

EXHIBIT A

THREE AFFILIATED TRIBES

IN DISTRICT COURT

FORT BERTHOLD RESERVATION

NEW TOWN, NORTH DAKOTA

Carol Good Bear, Terrance Fredericks, Todd Hall, Patti Jo Hall, Kelly Hosie, and Edward S. "Tyke" Danks

Plaintiffs,

vs.

Mark N. Fox, as Three Affiliated Tribes' Tribal Chairman, Cory Spotted Bear, as Three Affiliated Tribes' Vice-Chairman, Fred Fox, as Three Affiliated Tribes' Executive Secretary, Mervin Packineau, as Three Affiliated Tribes' Treasurer, Robert White, as Three Affiliated Tribes' Councilman, Sherry Turner-Lone Fight, as Three Affiliated Tribes' Councilwoman, Monica Mayer, as Three Affiliated Tribes' Councilwoman, and The Three Affiliated Tribes' Tribal Business Council,

Defendants.

Case No. _____

AFFIDAVIT OF AUSTIN GILLETTE

I, Austin Gillette, being over the age 18 and first duly sworn, hereby deposes and testify that the following facts are true and accurate:

1. I am a member of the Three Affiliated Tribes and I reside in Whiteshield Community on the Fort Berthold Indian Reservation.
2. I was first elected to the Tribal Business Council in November of 1974. I served as a councilman for the East Segment from 1974 to 1978.
3. I was elected as Chairman of the Three Affiliated Tribes from 1978 to 1982.
4. I served again as Councilman for the East Segment from 1988 to 2004.
5. I am one of only two persons to serve as the Chairman, Vice-Chairman, Secretary and Treasurer on the Tribal Business Council. I served as Treasurer from 2000 – 2002.

6. From 2005 to 2018 I served the Fort Berthold Indian Reservation as a Fiduciary Trust Officer for the Office of Special Trustee in the Department of Interior.
7. When I first served on the Tribal Business Council in 1974 our Tribal Budget was approximately \$1,000,000. This amount included federal funds and tribal general funds. The Tribe's general fund was referred to as the Tribe's T-2 account.
8. In 1974, we did not have a finance department. We had one clerk at the time and her name was Marie Wells. She wrote all the Tribal checks out of the Tribe's T-2 account. Before any Tribal payments were made, a list of payables were presented to the Tribal Business Council for approval. Once approved, the Tribe's clerk, Marie Wells, would process the checks for payment. All payments made by the Tribe were approved in open meetings of the Tribal Business Council. All information regarding expenditures was public information available to our Tribal members.
9. From 1974 and during much of the time I served as Chairman, the Tribe's financial information was always available for inspection by Tribal members whenever anyone requested that information. We would take hard copies of the Tribe's financial statements and audits out to community meetings for Tribal members to inspect and review.
10. At some point during my term as Chairman, concerns were raised about handing out the Tribe's financial information and audits to Tribal members to take with them. Some Tribal Business Council members thought this information shouldn't be accessible to non-Tribal members as they may use this information to the detriment of our Tribal members or the Tribe. At some point during my administration, we stopped handing out hard copies of financial information to Tribal members to take home. However, we still made the Tribe's financial information available for Tribal members to inspect at meetings and upon request.

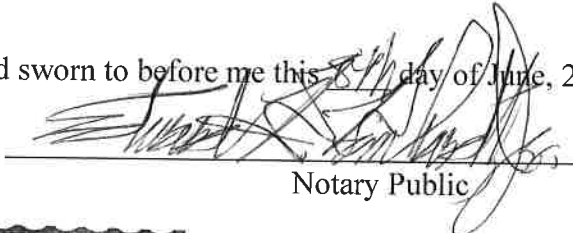
Dated this 8TH day of June, 2023.


Austin Gillette

STATE OF NORTH DAKOTA)
COUNTY OF Ward)ss.

Subscribed and sworn to before me this 8TH day of June, 2023.

(seal)


Notary Public

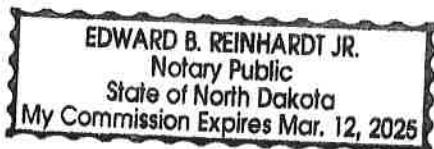


EXHIBIT B



This is a summary of the audit for FY 2018 tribal expenditures including the general fund. This is being sent to you because the Tribe's finances are a mess and this audit of all Tribal funds proves it. Chairman Fox and the Tribal Council refuse to share any audits with our Tribal members even though they are addressed to Tribal "Members" like this one. The TBC doesn't want anyone to know what is going on. Please let our people know. We need help.

Report of Independent Auditors

To the Tribal Council and Members
Three Affiliated Tribes

Report on the Financial Statements

We were engaged to audit the accompanying financial statements of the governmental activities, the business-type activities, and each major governmental fund of the Three Affiliated Tribes (the Tribes), as of and for the year ended September 30, 2018, and the related notes to the financial statements. We were not engaged to audit the financial statements of the Small Loans Program non-major enterprise fund or business-type activities of the Tribes. These financial statements collectively comprise the basic financial statements of the Three Affiliated Tribes' primary government as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to conduct our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement. Because of the matters described in the Basis for Disclaimer of Opinion paragraphs, however, we were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on the financial statements.

Summary of Opinions

Opinion Unit	Type of Opinion
Governmental Activities	Disclaimer
All Major Governmental Funds (General Fund, Grants Fund, Expendable BIA Trust, Nonexpendable BIA Trust)	Disclaimer
Business-type activities	Disclaimer
Aggregate discretely presented component units	Adverse
Major Enterprise Fund (4 Bears Casino & Lodge, blended component unit)	Adverse
Aggregate remaining fund information (Small Loans Program non-major enterprise fund)	Disclaimer

Basis of Disclaimer of Opinion on Governmental Activities and All Major Governmental Funds

Due to the inadequacy of accounting records to support financial statement balances for the year ended September 30, 2018, we were unable to adequately test receivables, equity interest in discrete component units, capital assets, and all liabilities, net position, fund balances, transfers, revenues, and expenses. Due to the significance of these matters, we were unable to determine whether any adjustments might have been found necessary in respect of recorded or unrecorded balances in the financial statements.

Disclaimer of Opinion- Governmental Activities and All Major Governmental Funds

Because of the significance of the matter described in the Basis for Disclaimer of Opinion on Governmental Activities and All Major Governmental Funds paragraph, we have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on the financial statements of the governmental activities and each major governmental fund of the Tribes. Accordingly, we do not express an opinion on these financial statements.

Basis of Disclaimer of Opinion on Business-Type Activities and Aggregate Remaining Fund Information

The financial statements of the Tribes' Small Loans Programs (SLP) have not been audited, and we were not engaged to audit the SLP financial statements as part of our audit of the Tribes' primary government financial statements. SLP's financial activities are included in the Tribes' primary government financial statements and presented as a non-major enterprise fund and business-type activity, which represents 100% of the assets, net position, and revenues of the Tribes' business-type activities and aggregate remaining fund information.

Disclaimer of Opinion – Business-Type Activities and Aggregate Remaining Fund Information

Because of the significance of the matter described in the Basis for Disclaimer of Opinion on Business-Type Activities and Aggregate Remaining Fund Information paragraph, we have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on the financial statements of the business-type activities and the aggregate remaining fund information of the Tribes. Accordingly, we do not express an opinion on these financial statements.

Basis for Adverse Opinions on Major Enterprise Fund, and Aggregate Discretely Presented Component Units

The financial statements do not include financial data for the Tribes' legally separate blended and discrete component units. Accounting principles generally accepted in the United States of America require financial data for those component units to be reported with the financial data of the Tribes' primary government, unless the Tribes also issue financial statements for the financial reporting entity that include the financial data for its component units. The Tribes have not issued such reporting entity financial statements. Because of this departure from accounting principles generally accepted in the United States of America, the assets, liabilities, net position, revenues, and expenses of 4 Bears Casino & Lodge, blended component unit, which would have been reported as business-type activities and major proprietary fund, would have increased by approximately \$103,474,000, \$42,606,000, \$60,869,000, \$54,981,000, and \$60,521,000, respectively. Additionally, because of this departure from accounting principles generally accepted in the United States of America, the aggregate discretely presented component units have not been presented. The amount by which this departure would affect the assets, liabilities, net position, revenue, and expenses of the aggregate discretely presented component unit opinion unit has not been determined.

Adverse Opinions

In our opinion, because of the significance of the matters discussed in the Basis for Adverse Opinions on the Major Enterprise Fund and the Aggregate Discretely Presented Component Units paragraph, the financial statements referred to above do not present fairly the respective financial position of Major Enterprise Fund, or the aggregate discretely presented component units of the Tribes as of September 30, 2018, or the respective changes in financial position or cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Other Matters

Required Supplementary Information

Management has omitted the management's discussion and analysis that accounting principles generally accepted in the United States of America require to be presented to supplement the primary government financial statements. Such missing information, although not a part of the primary government financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the primary government financial statements in an appropriate operational, economic, or historical context. Our opinion on the Tribes' primary government financial statements is not affected by this missing information.

Supplementary Information

We were engaged for the purpose of forming opinions on the financial statements that collectively comprise the Three Affiliated Tribes' basic financial statements of its primary government. The accompanying combining schedules and schedule of expenditures of federal and non-federal awards are presented for purposes of additional analysis, as required by Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, and are not a required part of the Tribes' primary government financial statements. Because of the significance of the matter described in the Basis of Disclaimer of Opinion paragraphs above, it is inappropriate to and we do not express an opinion on the combining schedule and the schedule of expenditures of federal and non-federal awards.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated September 16, 2021, on our consideration of the Three Affiliated Tribes' internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Three Affiliated Tribes' internal control over financial reporting and compliance.

 Mon Adams LLP

Bellingham, Washington
September 16, 2021

EXHIBIT C

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Special Agent Jacob W. O'Connell, being duly sworn on oath, depose and state as follows:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) and have been employed in such capacity since February 10, 2002. I am currently assigned to the FBI Resident Agency in Bismarck, North Dakota. My duties include the investigation of fraud and public corruption crimes occurring within the District of North Dakota. Since joining the FBI, I have received training in general law enforcement and criminal investigations, and specific training in public corruption investigations. I have participated in investigations involving financial fraud and other criminal activity both within, and outside, the external boundaries of the Fort Berthold Indian Reservation (FBIR) located within the District of North Dakota.

2. As a Special Agent with the FBI, I have authority to investigate violations of federal law. I also have authority to seek and execute federal process, to include criminal complaints. I make this affidavit in support of a criminal complaint charging FRANCISCO JAVIER SOLIS CHACON (SOLIS CHACON) with the offense of Paying a Bribe to an Agent of an Indian Tribal Government Receiving Federal Funds, in violation of Title 18, United States Code, Section 666(a)(2). Specifically, on or about and between July 2016 and September 2017, within the District of North Dakota and elsewhere, the defendant SOLIS CHACON did corruptly give, offer, and agree to give a thing of value to any person, intending to influence and reward an agent of an Indian tribal government in connection with business, a transaction, and series of transactions of the Three Affiliated Tribes (TAT) of the Mandan, Hidatsa, and Arikara Nation (MHA Nation) involving \$5,000 or more.

3. The information in this affidavit is based on my personal knowledge and information provided to me by other law enforcement officers and by individuals interviewed during the course of this investigation. The information in this affidavit is provided for the limited purpose of establishing probable cause for a criminal complaint. As this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included every fact known to me concerning this investigation.

PROBABLE CAUSE

I. Summary of the Bribery Conspiracy

4. From at least in or about July 2016 and continuing until at least in or about September 2017, the defendant, SOLIS CHACON, gave, offered, and agreed to give things of value to FRANK CHARLES GRADY (GRADY), representative on the Tribal Business Council (TBC) for the Four Bears Segment (FBS) of the MHA Nation, and SOLIS CHACON did so intending to influence and reward GRADY, who was at the time a public official and agent, representative, and employee of the TAT government, to award construction projects within the FBIR, and otherwise provide favorable treatment, to SOLIS CHACON and his construction companies.

5. By a review of SOLIS CHACON's financial records, the FBI determined SOLIS CHACON's various business entities were paid at least \$836,503.22 by checks issued from a bank account maintained by the FBS Economic Development Corporation (FBEDC) between in or about November 2016 and at least in or about January 2018. Reviews of SOLIS CHACON's and GRADY's financial records have further revealed that SOLIS CHACON paid GRADY at least \$194,000 by check and wire transfer between July 2016 and September 2017. All payments to GRADY originated from bank accounts maintained by SOLIS CHACON.

II. Facts Regarding the Bribery Conspiracy

6. There are six separate segments on the FBIR: the West Segment, the North Segment, the Four Bears Segment, the Parshall Segment, the White Shield Segment, and the Twin Buttes Segment. Each segment elects one representative on the MHA Nation TBC, the governing body of the TAT. A seventh seat is held by the MHA Nation's elected Chairman. Funding requests, budget approval, legislative matters, and special projects approvals all fall under the purview of the TBC. In all years relevant to this complaint, the MHA Nation received in excess of \$10,000 in federal benefits through programs of the United States Government.

7. SOLIS CHACON, a/k/a "Pancho," has registered the businesses CKP Construction LLC (CKP) and Pancho's Concrete with the Secretary of State Offices in both North Dakota and Utah, although only CKP is current in both states. SOLIS CHACON is also known to do business in North Dakota under the business name JC Construction LLC (JCC), although, to my knowledge, he has not registered that business with either the North Dakota or Utah Secretary of State Offices.¹

¹ SOLIS CHACON first came to the attention of the FBI as early as 2012 as part of the FBI Minot Resident Agency's investigation into corruption on the FBIR, which was closed during 2015. The FBI had investigated SOLIS CHACON for his participation in a scheme to defraud the MHA Nation by submitting fraudulent invoices to the MHA Nation Finance Office for projects on the FBIR. It was alleged that SOLIS CHACON had been involved in the scheme with various public officials and contractors on the FBIR. During an April 4, 2013, interview of a cooperating witness (CW1) by FBI Minot, CW1 described the scheme as such: SOLIS CHACON received a project from a public official or his allies on the reservation, billed the Tribe for \$20,000–\$25,000 with a fraudulent invoice, and when SOLIS CHACON received the check from MHA Nation Finance, split the money with the public official and his partners. SOLIS CHACON was interviewed twice during FBI Minot's investigation. During one interview, SOLIS CHACON stated that working on the FBIR was like being in Mexico, if you knew the right people, you could do whatever you wanted. SOLIS CHACON was not charged during the earlier FBI investigation.

8. SOLIS CHACON was born in Mexico, but is a naturalized United States citizen. SOLIS CHACON owns several pieces of property in the United States. He and his wife jointly own property located in Orem, Utah, and he individually owns property located in Menoken, North Dakota.

9. GRADY was elected as the FBS representative to the TBC during the 2014 general election, and was voted out of office on November 6, 2018. GRADY currently, and in the past, maintained personal bank accounts at Cornerstone Bank, Wells Fargo Bank, Dakota West Credit Union, and Gate City Bank. Based on available information, GRADY is separated from his wife, Tamara Grady, and is reported to be living with Ramona Pond at Pond's residence in Parshall, North Dakota. Pond was the FBS Chief of Staff from approximately June 2017 until the end of GRADY's term.

10. On March 6, 2017, the FBI and the U.S. Department of the Interior Office of Inspector General (DOI-OIG) interviewed an FBI confidential human source (CHS1) who worked at the MHA Nation's Administration Building. During the interview, CHS1 reported that Pancho's Concrete had previously been banned from working on the FBIR because the MHA Nation had learned that Pancho's Concrete had submitted an estimated \$130,000–\$140,000 in fake invoices to the MHA Nation Finance Office. CHS1 advised that he had learned that SOLIS CHACON had responded to the ban by continuing to work under the business name CKP, and CKP had subsequently billed the Tribe \$5.5 million for work within the FBS and the West Segment alone. The scheme CHS1 described was similar to that described by CW1, where CKP would submit an invoice to the Tribe for \$25,000, no matter the scope or size of project detailed on the invoice.

11. On September 26, 2017, Special Agents from the FBI Bismarck Resident Agency debriefed an another CHS (CHS2). CHS2 reported on a suspicious individual whom CHS2

identified as FRANCISCO JAVIER SOLIS, which the FBI investigation has revealed is one name variation SOLIS CHACON utilizes. CHS2 reported that SOLIS CHACON traveled to Mexico; Los Angeles, California; and Las Vegas, Nevada on a regular basis. CHS2 also reported that SOLIS CHACON bragged that during the previous year, he (SOLIS CHACON) had spent over \$700,000 in Las Vegas and made over \$5 million working in construction on an Indian reservation.

12. On April 5, 2018, a Federal Grand Jury subpoena was served on MGM Resorts for records regarding SOLIS CHACON's activity at MGM Resorts properties. The results provided by MGM Resorts revealed that SOLIS CHACON had "coin in" activity at MGM properties totaling \$3,688,017 from 2012 through March of 2018. The years with the largest coin in activity were 2016 and 2017, when MGM saw coin in activity of \$1,297,992 and \$1,208,820 respectively.

13. On November 9, 2017, the FBI received an in-person complaint from Jolene Lockwood and two cooperating witnesses (CW2 and CW3). Lockwood claimed that she had previously served as FBS Chief of Staff, FBS Special Projects Manager, Chairwoman of the FBEDC, and Treasurer of the FBS Community Development Corporation. Lockwood, CW2, and CW3 claimed that they had been employed in the administrative offices of the FBS until they were fired by GRADY in or about August or September 2017. Among other things, Lockwood claimed that CKP had been awarded approximately 80% of the general contracting projects within the FBS. Furthermore, Lockwood claimed that CKP's workmanship was "shoddy" and CKP overcharged the FBS for its work. CW2, CW3, and Lockwood all described a system where CKP would bill the FBS the same amount for each project no matter the scope or size of the project. CW2, CW3, and Lockwood all claimed that SOLIS CHACON was frequently a presence in the FBS administrative office. CW2, CW3, and Lockwood all further claimed that they observed SOLIS

CHACON give GRADY cash, and Lockwood advised that she had observed wire transfers from one of SOLIS CHACON's Gate City Bank accounts into an account in GRADY's name.

14. On December 15, 2017, a confidential human source (CHS3) was interviewed regarding his company's business involvement with the FBS. CHS3 works for a company (Company A) that does business regularly on the FBIR, including on the Thomas "Johnny" Bird Veterans Memorial Hall (JBVMH) construction project located within the FBS. Through much of 2017, Company A was also involved in a joint venture that fell under the purview of the FBEDC, and from which GRADY is suspected to have embezzled. SOLIS CHACON is alleged to have demanded subcontracting work from Company A, which Company A employees did not question due to SOLIS CHACON's well-known relationship to GRADY. CHS3 claimed to have had a conversation with SOLIS CHACON in a bar in Las Vegas, Nevada during the 2017 Reservation Economic Summit, a conference also attended by numerous individuals representing the MHA Nation. During the conversation, SOLIS CHACON appeared drunk and told CHS3 that he had four of the six members of the TBC on his payroll, including GRADY. SOLIS CHACON told CHS3 that GRADY received his payments via check, but the other TBC members were smarter about concealing their payments and were paid through other means. CHS3 claimed he had been told that GRADY typically received \$20,000 payments from SOLIS CHACON.²

15. During a June 2, 2017 debrief of CHS1, CHS1 reported that MHA Nation Finance had issued check #2309969 in the amount of \$105,000 to CKP on December 10, 2015 with the note "CKP Construction Llc – Thomas M. (Johnny) Bird veterans memorial hall new construction inv# 99 – Four Bears Segment" and referenced Account #9904-56000-300. On December 17,

² Since becoming a CHS, CHS3 has received \$2006.97 for service, and \$2193.03 for expenses for operational travel in connection with the investigation.

2015, the TBC authorized the FBEDC to take out a \$15 million loan, secured by the TAT, for completion of the JBVMH. Additionally, CHS1 provided a spreadsheet which showed numerous other checks issued to CKP by MHA Nation Finance for projects within the FBS.

16. On January 20, 2018, CHS3 provided an email chain with the subject line “Johnny Bird Sub contractors” that originated from jLockwood@mhanation.com. The first email in the chain, dated July 15, 2016, included the signature line “Jolene Lockwood – Special Projects Three Affiliated Tribes Four Bears Segment Office – Councilman Frank Grady” at the bottom. In the email, Lockwood wrote:

Frank’s other contractor is CKP his contact number is Javier 701-421-3126. He expressed interest in bid package # 7A, 7F, 8A, 9B, 9E, 9F, 10C, 32A, 32B, basically he can do drywall, painting, flooring, landscaping, finish work etc. Although he is not a Tier 1 contractor he is a major contributor to all community events and is a great asset to Four Bears and Councilman Grady would like his involvement.

This email suggests that Lockwood, on GRADY’s behalf, was taking official action to secure SOLIS CHACON’s company work on the JBVMH project.

17. The general contractor for the JBVMH project had been the Canadian company Graham Construction (Graham), which had an office in Minot, North Dakota. Spencer Hilde was the project manager for Graham’s Minot office and managed the JBVMH project. During a December 21, 2017 interview of Hilde, he recalled that “someone” from GRADY’s office had requested that Graham use CKP on the JBVMH project. Hilde once met the owner of CKP who Hilde thought was named “Javier.” Hilde’s impression of Javier was that Javier expected to subcontract with Graham on the JBVMH project. Hilde advised that he declined to use CKP, and sometime during July 2016 he received a memo dated July 7, 2016 from TAT Project Manager Marita Abe on which both GRADY and Lockwood were cc’d. The memo stated:

This memo is in reference to Councilman Grady's request that his preferred contractor, CKP (F. Javier Solis), be considered to perform the following duties for the Thomas M. (Johnny) Bird Veterans Memorial Hall project: Finish Work, Sheetrock, Painting/Drywall, Flat Work (sidewalks, curb and gutter), Tile Work.

Hilde further recalled that Lockwood had pushed for Graham to use CKP on the JBVMH project.

18. CHS3 further claimed that he was told by Lockwood that she had knowledge that SOLIS CHACON wired "kickback money" to GRADY. CHS3 also advised that he had observed SOLIS CHACON deliver a check to GRADY at GRADY's office sometime during or around August 2016. A review of both GRADY's and SOLIS CHACON's financial accounts revealed that two checks from SOLIS CHACON, totaling \$30,000, were deposited in GRADY's bank account in August 2016.

19. On March 8, 2018, CHS3 was debriefed by the FBI in Las Vegas, Nevada. CHS3 reported having met with SOLIS CHACON and Lawrence Baker, the Director of MHA Nation Housing, in SOLIS CHACON's suite in Mandalay Bay earlier in the day. During the meeting, SOLIS CHACON said that he was able to obtain work on the FBIR because he gave "donations" to the segments and that he had three different businesses registered in North Dakota so he could submit three different bids for the same work.

20. During April 2018, a search warrant issued in the District of North Dakota (Case No. 1:18-mj-120, signed by Judge Charles S. Miller) was executed on the email account fcosol34@yahoo.com, an account known to be utilized by SOLIS CHACON.

21. Tamara Grady ("Tamara") advised the FBI that she owns a residence on the Redbud Indian Reservation in South Dakota. During a June 2016 trip to South Dakota, Tamara and GRADY met up with SOLIS CHACON, who provided an estimate of \$40,000 for his company to remodel the residence. An FBS employee later told Tamara that SOLIS CHACON invoiced \$150,000 for the remodeling, which GRADY billed to the MHA Nation.

22. During an April 11, 2018 interview of Lockwood in the presence of her attorney, Lockwood recalled that she had observed SOLIS CHACON give GRADY checks made payable to GRADY on four or five occasions. Lockwood further recalled an incident where GRADY instructed Lockwood to pay SOLIS CHACON for invoices SOLIS CHACON had submitted to the FBS office. During this particular incident, and after SOLIS CHACON was paid, GRADY provided his bank account number to Lockwood and instructed her to provide it to SOLIS CHACON. Lockwood complied with GRADY's instruction and later received a photograph attached to a text message that showed confirmation of a \$15,000 wire transfer from one of SOLIS CHACON's accounts to GRADY's account. During the interview, Lockwood provided a copy of the wire confirmation photograph. Lockwood characterized the transaction as a "kickback" to GRADY for the payment SOLIS CHACON received from the FBS.

23. Subsequent to this interview, FBI investigators learned that Lockwood had also received significant amounts of money from SOLIS CHACON. While Lockwood was not specifically asked about her receipt of funds from SOLIS CHACON, Lockwood did not disclose to agents that she had also received payments from SOLIS CHACON. FBI financial analysts later determined that Lockwood had received \$140,000 from SOLIS CHACON.

24. On September 12, 2018, a meeting was held at the FBI Williston Resident Agency with three auditors from the firm Wipfli CPAs and Consultants (Wipfli). The FBI and DOI-OIG were present at the meeting. The auditors advised that their firm had been hired by the MHA Nation to conduct a review of several of the TAT's programs, including the FBS. Among other things, the auditors claimed that they had uncovered information that showed CKP and JCC had been paid "thousands of dollars" for projects within the FBS. The auditors had also seen records

showing that Lockwood received even-dollar check payments from CKP and JCC. The auditors claimed that GRADY and Pond had been uncooperative with their audit.

25. According to records from the MHA Nation Finance Office that were provided by CHS1 and a separate CHS (CHS4), MHA Nation Finance issued \$637,236.46 in checks to Pancho's Concrete between September 1, 2011 and September 18, 2012; \$2,992,465.73 in checks to JCC between April 26, 2013 and March 17, 2017; and \$6,738,033.91 in checks to CKP between March 30, 2015 and March 23, 2018. It is also possible that the records provided by CHS1 and CHS4 are incomplete and SOLIS CHACON has been paid more than what is currently known.

26. Analysis conducted by the FBI's forensic accountants has revealed at least twelve checks and two wire transfers from SOLIS CHACON to GRADY between approximately July 2016 and September 2017, totaling \$194,000. Furthermore, financial analysis shows that some of the deposits made into GRADY's account occurred within days of when one of SOLIS CHACON's companies was paid by the FBEDC or MHA Nation Finance, indicating the payments to SOLIS CHACON may have been made in order for GRADY to receive his kickbacks or bribes from SOLIS CHACON. The chart below summarizes all known payments from SOLIS CHACON to GRADY. It only includes payments to SOLIS CHACON from the FBEDC or made by MHA Nation Finance explicitly in connection with the JBVMH project (located in the FBS) that occurred in proximity to payments made by SOLIS CHACON to GRADY. The chart does not include all payments made to SOLIS CHACON from MHA Nation Finance or individual segments.

Date on Check to Chacon	Amount Paid by Tribe to Chacon	Payment Source	Chacon-Affiliated Account Making Payment to Grady	Date on Payment to Grady	Grady-Affiliated Account	Amount	Type
			CKP Construction Gate City -5868	7/05/16	Frank Grady Cornerstone -5152	\$20,000	Check
8/18/16	\$40,000	MHA Nation	JC Construction Gate City -0502	8/16/16	Frank Grady Cornerstone -5152	\$10,000	Check

			CKP Construction Gate City -5868	8/24/16	Frank Grady Cornerstone -5152	\$20,000	Check
9/14/16	\$20,000	MHA Nation	CKP Construction Gate City -5868	9/19/16	Frank Grady Cornerstone -5152	\$10,000	Check
			CKP Construction Gate City -5868	10/19/16	Frank Grady Cornerstone -5152	\$10,000	Check
11/04/16	\$50,000	FBEDC	CKP Construction Gate City -9318	11/04/16	Frank Grady Cornerstone -5152	\$10,000	Check
11/17/16	\$75,000	FBEDC	CKP Construction Gate City -9318	11/17/16	Frank Grady Cornerstone -5152	\$20,000	Check
12/09/16	\$125,000	FBEDC	CKP Construction Gate City -9318	12/09/16	Frank Grady Cornerstone -5152	\$20,000	Check
1/12/17	\$60,000	FBEDC	JC Construction Gate City -0502	1/23/17	Frank Grady Cornerstone -5152	\$20,000	Check
2/14/17	\$50,000	FBEDC	CKP Construction Gate City -0644	2/15/17	Frank Grady Cornerstone -5152	\$15,000	Wire
3/03/17	\$60,000	FBEDC	CKP Construction Gate City -9318	3/02/17	Frank Grady Cornerstone -5152	\$20,000	Check
4/12/17	\$35,000	FBEDC	CKP Construction Gate City -9318	4/07/17	Frank Grady Cornerstone -5152	\$10,000	Check
			CKP Construction Gate City -9318	9/06/17	Frank Grady-Ramona Pond Gate City -3697	\$5,000	Check
			CKP Construction Gate City -0644	9/26/17	Frank Grady-Ramona Pond Gate City -3697	\$4,000	Wire
Total						\$194,000	

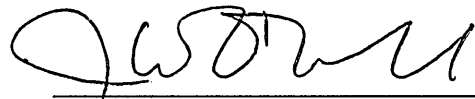
27. Additionally, the FBI investigation has revealed a currency transaction report that showed that Cesar Castillo Lopez, who has been identified as SOLIS CHACON's right-hand man and is known to be an employee of SOLIS CHACON's, made a \$20,000 cash deposit into a Wells Fargo bank account (last four 0026) associated with Pond. The deposit occurred on December 31, 2017 and is believed to be a bribe or kickback to GRADY and/or Pond.

28. During the course of this investigation, Federal Grand Jury subpoenas were served on cellular telephone providers to obtain subscriber and toll records for telephone numbers known to be utilized by SOLIS CHACON and GRADY. Analysis of the records revealed that GRADY had regular contact with SOLIS CHACON during the time period of January 2016 through

February 2018. Toll records have not been obtained for Lockwood's telephone account at the time of this writing.

29. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that from on or about and between July 2016 and September 2017, SOLIS CHACON knowingly and willfully engaged in the offense of Paying a Bribe to an Agent of an Indian Tribal Government Receiving Federal Funds, in violation of Title 18, United States Code, Section 666(a)(2), within the District of North Dakota and elsewhere. Furthermore, SOLIS CHACON did corruptly give, offer, and agree to give a thing of value to any person intending to influence and reward an agent of an Indian tribal government in connection with a transaction and series of transactions of the MHA Nation involving \$5,000 or more.

30. Based on the foregoing, your affiant respectfully submits that there is probably cause to believe that FRANCISCO JAVIER SOLIS CHACON has violated Title 18, United States Code, Section 666(a)(2) (Theft or bribery concerning programs receiving Federal funds), and therefore, a warrant should issue for his arrest. Because public filing of this document could result in a risk of flight by the defendant, as well as jeopardize the government's ongoing investigation by notifying confederates and co-conspirators of the pending investigation, your affiant respectfully requests that this complaint, as well as any arrest warrants issued in connection with this complaint, be filed under seal.



SA Jacob W. O'Connell
Special Agent
Federal Bureau of Investigation

Subscribed to and sworn before me this 28th day of November 2018.



A handwritten signature in black ink, appearing to read 'C. S. Miller, Jr.', with a stylized, flowing script.

Charles S. Miller, Jr.
United States Magistrate Judge

EXHIBIT D

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Special Agent Jacob W. O'Connell, being duly sworn on oath, depose and state as follows:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) and have been employed in such capacity since 2002. I am currently assigned to the FBI Resident Agency in Bismarck, North Dakota. My duties include the investigation of fraud and public corruption crimes occurring within the District of North Dakota. Since joining the FBI, I have received training in general law enforcement and criminal investigations, and specific training in public corruption investigations. I have participated in investigations involving financial fraud and other criminal activity both within, and outside, the external boundaries of the Fort Berthold Indian Reservation (FBIR) located within the District of North Dakota.

2. As a Special Agent with the FBI, I have authority to investigate violations of federal law. I also have authority to seek and execute federal process, to include criminal complaints. I make this affidavit in support of a criminal complaint charging RANDALL JUDE PHELAN (PHELAN) and DELVIN REEVES (REEVES) with the offenses of Conspiracy, in violation of Title 18, United States Code, Section 371; and Bribery Concerning Programs Receiving Federal Funds, in violation of Title 18, United States Code, Section 666(a)(1)(B). Specifically, between 2013 and 2020, within the District of North Dakota and elsewhere, the defendants RANDALL JUDE PHELAN and DELVIN REEVES, being agents of an Indian tribal government receiving greater than \$10,000 in federal benefits, did conspire to and did corruptly solicit and demand, accept and agree to accept things of value, intending to be influenced and rewarded in connection with any business, transaction, and series of transactions of the Three Affiliated Tribes (TAT) of the Mandan, Hidatsa, and Arikara Nation (MHA Nation) involving \$5,000 or more.

3. The information in this affidavit is based on my personal knowledge and information provided to me by other law enforcement officers and by individuals interviewed during the course of this investigation. The information in this affidavit is provided for the limited purpose of establishing probable cause for a criminal complaint. As this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included every fact known to me concerning this investigation. Where conversations between individuals are related, they are presented in sum and substance and are not verbatim.

PROBABLE CAUSE

4. The FBIR, which is the home of the MHA Nation, is divided into six segments: the West Segment, the North Segment, the Four Bears Segment, the Parshall Segment, the White Shield Segment, and the Twin Buttes Segment. Each segment elects one representative on the MHA Nation Tribal Business Council (TBC), the governing body of the TAT. A seventh seat is held by the MHA Nation's elected Chairman. Funding requests, budget approval, legislative matters, and special projects approvals all fall under the purview of the TBC. In all years relevant to this complaint, the MHA Nation received in excess of \$10,000 in federal benefits through programs of the United States Government.

5. Each segment receives an annual, multi-million dollar allocation of funds from the TAT General Fund. Many segments, including the West Segment, deposit this allocation into the segment's economic development corporation (EDC) account. Expenditures from a segment's allocation are not subject to TBC oversight, and the TBC representative has significant discretion as to the spending of the segment's allocation.

6. Since in or around November 2012, PHELAN has been the elected TBC representative for the West Segment. Shortly after PHELAN's election, he appointed REEVES to

a position as a project manager in the West Segment, employed by the TAT and answering to PHELAN. REEVES also serves on the West Segment's EDC board. Both PHELAN and REEVES are enrolled members of the MHA Nation. At all times relevant to this complaint, PHELAN and REEVES acted as agents of the MHA Nation tribal government.

7. CC-1 is the owner of a business providing construction services on the FBIR since in or around 2012. CC-1 has pleaded guilty pursuant to an information to one count of Bribery Concerning Programs Receiving Federal Funds, in violation of Title 18, United States Code, Section 666(a)(2), in connection with bribes and kickbacks paid to a former TBC official. CC-1 is cooperating with the government's investigation with the objective, at least in part, of receiving a reduced sentence.

8. From in or around 2013 and continuing through 2020, PHELAN and REEVES corruptly solicited and accepted bribes and kickbacks from CC-1 with the intent to be influenced and rewarded in connection with CC-1's business's operation on the FBIR. Analysis conducted by the FBI's forensic accountants of subpoenaed bank records shows that between in or around January 2012 and January 2020, CC-1's business was paid over \$17,250,000 by the MHA Nation and its subsidiary segments in connection with business conducted on the FBIR. In particular, CC-1 was paid at least \$7,489,000 by checks issued from a bank account maintained by the West Segment EDC between in or about February 2014 and in or about October 2019. Payments for projects within a segment may also be paid for out of the centralized TAT General Fund.

9. Beginning in or around 2013, PHELAN, REEVES, and CC-1 knowingly devised a scheme to defraud the MHA Nation of money by causing and facilitating the submission and payment of false and fraudulent invoices for construction and other projects paid for with tribal funds in exchange for the public officials' receiving bribes and kickbacks.

10. PHELAN demanded that bribes and kickbacks be paid to him in cash, and CC-1 complied. CC-1 told the FBI that, as of December 2018, he had provided PHELAN with over one million dollars in cash bribes and kickbacks. In April 2018, prior to being approached by the FBI, CC-1 began tracking the cash payments to PHELAN in a handwritten ledger. A photocopy of the ledger provided by CC-1 to the government in May 2019 reflects fifty-nine payments between April 25, 2018 and May 6, 2019 totaling approximately \$271,900.

11. Analysis conducted by the FBI's forensic accountants of subpoenaed bank records shows that CC-1 paid REEVES approximately \$633,000 via sixty-seven separate payments from in or around August 2013 through in or around October 2019. The payments included seven wire transfers, fifty-seven checks, and seven cashier's checks, all originating from bank accounts controlled by CC-1. The payments were deposited into bank accounts controlled by REEVES at First International Bank, Cornerstone Bank, and Gate City Bank.

12. Financial analysis further shows that a number of the payments to REEVES coincided closely — often on the same day — with payments to CC-1 from the West Segment EDC account, indicating that the payments to REEVES were likely kickbacks from the West Segment payments. (Unless otherwise noted, checks were dated the same date as they were deposited.)

- a. On or about August 11, 2017, a West Segment EDC check for \$120,000 was deposited into an account controlled by CC-1. Also on or about August 11, 2017, a \$5,000 check dated August 10, 2017 from an account controlled by CC-1 was deposited into an account controlled by REEVES. On or about August 10, 2017, a \$10,000 check from an account controlled by CC-1 was deposited into an account controlled by REEVES.

- b. On or about August 23, 2017, a West Segment EDC cashier's check for \$51,400 was deposited into an account controlled by CC-1. On or about August 24, 2017, a \$5,000 check dated August 23, 2017 from an account controlled by CC-1 was deposited into an account controlled by REEVES.
- c. On or about September 8, 2017, a West Segment EDC cashier's check for \$47,000 was deposited into an account controlled by CC-1. On or about September 11, 2017, a \$5,000 check dated September 9, 2017 from an account controlled by CC-1 was deposited into an account controlled by REEVES.
- d. On or about September 19, 2017, a West Segment EDC cashier's check for \$200,000 was deposited into an account controlled by CC-1. Also on or about September 19, 2017, a \$20,000 check dated September 18, 2017 from an account controlled by CC-1 was deposited into an account controlled by REEVES.
- e. On or about September 29, 2017, two West Segment EDC cashier's checks, one for \$200,000 and one for \$30,600, were deposited into an account controlled by CC-1. Also on or about September 29, 2017, a \$9,000 cashier's check from an account controlled by CC-1 were deposited into an account controlled by REEVES.
- f. On or about October 30, 2017, a West Segment EDC cashier's check for \$450,000 dated October 28, 2017 was deposited into an account controlled by CC-1. On or about October 31, 2017, two \$5,000 checks dated October 28, 2017 from an account controlled by CC-1 were deposited into an account controlled by REEVES.

- g. On or about November 7, 2017, a West Segment EDC cashier's check for \$350,000 was deposited into an account controlled by CC-1. Also on or about November 7, 2017, a \$20,000 check from an account controlled by CC-1 was deposited into an account controlled by REEVES.
- h. On or about December 4, 2017, a West Segment EDC cashier's check for \$275,000 dated December 2, 2017 was deposited into an account controlled by CC-1. Also on or about December 4, 2017, a \$5,000 check and a \$25,000 check, both dated December 2, 2017, from an account controlled by CC-1 were deposited into an account controlled by REEVES.
- i. On or about January 18, 2018, a West Segment EDC cashier's check for \$300,000 was deposited into an account controlled by CC-1. On or about January 19, 2018, a \$15,000 check dated January 17, 2018 from an account controlled by CC-1 was deposited an account controlled by REEVES.

13. On or about January 24, 2019, CC-1 and PHELAN discussed that REEVES had requested money from CC-1, and PHELAN commented that he intended to tell REEVES to take cash, because checks would "get you in trouble."

14. CC-1 regularly fraudulently inflated the amount of project bids and invoices in order to cover the costs of providing bribes and kickbacks to PHELAN and REEVES.

15. On or about May 6, 2019, CC-1 and PHELAN discussed a potential project for the construction of duplex apartments, similar to a project that CC-1 built in the White Shield Segment for \$1.6 million. CC-1 explained to PHELAN that the \$1.6 million only covered materials, and therefore the West Segment project would need to be awarded for \$1.8 million because otherwise "there's no money to play around."

16. Some construction projects in the West Segment were purportedly awarded through a competitive bidding process, such as if, for example, the project required funding from the centralized TAT General Fund and therefore approval by the TBC. In reality, PHELAN, REEVES, and CC-1 routinely conspired to make sure that CC-1 would be awarded the project regardless of whether the project was purportedly put through a bidding process. For example:

- a. On or about February 3, 2019, CC-1 and PHELAN discussed that PHELAN told REEVES to tell the West Segment EDC that a competitive bidding process had been held and that CC-1 had been the winner. PHELAN then instructed that REEVES and CC-1 would “come up with three bids.”
- b. On or about May 13, 2019, REEVES complained to CC-1 that another TAT official was asking to see the plans from a purported competitive bidding process in which CC-1 had put in “three bogus bids” in addition to the real bid, and therefore the documents did not exist to show the TAT official.
- c. On or about August 16, 2019, PHELAN assured CC-1 that notwithstanding the announcement of a competitive bidding process, CC-1 was “guaranteed” to get the job because REEVES had the votes on the EDC to award it to CC-1 even if he did not turn out to be the lowest bidder.

17. On or about October 15, 2019, REEVES accompanied CC-1 to a Gate City Bank branch, where CC-1 had bank accounts. While at the bank, CC-1 deposited a check and withdrew \$5,000 in cash for PHELAN, which he delivered later that day. REEVES requested that CC-1 write three checks for \$8,000 each to “Grey Wolf Construction,” a company owned by REEVES, and to date them one week apart. Analysis conducted by the FBI’s forensic accountants of

subpoenaed bank records shows that REEVES deposited three \$8,000 checks into a Grey Wolf Construction account at First International Bank on October 15, October 22, and October 29.

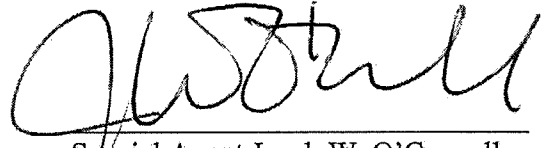
18. Projects awarded to CC-1 included individual home renovations and/or repairs for enrolled members residing in the West Segment, work on the West Segment powwow ground, construction of the duplex apartments referenced above in paragraph 15, and other construction projects.

19. In addition to awarding certain projects within his discretion to CC-1, PHELAN also regularly advocated for CC-1 in connection with projects requiring centralized TAT funding and therefore TBC approval. PHELAN regularly signed paperwork authorizing CC-1's work and/or the payment of CC-1's invoices. CC-1 routinely met with PHELAN to obtain his signature on such paperwork and provided PHELAN with cash, usually in thousand-dollar increments, at the same time. As an influential member of the West Segment EDC, REEVES regularly advocated for CC-1 on projects requiring EDC approval. REEVES also facilitated obtaining approvals and/or processing invoices by TAT officials.

20. On or about June 30, 2020, your affiant conducted separate interviews of PHELAN and REEVES at their respective residences. PHELAN and REEVES were both asked, among other things, about their dealings with CC-1, and both denied accepting bribes or kickbacks or engaging in any other illegal activity.

21. Based on my training and experience and the facts as set forth in this affidavit, your affiant respectfully submits that there is probable cause to believe that RANDALL JUDE PHELAN and DELVIN REEVES have violated Title 18, United States Code, Section 371 (Conspiracy); and Title 18, United States Code, Section 666(a)(1)(B) (Bribery Concerning Programs Receiving Federal Funds), in the District of North Dakota and elsewhere, and therefore

a warrant should issue for their arrests. Because public filing of this document could result in a risk of flight by the defendants, as well as jeopardize the government's ongoing investigation by notifying confederates and co-conspirators of the pending investigation, your affiant respectfully requests that this complaint, as well as any arrest warrants issued in connection with this complaint, be filed under seal.


Special Agent Jacob W. O'Connell
Federal Bureau of Investigation

Subscribed to and sworn pursuant to Fed. R. Crim. P. 4.1 on this 28th day of July, 2020, via telephone.

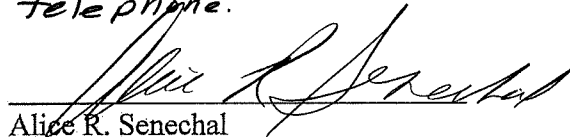

Alice R. Senechal
United States Magistrate Judge

EXHIBIT E

VIA OVERNIGHT MAIL BY FED EX

February 16, 2023

Mervin Packineau, Treasurer
Three Affiliated Tribes
404 Frontage Road
New Town, North Dakota 58763

Dear Treasurer Packineau:

We write to you requesting certain financial information. In doing so, we invoke the following provisions of the Constitution & Bylaws of the Three Affiliated Tribes:

“All expenditures from the Tribal Business Council funds shall be by resolution duly passed by the Council to such effect, and the amounts so paid shall be matters of public record at all times.”

Three Affiliated Tribe’s Constitution, Article VI, Section 5(c); and

“The Treasurer of the Tribal Business Council shall accept, receipt for, keep and safeguard all funds in the custody of the Council, whether they be Tribal funds, special funds for which the Council is acting as trustee or custodian. He shall . . . make and keep a faithful record of such funds, and shall report on all receipts and expenditures and the amount and nature of all funds in his possession or custody to the Council . . . his reports to be in writing and matters of record. . . .”

Three Affiliated Tribe’s Bylaws, Section 3. We have searched the Tribes records and we cannot find the information we are requesting as it does not appear to be a matter of public or written record as required by the provisions of the Tribe’s Constitution & Bylaws we have cited. Consequently, we must request the information we are seeking directly from you. Please provide us with the following:

1. A detailed monthly report of all monies deposited and withdrawn from the People’s Fund Account PL10017014 from FY2014 through FY 2022.

2. An annual report detailing the total of all bonuses and royalties received by or otherwise credited to the Tribe from FY 2010 through FY 2022.
3. The federal funds received and expended by the Three Affiliated Tribes by program on an annual basis from FY 2014 through FY 2022. Specifically, please provide us with a list all programs funded by federal funds and the amount they received by year from FY2014 – FY2022.
4. We note the Tribe's general fund budget was \$90,735,000 in FY2018 and doubled to \$180,650,000 in FY 2022. Please provide us with a report of the Tribe's budgets for FY 2018 through FY 2022 revealing how much the Tribe actually expended on each line item included in the Tribe's budget for each year we have requested. Please include all revenues received and used by the Tribe to cover the amounts expended. We are attaching Resolution No. #11-130 VJB as an example of the form of the report we would like to receive from you for each year. This budget appears to be the last year the TBC actually provided a budget listing line items for all receipts and expenditure included in the Tribe's budget.

Thank you in advance for your cooperation in providing this information in a timely manner. We believe two weeks is a sufficient amount of time to compile this information and make it available to us so we would appreciate it if we could pick it up at your office on or before Friday, March 3, 2023.

If you need any clarification concerning our request or you have any hesitation or concern in providing this information to us, please contact Terry at (701) 214-2979 or Carol at (701) 421-0111. Thank you.

Sincerely,

// Terry Fredericks //

Terry Fredericks

// Carol Good Bear //

Carol Good Bear



Resolution No. 11- 130 -VJB

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

A Resolution Entitled: "Adoption of Fiscal Year 2012 General Fund Operating Budget and Special Project Budget"

- 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,** 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 Constitution of the Three Affiliated Tribes 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 (l) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the power to adopt resolutions regulating the procedure of the Tribal Business Council and other Tribal agencies and Tribal officials on the Reservation; and
- WHEREAS,** Article VI, Section 5 (c) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the power to administer any funds or property within the exclusive control of Tribes and to make expenditures from available tribal funds for public purposes of the Tribes; and
- WHEREAS,** The Tribal Business Council has the authority and is required by law to adopt an Annual General Fund Operating Budget each Fiscal Year in order to appropriate and expend its federal and general funds; and
- WHEREAS,** The Tribal Business Council concurs with the Treasurer that deficit spending during fiscal year 2012 should be strictly prohibited and that internal controls will be used to ensure deficit spending does not occur and approved budgets are not exceeded.
- WHEREAS,** The Tribal Business Council has reviewed the Tribal Treasurer's attached fiscal year 2012 General Fund Operating Budget and Special Project Budget and has determined that it should be adopted; and



Resolution # 11-130 VJB

**THREE AFFILIATED TRIBES
GENERAL FUND BUDGET FY 2012**

Revenues

JTAC	
Casino	\$7,500,000
TERO	\$6,000,000
Royalties	\$9,000,000
TAX	\$42,000,000
Programs	\$50,500,000
Loan Proceeds	\$1,500,000
Cash Reserves	\$6,000,000
	\$33,000,000
	\$155,500,000

SPECIAL PROJECTS

\$107,395,000

GENERAL FUND PROGRAMS

2012 Budget

0040 - Tero	\$2,000,000
0050 - Tribal Tax Commission	\$650,000
0060 - Solid Waste	\$1,217,000
0075 - Public Safety Commission	\$150,000
0100 - Three Tribes Museum	\$50,000
0119 - MHA Motor Carrier Transportation	\$1,250,000
0120 - TAT Roads	\$2,000,000
0122 - Indian Action II	\$200,000
0131 - Tribal Energy Department	\$2,000,000
0132 - Tribal Range and Realty	\$500,000
0137 - MHA Refinery	\$1,829,149
0140 - Veterans Office	\$400,000
0150 - Constitutional Revision	\$150,000
0170 - Tribal Education	\$470,000
0179 - Homeland Security	\$250,000
0220 - Game and Fish	\$550,000
0235 - KDU NON Federal	\$200,000
0240 - CHR NON Federal	\$300,000
0275 - Business & Realty Development Office	\$200,000
0300 - Council: Four Bears Segment	\$800,000
0301 - Elders: Four Bears Segment	\$120,000
0310 - Council: Mandaree Segment	\$1,120,000
0311 - Elders: Mandaree Segment	\$120,000
0320 - Council: Parshall Segment	\$800,000
0321 - Elders: Parshall Segment	\$120,000
0330 - Council: White Shield Segment	\$800,000
0331 - Elders: White Shield Segment	\$120,000
0340 - Council: Twin Buttes Segment	\$1,025,000
0341 - Elders: Twin Buttes Segment	\$120,000
0360 - Council: North Segment	\$800,000
0361 - Elders: North Segment	\$120,000
0375 - Council: Chairman Office	\$1,500,000
0380 - Council: TBC Actions	\$3,745,925
0450 - Cultural Interpretive Center	\$118,653

Resolution # 11-130 VJB

0470 - Tribal Election Board	\$150,000
0475 - Recreation & Fitness	\$150,000
0530 - Legal	\$1,700,000
0580 - Wake Fund	\$300,000
0590 - Senior Citizens	\$955,000
0650 - Agricultural Office	\$100,000
0690 - Small Loan Program	\$350,000
0700 - Utilities	\$400,000
0943 - Water Assistance Program	\$350,000
0946 - Easement and Water Resources	\$550,000
0950 - Parshall Field Clinic	\$270,000
0951 - Mandaree Field Clinic	\$235,000
0952 - Twin Buttes Field Clinic	\$550,000
0953 - White Shield Field Clinic	\$325,000
0954 - Elbowoods Planning Phase II	\$500,000
0961 - Tribal Court	\$600,000
0969 - Tribal Tourism	\$590,000
0970 - JTAC	\$7,884,273
0972 - Tribal Cops	\$1,500,000
0981 - TAT Ranch and Lodge	\$790,000
0982 - TAT Animal Control	\$192,000
0983 - Nu'Eta Language Preservation	\$100,000
0984 - Tribal Historic Preservation Office	\$600,000
0985 - Northern Star	\$500,000
0986 - Children & Family Services	\$350,000
0987 - Housing Services Program	\$1,425,000
0990 - CEDS	\$425,000
0993 - Arikara Culture & Language Preservation	\$275,000
9560 - Public Works	\$195,000

Total Tribal Programs Operating Budget

\$48,105,000



Resolution No. 11- 130 -VJB

NOW THEREFORE BE IT RESOLVED, that the Tribal Business Council of the Three Affiliated Tribes hereby adopts and approves the attached fiscal year 2012 General Fund Programs Operating Budget and Special Project Budgets whereby the Three Affiliated Tribes shall be authorized to operate in fiscal year 2012; and

BE IT FURTHER RESOLVED, internal controls shall be strictly enforced to ensure that deficit spending does not occur in 2012:

1. TAT Finance, Contracts and Property shall notify the Budget Administrators when they have reach 90% of their fiscal year 2012 budget allocation; and
2. TAT Finance, Contracts and Property shall not process any documentation and /or purchase orders for programs in the General Fund Programs or Special Projects that have exceeded their budget and shall require program modifications (consistent with the approved budgets: for the individual line item budget changes).

BE IT FURTHER RESOLVED, that the budget established and approved by this Resolution may not be modified or amended without a formal Resolution of 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, 5 were present at a **Regular** Meeting thereof duly called, noticed, convened, and held on the 14th day of December 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 14th day of December 2011


Secretary, V. Judy Brugh
Tribal Business Council

ATTEST:

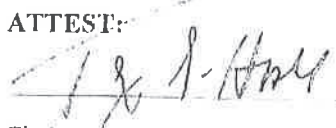

Chairman, Tex G Hall.
Tribal Business Council

EXHIBIT F

VIA OVERNIGHT MAIL PER FED EX

February 21, 2023

Mark Fox, Chairman
Mervin Packineau, Treasurer
Three Affiliated Tribes
404 Frontage Road
New Town, North Dakota 58763

Re: Request for Section 17 Financial Information

Dear Gentlemen:

We write to request financial information concerning the Section 17 Corporation. In doing so, we invoke the following provisions of the Constitution & Bylaws of the Three Affiliated Tribes and the Section 17 Corporate Charter:

All expenditures from the Tribal Business Council fund shall be by resolution duly passed by the Council to such effect, and the amounts so paid shall be matters of public record at all times.

Three Affiliated Tribes Constitution, Article VI, Section 5(e); and

The Treasurer of the Tribal Business Council shall accept, receipt for, keep and safeguard all funds in the custody of the Council, whether they be Tribal funds or special funds for which the Council is acting as trustee or custodian. He . . . shall make and keep a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his possession or custody of the Council at regular meetings . . . his reports to be in writing and matters of public record. He shall not expend or otherwise disburse any funds in his possession or in the possession or custody of the Tribal Business Council except when he is authorized to do so by resolution duly passed by the Council.

Three Affiliated Tribes Bylaws, Section 3; and

The Three Affiliated Tribes shall be a membership corporation. Its members shall consist of all persons now or hereafter members of the Tribe, as provided by its duly ratified and approved Constitution and By-laws.

Section 17 Corporate Charter; and finally

The officers of the Tribe shall maintain accurate and complete public accounts of the financial affairs of the Tribe, which shall clearly show all credits, debts, pledges and assignments, and shall furnish an annual balance sheet and report of the financial affairs of the Tribe to the Commissioner of Indian Affairs.

Section 17 Charter, Section 9.

In accordance with the mandates cited above, please provide us with the following documentation:

1. Annual profit and loss statements for the Section 17 Corporation for FY 2010 through FY 2022;
2. The Annual Balance Sheets for the Section 17 Corporation for FY 2010 through FY 2022;
3. Annual ledgers showing all receipts and expenditures for FY 2010 through FY 2022;

Also, we would appreciate it if you would provide answers to the following questions:

1. Where do the revenues for the Section 17 Corporation go? Directly to the Section 17 Corporation of the Tribe?
2. If the revenues go directly to the Section 17 Corporation, where do they go from there?
3. What are the net revenues from the Section 17 Corporation used for and are the expenditures of these revenues authorized by resolution? If so, please direct us to the resolution(s) authorizing such expenditures.
4. Does the Tribe exercise responsibility for the accounting for the Section 17 Corporation or does the Section 17 Corporation have its own accountant? If so, please identify the accountant.

5. What has been the total water sales for the Section 17 Corporation from FY 2010 through FY 2022? For each of these years?

Thank you in advance for your cooperation. We believe two weeks is an adequate amount of time to provide us with the information we have requested. Please have this information available for us to pick up at the Treasurer's office on or before Wednesday, March 8, 2023.

Please contact Terry at (701) 214-2979 or Carol Good Bear at (701) 421-0111 when the documents and information we have requested is ready and we will come in to pick it up.

Sincerely,

// Terry Fredericks //

Terry Fredericks

// Carol Good Bear //

Carol Good Bear

EXHIBIT G

VIA CERTIFIED MAIL

February 23, 2023

Mark Fox, Chairman
Mervin Packineau, Treasurer
Three Affiliated Tribes
404 Frontage Road
New Town, North Dakota 58763

Re: Request for Housing Purchase and Inventory Information

Dear Gentlemen:

We write to request financial information concerning houses purchased by the Three Affiliated Tribes. In doing so, we invoke the following provisions of the Constitution & Bylaws of the Three Affiliated Tribes and the Section 17 Corporate Charter:

All expenditures from the Tribal Business Council fund shall be by resolution duly passed by the Council to such effect, and the amounts so paid shall be matters of public record at all times.

Three Affiliated Tribes Constitution, Article VI, Section 5(e); and

The Treasurer of the Tribal Business Council shall accept, receipt for, keep and safeguard all funds in the custody of the Council, whether they be Tribal funds or special funds for which the Council is acting as trustee or custodian. He . . . shall make and keep a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his possession or custody of the Council at regular meetings . . . his reports to be in writing and matters of public record. He shall not expend or otherwise disburse any funds in his possession or in the possession or custody of the Tribal Business Council except when he is authorized to do so by resolution duly passed by the Council.

Three Affiliated Tribes Bylaws, Section 3; and

In accordance with the mandates cited above, please provide us with the following documentation:

1. A list of all houses purchased by the Three Affiliated Tribes and/or any Tribal entities from FY 2010 through FY 2022. Please list the addresses for all houses, date of purchase, amounts paid for them and the owner of record.
2. A list of all houses purchased by Segments for FY 2010 through FY 2022. Please list the addresses for all houses, dates purchased, the amounts paid for them and the owner of record.
3. A list of the resolutions authorizing these purchases.

Also, we would appreciate it if you would provide answers to the following questions:

1. What is the total amount of monies paid by the Three Affiliated Tribe for houses from FY 2010 through 2022?
2. Why are some of the houses purchased by the Tribe recorded under the Three Affiliated Tribes and others under the Three Affiliated Tribes Natural Resources Department?

Thank you in advance for your cooperation. We believe two weeks is an adequate amount of time to provide us with the information we have requested. Please have this information available for us to pick up at the Treasurer's office on or before Friday, March 10, 2023.

Please contact Terry at (701) 214-2979 or Carol at (701) 421-0111 when the documents and information we have requested is ready and we will come in to pick it up. If our request is refused, we will be forced to compel disclosure of everything we have requested herein through our court.

Sincerely,

// Terry Fredericks //
Terry Fredericks

// Carol Good Bear //
Carol Good Bear

EXHIBIT H

VIA CERTIFIED MAIL

February 24, 2023

Mark Fox, Chairman
Mervin Packineau, Treasurer
Three Affiliated Tribes
404 Frontage Road
New Town, North Dakota 58763

Re: Request for Information Concerning Non-Section 17 Tribal Business Entities

Dear Gentlemen:

We write to request financial information concerning financial reports and information concerning all on the Tribe's Non-Section 17 businesses. In doing so, we invoke the following provisions of the Constitution & Bylaws of the Three Affiliated Tribes:

All expenditures from the Tribal Business Council fund shall be by resolution duly passed by the Council to such effect, and the amounts so paid shall be matters of public record at all times.

Three Affiliated Tribes Constitution, Article VI, Section 5(e); and

The Treasurer of the Tribal Business Council shall accept, receipt for, keep and safeguard all funds in the custody of the Council, whether they be Tribal funds or special funds for which the Council is acting as trustee or custodian. He . . . shall make and keep a faithful record of such funds, and shall report on all receipts and expenditures and the amount and nature of all funds in his possession or custody of the Council at regular meetings . . . his reports to be in writing and matters of public record. He shall not expend or otherwise disburse any funds in his possession or in the possession or custody of the Tribal Business Council except when he is authorized to do so by resolution duly passed by the Council.

Three Affiliated Tribes Bylaws, Section 3.

In accordance with the mandates cited above, please provide us with the following documentation:

1. A list of all the Tribe's non-Section 17 Chartered business entities and the date of their formation.
2. A report listing all the monies the Three Affiliated Tribes has invested in such entities from FY 2000 through 2022.
3. A report listing the monies received by the Three Affiliated Tribes as a return on its investments or otherwise by year from FY 2000 through 2022.

Also, we would appreciate it if you would provide answers to the following questions:

1. Does the Tribe have any written policies concerning the payment of profits by these companies to the Tribe? If so, please provide us a copy of the policy or policies.
2. Do these companies pay their profits directly to the Tribe or do any of the monies they distribute go somewhere else without going through the Tribe's accounts? If the monies go directly somewhere else, please identify where the monies are directed.
3. If the monies are paid directly to Segments, are these monies included in the Tribe's budget line items for Segments? If so, where are they included? If not included in the Tribe's annual budget:
 - a. How much have the Segments received from each company? Please provide us with a report revealing all sums segments have received from each company by year from FY 2010 through 2022.
 - b. How do the Segments account for these monies?
4. Section 5(a) grants the Tribal Business Council the power to "manage all economic affairs and enterprises of the Three Affiliated Tribes . . . in accordance with the terms of a charter to be issued to them by the Secretary of the Interior." Please explain where the Tribal Business Council has the authority to manage any non-Section 17 Chartered Enterprise.

Thank you in advance for your cooperation. We believe two weeks is an adequate amount of time to provide us with the information we have requested. Please have this information available for us to pick up at the Treasurer's office on or before Monday, March 13, 2023.

Please contact Terry at (701) 214-2979 or Carol at (701) 421-0111 when the documents and information we have requested is ready and we will come in to pick it up. If our request is refused, we will be forced to compel disclosure of everything we have requested herein through our court.

Sincerely,

// Terry Fredericks //

Terry Fredericks

// Carol Good Bear //

Carol Good Bear

EXHIBIT I

VIA CERTIFIED MAIL

February 27, 2023

Mark Fox, Chairman
Mervin Packineau, Treasurer
Three Affiliated Tribes
404 Frontage Road
New Town, North Dakota 58763

Re: Request for 4Bears Casino & Lodge Financial Information

Dear Gentlemen:

We write to request financial information concerning the 4Bears Casino & Lodge. In doing so, we invoke the following provisions of the Constitution & Bylaws of the Three Affiliated Tribes and the Section 17 Corporate Charter:

All expenditures from the Tribal Business Council fund shall be by resolution duly passed by the Council to such effect, and the amounts so paid shall be matters of public record at all times.

Three Affiliated Tribes Constitution, Article VI, Section 5(e); and

The Treasurer of the Tribal Business Council shall accept, receipt for, keep and safeguard all funds in the custody of the Council, whether they be Tribal funds or special funds for which the Council is acting as trustee or custodian. He . . . shall make and keep a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his possession or custody of the Council at regular meetings . . . his reports to be in writing and matters of public record. He shall not expend or otherwise disburse any funds in his possession or in the possession or custody of the Tribal Business Council except when he is authorized to do so by resolution duly passed by the Council.

Three Affiliated Tribes Bylaws, Section 3.

In accordance with the mandates cited above, please provide us with the following information and/or documentation:

1. All monies received from and paid to the 4Bears Casino & Lodge from FY 2010 through FY 2022 by year;
2. All monies loaned to the 4Bears Casino & Lodge from 2010 to 2022, if any, and the balance due as of January 1, 2023, on any and all loans.
3. The profit and loss reports for the 4Bears Casino & Lodge for FY 2010 through FY 2022.
4. The balance sheet for the 4Bears Casino & Lodge as of December 31, 2023.
5. All audits for the 4Bears Casino & Lodge for FY 2010 through BY 2022.

Thank you in advance for your cooperation. We believe two weeks is an adequate amount of time to provide us with the information we have requested. Please have this information available for us to pick up at the Treasurer's office on or before Tuesday, March 14, 2023. Please contact Terry at (701) 214-2979 or Carol Good Bear at (701) 421-0111 when the documents and information we have requested is ready and we will come in to pick it up.

Sincerely,

// Terry Fredericks //
Terry Fredericks

// Carol Good Bear //
Carol Good Bear

EXHIBIT J

HAND DELIVERY

March 8, 2023

Mark Fox, Chairman
Fred Fox, Secretary
Three Affiliated Tribes
404 Frontage Road
New Town, North Dakota 58763

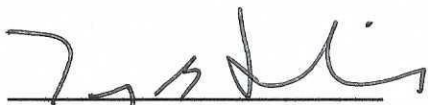
Re: Resolutions Terry Fredericks and Carol Good Bear Propose to the Tribal
Business Council For Consideration at The Tribal Business Council's
Meeting Now Scheduled For Today, March 8, 2023.

Dear Chairman Mark Fox and Secretary Fred Fox:

I have looked at the Tribal Business Council's agenda for today's meeting which has been re-scheduled from the original date of March 9, 2023. I note that none of the proposed resolutions I sent to both of you and the Tribe's legal department last week are on the agenda for today. Thus, as I stated in my February 28, 2023 letter to the two of you, if you did not respond to my letter and request to be on the agenda Carol Good Bear and I would consider the proposed resolutions rejected by the Secretary and/or Tribal Business Council and move forward with the referendum process. We have followed all the Council's rules for presenting the proposed resolutions but have not heard from either one of you regarding these proposed resolutions.

Please note that I am here for the meeting today and am willing to present the resolutions if you would like to add me to the agenda. If not, I would appreciate it if you would acknowledge my presence on the record at the beginning of today's meeting and also go on the record rejecting the proposed resolutions. This way, there will be no confusion concerning the process and we can clearly move forward to the referendum and work diligently with Secretary Fred Fox in executing the referendum process.

Sincerely,


Terry Fredericks