



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

**A Resolution entitled, “*Approval of Special Legal Counsel Contract to Retain Atcitty & Van Norman Law to Provide Oil & Gas Regulatory Legal Services for FY 2017.*”**

**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 Tribe 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 VI, Section 3(a) of the Constitution of the Three Affiliated Tribes specifically grants to the Tribal Business Council the power to employ legal counsel; and

**WHEREAS,** The Tribal Business Council desires to engage Shenan Atcitty of Atcitty & Van Norman Law, as legal counsel to provide the Nation oil and gas regulatory legal services to address the on-going oil and gas development activities on the Fort Berthold Indian Reservation; and

**WHEREAS,** Ms. Atcitty has been serving as Special Legal Counsel to the MHA Nation for the past three years, and the MHA Nation Energy Division recommends for approval the Special Counsel Contract for FY 2017 with Shenan R. Atcitty, Esq. of Atcitty & Van Norman Law for oil and gas regulatory legal services and other matters as assigned.

**NOW THEREFORE BE IT RESOLVED,** by the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation hereby authorizes and approves the Tribe to engage the legal services of Shenan R. Atcitty of Atcitty & Van Norman Law for a term of one fiscal year, beginning on October 1, 2016 through September 30, 2017, and at the rate of \$250.00 per hour for Partners and Senior Attorneys; and \$200.00 per hour for Associates; and a rate of \$100.00 per hour for law clerks and paralegals with an annual budget of \$250,000 for legal fees and expenses; and

**BE IT FURTHER RESOLVED,** that the Tribal Business Council approves the terms of the Special Legal Counsel Contract with Atcitty & Van Norman Law.

**BE IT FINALLY RESOLVED,** that the Tribal Business Council hereby authorizes the Tribal Chairman to execute the Special Legal Counsel Contract.

## SPECIAL LEGAL COUNSEL CONTRACT

This Agreement is made and entered into this \_\_\_\_ day of December, 2016, by and between the Mandan Hidatsa & Arikara Nation of the Fort Berthold Indian Reservation (hereafter "the MHA Nation"), whose governmental headquarters and business address is Tribal Administration Building 404 Frontage Road, New Town, North Dakota 58763, and Shenan R. Atcitty, Atcitty & Van Norman Law, 14913 Finegan Farm Drive, Darnestown, MD 20874, (hereafter "the Attorneys").

WHEREAS, the MHA Nation desires to retain the services of the Attorneys for the purpose of assisting the Tribal Business Council with providing oil and gas regulatory and related legal services on the Fort Berthold Indian Reservation;

WHEREAS, the MHA Nation desires to retain the services of the Attorneys for the purposes of assisting the Tribal Business Council with creating an appropriate legal structure to regulate, operate and oversee oil and gas pipelines and related infrastructure;

WHEREAS, the MHA Nation desires to retain the services of the Attorneys for the purposes of representing the tribal entity charged with advancing the interests of the MHA Nation in the area of oil and gas regulatory and oil and gas business activities on the Fort Berthold Indian Reservation;

WHEREAS, the Attorneys are agreeable to representing the MHA Nation in said review and possess the necessary expertise to provide the legal representation to the MHA Nation;

IT IS HEREBY AGREED AS FOLLOWS:

1. Engagement. The MHA Nation hereby agrees to retain the Attorneys to perform legal services as set forth in this Contract and the Attorneys, in consideration thereof, hereby agree to faithfully execute their duties in a good and professional manner and to conduct themselves in such a way as shall serve the best interest of the MHA Nation.
2. Term. This Special Counsel Contract shall cover all of the legal work and expenses for which the Tribal Chairman and/or Tribal Business Council authorizes and provides funds to complete the work assigned as provided in paragraph 3 below, with an effective day of December 1, 2016, and shall continue for one fiscal year, through September 30, 2017. This Special Counsel Contract may, however, be terminated as hereinafter provided.
3. Legal Services. It shall be the duty of the Attorneys to advise, assist, and represent the MHA Nation in any and all matters assigned to the Attorneys by the MHA Nation through its Tribal Business Council and/or their Chairman, and the MHA Energy Division, including, but not limited to, assisting in the area of oil and gas regulatory and related activities on the Fort Berthold Indian Reservation.

Where necessary or desirable in the performance of legal services hereunder, the Attorneys are authorized to enter into an association with local counsel in the State of North Dakota only for the specific purpose of moving the admission of Shenan Atcitty and the law firm of Atcitty & Van Norman Law and for filing of documents in the State of North Dakota or tribal courts, who shall be paid out of compensation provided under paragraphs 4 and 8 of this Agreement. MHA Nation requires the attorneys to travel to meetings for related business at least once a month.

4. Compensation. The Attorneys shall receive compensation for services rendered pursuant to the terms of this Contract at a rate of two hundred and fifty dollars (\$250.00) per hour for its Partners and Senior Attorneys; a rate of two hundred dollars (\$200.00) per hour for its Associates; and a rate of two hundred dollars (100.00) per hour for its law clerks and paralegals. The billing for such services shall be accomplished in the manner described in paragraph 6. The budget for the contract will be \$250,000 for fees and expenses.
5. Expenses. The Attorneys shall be allowed necessary and proper travel expenses paid or incurred in connection with the performance of the duties under this Contract. When such travel is in automobiles, they shall be allowed 55 cents per mile therefore or the federal rate that is in effect at the time of the travel. When in the performance of such duties they are away from their residences overnight, they shall be allowed the actual, reasonable cost of meals and hotel or motel accommodations. In addition, the Attorneys shall be allowed the following expenses: copy expense, expert assistance and witness fees, expense of preparation of exhibits, transcripts, long distance telephone calls, facsimiles, telegrams, court costs and fees, and printing, postage and outside contracted stenographic expenses.
6. Payment of Fees and Expenses. All fees and expenses shall be paid upon the basis of vouchers prepared and supported as prescribed by the MHA Nation, each voucher to be accompanied by a statement showing that the services were performed and the expenses incurred by the Attorneys. Unless specifically requested, vouchers need not be accompanied by the receipts or sub-vouchers for individual items.
7. Non-assignability. It is agreed that no assignment of the obligations of this Contract in whole or in part shall be made without the consent of the MHA Nation. No assignment of said obligation shall be effected by the mere employment or association of expert assistance, including without limitation, legal assistance pursuant to paragraph 3 and 5 of this Contract. In addition, no assignment or encumbrance of any interest of the Attorneys in the compensation agreed to be paid under this Contract shall be made without the approval of the MHA Nation. Any assignment of the obligations of this Contract or any assignments or encumbrances of any interest in the compensation agreed to be paid made in violation of the provisions of this paragraph shall operate to terminate this Contract. In the event that an assignment is made in violation of the provisions of this Contract, the Attorneys shall not be entitled to any compensation whatever for any services rendered from the date of the assignment of the Contract.

8. Termination. This Contract may be terminated by either party giving thirty (30) days notice in writing to the other party. In the event of termination as herein provided, the Attorneys shall receive compensation on a quantum meruit basis for their services to the date of termination. In the event of the termination of this Contract as herein provided and in further event that the MHA Nation shall retain or employ other counsel to continue any of the matters which may therefore have been undertaken pursuant to the provisions of this Contract, the Attorneys agree to make available to the subsequent attorneys for the MHA Nation any and all files pertinent to the prosecution of such matters and to disclose to such counsel or attorneys any and all facts and information requested pertinent to such matters, it being understood and agreed that the time and expenses, if any, expended by the Attorneys in such activity as well as Attorneys' outstanding and reasonable bills shall be subject to reimbursement in the matter herein before specified as to services.
9. Dispute Resolution. Under the demand of any party, any dispute arising under or in connection with this Contract shall be resolved in the Tribal Courts of the MHA Nation, in accordance with the laws of the MHA Nation of the Fort Berthold Indian Reservation. The Tribal Council agrees to waive the sovereign immunity of the MHA Nation for the limited purpose of enforcement of the terms and conditions set forth in this Contract. Damages shall be limited to the payment of fees and/or costs associated with the terms of this Contract. All disputes submitted to Tribal Court shall be resolved in accordance with substantive laws of the MHA Nation or to the extent that Tribal Law is not applicable, the substantive law of the State of North Dakota.
10. Notices. Any notice required by this Contract shall be given as follows: (a) If by the MHA Nation to the Attorneys, by delivery thereto to the Attorneys personally or by mailing thereof to: Shenan R. Atcitty, Esq., Atcitty & Van Norman Law, 14913 Finegan Farm Drive, Darnestown, MD 20874; and (b) If by the Attorneys to the MHA Nation, by delivery at or mailing to the MHA Nation, Tribal Administration Building, 404 Frontage Road, New Town, ND 58763.
11. Attorneys' Standing. The undersigned Attorney stipulates that they are fully licensed member in good standing of the bar of the District of Columbia, the State of New Mexico, the State of South Dakota, the State of Illinois or the State of Illinois and to the best of their knowledge, no disciplinary proceedings have been instituted against them by any bar association of any jurisdiction of the United States or its territories which are pending or unresolved and they have not been disbarred or suspended from the practice of law in any jurisdiction in the United States or its territories to the best of their knowledge.
12. Severability. If any part or provision of this Contract or the application thereof shall be adjudged invalid, the validity of any other parts or provisions hereof shall not be affected thereby.
13. Amendment by Written Endorsement. It is expressly understood and agreed that this instrument embodies all agreements existing between the MHA Nation and the

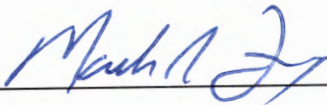
Attorneys and that no term, provision or condition of this Contract shall be held to be altered, amended, changed or waived in any respect except by written endorsement attached hereto.

14. Contract Authorization of Tribes. This Contract has been duly authorized by the Business Council of the Three Affiliated Tribes as set forth in Resolution No. 16-\_\_-FWF of the Mandan, Hidatsa, and Arikara Nation, attached hereto and incorporated herein, and the Chairman of the Tribes is duly authorized to sign this Contract and to legally bind the Tribes in accordance with its terms.
  
15. Tribal Political Activity. The Attorneys agree to refrain from engaging in political activity during the term of the Contract and for an additional term not to exceed one calendar year from termination of this Contract. Tribal Political Activity shall be defined as:
  - Any activity in support or, within or in opposition of a candidate for elected tribal leadership or any political group organized for specific tribal issues or individuals;
  - Any activity in support of or in opposition to a candidate before or during a tribal election period; or
  - Seeking nomination as, or being a candidate in a tribal election before or during the tribal election period.

Dated this 16 day of December, 2016.

MANDAN, HIDATSA & ARIKARA NATION

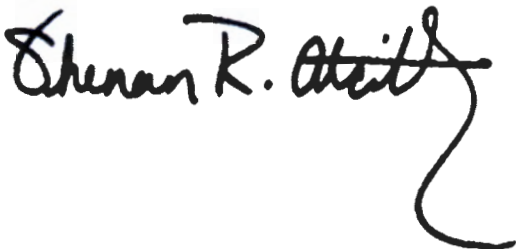
Mark N. Fox, Chairman



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ATCITY & VAN NORMAN LAW, Attorneys

Shenan R. Atcity, Esq.,





**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 14<sup>th</sup> day of December, 2016, 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 [ X ] Voting. [ ] Not Voting.

Dated this 14<sup>th</sup> day of December, 2016.

**ATTEST:**

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Tribal Secretary, Fred W. Fox  
Tribal Business Council

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Tribal Chairman, Mark N. Fox  
Tribal Business Council