



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

A Resolution entitled, "Authorization of negotiation for self-determination contracts for Fort Berthold Rural Water under P.L. 93-638 and authorization for retaining an attorney to negotiate the contracts"

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act, and

WHEREAS, The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

WHEREAS, The Constitution of the Three Affiliated Tribes authorizes the Tribal Business Council to negotiate with Federal, State and local governments on behalf of the Three Affiliated Tribes; and

WHEREAS, The Tribal Business Council has determined that it is in the best interest of the Tribe to pursue a contract with the Bureau of Reclamation (USBR), an agency within the Department of Interior, under the provision of P.L. 93-638, the Indian Self Determination Act as amended for the purpose of managing the Fort Berthold Rural Water Supply System, including two separate contracts, one for the Construction Program and the other for the Operation, Maintenance & Replacement Program. The Tribe and USBR currently manage these programs under interim cooperative agreements that expires June 2003; and

WHEREAS, The Bureau of Reclamation is willing negotiate with the Tribe for two separate contracts, one a Model 638 contract and the other is for a Construction Contract under the Fort Berthold Rural Water Supply System; and

WHEREAS, The Current Cooperative Agreement No. 2-FC-60-02280 "Interim Operation and Maintenance of the Fort Berthold MR&I Water System" and Cooperative Agreement No. 5-FC-60-05750 "Construction of MR&I Systems on Fort Berthold" will be expired June 2003, and

WHEREAS, The Tribal Business Council has determined that is it in the best interests of the Tribe that the Tribe, on behalf of the Fort Berthold Rural Water Office, an attorney knowledgeable about P.L. 638 contract negotiations, specifically an attorney that has worked the Tribal Water Programs with the Bureau of Reclamation, and counsel, James Glaze, has the requisite experience to negotiate a fair self-determination contract on behalf of the Tribe; and

LAW OFFICES
**SONOSKY, CHAMBERS, SACHSE,
ENDRESON & PERRY, LLP**

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WASHINGTON, DC 20005
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MARVIN J. SONOSKY (1909-1997)
HARRY R. SACHSE
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MARY J. PAVEL
DAVID C. MIELKE
JAMES E. GLAZE
GARY F. BROWNELL (NM)*
COLIN C. HAMPSON

MEMORANDUM NO. 17-03

PRIVILEGED AND CONFIDENTIAL

January 31, 2003

NACOLE D. HESLEP (AK)*
JAMES T. MEGGESTO
ANGELINA Y. OKUDA-JACOBS
MARISSA K. FLANNERY (AK)*
MELANIE B. OSBORNE (AK)*
MICHALYN STEELE

OF COUNSEL
ARTHUR LAZARUS, JR., P.C.
ROGER W. DUBROCK (AK)*
KAY E. MAASSEN GOUWENS (AK)*
MATTHEW S. JAFFE
JOHN P. LOWNDES (AK)
MARTA HOILMAN
DOUGLAS WOLF (NM)*

*NOT ADMITTED IN D.C.

TO: Tribal Business Council of the Three Affiliated Tribes
of the Fort Berthold Reservation

FROM: Sonosky, Chambers, Sachse, Endreson & Perry, LLP

SUBJECT: Attorney Contract for Self-Determination Related Legal Services

We are pleased and honored that the Tribal Business Council has selected our firm to represent the Three Affiliated Tribes in its upcoming negotiations with the Bureau of Reclamation. We understand the goal of these negotiations is to allow the Tribes to assume the Bureau's responsibilities - and receive the federal funds associated with these responsibilities - for the design, construction, operation and maintenance of the Fort Berthold Rural Water Supply System under the terms and conditions of an Indian Self-Determination contract.

We have submitted for your review a proposed Attorney's Contract for our legal services in connection with the preparation of the necessary self-determination contract(s) and our participation in these important negotiations. In our opinion, the rates in our proposed contract reflect a fair and reasonable price for our legal service given our considerable experience with self-determination contracting matters. We have been able to assist many tribal clients in structuring these self-determination projects to maximize tribal self-determination and thereby better serve tribal goals. As you are aware, we have recently been engaged in similar negotiations with the Bureau of Reclamation for another tribal water project. This recent experience should allow us to bring considerable legal expertise and cost-savings to this project.

The rates for our legal work on the Fort Berthold Project will not exceed \$250 per hour for the services of partners and counsel to the firm; \$190 for associate attorneys; and \$110 per hour for

January 31, 2003

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law clerks and paralegals. Total compensation under the Special Attorney's contract is not to exceed \$60,000 per contract year without the written consent of the Tribes. Expenses, as defined in the contract, are limited to \$15,000 per contract year without written consent of the Tribes to exceed that amount. The term of the contract is effective upon signature by authorized representatives of the Tribes and the Attorneys and lasts for three years from the date of its execution.

We realize that the tribal resolution authorizing our retention for this project provides for a contract ceiling of \$5,000 for our legal work on this matter. However, as we recently explained to Ms. Felicia Felix, we do not believe this project can be adequately performed within such a limited legal budget. Our recent experience in these matters indicates that the contract ceilings reflected above are a far more realistic legal budget for this type of self-determination project, particularly if the Tribes would like us to travel out to New Town for face-to-face negotiations with the Bureau of Reclamation.

It is important to note, however, that the *full costs* of our legal work under this contract should ultimately be paid by the Bureau of Reclamation out of the federal funds provided to the Tribes as "pre-award costs" for the development of the Tribes' Self-Determination Contract proposal. The Tribes should not incur *any* of these legal costs for payment out of the Tribes' own general funds. Indeed, a major advantage of undertaking the design, construction, management and operation of the Fort Berthold Rural Water Supply System under an Indian Self-Determination contract is that our legal services are an allowable project cost that are properly payable from federal, as opposed to tribal, funds.

We would be pleased to discuss the particulars of our proposed contract with you at your convenience. We look forward to working with you to make this project a great success for the people of the Mandan, Hidatsa, and Arikara Tribes.

Respectfully submitted,

SONOSKY, CHAMBERS, SACHSE
ANDERSON & PERRY, LLP

By:  James E. Glaze
Michalyn Steele

JEG/MS:sjw
Enclosure

ATTORNEY'S CONTRACT

This contract is entered into by and between the Three Affiliated Tribes of the Fort Berthold Reservation, 404 Frontage Road, New Town, North Dakota, 58763 (hereinafter the "Tribes") and Sonosky, Chambers, Sachse, Endreson & Perry, LLP, 1250 Eye St., NW, Suite 1000, Washington, D.C. 20005 (hereinafter "Attorneys").

WITNESSETH

1. **Employment.**

The Tribes hereby employ and retain the Attorneys to provide legal services to the Tribes in connection with the preparation and negotiation of an Indian self-determination contract with the Bureau of Reclamation for the design, construction, operation and maintenance activities related to the Fort Berthold Rural Water Supply System, as directed by the Tribes. The Attorneys agree to devote their full professional ability to their obligations under this contract. Services rendered by partners, associate lawyers, of counsel lawyers, law clerks or paralegals employed by the firm in carrying out the obligations of this Contract constitute services of the Attorneys. Services under this contract shall be coordinated through James E. Glaze.

2. **Compensation.**

The Attorneys shall be compensated for all work performed in carrying out this contract at the rate set out below:

Partners and counsel	not to exceed \$250 per hour
Associates	not to exceed \$190 per hour
Law clerks and paralegals	not to exceed \$110 per hour

The compensation under this contract shall not exceed \$60,000 per contract year without the written consent of the Tribes. The Attorneys shall have no obligation to render services beyond that amount unless such authorization has been made by the Tribes and agreed to by the Attorneys.

3. **Expenses.**

The Attorneys shall be reimbursed for all necessary and reasonable expenses incurred by the Attorneys in fulfilling the obligations of this contract. The expenses shall include, but shall not be limited to, traveling expenses, including airfare, lodging, car rentals and mileage at 31 cents per mile when a privately-owned automobile is used; long distance telephone; telefax; overnight courier services; notary fees; filing fees; taxi fares; court reporters; transcripts; costs of printing or reproducing documents; and the like. Such expenses shall not exceed \$15,000 during a contract year without the written consent of the Tribes. The Attorneys, in lieu of itemizing each long distance phone call, shall report the total amount expended each month for all long

distance calls made in carrying out the obligations of this contract; provided however that the Attorneys shall keep a record of each long distance phone call made in carrying out the obligations of this contract.

4. Payment of Compensation and Expenses.

The Tribes shall promptly pay the compensation and expenses incurred under this contract upon the Attorneys' presentation of a properly verified invoice to the appropriate payment official of the Tribes.

5. Reports.

A statement of the services rendered by the Attorneys and expenses incurred under this contract shall accompany each invoice for compensation.

6. Effective Date and Term.

This contract shall become effective as of the date of its execution by authorized representatives of the Tribes and the Attorneys and shall continue in effect for a period of three (3) years.

7. Extension.

This contract may be extended by mutual written agreement of the Tribes and the Attorneys for terms not to exceed two (2) years.

8. Termination.

This contract may be terminated by either party, with or without cause, upon 15 days' written notice to all parties in interest, and if the contract shall be so terminated, the Attorneys shall receive no compensation for services rendered after the date of termination.

9. Assignment.

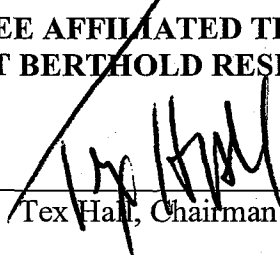
No assignment of this contract shall be made, in whole or in part, without the consent of the Tribes.

10. Federal Obligations.

Attorneys understand that compensation under this contract may be funded with moneys received from the federal government under an agreement with the Secretary of Interior, as authorized by the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450 *et seq.* Attorneys are expected to comply, to the extent applicable, with the terms and conditions of the above-mentioned self-determination agreement.

IN WITNESS WHEREOF, the undersigned have executed this Contract on the dates and at the places shown below.

**THREE AFFILIATED TRIBES OF THE
FORT BERTHOLD RESERVATION**

By: 
Tex Hall, Chairman

Place

Date

**SONOSKY, CHAMBERS, SACHSE,
ENDRESON & PERRY, LLP**

By: _____

Place

Date

CERTIFICATE

In connection with the employment of this firm under an Attorney's Contract by and between the Three Affiliated Tribes of the Fort Berthold Reservation and Sonosky, Chambers, Sachse, Endreson & Perry, LLP, it is hereby certified as follows:

That each member of this firm is fully licensed as a member of the bar in good standing and that to the best of my knowledge no disciplinary proceedings have been instituted against any member of this firm by any bar association of any jurisdiction of the United States or its territories which are pending and/or unresolved, and that no member of this firm has been disbarred or suspended from the practice of law in any jurisdiction of the United States or its territories.

The partners of this firm are:

Harry R. Sachse
Reid Peyton Chambers
William R. Perry
Lloyd Benton Miller

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9. Assignment.

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10. Federal Obligations.

Attorneys understand that compensation under this contract may be funded with moneys received from the federal government under an agreement with the Secretary of Interior, as authorized by the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450 *et seq.* Attorneys are expected to comply, to the extent applicable, with the terms and conditions of the above-mentioned self-determination agreement.

IN WITNESS WHEREOF, the undersigned have executed this Contract on the dates and at the places shown below.

**THREE AFFILIATED TRIBES OF THE
FORT BERTHOLD RESERVATION**

By: _____

Tex Hall, Chairman

Place

Date

**SONOSKY, CHAMBERS, SACHSE,
ENDRESON & PERRY, LLP**

By: _____

Place

Date

CERTIFICATE

In connection with the employment of this firm under an Attorney's Contract by and between the Three Affiliated Tribes of the Fort Berthold Reservation and Sonosky, Chambers, Sachse, Endreson & Perry, LLP, it is hereby certified as follows:

That each member of this firm is fully licensed as a member of the bar in good standing and that to the best of my knowledge no disciplinary proceedings have been instituted against any member of this firm by any bar association of any jurisdiction of the United States or its territories which are pending and/or unresolved, and that no member of this firm has been disbarred or suspended from the practice of law in any jurisdiction of the United States or its territories.

The partners of this firm are:

Harry R. Sachse
Reid Peyton Chambers
William R. Perry
Lloyd Benton Miller

NOW THEREFORE, BE IT RESOLVED, That the Tribal Business Council authorizes the Fort Berthold Rural Water Supply System, an arm of the Three Affiliated Tribes, to engage in negotiations with the Bureau of Reclamation for two separate contracts.

BE IT FURTHER RESOLVED, That the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation authorizes the Fort Berthold Rural Water Supply System to do all things necessary to retain James Glaze to negotiate with USBR for two self-determination contracts to carry out the functions necessary to operate during construction under the Dakota Water Resources Act and for the continually Operation, Maintenance & Replacement of the water system.

FINALLY BE IT RESOLVED, That the Tribal Business Council authorizes the Tribal Chairman to execute an attorney contract with James Glaze not to exceed \$60,000.00 per contract year without the written consent of the Tribes. Expenses, as defined in the contract, are limited to \$15,000 per contract year without written consent of the Tribes to exceed that amount.

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 seven members of whom five constitute a quorum, 7 were present at a Regular Meeting, thereof duly called, noticed, convened, and held on the 13th day of February, 2003; that the foregoing Resolution was duly adopted at such Meeting by affirmative vote of 7 members, 0 members opposed, 0 members abstaining, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman (voting) (not voting)

Dated this 13th day of February, 2003.

ATTEST:

[Signature]
Chairman, Tribal Business Council

[Signature]
Secretary, Tribal Business Council