

GOVERNMENT RESOLUTION [*unorganized*]

WHEREAS the _____ has been mandated by the Nation/
Tribal Council to provide the essential governmental services related to _____
and are a sub-division of Nation/Tribal government;

THEREFORE BE IT RESOLVED that the _____ may pursue
fundraising from private sources e.g. foundations, charities or individuals pursuant to IRC 7871;
and

BE IT FURTHER RESOLVED that the _____ may provide
donors with the necessary assurances that grants to Nation/Tribal governmental units for
public purposes are "qualifying distributions" under Section 53.4942(a)-3(a) of the IRS
regulations; and, if they are for charitable purposes, will not be taxable expenditures under
section 53.4945-6(a) of the IRS regulations.

GOVERNMENT RESOLUTION [*organized*]

WHEREAS the _____ has been organized under _____ as a non-
profit corporation for the purposes of providing charitable and public services within the
Nation/Tribe territory; and

WHEREAS the delivery of such services are an essential and integral part of the Nation's/Tribe's
governing mandate to foster the well-being of our citizens;

THEREFORE BE IT RESOLVED that _____ is hereby sanctioned to provide charitable
and public services within the Nation/Tribe territory; and

BE IT FURTHER RESOLVED that _____ may pursue fundraising from private sources
e.g. foundations, charities or individuals pursuant to IRC 7871; and

BE IT FURTHER RESOLVED that _____ may provide donors with the necessary
assurances that grants to Nation/Tribal governmental units for public purposes are "qualifying
distributions" under Section 53.4942(a)-3(a) of the IRS regulations; and, if they are for
charitable purposes, will not be taxable expenditures under section 53.4945-6(a) of the IRS
regulations.

CONFERRING OF SOVEREIGN IMMUNITY *The following may be used with a Nation/Tribally
owned or chartered corporation.*

1.1 IMMUNITIES OF THE COMPANY. Pursuant to _____, the Company
shall enjoy the following immunities:

- (a) Jurisdictional Immunity of the Company. The Nation/Tribe hereby confers on the
Company all of the Nation's/Tribe's rights, privileges and immunities concerning federal,
state, and local taxes, regulation, and jurisdiction, to the same extent that the Nation/

Tribe would have such rights, privileges, and immunities, if it engaged in the activities undertaken by the Company.

(b) Sovereign Immunity of the Company. The Nation/Tribe hereby confers on the Company sovereign immunity from suit to the same extent that the Nation/Tribe would have such sovereign immunity if it engaged in the activities undertaken by the Company. The Company shall have the power to sue and is authorized to consent to be sued in the Nation's/Tribe's Tribal Court or another court of competent jurisdiction, provided, however, that:

(1) no such consent to suit shall be effective against the Company unless such consent is:

(i) explicit,

(ii) contained in a written contract or commercial document to which the Company is a party, and

(iii) specifically approved by the Member(s) of the Company, and

(2) any recovery against such Company shall be limited to the assets of the Company.

(c) Any consent to suit may be limited to the court or courts in which suit may be brought, to the matters that may be made the subject of the suit and to the assets or revenues of the Company against which any judgment may be executed.

(d) Consent to suit by the Company shall in no way extend to an action against the Nation/Tribe, nor shall be consent to suit by the Company in any way be deemed a waiver of any of the rights, privileges and immunities of the Nation/Tribe. The Nation/Tribe shall not be liable for the payment or performance of any of the obligations of the Company, and no recourse shall be had against any assets or revenues of the Nation/Tribe in order to satisfy the obligations of the Company.

(e) The sovereign immunity of the Company shall not extend to actions against the Company by the Nation/Tribe.

NOTE: *The above language must also be incorporated into the charter and by-laws of the company*

CORPORATE CHARTER/BY-LAWS: *The following is Purpose language to be used in both*

This corporation is organized exclusively for charitable purposes within the meaning of Section 7871 of the Internal Revenue Code, as now enacted or hereafter amended, including, for such purposes, the making of distributions to organizations that also qualify as Section 7871 exempt organizations. To this end, the corporation has been recognized and sanctioned by Nation/Tribal Resolution # to provide essential services of sustainable human, environmental, and community development that meet the needs of the present without compromising the ability of future generations to meet their own needs. The corporation shall promote and carry out its own programs to meet this end, and, shall act in collaboration and partnership with

other entities and individuals whose purposes and goals coincide with the corporation's. The corporation will also sponsor or otherwise support the efforts of other entities and individuals whose efforts and activities coincide with the corporation's. All funds, whether income or principal, and whether acquired by gift or contribution or otherwise, shall be devoted to said purposes.

IRS RELATED LANGUAGE: *The following can be used in a cover letter to a potential donor who may have concerns or is unfamiliar with IRC 7871 or used within a proposal or LOI to give potential donors a "heads up":*

There is no provision in the Internal Revenue Code that imposes an income tax on governmental entities or their political subdivisions. Revenue Ruling 67-284 amplifies this issue regarding federally recognized Indian tribes, by affirmatively indicating that they are not subject to federal income tax. Thus, Indian tribal governments do not qualify for exemption from federal income tax as described under Section 501(c)(3) of the Internal Revenue Code, since they are simply not subject to federal income tax.

Under Section 7871 of the Internal Revenue Code, Congress determined that federally recognized Indian tribes and their subdivisions would be treated like states for certain specified purposes, because tribal governments, like state governments, serve the public within their jurisdictional boundaries, and accordingly should be permitted to devote their limited resources to that end.

Please note that the IRS has determined that grants to governmental units for public purposes are "qualifying distributions" under Section 53.4942(a)-3(a) of the regulations; and, if they are for charitable purposes, will not be taxable expenditures under section 53.4945-6(a) of the regulations.

The following references ensure verifying eligibility under Section 7871:

- Revenue Procedure 2002-64 lists Indian tribal governments that are treated similarly to states for federal tax purposes, including sections 7871 and 7701(a)(40) of the Code.
- Revenue Procedure 84-36 lists subdivisions of Indian tribal governments that are treated as political subdivisions of states for the same specified purposes under the Internal Revenue Code that are noted in Revenue Procedure 2002-64.
- IRS Publication 78, Cumulative List of Organizations, was recently revised for 2003 to include the following language - "Pursuant to section 7871 of the Internal Revenue Code, Indian tribes and their subdivisions are treated similarly to states and their subdivisions for purposes of section 170(c)(1). See Part II, „Qualified Organizations“, for additional information on contributions to Indian tribal governments." Part II of Publication 78 provides "Indian tribal governments are treated as states for purposes of

deductibility of contributions under section 170(c)(1) of the Code, pursuant to section 7871(a)(1)(A) of the Code.

Proviso: As in all cases concerning legal interpretation or clarification you are advised to consult with the Nation's/Tribe's attorney for further language incorporation or amendment to insure consistency with Nation/Tribal law and policy.