



**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  
Strings South Project Submitted by Enerplus Resources (USA) Corporation."*

**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. 13-109-VJB (Establishing Standardized Minimum Rates for Oil and Gas Lease Bonus, Royalties and Road and Pipeline Easements), 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), Resolution No. 17-117-FWF (Approval of Fee Structure), and Resolution No. 18-212-FWF (Amending Fee Structure); and

**WHEREAS,** On February 21, 2019, Enerplus Resources (USA) Corporation ("Enerplus") submitted a ROW application for a Well Site and Multi Use Access Corridor (Assignability of Utilities ROW to McKenzie Electric Cooperative, Inc.) across certain tribal tracts, including Allotment 709A (75% Tribal Interest), in Section 3 Township 149 North, Range 94 West, in McKenzie County, North Dakota as more particularly described in Appendix A.1.; and



**WHEREAS,** The ROW for this application consists of 17.568 total disturbed acres, encompassing 7.941 acres for a well pad, and 9.627 acres for the multi-use access corridor; and

**WHEREAS,** Pursuant to fees established and set forth in Resolution No. 18-212-FWF, the projected compensation to the MHA Nation for this ROW application is \$62,270.88, in addition to the one-time application fee; and

**WHEREAS,** Enerplus's ROW application and consent request for the Strings South Project also includes a request to assign utilities ROW to McKenzie Electric Cooperative, Inc.; and

**WHEREAS,** The MHA Nation's processing fee for this ROW assignment application is \$3,500.00; and

**WHEREAS,** The ROW application, submitted by Enerplus for the Strings South Project, described above, has been reviewed and recommended for approval by the MHA Nation Energy Division in accordance with the MHA Nation's approved procedure for authorizing ROWs on Tribal Land; and

**WHEREAS,** The MHA Nation's processing fee for this ROW assignment application is \$3,500.00; and

**WHEREAS,** On April 17, 2019, at a duly held meeting of the Energy Committee ("EC"), the MHA Nation Energy Division recommended approval of Enerplus's ROW application and consent request for the Strings South Project, including the Enerplus's request for the MHA Nation's consent to assign the utilities ROW for this project to McKenzie Electric Cooperative, Inc., and the EC approved Enerplus's application and assignment request and forwarded it to the Tribal Business Council for final action.

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

- Enerplus Resources (USA) Corporation – The Strings South Project, for a Well Site and Multi Use Access Corridor across certain tribal tracts, including Allotment 709A (75% Tribal Interest), in Section 3 Township 149 North, Range 94 West, in McKenzie County, North Dakota.



**BE IT FURTHER RESOLVED,** In accordance with the MHA Nation Standard Terms and Conditions for Right-of-Ways, the ROW for the Strings South Project will be subject to a twenty (20) year term, from the date of the BIA's execution of the grant of the ROW for said project.

**BE IT FURTHER RESOLVED,** The Tribal Business Council consents to the estimated compensation to the MHA Nation for this ROW application in the amount of \$62,770.88, in addition to the one-time application fee, which is based on the MHA Nation ROW compensation and application fees established and set forth in Resolution No. 18-212-FWF.

**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 Strings South Project, other than what's expressly authorized by this Resolution.

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

**NOW THEREFORE BE IT RESOLVED,** Subject to Enerplus Resources (USA) Corporation Company agreement to the execution of the MHA Right-of-Way Application and Terms and Conditions, as listed therein, and payment of ROW fees, the Tribal Business Council hereby approves Enerplus Resources (USA) Corporation Company's request for the MHA Nation to consent to the assignment to McKenzie Electric of the Utilities ROW for the Strings South Project.

**BE IT FURTHER RESOLVED,** That the MHA Nation's consent to Enerplus's assignment of the Utilities ROW for the Strings South Project to McKenzie Electric is subject to McKenzie Electric's agreement to the execution of the MHA Right-of-Way application and Right-of-Way Terms and Conditions, and Enerplus's payment of the MHA Nation's ROW assignment fee of \$3,500.00.

**BE IT FURTHER RESOLVED,** In accordance with the MHA Nation Standard Terms and Conditions for Right-of-Ways, the assignment of the Utilities ROW for the Strings South Project will be subject to a twenty (20) year term, from the date of the BIA's execution of the grant of the ROW for said project.

**BE IT FURTHER RESOLVED,** The MHA Nation's consent to an assignment of Utilities ROW to McKenzie Electric, described above, is subject to the MHA Nation Standard Terms and Conditions for Right-of-Ways, which constitutes 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 any assignment of the Utilities ROW for the Strings South Project.

**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).

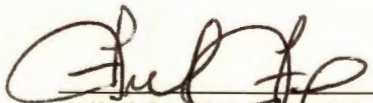
**BE IT FINALLY RESOLVED,** That the Chairman is hereby authorized to execute such documents and take such further actions as are necessary to carry out the terms and intent of this Resolution.

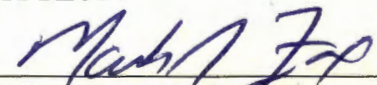
**CERTIFICATION**

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 9<sup>th</sup> day of May, 2019, 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  Voting.  Not Voting.

Dated this 9<sup>th</sup> day of May, 2019.

  
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Tribal Secretary Fred Fox  
Tribal Business Council  
Three Affiliated Tribes

**ATTEST:**  
  
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Tribal Chairman Mark Fox  
Tribal Business Council  
Three Affiliated Tribes



**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 >