

CORPORATE CHARTER
OF
FALLON TRIBAL DEVELOPMENT CORPORATION

*A Federally-Chartered Corporation of the
Fallon Paiute-Shoshone Tribe*

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**CORPORATE CHARTER
OF
FALLON TRIBAL DEVELOPMENT CORPORATION**

A Federally-Chartered Corporation of the Fallon Paiute-Shoshone Tribe

The Secretary of the Interior hereby issues this charter of incorporation to the Fallon Paiute-Shoshone Tribe pursuant to section 17 of the Indian Reorganization Act of June 18, 1934, 48 Stat. 988, as amended by section 3(c) of Public Law 101-301, 104 Stat. 207, and codified in pertinent part at 25 U.S.C. § 477. This Charter shall become operative when ratified by the governing body of the Tribe, the Fallon Paiute-Shoshone Business Council.

Article 1. Definitions

When used in this Charter, the following terms shall have the following meanings:

1.1 “Annual Board Meeting” means the annual meeting of the Corporation’s Board of Directors to be held in June of each year, at which the Board shall appoint the Officers of the Corporation and present an annual report. See Sections 6.12 and 7.2.

1.2 “Annual Owner’s Meeting” means the meeting of the Fallon Business Council (as representative of the Corporation’s sole owner, the Tribe) to be held immediately upon ratification of this Charter by the Business Council and thereafter in June of each year, at which Directors of the Corporation will be appointed. See Section 3.1.

1.3 “Applicable Law” means all legally controlling federal, Tribal and (if lawfully applicable) state constitutional provisions, statutes, ordinances, codes, resolutions, referenda, executive orders, administrative regulations and orders, and judicial decisions, now or hereafter in force, applicable to the Corporation, its property or activities, or its Directors, Officers, Managers, employees or agents while engaged in the business or affairs of the Corporation, provided that any provision of any ordinance, code or resolution adopted by the Business Council which conflicts with any provision of this Charter shall, to the extent of such conflict only, not be legally controlling unless and until the conflict is eliminated by amendment of this Charter under Section 16.2.

- 1.4 “Article”** means an Article of this Charter.
- 1.5 “Authorized Activities”** means the business activities in which the Corporation may engage as described in Section 5.2.
- 1.6 “Board of Directors” or “Board”** means the board of directors of the Corporation constituted under Article 6.
- 1.7 “Business Council” or “Council”** means the Fallon Business Council, the governing body of the Tribe under its Constitution and Bylaws.
- 1.8 “Bylaws”** means any bylaws of the Corporation which may be adopted under Section 16.1.
- 1.9 “Charter”** means this Charter, including any amendments hereof.
- 1.10 “Corporation”** means and **“Corporate”** refers to Fallon Tribal Development Corporation, the corporation established by this Charter.
- 1.11 “Director”** means a member of the Board of Directors, other than the member of the Business Council designated by the Council under Section 6.1 as an ex-officio, non-voting Tribal observer/spokesperson on the Board.
- 1.12 “Division”** means an internal division or department of the Corporation, established by the Board of Directors to conduct particular business activities for the Corporation.
- 1.13 “Enrolled Tribal Members”** means enrolled members of the Tribe per Article II of the Tribal Constitution and the Tribal Enrollment Ordinance, including any amendments thereof. See Sections 6.2.c, and 12.1.a and 12.1.b.
- 1.14 “Goals”** means the overall goals of the Corporation as described in Section 5.3.
- 1.15 “Fallon Indian Reservation” or “Reservation”** means all lands within the exterior boundaries of the reservation and colony set apart for the Tribe by federal statute, administrative order, or other action, including, without limitation, all lands which have been or hereafter may be added to the Reservation under Public Law 101-618, 104 Stat. 3289 or other authority.

1.16 “Fox Peak Division” means the Division of the Corporation operating the business known as Fox Peak Station, as described in Subsection 5.2.a.

1.17 “Managers” means the persons and firms hired under Section 8.1 to provide managerial services to the Corporation or any Division(s).

1.18 “Misdemeanor Involving Moral Turpitude” means a misdemeanor or gross misdemeanor involving an intentional act or omission which is vile, immoral, or otherwise gravely violative of the moral sentiments or accepted moral standards of the Tribal community. This shall include, by way of example but not limitation, an intentional act or omission involving violence, child abuse, spousal abuse, manufacture or distribution of alcohol, drugs or other mind-altering substance, or theft or other dishonesty. The Business Council’s determination as to whether a particular offense constitutes a Misdemeanor Involving Moral Turpitude under the foregoing standards shall be final. See Sections 6.2.a(1) and 6.7.c.

1.19 “Officers” means the officers of the Corporation appointed under Article 7 including the President, Vice President, Secretary and Treasurer and such additional officers as the Board of Directors may appoint.

1.20 “Section” and **“Subsection”** mean, respectively, a section and subsection of an Article of this Charter.

1.21 “Surplus Funds” means those portions of the Corporation’s net profits to be distributed to the Tribe under Section 11.3.

1.22 “Section 17 of the IRA” means section 17 of the Indian Reorganization Act of June 18, 1934, 48 Stat. 988, as amended by section 3(c) of Public Law 101-301, 104 Stat. 207, codified at 25 U.S.C. § 477.

1.23 “Tribe” means and **“Tribal”** refers to the Fallon Paiute-Shoshone Tribe. All agreements, approvals, consents, authorizations, appointments or other similar actions to be taken, given or made by the Tribe under this Charter shall be manifested by or based on an authorizing resolution or ordinance of the Business Council.

Article 2. Characteristics and Limitations

2.1 Name. The name of the Corporation established by this Charter is

Fallon Tribal Development Corporation.

2.2 Separate Entity. The Corporation is a separate and distinct business entity chartered to engage in business activities on behalf of its sole owner, the Tribe.

2.3 Wholly-Owned by Tribe. The Corporation shall be wholly-owned by the Tribe. The rights, duties and prerogatives of the Tribe as sole owner of the Corporation shall be exercised and performed on behalf of the Tribe by the Business Council, as provided in Article 3.

2.4 Perpetual Existence. The Corporation shall have perpetual existence unless this Charter is revoked or surrendered by Act of Congress as provided in Section 17 of the IRA.

2.5 Legal Residence. For all purposes under law, the legal residence of the Corporation, including its Divisions, shall be the Reservation. However, the Corporation and any Division are hereby authorized to conduct business and establish offices at any location on or off the Reservation in Nevada and in any other state.

2.6 Immunities. The Corporation and its Divisions are endowed with all immunities from suit and from federal, state and local taxation, licensing, regulation and other governmental authority that are possessed by the Tribe. However, the Board of Directors may explicitly waive such immunities as provided in Section 5.4.b(12).

2.7 Limited Waiver of Immunity from Suit for SBA Purposes. The immunity of the Corporation and its Divisions from suit is hereby waived as to suit in federal courts of competent jurisdiction in the event of a dispute arising from the relationship of the Corporation or any of its Divisions with the United States Small Business Administration ("SBA"), including its participation in SBA's Section 8(a) Program, and any SBA contracts to which the Corporation or a Division is a party.

2.8 Limitations *Vis-a-Vis* Tribe. The Corporation and its Divisions shall have no power to:

a. expressly, impliedly, or otherwise through its status or activities, subject the Tribe (which term as used in this Section 2.8 shall mean the Tribe and its instrumentalities other than the Corporation and its Divisions) to

debts, liabilities, other obligations, or claims arising from contract, tort, statute, regulation, licensing, taxation, or any other source;

- b. pledge the credit of the Tribe;
 - c. dispose of, mortgage, pledge or otherwise encumber real or personal property of the Tribe;
 - d. waive any right of or release any obligation owed to the Tribe;
- or
- e. waive any other right, privilege or immunity of the Tribe.

Article 3. Actions by Tribe as Owner of Corporation

3.1 Business Council Meetings. The Tribe shall exercise its rights, duties and prerogatives as owner of the Corporation via resolution of the Business Council adopted at any Business Council meeting, provided prior notice is given in accordance with Section 3.2. The Business Council shall designate one of its meetings in June of each year as the annual meeting for the appointment of Directors of the Corporation ("Annual Owner's Meeting"), provided the first Annual Owner's Meeting shall take place immediately upon ratification of this Charter.

3.2 Notice and Form of Council Action. The Tribal Secretary shall give the Corporate Secretary or Corporate President written notice, delivered at least three business days in advance, of the time, place and agenda of every Business Council meeting at which any Corporation-related matter is on the agenda. The notice shall be delivered in-person or by mail, telefax or other similar means accompanied by an effort to provide simultaneous telephone notice. Notice need not be given of a meeting resumed after any recess. Any action taken by the Business Council with respect to the Corporation shall be by resolution, and a copy of any such resolution promptly shall be delivered to the Corporate Secretary or Corporate President.

Article 4. Divisions

4.1 Establishment. By written resolution, the Board of Directors may establish internal divisions or departments of the Corporation ("Divisions") and delegate to such Divisions responsibility and authority to conduct particular business activities on behalf of the Corporation.

4.2 Management. In accordance with and subject to the provisions of Article 8, the Board of Directors may hire Managers to manage the operations of any Division.

Article 5. Authorized Activities, Goals, Powers and Mergers

5.1 Reorganization of Tribally-Chartered Fox Peak Economic Development Corporation. As an initial matter, the Corporation has been organized as a vehicle for the reorganization of Fox Peak Economic Development Corporation, a corporation chartered by the Business Council under Tribal law and wholly-owned by the Tribe. To that end, this Corporation is authorized to acquire the assets and liabilities of Fox Peak Economic Development Corporation by merger, consolidation, exchange, transfer, stock acquisition or other means, and to thereafter carry on all or any part of the business of Fox Peak Economic Development Corporation as one or more Divisions of this Corporation.

5.2 Authorized Activities. The Corporation is authorized to engage in one or more of the following business activities (“Authorized Activities”) in accordance with and as permitted by Applicable Law:

a. Fox Peak Station. Operate as a Division of the Corporation (“Fox Peak Division”) the Tribally-owned business known as “Fox Peak Station,” currently located on a portion of the 36-acre (approx.) parcel of land in the City of Fallon held in trust for the Tribe by the United States as part of the Reservation (the “36 Acres”).

b. Identify Other Commercial Opportunities. Identify, evaluate and propose other meritorious commercial projects which are likely to assist in achieving the Goals of the Corporation. In support of any proposal which suggests that the Tribe invest, loan or otherwise make available to the project additional land within the 36 Acres, other Tribally-owned or controlled lands or resources, Tribal funds, Tribal guarantees, or other Tribal commitments, the Corporation shall provide at least the following to the Business Council in support of the proposal:

- (1) an analysis of the feasibility and risks of the project;
- (2) projections of project costs, revenues and rates of return;

(3) a description of the legal documentation to be used to set forth the terms and conditions under which the Tribe would invest in, loan to, or otherwise contribute to or participate in the project; and

(4) such other information as the Business Council may request.

c. Further Development of 36 Acres. As authorized by the Business Council, develop and/or operate further commercial enterprises on the 36 Acres, as enterprises of the Corporation or one or more Divisions thereof.

d. Activities on Other Tribal Lands. As authorized by the Business Council, develop and/or operate commercial enterprises on other Tribally-owned or controlled lands, as enterprises of the Corporation or one or more Divisions thereof.

e. Other Activities. Engage in any other lawful business-related activity not inconsistent with this Charter, including activity on lands not owned or controlled by the Tribe, as an activity of the Corporation or a Division thereof.

5.3 Goals. In engaging in their Authorized Activities, the Corporation and its Divisions shall diligently endeavor to competently achieve the following overall Goals:

a. develop a sense of entrepreneurship in the Tribe and its members;

b. earn sufficient revenue to: (1) pay their own operating expenses and capital obligations (including any owed to the Tribe); (2) accumulate reasonable financial reserves; (3) repay any other funds loaned to them by the Tribe; and (4) as provided in Section 11.3, allocate Surplus Funds for dividends and distributions to the Tribe; and

c. as provided in Section 12.1, provide employment opportunities to qualified and available Tribal members and their immediate families, and contracting and subcontracting opportunities to qualified and available firms owned and controlled by the Tribe or its members;

5.4 Generic Powers . Subject to all limitations and conditions set forth in this Charter and Applicable Law, in engaging in its Authorized Activities the Corporation shall have the following powers:

a. Powers Under Section 17. The Corporation shall have all powers authorized by Section 17 of the IRA, including without limitation the power to purchase, take by gift, bequest or otherwise, own, hold, improve, manage, operate, and dispose of property of every description, real and personal, including the power to purchase trust or restricted Indian lands and to issue in exchange therefor interests in Corporate property, and such further powers as may be incidental to the conduct of Corporate business, not inconsistent with Applicable Law, provided the Corporation shall have no authority to sell, mortgage, or lease for a period exceeding 25 years, any trust or restricted lands owned by the Corporation that are within the Reservation.

b. Additional Powers. Included among the powers incidental to the exercise of the powers referred to in Section 5.4.a are, without limitation, the power to do the following, which shall be exercised subject to all relevant conditions, restrictions and protections set forth in Section 5.4.a, elsewhere in this Charter, and Applicable Law:

(1) acquire, own, hold, use, manage, sell, lease, sublease, pledge, or otherwise transfer or dispose of personal property of the Corporation, including (subject to any conditions imposed by the Tribe) personal property provided to the Corporation by the Tribe;

(2) acquire, own, hold, use, develop, manage, convey, lease, sublease, mortgage or otherwise transfer or dispose of real property or interests therein of the Corporation, including (subject to any conditions imposed by the Tribe) real property or interests therein provided to the Corporation by the Tribe by lease or other lawful means;

(3) acquire the assets and liabilities of any other corporation(s), entity or entities, whether organized under the laws of the United States, any state, territory or district thereof, a federally recognized Indian tribe, or any other jurisdiction, and including but not limited to the corporation identified in Section 5.1, by merger, consolidation, exchange, transfer, stock acquisition or other means;

(4) enter into and perform contracts of any nature;

(5) borrow money and make, accept, endorse, execute and issue bonds, debentures, promissory notes, guaranties, security agreements, and other obligations for monies borrowed or for property acquired;

(6) invest in stock, bonds or other securities or investments;

(7) retain independent contractors to manage all or portions of Corporate operations;

(8) employ staff and other personnel, and retain independent contractors, including without limitation consultants, accountants and attorneys;

(9) to the extent of available resources, establish and maintain reasonable benefit or incentive plans, including without limitation medical, dental, insurance, bonus, retirement and pension plans or other similar plans, for its employees, Directors, or Officers;

(10) compromise or otherwise settle disputes;

(11) sue in courts and other forums of competent jurisdiction;

(12) by explicit resolution of the Board of Directors, waive the immunity of the Corporation or any of its Divisions from suit or other proceedings in courts, arbitrations, or other forums for resolving disputes, subject to such terms, conditions and restrictions, including without limitation restrictions as to forum, available relief, and assets of the Corporation which may be available to satisfy any authorized monetary judgment or award (including without limitation limiting such available assets to the assets managed by one or more Division), as may be set forth in the Board resolution;

(13) by explicit resolution of the Board of Directors, waive in whole or in part any other immunity of the Corporation or any of its Divisions described in Section 2.6;

(14) engage in business ventures on its own, through Divisions, through subsidiaries, or with others through partnership, joint venture, management contract, corporate stock ownership, or other business arrangement;

(15) exercise such other powers as may be authorized by this Charter or Applicable Law; and

(16) take such other actions as may be necessary or appropriate to conduct its Authorized Activities, achieve its Goals, or exercise the foregoing powers, provided not in conflict with this Charter, any Bylaws or Applicable Law.

5.5 Mergers.

a. Merger Agreement. In order to acquire the assets or liabilities of one or more other corporations or entities by merger, as authorized in Section 5.4.b(3), the Corporation must enter into a merger agreement with the other corporation(s), entity or entities which:

(1) provides that this Corporation shall be the sole surviving corporation of the merger;

(2) provides for the retirement of all outstanding shares or other equity interests of the other corporation(s), entity or entities, and specifies any consideration therefor; and

(3) sets forth the other terms and conditions of the merger.

b. Approval and Execution. To be effective, a merger agreement must be approved and executed by the Board of Directors and the Business Council, and must be approved and executed by the other corporation(s), entity or entities in accordance with the laws under which each was organized.

c. Filing and Effective Date. A merger agreement must be filed with the United States Department of the Interior, Bureau of Indian Affairs, Western Nevada Agency, or any successor thereto. The agreement shall be effective upon filing or on such later date as may be specified in the agreement.

Article 6. Board of Directors

The business and affairs of the Corporation shall be managed by a Board of Directors in accordance with the following provisions:

6.1 Number; Ex-Officio Member. The Board of Directors shall consist of five Directors. In addition, the Business Council may designate one member of the Council who, while sitting on the Council, shall serve at the pleasure of the

Council as a non-voting, ex-officio Tribal observer/spokesperson on the Board. As used in this Charter, the term “Director” shall not include this ex-officio participant on the Board.

6.2 Qualifications. The Directors must have the following qualifications:

a. General. To be eligible to serve as a Director, a person must:

(1) have never been convicted in any federal, tribal or state court, of any felony or any Misdemeanor Involving Moral Turpitude;

(2) be at least a high school graduate and have sufficient business experience and physical and mental capacities to enable him or her to make prudent business decisions on behalf of the Corporation;

(3) be at least 25 years old;

(4) be a resident of the State of Nevada; and

(5) have such additional qualifications as may be required by Applicable Law, including without limitation those which may be required by any governmental agency to qualify for or engage in any governmental program in which the Corporation elects to participate.

b. Council Members. No more than two Directors may be members of the Business Council. Service of a Council member on the Board shall not disqualify or otherwise prohibit such person from exercising any of the duties or prerogatives of his or her Tribal office with respect to the Corporation, and vice versa. If a Director is a member of the Council at the time of his or her appointment to the Board, subsequent termination of his or her tenure on the Council shall not, in and of itself, terminate his or her service on the Board.

c. Enrolled Tribal Members. At least a majority of the Directors must be enrolled members of the Tribe per Article II of the Tribal Constitution and the Tribal Enrollment Ordinance, including any amendments thereof (“Enrolled Tribal Members”).

6.3 Terms of Office. Each Director shall serve a three-year term of office which shall expire in the month of June and upon assumption of office by

his or her successor. However, in order to stagger these terms so that no more than two Director seats will open each June beginning June 2005, the first Board shall have the terms of office set forth in Section 6.4.

6.4 First Board. The first Board shall be appointed by the Business Council and shall consist of Directors whose terms of office terminate on the dates shown below and when their respective successors assume office:

	<u>Term Expires</u>
Director No. 1	June 2005
Director No. 2	June 2005
Director No. 3	June 2006
Director No. 4	June 2006
Director No. 5	June 2007

6.5 Resignation. Any Director may resign by delivering a written resignation to the Corporate Secretary. A resignation shall be effective upon receipt, unless the resignation states otherwise.

6.6 Appointment.

a. Slate. After appointment of the first Board, in all instances where a Director must be appointed, whether due to expiration of the term of office, resignation, removal, or any other reason, the other sitting Directors (“Remaining Directors”) shall, by vote of a majority among themselves, nominate a slate of candidates for the open seat; provided that if there are fewer than three Remaining Directors, they may not nominate a slate and the Business Council shall appoint the Director as provided in Section 6.6.f. Any slate required under this Section 6.6 shall include at least two candidates for the open seat and shall be consistent with the qualification standards set forth in Section 6.2. If more than one seat is open, the slates may list a person as a candidate for more than one open seat.

b. Expiration of Term. By the end of April the Remaining Directors shall nominate a slate for each Director seat which has a term of office which will expire in June of that year.

c. Other Vacancies. In the case of any other vacancy in a Director seat, the Remaining Directors shall nominate a slate for the seat within 14 days after occurrence of the vacancy, provided that in the case of a vacancy due to the removal of a Director under Section 6.7.a, b or c, neither the slate

nominated under this Subsection c, nor a second slate nominated under Subsection d below, may include the person so removed.

d. Appointment by Council from Slate. From the slate, the Business Council shall either appoint a person to hold the open Director seat or reject all candidates on the slate. In the case of a Director seat having a term about to expire in June, the Business Council shall make the appointment in advance of the Annual Board Meeting. If the Business Council rejects all candidates on a slate, the Remaining Directors promptly shall, by vote of a majority among themselves, nominate a slate of different candidates for the open seat in time for appointment by the Business Council in advance of the Annual Board Meeting.

e. Appointment by Council After Rejecting Two Slates. If the Business Council has rejected all candidates for a Director seat after two slates of candidates for the seat have been presented by the Remaining Directors, the Business Council shall appoint to that seat any person of its choosing who is qualified under Section 6.2, provided that if the vacancy to be filled arises from the removal of a Director under Section 6.7.a, b or c, the person so removed shall not be appointed to fill the vacancy.

f. Fewer Than Three Remaining Directors; Failure to Nominate Slate. The foregoing provisions of this Section 6.6 notwithstanding, if there are fewer than three Remaining Directors, or if the Remaining Directors fail to nominate a slate(s) of candidates for a Director seat in proper and timely fashion as required by the foregoing provisions, the Business Council shall appoint to the seat any person of its choosing qualified under Section 6.2, provided that if the vacancy to be filled arises from the removal of a Director under Section 6.7.a, b or c, the person so removed shall not be appointed to fill the vacancy.

6.7 Removal. Any Director may be removed in the following manner and circumstances:

a. By Board. The Board on its own initiative, with or without cause, may remove any Director by affirmative vote of four other Directors, provided that the Business Council may review any such removal and, by affirmative vote of five members, suspend or reverse the removal.

b. By Business Council. The Business Council may initiate proceedings to remove any Director (“Respondent”) for cause in the following manner:

(1) The Business Council by affirmative vote of five members may issue a complaint (“Complaint”) itemizing and supporting claims of specific and substantial failures in Respondent’s performance as a Director. A true copy of the Complaint shall be delivered promptly to the Respondent and all other Directors.

(2) Within seven calendar days of receipt of the Complaint, Respondent shall deliver to the Tribal Secretary and each Director a written response (“Response”), replying in detail to the claims of the Complaint and indicating in detail what action, if any, Respondent has taken or will take to resolve or otherwise address the claims.

(3) No later than 14 calendar days after delivery of the Complaint to Respondent, if the Business Council by affirmative vote of five members determines that the Response is inadequate or that there is still good cause for concern about the claims in the Complaint, the Business Council promptly shall conduct a hearing at which Respondent shall be given full and fair opportunity to reply to the claims.

(4) After the hearing, the Business Council promptly shall determine: (i) whether there have been specific and substantial failures in Respondent’s performance as a Director, and, if so, (ii) whether to remove Respondent as a Director. Respondent shall not be removed as a Director except upon affirmative vote of five Business Council members on both questions (i) and (ii).

(5) Actions taken by the Business Council under this Section 6.7.b shall be final and not reviewable in any federal, tribal or state court, unless such review is explicitly authorized by the Council resolution.

c. Automatic Removal. It is mandatory that a Director be removed by the Board upon learning that the Director has been convicted in any federal, tribal or state court of any felony or any Misdemeanor Involving Moral Turpitude.

6.8 Vacancies. Whenever a Director seat becomes vacant before expiration of the term for any reason, the vacancy promptly shall be filled in the

manner described in Section 6.6 and the appointee shall hold office for the remainder of the term of the vacant seat.

6.9 Voting; Presiding Officer; No Proxy Voting. At all Board meetings where a quorum is present, all matters shall be decided by a vote of the majority of the Directors present, unless a greater vote is required by this Charter, any Bylaws or Applicable Law. The Corporate President shall preside at each meeting, and in his or her absence, the Corporate Vice President shall preside. Each Director, including the presiding officer, shall be entitled to cast one vote on each matter before the Board. A Director may not by proxy or otherwise authorize another person to cast the Director's vote on any matter before the Board.

6.10 Quorum. The presence in person, including telephonic participation under Section 6.14, of three Directors shall constitute a quorum for the transaction of any item of business at a Board meeting. A majority of the those Directors present at a meeting at which there is no quorum may adjourn the meeting from time to time for a period not exceeding 10 days in any one case.

6.11 Notice of Meetings; Regular Meetings. The Corporate Secretary shall give each Board member, including any ex-officio member appointed under Section 6.1, and the Tribal Secretary, written notice, delivered at least three calendar days in advance, of the time and place of every Board meeting. The notice shall be delivered in-person or by mail, telefax or similar means accompanied by an effort to provide simultaneous telephone notice. To the extent known to the Corporate Secretary, the notice shall also briefly describe the matters to be discussed at the meeting. Notice need not be given to a Director who waives notice either before or after the meeting or who participates in the meeting without timely objection as to notice. Notice need not be given of a meeting resumed after any recess. The foregoing notwithstanding, the Board may establish a schedule for regular meetings, for which no further notice is required.

6.12 Annual Board Meeting. The Board shall conduct an annual meeting on the Reservation in June of each year ("Annual Board Meeting"), as promptly as possible after the Annual Owner's Meeting. As provided in Sections 6.6.d and e, a successor to any Director whose term will expire in June of any year shall be appointed by the Business Council at the Annual Owner's Meeting in advance of the Annual Board Meeting to be held that year. As provided in Section 7.2, Officers shall be appointed at the organizational meeting and at each Annual Board Meeting. At each Annual Board Meeting, the Board shall

present a written annual report containing at least the following: (a) a description of the business activities and performance of the Corporation and its Divisions during the previous calendar year; (b) the most recent audited financial statements of the Corporation; (c) current financial statements of the Corporation; and (d) a description of the planned business activities of the Corporation and its Divisions for the current and coming year. In addition, the Board shall answer such questions regarding the business and affairs of the Corporation as may be asked by Business Council members.

6. 13 Other Meetings. Other meetings of the Board shall be held as determined by the Board or when requested by either the Corporate President or two Directors.

6. 14 Telephonic Participation. A Director may participate in any Board meeting by means of conference telephone or similar communications equipment which enables all Directors participating in the meeting to hear one another.

6. 15 Attendance by Business Council. Members and duly authorized representatives of the Business Council shall be entitled to attend any Board meeting and, on request, shall be given a reasonable opportunity at the meeting to address and ask questions of the Board.

6. 16 Action Without a Meeting. In instances where exigent circumstances prevent or render impracticable the holding of a Board meeting in person or by conference call, the Board may take action without a meeting if all Directors sign and file with the Corporate Secretary a memorandum showing the nature of the action taken, that at least four Directors approve the action, and the position of any dissenting Director with respect to the action. To be effective, the memorandum must be filed with the Corporate Secretary within 10 calendar days after it is first signed by a Director.

6. 17 Record of Meetings. The Corporate Secretary shall keep, or cause to be kept, in a specific place at the Corporation's headquarters designated by the Board, complete and accurate minutes and records of all meetings of the Board and Board committees, and records of all actions taken without a meeting under Section 6.16, copies of which promptly shall be furnished to any Director or any Business Council member on request.

6. 18 Committees. The Board may from time to time establish committees of Directors having such responsibilities as the Board may assign, provided that the Board may not relinquish its powers or duties with respect to

the business and affairs of the Corporation to any committee, Director, Officer, Manager, employee or agent of the Corporation.

6. 19 Directors Fee and Expenses. At rates set by the Board and approved in advance by the Business Council, a reasonable fee may be paid, and reasonable out-of-pocket expenses may be reimbursed, to the Directors for in-person attendance at Board or committee meetings, provided that to the fullest extent reasonably possible, the Board shall endeavor to minimize the costs thereof. A fee shall not be paid, however, to any Director who is otherwise receiving compensation from the Corporation for such service.

6. 20 Service of Directors in Other Capacities. Service as a Director shall not, in and of itself, disqualify the Director from serving the Corporation, the Tribe, or any instrumentality of the Tribe in other capacities.

Article 7. Officers

7.1 Positions; Selection; Part-Time Service. From among the Directors, the Board shall appoint the following Officers of the Corporation: a President, Vice President, Secretary and Treasurer. Upon termination of any such Officer's status as a Director, that person's status as such Officer shall also terminate. The President and Vice President shall be Tribal members. The Board may appoint such additional Officers as it deems necessary to engage in the Corporation's Authorized Activities and achieve its Goals, from among the Directors or from outside the Board. Subject to the power of the Board to determine otherwise in specific cases, it is contemplated that service as an Officer will not entail full-time service.

7. 2 Terms of Office; Organizational Meeting. In general, Officers shall be appointed at the Annual Board Meeting. Unless the Board specifies a lesser term, all Officers, irrespective of when appointed, shall serve until the next Annual Board Meeting and until his or her successor assumes office. The first set of Officers shall be appointed at an organizational meeting of the Board held promptly after issuance and ratification of this Charter.

7. 3 Resignation, Removal and Vacancies. Any Officer may resign by delivering a written resignation to the Corporate Secretary. A resignation shall be effective upon receipt, unless the resignation states otherwise. Any Officer may be removed by the Board, with or without cause. The resignation or removal of an Officer shall not also terminate that person's status as a Director, unless the resignation so states or the person's status as a Director is terminated under

Section 6.7. Whenever an Officer position becomes vacant for any reason, it shall be filled by the Board for the remainder of the term of the vacant office.

7.4 Powers and Duties. Subject to the continuing supervisory authority of the Board, the Officers shall have the following powers and duties:

a. President. The Corporate President shall preside at all Board meetings. To the extent authorized by the Board, which authorization may be general, by generic category, confined to specific transactions, or otherwise limited, the President shall:

- (1) serve as the chief executive officer of the Corporation;
- (2) sign contracts, conveyances, or other legal instruments on behalf of the Corporation;
- (3) have responsibilities with respect to the execution, endorsement, disbursement and other disposition of Corporate funds, checks, drafts, other orders or demands for money, notes, other evidences of indebtedness, securities and other valuable instruments;
- (4) serve as liaison, jointly with the Corporate Treasurer, to the Corporation's audit firm; and
- (5) perform such duties or functions as may be authorized by the Board.

b. Vice President. The Corporate Vice President shall exercise the powers and perform the duties of President when the President is unavailable or disabled, and shall have such other powers and duties as the Board may prescribe.

c. Secretary. The Corporate Secretary shall:

- (1) take minutes, and maintain a book thereof at the headquarters of the Corporation, of all Board and Board committee meetings, reporting the time and place of the meeting, how it was authorized, the notice given, the names of those present at the meeting, and the actions taken;
- (2) keep a book of all Business Council resolutions relating to the Corporation;

(3) keep or cause to be kept at the headquarters of the Corporation the books and records required by Section 10.1;

(4) transmit all Corporate notices that may be necessary or desirable, without command or direction from anyone, provided that in the event of the absence, disability, refusal or neglect of the Secretary to deliver any notice, such notice may be delivered by the President or any person authorized by the President or the Board to transmit such notice; and

(5) have such other powers and duties as the Board may prescribe.

d. Treasurer. To the extent authorized by the Board, which authorization may be general, by generic category, confined to specific transactions, or otherwise limited, the Corporate Treasurer shall:

(1) have responsibilities with respect to the receipt, maintenance, execution, endorsement, disbursement and other disposition of Corporate funds, checks, drafts, other orders or demands for money, notes, other evidences of indebtedness, securities and other valuable instruments;

(2) have responsibilities with respect to the maintenance at the Corporation's headquarters of Corporate financial books and records of transactions;

(3) serve as liaison, jointly with the President, to the Corporation's audit firm; and

(4) perform such other duties or functions as may be authorized by the Board.

e. Delegation. In the case of the unavailability or disability of any Officer, the Board may from time to time temporarily delegate his or her powers or duties to another Officer or Director.

7.5 Officer Compensation. Reasonable compensation and out-of-pocket expense reimbursement may be paid to Officers, provided that to the fullest extent reasonably possible, the Board shall endeavor to minimize the costs thereof. Compensation may not be paid, however, to any Officer who is otherwise receiving compensation for such service from the Corporation. All compensation arrangements shall be fully set forth in written contracts approved

by the Board. Such contracts with a Director or with a Related Party must be approved as provided in Section 10.4.

Article 8. Management

8.1 Managers. Without relinquishing its powers or duties with respect to the business and affairs of the Corporation, the Board shall have the authority to hire persons or firms (“Managers”) to manage Corporate or Division operations under written employment or independent contractor contracts setting forth reasonable rates of compensation, provided that all payments for services, expenses or any other matter made to Managers shall be by check reviewed and signed by one or more Corporate Officers designated by the Board. No person serving as Manager may simultaneously serve as a Director or Officer of the Corporation, and no Director or Officer may have an ownership or other pecuniary interest or expectancy in any firm serving as a Manager. Subject to the supervisory authority of the Board, Managers may be assigned powers and duties with respect to all or portions of the following Corporate or Division matters, to be exercised and fulfilled in compliance with all relevant provisions of this Charter, any Bylaws and Applicable Law:

- a. managing daily operations;
- b. hiring, training and discharging employees and independent contractors;
- c. purchasing material and supplies;
- d. acquiring and disposing of equipment;
- e. budgeting, collecting revenue, making expenditures, and maintaining books and records;
- f. planning and developing facilities and operations;
- g. making reports to the Board and the Council; and
- h. such other matters as the Board may determine.

Article 9. Operational Matters

9.1 Fiscal Year. The fiscal year of the Corporation and its Divisions

shall be January 1 to December 31.

9.2 Deposit of Funds. All funds of the Corporation and its Divisions not otherwise invested or deployed shall be deposited in banks or other reliable depositories or investment accounts. Each such deposit and account shall be in the name of the Corporation or a Division, as the case may be.

9.3 Checks, etc. All checks, drafts, other orders for payment of money, notes or other evidences of indebtedness, and securities or other valuable instruments, issued in the name of or payable to the Corporation or a Division, shall be signed or endorsed on behalf of the Corporation or a Division, as the case may be, by those Corporate Officers, Managers, employees and/or agents authorized by the Board to do so. Such authorizations may be general, by generic category, confined to specific transactions, or otherwise limited.

9.4 Contracts. Contracts and other legal instruments may be executed and delivered by those Corporate Officers, Managers, employees and/or agents authorized by the Board to do so. Such authorization may be general, by generic category, confined to specific transactions, or otherwise limited.

9.5 Shares Held. The Corporate President is authorized to vote, represent and exercise on behalf of the Corporation, in person or by proxy, all rights incident to any and all shares or other ownership interests held by the Corporation in any corporation or other entity.

9.6 Insurance. Fire and casualty insurance on property owned by the Corporation and on property in which the Corporation has an insurable interest, general liability insurance, Directors and Officers liability insurance, and other appropriate insurance, shall be maintained in such reasonable amounts and with such reasonable deductibles as the Board may determine.

9.7 Solicitation of Funding. The Corporation may apply for grants, loans, loan guaranties, interest subsidies, and the like from the Bureau of Indian Affairs, any other governmental agency, or any non-governmental foundation, institution, business, or private individual. In any such application, the Corporation may identify itself as a distinct business instrumentality of the Tribe.

9.8 Conveyance of Corporate Lands Into Trust. If the Business Council directs that title to Corporation-owned fee lands or interests therein should be conveyed to the United States in trust for the Tribe, and the Secretary of the Interior (or his/her authorized representative) will approve such a transfer,

the Corporation shall make such conveyance, provided that if the involved real property or interests therein are needed for the conduct of Corporate operations or the fulfillment of Corporate obligations, then contemporaneous with such conveyance into trust, the Business Council shall issue a lease, easement, right-of-way or other suitable and lawful conveyance to the Corporation to enable such Corporate operations or the fulfillment of such Corporate obligations, on reasonable terms and conditions mutually agreeable to the Business Council and the Board of Directors.

Article 10. Books, Records, Controls and Monitoring

10.1 Books and Records. The Corporation shall keep the following books and records at its headquarters:

a. all financial books, records, statements, audits, management letters, reviews, reports and the like, and all related materials, organized by Division;

b. all contracts, leases, financing documents, conveyance documents, title documents, other legal instruments and the like, and all related materials, organized by Division;

c. all Board-related minutes and records as provided in Section 6.17;

d. this Charter as originally issued and ratified, and any amendments hereof;

e. any Bylaws adopted by the Board pursuant to Section 16.1, and any amendments thereof;

f. all correspondence, memoranda and the like relating to any of the foregoing, organized by Division; and

g. all other material books, records, legal instruments, correspondence, memoranda and the like regarding any asset, liability, transaction or other activity of the Corporation, segregated by Division.

10.2 Inspection by Council. The books and records described in Section 10.1, and any other Corporate books and records, whether maintained at the Corporation's headquarters or elsewhere, shall, on written request of the

Business Council, be expeditiously made available for inspection and copying by designees of the Council.

10.3 Return of Items Possessed by Departing Personnel. Upon termination of his or her tenure with the Corporation, each Director, Officer, Manager, employee and agent of the Corporation or any Division shall immediately turn over to his or her successor or to the Corporate Secretary, in good order, all property, books, records, documents or other materials of the Corporation or Division in his or her custody or control.

10.4 Transaction in which Director, Officer or Manager Has an Interest. Any contract or other transaction not otherwise prohibited under this Chapter, between the Corporation or a Division and (a) a Director, Officer or Manager, (b) a member of the immediate family of a Director, Officer or Manager, or (c) an entity in which a Director, Officer or Manager is a stockholder, member, director, officer, agent or employee, or in which he or she is otherwise interested, shall be valid for all purposes, provided that (1) such relationship or interest is previously fully disclosed to all disinterested Directors, (2) the terms of the contract or transaction are reasonable and fair to the Corporation or Division, (3) the Board approves the contract or transaction, and (4) any interested Director refrains from participating in all Board action with respect to the contract or transaction.

10.5 Reports. Unless the Business Council directs otherwise, the Board of Directors shall provide quarterly written reports on the operations and financial performance and condition of the Corporation and its Divisions to the Council, including an annual report after the fourth quarter. In addition, on request of the Council made at any reasonable time, the Board shall report on any aspect of such matters to the Council.

10.6 Audits. Unless the Business Council authorizes a less rigorous financial review, within 120 days after the close of the Corporation's fiscal year an independent certified public accountant shall audit the books of the Corporation, including all Divisions, at the expense of the Corporation and its Divisions. In addition, the Business Council may request, and the Corporation shall commission and the Corporation and involved Divisions shall pay for, an audit or review of the financial statements of the Corporation or any of its Divisions, at earlier points during any fiscal year. All review and audit reports and related management letters (or other less rigorous financial reports authorized by the Business Council) promptly shall be submitted to each Director and Officer and the Business Council. All proposed audit adjustments and financial reports

submitted by the auditor shall be reviewed by the Board of Directors and the Business Council.

Article 11. Ownership, Reserves and Dividends

11.1 Ownership. All assets acquired by the Corporation shall belong to the Corporation as a separate and distinct instrumentality of the Tribe.

11.2 Retained Funds. The Board shall cause the Corporation and its Divisions to retain that portion of their profits the Board deems necessary or appropriate to perpetuate operations, meet obligations, maintain property, provide for expansion or diversification of operations, and meet contingencies. The remaining balance of net profits (“Surplus Funds”) shall be distributed as provided in Section 11.3.

11.3 Dividends from Surplus Funds. All Surplus Funds shall be paid as a dividend or otherwise distributed to the Tribe within a reasonable time after the close of the Corporation’s fiscal year, or more frequently if feasible in the judgment of the Board. Such dividends and distributions shall be used to fund Tribal governmental services, programs, initiatives, liabilities, contingencies or per capita distributions, or for other lawful purposes, as determined by the Business Council.

Article 12. Employment and Contracting Preferences; At-Will Employment

12.1 Preferences. In conformity with any applicable Tribal Employment Rights Ordinance and any other Applicable Law, the Board of Directors shall establish general Corporate policies and procedures in the following areas which, in the judgment of the Board, will not impair the operations or profit-making capabilities of the Corporation:

a. preference in employment in Corporate and Division operations for qualified and available Enrolled Tribal Members and their immediate family members; and

b. preference in contracting and subcontracting in Corporate and Division operations for qualified and available firms controlled by the Tribe or Enrolled Tribal Members.

12.2 At-Will Employment. Unless otherwise provided in a written employment contract, each Corporate and Division employee shall be an at-will

employee.

Article 13. Indemnification of Directors and Officers

13.1 Indemnification. The Corporation shall defend, indemnify and hold harmless the Directors and Officers of the Corporation (“Indemnitees”) from any demand, claim, action or other proceeding, for injury, loss, damage, obligation, assessment or penalty, and from any liabilities arising therefrom, and from all reasonable expenses, costs and fees (including reasonable attorney’s fees) incurred in connection therewith, claimed or determined to result from the conduct by the Indemnitee of the business and affairs of the Corporation, provided such conduct was performed by the Indemnitee in good faith and without recklessness, malice or fraudulent intent.

Article 14. Deactivation of Corporation; Revocation or Surrender of Charter

14.1 Deactivation of Corporation. The Business Council may initiate proceedings to deactivate the Corporation and cease all Corporate and Division operations in the following manner:

a. The Business Council by affirmative vote of five members may issue a complaint (“Complaint”), a true copy of which shall be delivered promptly to each Director, specifying and supporting one or more of the following grounds for deactivation of the Corporation:

(1) serious and repeated violation by the Corporation of the Charter, any Bylaws or Applicable Law; or

(2) extended and substantial failure to make reasonable progress toward achievement of the Corporation’s Goals.

b. Within 20 calendar days of receipt of the Complaint, the Board shall deliver to the Council a written response (“Response”), replying in detail to the claims in the Complaint and indicating in detail what action, if any, the Board has taken or will take to resolve or otherwise address the claims.

c. If the Council by affirmative vote of five members determines that the Response is inadequate or that there is still good cause for concern about the claims in the Complaint, the Council promptly shall conduct a hearing at which the Board shall be given full and fair opportunity to reply to the claims.

d. After the hearing, the Council promptly shall determine: (1) whether there has been serious and repeated violation by the Corporation of the Charter, Bylaws or Applicable Law, or extended and substantial failure to make reasonable progress toward achievement of the Corporation's Goals, and, if so, (2) whether to direct the deactivation of the Corporation. The Corporation shall not be deactivated except upon affirmative vote of five Business Council members on both questions (1) and (2).

e. Upon adoption of a resolution directing deactivation of the Corporation under Section 14.1.d, the Corporation and all Divisions shall cease to conduct operations except as necessary to wind up their affairs, and the Board immediately shall cause a notice of the deactivation to be mailed to each known creditor of the Corporation and the Divisions and proceed to collect the assets of the Corporation and dispose of them in the manner provided in Section 14.1.f.

f. Upon the deactivation of the Corporation, the Board shall proceed to collect the assets of the Corporation and dispose of them as follows: first, in accordance with such priorities as may exist under Applicable Law, the Board shall pay, or provide for the payment of, all debts and liabilities of the Corporation and its Divisions, including any which may be owed to the Tribe; and second, the Board shall thereafter pay, convey, assign, and otherwise distribute all remaining assets to the Tribe or its designee(s), as directed by the Business Council. Thereafter, the Corporation shall continue to exist in inactive status, subject to reactivation by resolution of the Business Council.

14.2 Revocation or Surrender of Charter. This Charter may be revoked or surrendered only by Act of Congress as provided in Section 17 of the IRA.

Article 15. Compliance with Charter, Bylaws and Applicable Law

15.1 Compliance. The Corporation and its Divisions, and all Directors, Officers, Managers, employees and agents, while engaged in the business and affairs of the Corporation or its Divisions, shall comply with all provisions of this Charter, any Bylaws and Applicable Law.

15.2 Invalidity of Provision. If any provision of this Charter is found to be violative of Applicable Law, that provision shall be considered null and void and this Charter shall otherwise remain in full force and effect.

Article 16. Bylaws and Amendment

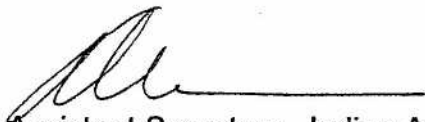
16.1 Bylaws. The Board of Directors may adopt, amend, or repeal Bylaws of the Corporation, provided the Bylaws may not contain provisions inconsistent with this Charter or Applicable Law.

16.2 Amendment. As provided in Section 17 of the IRA, this Charter may be amended by the Secretary of the Interior upon petition by the Tribe, provided that any such amendment shall not be effective until ratified by the Business Council.

* * * * *

CERTIFICATE OF APPROVAL

I, David W. Anderson, Assistant Secretary - Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984, 25 U.S.C. § 477), as amended, and delegated to me, do hereby approve this Federal Charter of Incorporation for use by the Fallon Paiute-Shoshone Tribe and its enterprise, the Fox Peak Economic Development Corporation. It shall become effective upon ratification by the Fallon Paiute-Shoshone Business Council, PROVIDED, that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to federal law.



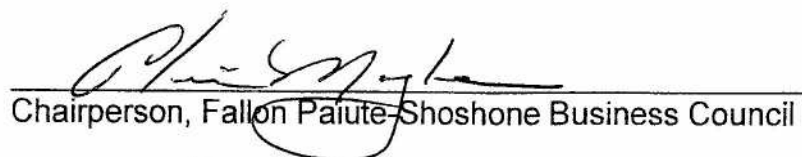
Assistant Secretary - Indian Affairs

Washington, D.C.

Date: 6/30/04

RATIFICATION

The foregoing Charter of the Fallon Tribal Development Corporation, a federally chartered corporation of the Fallon Paiute-Shoshone Tribe, was ratified by the Fallon Paiute-Shoshone Business Council, the governing body of the Fallon Paiute-Shoshone Tribe, on this 10 day of August, 2004, as set forth in Resolution No. 124 attached hereto.



Chairperson, Fallon Paiute-Shoshone Business Council