



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

*A Resolution entitled, "Appropriation of Funds and Approval of Contract for the Construction of the Justice Center and Tribal Courts Facility"*

**WHEREAS,** The Mandan Hidatsa and Arikara Nation ("MHA Nation" or "Nation") having accepted the Indian Reorganization Act of June 18, 1934 ("IRA"), and the authority under said Act and having adopted a Constitution and By-Laws pursuant to said Act; and

**WHEREAS,** The Constitution of the MHA Nation 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 Nation and of the enrolled members thereof; and

**WHEREAS,** Article III, Section 1 of the Constitution of the MHA Nation provides that the Tribal Business Council is the governing body of the Nation; and

**WHEREAS,** Article VI, Section 5(c) of the Constitution of the MHA Nation specifically authorizes and empowers the Tribal Business Council to administer funds within the exclusive control of the Nation and to make expenditures from available Tribal funds for public purposes for the Nation; and

**WHEREAS,** The Tribal Business Council has previously allocated funds to build a facility to house the Tribal Courts, BIA Law Enforcement Center, and other building support functions ("Facility"), generally based on the Nation's Justice Center Design Development Package, dated October 9, 2014; and

**WHEREAS,** The Tribal Business Council has determined that it is in the best interest of the Nation to proceed with construction of the Facility and to commit up to but no more than \$14,500,000.00 to construct the Facility; and

**WHEREAS,** The Tribal Business Council has also determined that it is in the best interest of the Nation to commit an additional \$2,700,000.00 to satisfy any federal energy efficiency requirements in the construction of the Facility to the extent such requirements are necessary to qualify for federal funds for the operation and maintenance of the Facility.

**WHEREAS,** The Nation has engaged the Architecture firm of Nelson and Tremain as its design professional and Architect of Record, who invited bids for the construction of the building and site improvements; and

**WHEREAS,** Upon the recommendation of its Architect, the Tribal Business Council finds that the contract for the construction of the building and site improvements should be awarded to the low responsible bidder, Capital City Construction, Inc., who



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submitted a base bid in the amount of \$13,937,000, not including contingencies, but including deduction alternates in the amount \$308,350, for a low responsible bid of \$13,628,650; and

**NOW THEREFORE BE IT RESOLVED**, that the Tribal Business Council of the Three Affiliated Tribes hereby authorizes and approves the appropriation of up to but no more than \$14,500,000.00 to complete the construction of the Facility.

**BE IT FURTHER RESOLVED**, that the Tribal Business Council hereby authorizes and approves the appropriation of an additional \$2,700,000.00 for the purpose of satisfying any federal energy efficiency requirements in the construction of the Facility to the extent such requirements are necessary to qualify for federal funds for the operation and maintenance of the Facility.

**BE IT FURTHER RESOLVED**, that subject to legal review and approval of the contract, the Tribal Business Council hereby authorizes and approves a fixed price contract in an amount not to exceed \$13,937,000, plus authorized change orders not to exceed a total construction cost of \$14,500,000, between the Nation and Capital City Construction, Inc. for the construction of the building and site improvements of the Facility. The contract shall provide for a Facility completion date that is 17 months from the date of contract execution, with liquidated damages for failure to complete the Facility in the amount of \$1,500 per day for the first 30 days and \$4,000 per day thereafter.

**BE IT FINALLY RESOLVED**, that the Chairman, or in his absence, the Vice-Chairman, is hereby authorized to execute the construction contract and take such further actions as is necessary to carry out the terms and intent of this Resolution.

(SIGNATURE PAGE TO FOLLOW)



**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, 6 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 9th day of July, 2015, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 1 member not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [ X ] Voting. [ ] Not Voting.

Dated this 9<sup>th</sup> day of July, 2015.

**ATTEST:**

Tribal Secretary L. Kenneth Hall  
Tribal Business Council  
Three Affiliated Tribes

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