



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

**A Resolution Entitled: “A Resolution to Amend Resolution No. 14-170-VJB and Retain the Services of Bubar & Hall Consulting, LLC to be project manager of the Fort Berthold Comprehensive Regional Transportation Plan”**

- WHEREAS,** This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act and having adopted a Constitution and By-laws pursuant to said Act; and
- WHEREAS,** Article III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and
- WHEREAS,** The Constitution of the Three Affiliated Tribes authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and
- WHEREAS,** Construction of the Garrison Dam resulted in the creation Lake Sakakawea, the permanent relocation of our primary communities and the loss of roads and bridges that provided essential cultural, economic and social connection for our people; and
- WHEREAS,** Responsibility for addressing transportation related needs and priorities within the Fort Berthold Indian Reservation has increasingly fallen upon the Three Affiliated Tribes, and
- WHEREAS,** Long range planning for transportation infrastructure is needed to gather and analyze data about the condition, safety, performance and financial needs of the system, inform and engage the public to identify needs and priorities, assist in prioritizing projects and allocation of funds, and to qualify for federal and state funds to improve the system; and
- WHEREAS,** The Three Affiliated Tribes applied for a Transportation Investment Generating Economic Recovery (TIGER) Planning Grant from the U.S. Department of Transportation in April 2014 in the amount of \$3,942,000 to conduct a Fort Berthold Comprehensive Regional Transportation Plan, and



**WHEREAS,** On September 12, 2014 the U.S. Department of Transportation announced it selected the Three Affiliated Tribes proposal for a \$1,000,000 award; and

**WHEREAS,** On October 20, 2014 the Tribal Council passed Resolution No. 14-170-VJB that authorized \$3,000,000 over the next three years to supplement the Fort Berthold Comprehensive Regional Transportation Plan and authorized the Tribal Chairman and Tribal Secretary to sign all documents necessary to carry out that project; and

**WHEREAS,** The price of oil has declined to a point that has altered the financial projections for the Three Affiliated Tribes and it is necessary for the Tribe to adjust its commitment of funds to the Fort Berthold Comprehensive Regional Transportation Plan; and

**WHEREAS,** The Three Affiliated Tribes entered into a contract in January 2014 to retain the services of Bubar & Hall Consulting, LLC to provide transportation consulting services that includes many of the activities to be performed in the Fort Berthold Comprehensive Regional Transportation Plan; and

**WHEREAS,** Bubar & Hall Consulting, LLC has the background and expertise to provide support services to the Three Affiliated Tribes to access federal, state and tribal resources to address the infrastructure development, maintenance, and safety needs and priorities;

**NOW, THEREFORE BE IT RESOLVED,** That Resolution No. 14-170-VJB is hereby amended to authorize \$1,000,000 over the next three years to supplement the Fort Berthold Comprehensive Regional Transportation Plan in place of the original \$3,000,000 commitment and the reinstatement of full funding (\$2,000,000) shall be reconsidered in future budget discussions depending on the availability of funds; and

**THEREFORE BE IT FURTHER RESOLVED,** That the Three Affiliated Tribes hereby retains the services of Bubar & Hall Consulting, LLC to provide project management consulting services to the Tribal Business Council and the Transportation and Planning Departments to perform the U.S. Department of Transportation TIGER grant. Should sub-consultants be required, Bubar & Hall Consulting, LLC will use a request for proposals process in accordance with tribal and federal law as applicable to identify and retain qualified specialists; and



**THEREFORE BE IT FURTHER RESOLVED,** That the Chairman is hereby authorized to sign all documents necessary to execute this resolution, including the TIGER grant agreement with the U.S. Department of Transportation, the contract with Bubar & Hall Consulting, LLC, any sub-contracts, and any other agreements required to perform the Fort Berthold Comprehensive Regional Transportation Plan.

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(Certification page to follow)*

**CONSULTANT CONTRACT  
BETWEEN THE THREE AFFILIATED TRIBES  
AND  
BUBAR & HALL CONSULTING, LLC  
for Fort Berthold Comprehensive Regional Transportation Plan**

**1. PARTIES**

This contract is between the Three Affiliated Tribes, with a mailing address of 404 Frontage Road, New Town, North Dakota 58763 (701) 627-8100 and Bubar & Hall Consulting, LLC (hereinafter "Consultant") with a mailing address of 5810 Greenwalt Lane, Fort Collins, CO 80524 (970) 217-9076.

**THE PARTIES AGREE AS FOLLOWS:**

- 2. CONTRACT PURPOSE:** The purpose of this contract is to provide legal, policy and consulting services to the MHA Nation related to transportation and community planning and to retain Consultant as Lead Consultant and Project Manager on the Fort Berthold Comprehensive Regional Transportation Plan project.
- 3. TERM OF CONTRACT:** This contract shall be for a term of 3 years and shall expire on December 30, 2018 unless extended in writing by the Tribal Business Council.
- 4. DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT:** Consultant shall serve as Project Manager for the Fort Berthold Comprehensive Regional Transportation Plan and provide legal and consulting services in the following areas:

  - a. Overall project coordination, facilitation, reporting, and final deliverables, including coordination with appropriate tribal programs to apply for federal and state funding to support this planning activity and implementation of any planning priorities and goals.**
  - b. Consultant will develop a proposal process to select and retain sub-consultants as required to fulfill the funding agency and tribal government requirements in each of the Comprehensive Regional Transportation Plan subject areas.**
- 5. WHERE SERVICES ARE TO BE PERFORMED:** Services will be performed in Consultants offices in Fort Collins, Colorado, on the Fort Berthold Reservation and elsewhere in North Dakota or across the United States as required to complete the Fort Berthold Comprehensive Regional Transportation Plan.

**6. COMPENSATION AND PAYMENTS: Consultant will be compensated at its current hourly rates as follows:**

- a. **Research Partner - \$150.00/hour**
- b. **Research Associate - \$80.00/hour**
- c. **Junior Research Associate - \$60.00/hour**
- d. **The total amount of compensation under this contract shall not exceed \$2,000,000.00 (half from the Tribe and half from a federal grant). Additional funding may be added through written amendment and Tribal Council resolution.**
- e. **Schedule of Payments: Invoices will be submitted by the 1<sup>st</sup> of each month and payment due on the 15<sup>th</sup> of each month.**

**7. EXPENSES: Consultant will be reimbursed for all reasonable and necessary expenses incurred in conducting the legal and consultant services described above including but not limited to:**

- a. **Travel expenses**
- b. **Printing**
- c. **Telecommunications, multimedia and video conferencing**
- d. **Materials and supplies**
- e. **Shipping and postage**
- f. **Sub-consultant costs and expenses**
- g. **Applicable taxes**

**8. INDEPENDENT CONTRACTOR:**

The Consultant assures the Tribe that the Consultant is an independent contractor providing services for the Tribe and that neither the Consultant nor any of the Consultant's employees, agents, sub-Consultants, etc. are employees of the Tribe under this Contract or any subsequent amendment or extension hereof. Consultant has no power or authority to act for, represent, or bind the Tribe to any entity affiliated with the Tribe in any manner. Consultant and Consultant's employees are not entitled to any medical coverage, life insurance, or participation in any other benefits afforded to the Tribe's regular employees, or those of Tribe affiliated entities.

The Consultant is solely responsible for assuring compliance with all legal requirements, including payment of all applicable taxes, premiums, deductions, withholdings, overtime and other amounts which may be legally required with respect to the employment of any persons providing services to the Consultant or any of its sub-Consultants, under this Contract. The Consultant agrees that the Consultant shall indemnify the Tribe for any and all claims, obligations, liabilities, costs, and attorney fees related to Consultant's performance of this contract.

**9. CONSULTANT NOT TO ENGAGE IN CONFLICTING ACTIVITIES:**

During the time of this Contract, Consultant will not enter into any activity, employment, or business arrangement that conflicts with the Tribe's interests or Consultant's status. Consultant will advise the Tribe of Consultant's position with respect to any activity, employment, or business arrangement contemplated by Consultant that may be relevant to this Section.

**10. WARRANTY THAT CONTRACT DOES NOT COMTEMPLATES CORRUPT PRACTICES – DOMESTIC OR FOREIGN:**

Consultant represents and warrants that, (a) all payments under this Contract constitute compensation for services performed, and (b) this Contract and all payments, and the use of the payments by Consultant, do not and shall not constitute an offer, payment, or promise, or authorization of payments, and of any money or gift to an office or political party of, or candidate for political office in, any jurisdiction within or outside the United States. These payments may not be used to influence any act or decision of any official, party, or candidate to use his, her or its influence with a government to affect or influence any act or decision of such government to assist the Tribe in obtaining, retaining, or directing business to the Tribe or any person or other corporate entity. As used in this paragraph, the term "official" means any officer or employee of a government, or any person acting in an official capacity for or on behalf of any government; the term "government" includes department, agency, or instrumentality of a government.

**11. FUNDING AVAILABILITY:**

The Consultant agrees and understands that this Contract is dependent upon available funding. In the event such funding expires or is reduced, this Contract may be renegotiated, or terminated by the parties.

**12. TERMINATION OF CONTRACT:**

This Contract may be terminated for cause immediately upon written notice by either party. Written notice shall be delivered to the addresses set forth under Paragraph 1 above. This Contract may be terminated without cause upon 60 days written notice to the other party. Any notice deadline shall be measured from the date the notice is posted and mailed.

**13. GOVERNING LAW:**

This Contract is subject to and shall be interpreted in accordance with the laws of the Three Affiliated Tribes.

**14. ASSIGNMENT OF RIGHTS AND DELEGATION OF DUTIES:**

The rights and duties under this Contract may not be assigned or delegated by either party without the prior written consent of the other.

**15. ENTIRE CONTRACT AND MODIFICATION:**

This Contract contains the entire Agreement between the parties. This Contract may not be modified except by later written Contract signed by both parties.

**16. INSURANCE & INDEMNIFICATION:**

None.

**17. JURISDICTION:**

This Contract was executed and is to be carried out on the Fort Berthold Indian Reservation. Any dispute arising under this Contract is subject to the exclusive jurisdiction of the Fort Berthold District Court. Nothing in this Section or any other provision of this contract shall be construed as an express or implied waiver of the sovereign immunity of the Three Affiliated Tribes or any of its officers or agents and such immunity is hereby specifically reserved.

**18. COMPLIANCE WITH APPLICABLE LAWS:**

The Consultant shall comply with all applicable Federal, State, and Tribal (i.e. TERO) laws and regulations in performing this Contract. Consultant shall also comply with all of the Tribes policies, procedures and rules.

**19. LIAISON & CONTRACT SUPERVISION:**

The Planning and Grants Department shall be the supervisor over the Consultant and the Consultant's work. The Planning and Grants Department shall manage and process all invoices, payments, and matters related to the TIGER grant funds provided by the U.S. Department of Transportation.

**20. SEVERABILITY:**

It is understood and agreed by the parties hereto that if any term or provision of this Contract is held to be illegal, void or in conflict with any applicable Tribal, State or Federal law, the validity of the remaining terms and provisions shall not be affected. And the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

**21. WAIVER:**

Waiver of any default, breach or failure to perform under this Contract is not deemed to be a waiver of any subsequent default, breach or failure of performance. In addition, waiver of any default, breach or failure to perform is not to be construed to be a modification of the terms of this Contract unless reduced to writing as an amendment to this Contract.

**AGREED AND APPROVED:**

**CONSULTANT:**

By \_\_\_\_\_  
Ronald C. Hall  
President  
Date \_\_\_\_\_

**THREE AFFILIATED TRIBES:**

By \_\_\_\_\_  
Shiela Many Ribs  
Director, Planning and Grants Department  
Date \_\_\_\_\_

**CONCURRED:**

By: Mark N. Fox  
Mark N. Fox  
Chairman  
Date 3-16-15

By: Mervin Packineau  
Mervin Packineau  
Treasurer  
Date 3-13-15






**CERTIFICATION**

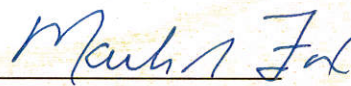
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 7 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 13<sup>th</sup> day of March, 2015, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, FG members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [] Voting. [] Not Voting.

Dated this 13<sup>th</sup> day of March, 2015.

**ATTEST:**

  
Executive Secretary: L. Ken Hall  
Tribal Business Council  
Three Affiliated Tribes

  
Chairman: Mark Fox  
Tribal Business Council  
Three Affiliated Tribes