portion of the loan equal to the prime rate less .50%, with periodic adjustment of the rate every three years after that for the term of the loan, and subject to refinancing after the first 7 (seven) years, and will be secured first by a pledge of casino revenue, second by a general obligation of the Tribe, and third by an assignment of interest income from investment of the Economic Recovery Fund established under the Equitable Compensation Act in an amount equal to the outstanding balance of the Taxable Loan plus accrued interest; 2) the term of the non-taxable portion of the loan, which is approximately \$7,000,000, subject to legal review of the entire loan to determine which portions are taxable and non-taxable, shall be 7 (seven) years, amortized over 15 (fifteen) years, with a fixed interest rate of 6.375%, subject to current market conditions, and will be secured by a priority security interest in the revenues of the 4 Bears Casino and Lodge as evidenced by a Depository Agreement with an acceptable bank and a general obligation of the Tribe; and 3) the Loans, both Taxable and Tax Exempt, will be subject to a servicing fee in the amount of 0.125% of the outstanding balance and will be subject to a placement fee of 1.85% and legal and other closing costs associated with the transaction, and which will result in a total monthly payment of approximately \$139,000 in repayment of the entire \$15.2 million; and

**WHEREAS,** Miller & Schroeder Investments Corporation has agreed to lend to the Three Affiliated Tribes the principal amount of \$15,200,000 in order to provide funding for the expansion of the 4 Bears Casino and Lodge and to retire certain interim financing in the amount of \$3,000,000 obtained from Miller & Schroeder previously for the operation of the government and programs of the Three Affiliated Tribes;

**NOW, THEREFORE, BE IT RESOLVED**, That the Tribal Business Council of the Three Affiliated Tribes hereby provides as follows:

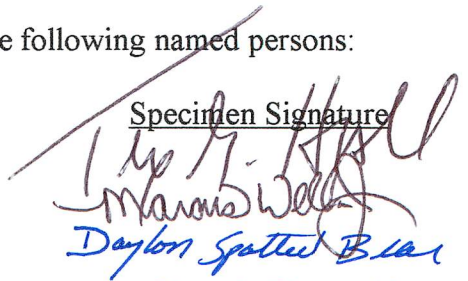
Section 1. Recitals

- 1.1 The Tribal Business Council, consisting of the officials of the Tribal Business Council and the tribal representatives elected in the customary manner and in accordance with the Constitution and By-laws of The Three Affiliated Tribes of the Fort Berthold Reservation, a federally recognized Indian tribe (the "Tribe"), is the governing body of the Tribe.
- 1.2 Pursuant to a Loan Agreement (the "Loan Agreement") between Miller & Schroeder Investments Corporation ("Lender"), and the Tribe, the Lender proposes to lend to the Tribe the sum of \$15,200,000 (the "Loan"), which indebtedness shall be evidenced by a promissory note in the aggregate principal amount of the loan payable to the Lender (the "Note"), secured first by revenues from the 4 Bears Casino and Lodge through a Depository Agreement with Lakeside State Bank, second by the general credit of the Tribe, and third by a pledge of certain interest income from the interest derived from the Economic Recovery Fund created by the Equitable Compensation Act, Title XXXV of P.L. 102-575, 106 Stat. 4731, (the "Act"), in an amount not greater than the amount, as of any date, of the outstanding principal amount owing by the Tribe on the Loan plus maximum interest coming due in the two months following such date, on that part of the Loan proceeds that are taxable which will be obtained through a promissory note or issue of taxable bonds in the name of the Tribe.
- 1.3 It is proposed that all proceeds of the Loan will be disbursed to the Tribe or for the benefit of the Tribe on the closing date.
- 1.4 This Tribal Business Council has been advised that in order to receive the Loan in accordance with the foregoing, the Tribe is required to agree to various legal provisions (the "Legal Provisions") that provide for (a) a limited waiver of the Tribe's sovereign immunity with respect to suits or other legal actions or proceedings arising because of disputes related to the Loan, or the foregoing named documents or other agreements related thereto and the enforcement of remedies related thereto; and (b) consent by the Tribe to apply the laws of a given jurisdiction in the interpretation of the foregoing documents.
- 1.5 This Tribal Business Council has determined that no laws, ordinances, resolutions or other actions of this Tribal Business Council or the Tribe, or any of the agencies or instrumentalities of the Tribe, either written or established by tradition, (a) prohibit this Tribal Business Council from approving the issuance of the Note or entering into any of the foregoing described agreements by the indicated parties, or (b) create any obligation of this Tribal Business Council to submit these matters for further or additional approval of or consent from any officer, body, agency or instrumentality of the Tribe, or any vote by tribal members of the Tribe.

Section 2. Approval and Authorizations

- 2.1 The Tribal Business Council hereby determines that the foregoing proposed actions are in the public interest and promote the welfare of the Tribe, and the Tribal Business Council hereby approves the proposed actions.
- 2.2 The Tribal Business Council hereby determines specifically that an Assignment of Trust Fund Income, in the form of a pledge of funds in the event of default on the Loan of interest income from the interest derived from the Economic Recovery Fund created by the Act, is necessary, and further determines that such pledge as is contemplated is permitted under the Act, and further determines that it will be necessary prior to closing of the Loan to seek approval of the Assignment from the United States Secretary of Interior, acting through his appropriate representative, and further determines that the Tribal Business Council, acting through its representatives as named herein, will take all actions necessary to seek approval of the Assignment in as expeditious manner as possible.
- 2.3 This Tribal Business Council hereby approves the form of each of the Loan Agreement, the Note, the Depository Agreement, the Assignment of Trust Income, and such other documents as may be necessary to perfect the interest of the Lender in the security for the Loan (the "Loan Documents"), and hereby approves of the execution and delivery by the Tribe of each of the Loan Documents (with such modifications or changes thereto as are necessary or convenient and approved by legal counsel for the Tribe, which approval shall be deemed conclusively given upon the execution thereof by a person authorized to act on behalf of such party), together with any other documents deemed by them to be necessary or convenient to be executed in connection therewith (and which shall be approved by legal counsel for the Tribe).
- 2.4 The Chairman, Secretary, Treasurer or any person who under the law of the Tribe is permitted to act on behalf of the Tribal Business Council in the event of the absence or incapacity of the Chairman, Secretary or Treasurer (the "Authorized Representative"), is hereby authorized and directed to execute on behalf of the Tribe to take such actions as are required or desirable to effect the purposes of this Resolution.
- 2.5 The Tribal Business Council does hereby appoint the following named persons:

<u>Name</u>	<u>Title</u>
1. Tex G. Hall	Chairman
2. Marcus Wells, Jr.	Treasurer
3. Daylon Spotted Bear	Secretary

Specimen Signature  


as (1) Authorized Representative and, if named above, (2) and (3) as Alternate Authorized Representative. The Authorized Representative (and each Alternate Authorized Representative) is hereby authorized and directed to execute on behalf of the Tribe the Loan Documents with such modifications or changes thereto as are necessary or convenient and approved by the Authorized Representative, which approval shall be

deemed conclusively given upon the Authorized Representative's execution thereof, and to deliver such instruments to the appropriate parties, together with such other documents, certificates, consents or instruments required of the Tribe under the Loan Documents or as may be necessary or convenient to effect the transactions herein contemplated. Copies of all foregoing documents, certificates, consents or instruments shall be delivered, filed and recorded as provided therein. The Authorized Representative and other officers and agents of the Tribe are hereby authorized to take such actions as are required or desirable to effect the purposes of this Resolution.

Section 3. Limited Waiver of Sovereign Immunity: Jurisdiction.

All legal provisions in the Loan Documents are hereby approved; more specifically and expressly:

- 3.1 The limited waivers of sovereign immunity contained in the Loan Agreement are hereby approved.
- 3.2 The Tribe is hereby authorized to submit disputes arising in connection with the Loan Agreement to arbitration with the force and effect as provided for in such instruments.
- 3.3 Each of the Loan Documents shall be governed by such laws as are provided therefor in such instruments.

Section 4. Enforcement in Tribal Court.

- 4.1 In the event any court of competent jurisdiction, including the United States District Court for the District of North Dakota, the United States Court of Federal Claims, the United States Court of Appeals or the United States Supreme Court find that they do not have subject matter jurisdiction over any dispute arising from any of the Loan Documents, that finding will not affect the jurisdiction granted by this Resolution to the Tribal Court of the Tribe.
- 4.2 In the event that any Court with jurisdiction issues a final judgment in respect of any dispute arising from any of the Loan Documents, the Tribal Court of the Tribe shall give such judgment full faith and credit, and shall issue such orders and exercise such legal powers as may be reasonably necessary in order to effectuate the same.
- 4.3 All police or other law enforcement officials of the Tribe shall carry out any orders that may be entered by any Tribal Court pursuant to this Section.

Section 5. Miscellaneous Matters.

- 5.1 Any actions of the Tribal Business Council which are in conflict with or inconsistent with the terms of this Resolution or any provision set forth in a Loan Document are hereby amended to conform to this Resolution. This Resolution shall supersede any prior or currently existing action of the Tribal Business Council which is contrary to the actions

authorized or contemplated herein or in a Loan Document, and this Resolution shall constitute a contract with the Lender, and shall not be rescinded or modified without the written consent of the Lender.

- 5.2 The Tribe agrees to limit tax-exempt financing to that amount necessary to allow the tax-exempt portion of the Loan to enjoy bank qualification.
- 5.3 The Tribal Business Council shall not pass or adopt any ordinance or resolution or take other action of any nature which shall impair the contractual rights of any third party under any of the Loan Documents. Upon execution of any Loan Document as herein authorized, the Loan Document shall become a valid and binding obligation of the Tribe, enforceable in accordance with their terms for purposes of tribal law and the laws of all other applicable jurisdictions.
- 5.4 This Resolution shall become effective as of the date and time of its passage and approval by the Tribal Business Council.

#### 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 23<sup>rd</sup> day of November, 1999; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 4 members, 1 members opposed, 1 members abstained, 1 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 23<sup>rd</sup> day of November, 1999.

Daylon Spotted Bear  
Daylon Spotted Bear  
Secretary, Tribal Business Council

ATTEST:

Tex G. Hall  
Tex G. Hall  
Chairman, Tribal Business Council