



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

***A Resolution entitled, "Consultant Contract with Prairie Resources Capital Management/Leslie Morsette, PO Box 1258, New Town, ND 58763- For USDA Rural Development Projects, Internal accounting services and ARRA Reporting Requirements."***

**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 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,** 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,** Article IV, Section 5(l) of the Constitution of the Three Affiliated Tribes provides the Tribal Business Council authority to adopt resolutions regulating the procedure of the Tribal Council and other Tribal Agencies and Tribal Officials of the Reservation.

**WHEREAS,** Fort Berthold Rural Water is proposing to approve and renew a consultant/contract between the Three Affiliated Tribes, Fort Berthold Rural Water and Leslie Morsette, Prairie Resources Capital Management for a period of eight (8) months; and

**WHEREAS,** the effective date is February 1, 2015 through September 30, 2015; and

**WHEREAS,** The Tribe and Tribal Business Council has established the Fort Berthold Rural Water System whose primary responsibility is to develop effective, efficient and safe, drinking water systems for the members of the Tribe on the Reservation; and

**THEREFORE BE IT RESOLVED,** that the Tribal Business Council of the Three Affiliated Tribes hereby authorizes and approves Leslie Morsette/Prairie Resources Capital Management consultant contract not to exceed \$42,000.00.

**CONSULTANT CONTRACT  
BETWEEN THE THREE AFFILIATED TRIBES  
AND WILLIAM MCCABE**

**1. PARTIES:**

This contract is between the Three Affiliated Tribes, with a mailing address of 404 Frontage Road, New Town, North Dakota, 58763 (701) 627-4781 and William McCabe with a mailing address of PO Box 3741, Littleton, Colorado, 80161. (303) 917-4499.

**THE PARTIES AGREE AS FOLLOWS:**

**2. CONTRACT PURPOSE:**

Consultant will provide technical and professional services to the Three Affiliated Tribes Natural Resources Department on issues relating to the formation and development of tribal electrical utility.

**3. TERM OF CONTRACT:**

This contract begins March 27<sup>th</sup> 2015 and ends on August 27<sup>th</sup> 2015. The term may be modified or renewed upon express written consent of both parties. The Supervisor is responsible for ensuring timely renewals of the contract if applicable.

**4. DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT:**

Consultant shall render the following services to the Tribe:

- Assist the Tribe with ROW assessment and negotiation.
- Engage in a feasibility study for the purpose of utility development on the Fort Berthold Indian Reservation Engage in a feasibility study for the purpose of utility development on the Fort Berthold Indian Reservation
- Engage in a feasibility study for the purpose of tribal utility commission and utility code development on the Fort Berthold Indian Reservation
- Provide input towards coordination of current operations performed by the Natural Resources Department.

**5. WHERE SERVICES ARE TO BE PERFORMED:**

The Services are to be rendered within the boundaries of the Fort Berthold Indian Reservation.

**6. COMPENSATION AND PAYMENTS:**

Consultant is to be compensated at the following rates: \$185.00 per hour with a 245 hour cap. Total Compensation for this contract will not exceed \$45,000 without the written consent of the Tribal Business Council.

**Consultant and his agents agrees to maintain confidentiality over proprietary information at the Tribes request. All work product will remain the intellectual property of the MHA Nation and may not be released for any public purpose without the express written consent of the Tribe.**

**7. EXPENSES:**

The Three Affiliated Tribes shall bear the expense of all reasonable and customary costs in the execution of the services rendered. The Tribe shall bear the costs of all associated expenses for tribally owned equipment utilized in the execution of this contract. The Tribe may provide for the contractors use, office space, supplies, communications equipment, specialized equipment and safety equipment necessary for the performance of this contract.

**8. INDEPENDENT CONTRACTOR:**

- A. 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 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. If the Tribe or any of Tribe affiliated companies are required to pay or withhold any taxes or make any other payment with respect to fees payable to Consultant. Consultant will reimburse the Tribe or the affiliated entity in full for taxes paid, and permit the Tribe to make deductions for taxes required to be withheld from any sum due to Earth Science Technologies Inc.
- B. 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, attorney fees, losses or suits accruing for resulting from, 1) the Consultant's failure to comply with this Contract, 2) from any ruling of any legal authority or claims by any sub-Consultant, employee or alleged employee of the Consultant, that the Consultant or a person the Consultant has held out to be his/her employee is an employee of the Tribe.

**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. The Tribe shall have the option of terminating this Contract at any time if in Tribe's sole judgment; a conflict of interest exists or is imminent. 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. For this purpose, Consultant agrees to disclose any such plans to the Tribes prior to implementation.

**10. WARRANTY THAT CONTRACT DOES NOT COMTEMPLA TE 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 terminated or modified by the Tribe at its sole discretion. Modification of the Contract includes, but is not limited to, reduction of the rates or amounts of consideration of the alteration of the manner of the performance in order to reduce expenditures under the Contract.

**12. TERMINATION OF CONTRACT:**

When terminated for cause by either party, this Contract may be terminated immediately upon written notice. Written notice shall be delivered to the addresses set forth under Paragraph 1 above. This Contract may be terminated without cause upon 30 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:**

Contractor agrees to maintain the proper licenses, authorities and insurance.

**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 jurisdiction of the Fort Berthold District Court.

**18. COMPLIANCE WITH APPLICABLE LAWS:**

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

**19. LIAISON & CONTRACT SUPERVISION:**

Supervision for this contract will be provided by George Abe, Natural Resources Administrator along with concurrence from the Resources Committee and the Tribal Business Council.

**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.

**22. SOVEREIGN IMMUNITY:**

Nothing in this Agreement shall be held, interpreted and/construed as a waiver of the Sovereign Immunity of the Three Affiliated Tribes, its officers, officials, agents and/or assigns.

**AGREED AND APPROVED:**

**CONSULTANT:**

By 

4/16/15  
Date

**THREE AFFILIATED TRIBES:**

By: \_\_\_\_\_  
Mark N. Fox, Chairman

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Mervin Packineau, Treasurer

\_\_\_\_\_  
Date



**BE IT FURTHER RESOLVED**, that the Tribal Business Council hereby authorizes the Chairman, and/or Secretary of the Tribal Business Council to execute the Consultant Contract on behalf of the Tribe.

C E R T I F I C A T I O N

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, 5 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 21<sup>st</sup> day of March, 2015, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 5 members,     members opposed,     members abstained, 2 members not voting, and that said Resolution has not been rescinded or amended in any way.

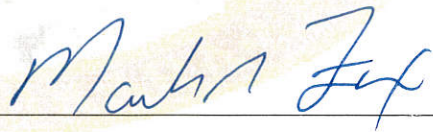
Chairman  Voting.  Not Voting.

Dated this 21<sup>st</sup> day of March 2015.

ATTEST:

  
\_\_\_\_\_

Tribal Secretary, L. Ken Hall  
Tribal Business Council  
Three Affiliated Tribes

  
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Tribal Chairman, Mark N. Fox  
Tribal Business Council  
Three Affiliated Tribes