



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

**A Resolution entitled, *“Consent to Approval of a Right-of-Way across Tribal Land for the Arrow Station #1 Project Submitted by McKenzie Electric Cooperative, Inc.”***

**WHEREAS,** This Nation having accepted the Indian Reorganization Act of June 18, 1934, the authority under said Act, and having adopted a Constitution and By-laws under said Act, and

**WHEREAS,** Pursuant to Article III, Section 1 of the Constitution and By-Laws of the Three Affiliated Tribes, the Tribal Business Council is the governing body of the Tribes; and

**WHEREAS,** Pursuant to Article VI, Section 5(1) of said Constitution, the Tribal Business Council has the power to adopt resolutions regulating the procedures of the Tribal Council, its Agencies and Officials; and

**WHEREAS,** Article IX Sections 1 and 3 of the Constitution provides that the Tribal Business Council has the authority to manage and lease or otherwise deal with tribal lands and resources; and

**WHEREAS,** Leases and Rights-of-Way (“ROWS”) across Tribal Trust land require the consent of the Tribal Business Council pursuant to federal and Tribal Law; and

**WHEREAS,** Applications for Rights-of-Way (“ROWS”) on Tribal Land are subject to the requirements of tribal law, including Resolution No. 17-117-FWF, Resolution No. 14-071-VJB (MHA Nation Application for Rights-of-Way and Use of Right-of-Way), Resolution No. 14-089-VJB (MHA Nation Pipeline Right-of-Way Terms and Conditions), and Resolution No. 15-045-LKH (Establishing a Procedure for the Approval of Leases, Rights-of-Way, Setback Variances and Permissions to Survey on Tribal Land); and

**WHEREAS,** The MHA Nation and McKenzie Electric Cooperative, Inc. (“McKenzie Electric”) executed a “Public Utility Right-of-Way Consent Terms and Conditions” agreement effective January 1, 2016, governing McKenzie Electric’s construction, operation, maintenance, modification, rebuilding, or removal of electrical and distribution lines and associated facilities on the Fort Berthold Indian Reservation, and said agreement contains specified compensation terms; and



**WHEREAS,** On September 27, 2018, McKenzie Electric submitted a ROW application for the Arrow Station #1 Project, to construct an underground power line to supply electricity connect to Arrow Station #1, across 1.12 total disturbed acres in Allotment 706A-B (32.38% Tribal interest) in Section 4, Township 149 North, Range 94 West, in McKenzie County, North Dakota as more particularly described in Appendix A.1.; and

**WHEREAS,** The ROW application, submitted by McKenzie Electric Cooperative for the Arrow Station #1 Project, described above, has been reviewed and recommended for approval by the MHA Natural Resources Department and the MHA Nation Energy Division in accordance with the MHA Nation's approved procedure for authorizing ROWs on Tribal Land; and

**WHEREAS,** In accordance with Public Utility Right-Of-Way Consent Terms and Conditions executed by the MHA Nation and McKenzie Electric, the projected compensation to the MHA Nation for this ROW application is their proportionate share of \$829.36; and

**WHEREAS,** On November 13, 2018, at a duly held meeting of the Natural Resources Committee ("NRC"), the MHA Nation Energy Division recommended for approval of McKenzie Electric's ROW application and consent request for the Arrow Station #1 Project, more fully described herein, and in the attached Appendix A.1., and the NRC approved McKenzie Electric's application and forwarded it to the Tribal Business Council for final action.

**NOW THEREFORE BE IT RESOLVED,** Subject to McKenzie Electric Cooperative's agreement to the execution of the MHA Right-of-Way Application and Terms and Conditions, as listed therein, and payment of applicable ROW fees, the Tribal Business Council hereby approves the following ROW application, attached as Appendix A.1, and ROW consent as follows:

- McKenzie Electric Cooperative, Inc. – Arrow Station #1 Project, to construct an underground power line to supply electricity connect to Arrow Station #1, across 1.12 total disturbed acres in Allotment 706A-B (32.38% Tribal interest) in Section 4, Township 149 North, Range 94 West, in (McKenzie) County, North Dakota; and

**BE IT FURTHER RESOLVED,** In accordance with the MHA Nation Standard Terms and Conditions for Right-of-Ways, the ROW for the Arrow Station #1 Project will be subject to a thirty (30) year term, from the date of the BIA's execution of the grant of the ROW for said project; and

**BE IT FURTHER RESOLVED,** The Tribal Business Council consents to the estimated compensation for this ROW application in the amount of \$829.36, which is



calculated pursuant to the Public Utility Right-Of-Way Consent Terms and Conditions executed by the MHA Nation and McKenzie Electric; and

**BE IT FURTHER RESOLVED,** In accordance with governing MHA Nation law and policy as well as applicable federal ROW regulations, all ROW grantees must obtain the prior written approval from the MHA Nation before assigning any ROW that contains any Tribal interest, and therefore, the Tribal Business Council does not pre-consent to an assignment of the ROW for the Arrow Station #1 Project submitted by McKenzie Electric; and

**BE IT FURTHER RESOLVED,** The Tribal Business Council does not consent to waive any bond, insurance, or alternative form of security; and

**BE IT FURTHER RESOLVED,** The Public Utility Right-of-Way Consent Terms and Conditions, executed by McKenzie Electric and the MHA Nation, constitute a written agreement as part of the MHA Nation's consent to the grant of the ROW, and therefore, as provided in 25 CFR §169.107(a), the Tribal Business Council requests Bureau of Indian Affairs to incorporate these terms and conditions into the ROW grant for the Arrow Station #1 Project; and

**BE IT FURTHER RESOLVED,** The Tribal Business Council retains the authority, as well as the delegation of authority to the MHA Nation Energy Division and other Tribal departments, to issue fines and set conditions to address and resolve ROW trespass, abandonment, non-use, and other violations, including violations of applicable MHA Nation Standard ROW Terms and Conditions, and further requests the Bureau of Indian Affairs to defer to these remedies, in accordance with the intent and notice provisions in 25 CFR §169.403(a); and

**BE IT FINALLY RESOLVED,** That the Chairman is hereby authorized to execute such documents and take such further actions as are necessary to carry out the terms and intent of this Resolution.

*(SIGNATURE PAGE TO FOLLOW)*



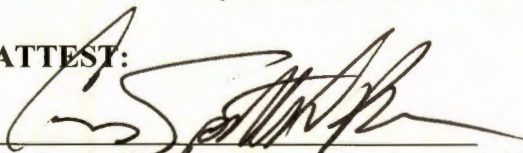
**CERTIFICATION**

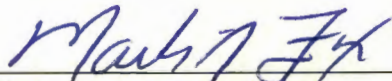
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 6 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 20<sup>th</sup> day of December 2018, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 2 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [ ] Voting. [ X ] Not Voting.

Dated this 20<sup>th</sup> day of December, 2018.

ATTEST:

  
Acting Tribal Secretary, Cory Spotted Bear  
Tribal Business Council

  
Chairman, Mark N. Fox  
Tribal Business Council

**APPENDIX A.1**

< Attach: (1) Application Form, (2) Approval Form signed by Department Head and Chairman of NRC per Resolution 15-045-LKH, (3) signed ROW terms and Conditions per Resolution No. 14-089-VJB, (4) map, and (5) other necessary information >