



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

*A Resolution entitled, "Ratification and Final Approval of Investment in Arrow Pipeline, LLC and Entry Into the Limited Liability Company Agreement of Arrow Pipeline, LLC"*

**RECITALS:**

- 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,** The Constitution and By-laws of the Three Affiliated Tribes was adopted by membership of the Tribes on May 15<sup>th</sup>, 1936 pursuant to the Indian Reorganization Act of 1934 and duly approved by the Secretary of Interior; 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(i) of the Constitution specifically authorizes and empowers the Tribal Business Council to manage tribal lands, interests in tribal lands, and property upon such lands, in conformity with Article IX of the Constitution; and
- WHEREAS,** Article IX of the Constitution specifically authorizes and empowers the Tribal Business Council to manage and otherwise deal with tribal lands and resources in accordance with law; and
- WHEREAS,** In accordance with Chapter 16 of the Tribal Code, the Tribe has formed MHA Holdings, Inc. (the "*Company*") pursuant to those certain Articles of Incorporation dated August 15, 2008 (the "*Articles*") and governed by those certain Bylaws dated August 15, 2008 (the "*Bylaws*"), and the Tribe is the sole shareholder of the Company;
- WHEREAS,** The Tribal Business Council is acting on behalf of the Tribe in both its capacity as the sole shareholder of the Company and in its governmental capacities (and not in any capacity under Section 17 the Act), and has the authority to do so; and
- WHEREAS,** The Reservation comprises of approximately 1,000,000 acres and has within it potentially significant oil and gas resources of several billion dollars in value, as it lies within the Williston Basin, a geologic formation that has been developed since the early 1950's; and





**WHEREAS,** The Tribe is actively seeking to develop its resources for the economic benefit of all of its members which will provide both increased revenue and increased economic opportunities for tribal members; and

**WHEREAS,** The Tribal Business Council has determined that, in order to facilitate the transportation of any oil and gas developed on the Reservation, it is desirable that the Company become a member of Arrow Pipeline, LLC ("**Arrow**"), a Delaware limited liability company that has been formed for the purpose of evaluating and developing a gathering system for the transportation of oil, natural gas, and water produced from oil and gas wells located on the Fort Berthold Reservation (the "**Project**"); and

**WHEREAS,** The Tribal Business Council has determined that it is advisable and in the best interests of the Company and the Tribe that the Company become a member of Arrow;

**WHEREAS,** Pursuant to Resolution No. 08-176-BLB dated October 23, 2008, the Tribal Business Council: (i) approved, and the Tribe entered into, a Letter of Intent, dated October 23, 2008, for a joint venture between Och-Ziff Capital Investments, Inc., Zenergy, Inc. and the Tribe to finance, construct and operate the Project, which Letter of Intent contemplated the entry into the LLC Agreement by the Tribe or one of its affiliates; and (ii) authorized the Tribal Chairman and the Tribal Council Secretary to sign the final LLC Agreement upon final legal review by legal counsel for the parties thereto;

**WHEREAS,** In order to become a member of Arrow, the officers of the Company have negotiated and caused to be prepared for execution an Amended and Restated Limited Liability Company Agreement of Arrow in the form attached hereto as Exhibit A (the "**LLC Agreement**") by and among the Company, Arrow, Arrow Midstream Holdings, LLC (an affiliate of Och-Ziff Capital Investments), and Bow Midstream Holdings, LLC;

**WHEREAS,** The Tribal Business Council has determined that the LLC Agreement is fair to, and in the best interests of, the Company and the Tribe, and, in order to provide a predictable business, regulatory and dispute resolution environment for businesses operating on the Reservation, including Arrow Pipeline, LLC, the Tribal Business Council agrees to the provisions in the LLC Agreement intended to accomplish these goals, including without limitation (and as set forth more specifically in each of the provisions of the LLC Agreement described below):

(a) Section 3.1, in which the Company and the Tribe make certain representations and warranties to Arrow and each of the members of Arrow, including without limitation representations and warranties relating to its existence, authority to execute the LLC Agreement, and compliance with certain laws.





(b) Section 3.4, titled "Additional Representations and Warranties of Tribeco" which includes a representation by the Company that only the laws and regulations of the Tribe attached as Schedule 3.4(e) to the LLC Agreement apply to the LLC Agreement and the transactions contemplated therein;

(c) Section 6.2, titled "Subsequent Capital Contributions," which provides that the Company commit to make capital contributions to Arrow of up to \$5,000,000;

(d) Section 8.3, titled "Repayment," which requires the Company to make, within 30 days after the two-year anniversary of the effective date of the LLC Agreement, a capital contribution to Arrow in an amount equal to the Class A Unpaid Preferred Return (as defined in the LLC Agreement) attributable to any Primary Support Contributions (as defined in the LLC Agreement) made on behalf of the Company, and which further requires that Arrow will make a distribution to Arrow Midstream Holdings, LLC in the amount of such capital contribution;

(e) Section 10.5, titled "Non-Compete," which provides that the Company and the Tribe will not, and will not cause its Affiliates not to, directly or indirectly engage in certain activities competitive with Arrow or solicit any of the employees of Arrow or its affiliates;

(f) Section 14.2, titled "Remedies," which provides that in the event of certain breaches by the Company, Arrow Midstream Holdings, LLC as the Class A Member will have a right to purchase the Company's Units at price equal to the lesser of (i) 75% of the total amount of capital contributions actually contributed by the Company and (ii) 75% of the fair market value (determined in accordance with the LLC Agreement) of the Company's Units;

(g) Section 14.3, titled "Tribal Laws Enacted After the Effective Date" which provides that (i) the Company will cause the Tribe to not amend, revoke or pass any laws that would result in an adverse effect on the business, prospects, condition (financial or otherwise), affairs, properties, assets or liabilities of the Company, whether directly or indirectly, and (ii) if the Tribe amends, revokes or passes any such law, and such law is not amended such that the adverse impact on Arrow is removed, or if such adverse effect is not otherwise removed, then the Arrow or its designees, including the Class A Members (as defined in the LLC Agreement), may purchase all of the Units owned by the Company for a price equal to the lesser of (A) 75% of the total amount of capital contributions actually contributed by the Company and (B) 75% of the fair market value (determined in accordance with the LLC Agreement) of the Company's Units;

(h) Section 14.9, titled "Governing Law; Submission to Jurisdiction" which provides that the LLC Agreement will be governed by the laws of the State of Delaware and that any disputes, controversies or claims under the LLC





Agreement will be resolved by the Chancery Court of the State of Delaware, and that the Company will submit to the personal jurisdiction of such court;

(i) Section 14.10, titled "Limited Waiver of Immunity from Suit and Waiver of Tribal Remedies" which provides, among other things, that each of the Company and the Tribe (i) consents to suit and waive any immunity from suit that it may possess so that the Company is amenable to suit in any forum to which the Company may consent and (ii) waives any requirement to exhaust tribal remedies in the first instance prior to any contractually provided forum for dispute resolution;

(j) Section 14.11, titled "Limitation of Liability" which provides for (i) a limitation of liability of the Company and the Tribe, except for breaches of Sections 10.4, 10.5, 10.12 or 14.3 of the LLC Agreement, and (ii) a limitation of liability of each of the Members; and

(k) Section 14.13, titled "Additional Agreements and Guaranties" which provides, among other things, that (i) the Tribe makes certain commitments, promises and guarantees as described in Exhibit C to the LLC Agreement, including without limitation a guarantee described more specifically below in subsection (ii) and (ii) the Tribe will unconditionally and irrevocably guarantee (as a primary obligation) to Arrow and Arrow Midstream Holdings, LLC all of the obligations of the Company;

**WHEREAS,** Under the terms of the LLC Agreement, the Company will receive, at the effective time of the LLC Agreement, 5,000 Class B Units in exchange for the agreements and commitments of the Company provided for therein (the "*Class B Units*"); and

**WHEREAS,** The Tribal Business Council has determined that the execution and delivery by the Company of the LLC Agreement is advisable;

**NOW THEREFORE BE IT RESOLVED,** that the Tribal Business Council, acting on behalf of the Tribe in its capacity as sole shareholder of the Company and in its governmental capacity, does hereby confirm and clarify that, notwithstanding Section 12.2 of the Articles, the approval by the Company's board of directors of Section 14.10 and Section 14.11 of the LLC Agreement, respectively entitled "Limited Waiver of Immunity from Suit and Waiver of Tribal Remedies" and "Limitation of Liability," is hereby approved, authorized and ratified in all respects; and

**NOW THEREFORE BE IT FURTHER RESOLVED** that the Tribal Business Council hereby determines that the foregoing proposed actions are in the best interest of the Tribe and the Company, and promote the welfare of the Tribe and the Company, and does hereby ratify, approve, authorize and adopt in all respects the form, terms and provisions of the LLC Agreement, including without limitation, the provisions in the LLC Agreement that (i) establish the membership by the





Company in Arrow and its ownership of Units issued by Arrow, (ii) set forth the obligations and covenants of the Company and Tribe, and (iii) help provide a predictable, business, regulatory and dispute resolution environment, which include the following (and as set forth more specifically in each of the provisions of the LLC Agreement described below):

(a) Section 3.1, in which the Tribe and the Company make certain representations and warranties to Arrow and each of the members of Arrow, including without limitation representations and warranties relating to its existence, authority to execute the LLC Agreement, and compliance with certain laws;

(b) Section 3.4, titled "Additional Representations and Warranties of Tribeco" which includes a representation by the Company that only the laws and regulations of the Tribe attached as Schedule 3.4(e) to the LLC Agreement apply to the LLC Agreement and the transactions contemplated therein;

(c) Section 6.2, titled "Subsequent Capital Contributions," which provides that the Company commit to make capital contributions to Arrow of up to \$5,000,000;

(d) Section 8.3, titled "Repayment," which requires the Company to make, within 30 days after the two-year anniversary of the effective date of the LLC Agreement, a capital contribution to Arrow in an amount equal to the Class A Unpaid Preferred Return (as defined in the LLC Agreement) attributable to any Primary Support Contributions (as defined in the LLC Agreement) made on behalf of the Company, and which further requires that Arrow will make a distribution to Arrow Midstream Holdings, LLC in the amount of such capital contribution;

(e) Section 10.5, titled "Non-Compete," which provides that the Company and the Tribe will not, and will not cause its Affiliates not to, directly or indirectly engage in certain activities competitive with Arrow or solicit any of the employees of Arrow or its affiliates;

(f) Section 14.2, titled "Remedies," which provides that in the event of certain breaches by the Company, Arrow Midstream Holdings, LLC as the Class A Member will have a right to purchase the Company's Units at price equal to the lesser of (i) 75% of the total amount of capital contributions actually contributed by the Company and (ii) 75% of the fair market value (determined in accordance with the LLC Agreement) of the Company's Units;

(g) Section 14.3, titled "Tribal Laws Enacted After the Effective Date" which provides that (i) the Company will cause the Tribe to not amend, revoke or pass any laws that would result in an adverse effect on the business, prospects, condition (financial or otherwise), affairs, properties, assets or liabilities of the





Company, whether directly or indirectly, and (ii) if the Tribe amends, revokes or passes any such law, and such law is not amended such that the adverse impact on Arrow is removed, or if such adverse impact is not otherwise removed, then the Arrow or its designees, including the Class A Members (as defined in the LLC Agreement), may purchase all of the Units owned by the Company for a price equal to the lesser of (i) 75% of the total amount of capital contributions actually contributed by the Company and (ii) 75% of the fair market value (determined in accordance with the LLC Agreement) of the Company's Units;

(h) Section 14.9, titled "Governing Law; Submission to Jurisdiction" which provides that the LLC Agreement will be governed by the laws of the State of Delaware and that any disputes, controversies or claims under the LLC Agreement will be resolved by the Chancery Court of the State of Delaware, and that the Company will submit to the personal jurisdiction of such court;

(i) Section 14.10, titled "Limited Waiver of Immunity from Suit and Waiver of Tribal Remedies" which provides, among other things, that each of the Company and the Tribe (i) consents to suit and waive any immunity from suit that it may possess so that the Company is amenable to suit in any forum to which the Company may consent and (ii) waives any requirement to exhaust tribal remedies in the first instance prior to any contractually provided forum for dispute resolution;

(j) Section 14.11, titled "Limitation of Liability" which provides for a limitation of liability of the Company and the Tribe, except for breaches of Sections 10.4, 105, 10.12 or 14.3 of the LLC Agreement; and

(k) Section 14.13, titled "Additional Agreements and Guaranties" which provides, among other things, that (i) the Tribe makes certain commitments, promises and guarantees as described in Exhibit C to the LLC Agreement, including without limitation a guarantee described more specifically below in subsection (ii) and (ii) the Tribe will unconditionally and irrevocably guarantee (as a primary obligation) to Arrow and Arrow Midstream Holdings, LLC all of the obligations of the Company; and

**NOW THEREFORE BE IT FURTHER RESOLVED** that the Tribal Chairman and Tribal Council Secretary were authorized to execute the herein described LLC Agreement, and that the Chairman, Vice-Chairman, Secretary and Treasurer of the Tribal Business Council are authorized to execute any further documentation and take any other actions necessary or appropriate to carry out the intent of the terms of the LLC Agreement and to comply with the Tribe's obligations under the LLC Agreement; and

**NOW THEREFORE BE IT FURTHER RESOLVED** that the Tribal Business Council confirms that if any provision of this Resolution or the application of any provision of this Resolution is held to be invalid, the remainder of the Resolution shall not be affected; and





**NOW THEREFORE BE IT FINALLY RESOLVED** that except for Resolution No. 08-176-BLB dated October 23, 2008, any resolutions or other actions of the Tribal Business Council or of any other tribal agency or committee, including any prior resolutions regarding Arrow or the Project that are in conflict with or inconsistent with the terms of this Resolution are hereby to such extent repealed and annulled. Except for Resolution No. 08-176-BLB dated October 23, 2008, this Resolution shall supersede any prior or currently existing resolutions or other actions of the Tribal Business Council or Tribal Executive Committee that are contrary to the actions authorized or contemplated herein or in the LLC Agreement.

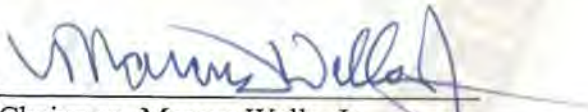
**CERTIFICATION**

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 7 were present at a Special Meeting thereof duly called, noticed, convened and held on the 4th day of December, 2008, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 7 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 4th day of December, 2008.

  
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Tribal Secretary, J. Judy Brugh  
Tribal Business Council  
Three Affiliated Tribes

  
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Chairman, Marcus Wells, Jr.  
Tribal Business Council  
Three Affiliated Tribes