



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

***A Resolution Entitled, "Approving Contracts and Additional Funding for Four Bears Water Park in New Town, North Dakota"***

**WHEREAS,** The Mandan Hidatsa and Arikara Nation ("Nation" or "Tribes") 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 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 Tribes and of the enrolled members thereof; and

**WHEREAS,** Article III, Section 1 of the Constitution of the Nation provides that the Tribal Business Council is the governing body of the Tribes; 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 determined it beneficial to develop a water park in the Four Bears Peninsula area, New Town, North Dakota, with slide features, lazy river, zero-depth pool, and related amenities, for the use and enjoyment by the citizens and to promote the health and economic development of the Tribe and its members; and

**WHEREAS,** The Tribal Business Council, on October 11, 2017, approved the development and construction of the water park in the Four Bears peninsula area and authorized the appropriation of funds therefore not to exceed \$6.7 million by way of Resolution No. 17-264-FWF;

**WHEREAS,** The Tribe engaged in open bidding with respective general contractors for the work to be conducted in the site development, building and construction of the Project; and

**WHEREAS,** Based upon all bids received, Strata Corporation had presented as the low bidder with a proposed bid price of \$4,345,000.00 for their services in the site and building construction of the Project; and



**WHEREAS,** The Tribe engaged in open bidding with respective design builders for the design and build of the pools and waterslides for the Project; and

**WHEREAS,** Based upon the bids received, Associated Pool Builders, Inc. had presented as the low bidder with a proposed bid price of \$2,210,126.00 for their services in the design and build of the pools and waterslides for the Project; and

**WHEREAS,** On November 15, 2017, the Tribal Business Council had reviewed and approved the Standard Form of Agreement between Owner and Contractor with Strata Corporation, and the Standard Form of Agreement between Owner and Design-Builder with Associated Pool Builders, Inc., subject to both contracts not exceeding \$6.5 million; and

**WHEREAS,** Due to winter conditions and changes to the design of the Project, additional costs have been incurred; and

**WHEREAS,** On February 8, 2018, Associated Pool Builders, Inc. submitted a change order due to winter shelter required over the River area construction, which resulted in an additional \$75,179.07 to the contract price, hereby attached as **Exhibit A** of this Resolution is a copy of the Change Order; and

**WHEREAS,** On March 12, 2018, Strata Corporation submitted a change order due to revisions to the IFC and Pump House and repairs for non-located utilities, which resulted in an additional \$274,405.75 to the contract price, hereby attached as **Exhibit B**, of this Resolution is a copy of the Change Order; and

**WHEREAS,** Strata Corporation also incurred cold weather costs in the amount of \$114,844.00, hereby attached as **Exhibit C** of this Resolution is a copy of the Change Order; and

**WHEREAS,** The Tribal Business Council has reviewed the Change Orders from Strata Corporation and Associated Pool Builders, Inc., and finds it acceptable; and

**WHEREAS,** The Tribal Business Council has determined the additional costs are acceptable and authorizes the appropriation of additional funds for the construction of this Project.

**NOW THEREFORE BE IT RESOLVED,** the Standard Form of Agreement between Owner and Contractor with Strata Corporation, and the Standard Form of Agreement between Owner and Design-Builder with Associated Pool Builders, Inc. submitted to the Tribal Business Council on November 15, 2017 is hereby approved in the amounts of \$4,345,000.00 and \$2,210,126.00 respectively.

**BE IT FURTHER RESOLVED,** the Tribal Business Council of the Three Affiliated Tribes hereby approves the Change Order from Strata Corporation submitted on March 12, 2018, substantially in the form attached hereto and incorporated herein by reference.





**BE IT FURTHER RESOLVED**, the Tribal Business Council of the Three Affiliated Tribes hereby approves the Change Order from Associated Pool Builders, Inc. submitted on February 8, 2018, substantially in the form attached hereto and incorporated herein by reference.

**BE IT FURTHER RESOLVED**, the Tribal Business Council authorizes the appropriation of additional funds for the Water Park Project, in the amount of \$500,000.

**BE IT FINALLY RESOLVED**, the Tribal Chairman is hereby authorized to execute the Change Orders with Strata Corporation and Associated Pool Builders, Inc. and to take such action as is necessary to carry out the terms and intent of this Resolution.

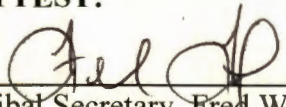
### CERTIFICATION

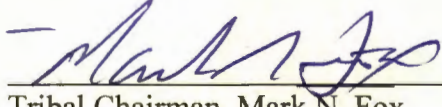
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 7 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 12<sup>th</sup> day of April 2018; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 1 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [ X ] voting. [ ] not voting.

Dated this 12<sup>th</sup> day of April, 2018.

**ATTEST:**

  
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Tribal Secretary, Fred W. Fox  
Tribal Business Council  
Three Affiliated Tribes

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