



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

A Resolution entitled, "Amending Resolution 18-159-FWF to Correct Errors in a Consent to Approval of a Right-of-Way across Tribal land for the Mandaree Water Intake Line Rebuild 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, There were transcription errors in Resolution 18-159-FWF in that the Section referenced in Allotment 1083A should have been "Section 34" not "Section 33," the Section referenced in Allotment T1725 should have been "Section 25" not "Section 36," and the Section referenced in Allotment T5201 should have been "Section 19" not "Section 33." This Resolution corrects those errors and retains the effective date of Resolution 18-159-FWF; 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, 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, McKenzie Electric Cooperative Inc. submitted a ROW application for the Mandaree Water Intake Line Rebuild Project for an electrical Right-of-Way, across certain tribal tracts in Allotments listed below, all located in McKenzie County, North Dakota as more particularly described in Appendix A.1.:

- T664A (100% Tribal Interest), in Section 33 Township 150 North, Range 94;
- 1083A (0.8571759259 Tribal Interest), in Section 34 Township 150 North, Range 94;
- 1082A (0.6934027778 Tribal Interest), in Section 35 Township 150 North, Range 94;
- T1788 (100% Tribal Interest), in Section 36 Township 150 North, Range 94;
- T1725 (100% Tribal Interest), in Section 25 Township 150 North, Range 94;
- 1724 (0.5642857143 Tribal Interest), in Section 24 Township 150 North, Range 94;
- T751A (100% Tribal Interest), in Section 19 & 30 Township 150 North, Range 93;
- T5201 (100% Tribal Interest), in Section 19 Township 150 North, Range 93;

WHEREAS, The ROW application, submitted by McKenzie Electric Cooperative Inc. for the Mandaree Water Intake Line Rebuild 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, The projected compensation to the MHA Nation for this ROW application is their proportionate share of \$33,319.85; and



WHEREAS, On May 2, 2018 at a duly held meeting of the Natural Resources Committee (“NRC”), the MHA Nation Energy Division recommended for approval of McKenzie Electric Cooperative Inc. ROW application and consent request for the Mandan North Pad Project, more fully described herein, and in the attached Appendix A.1., and the NRC approved McKenzie Electric Cooperative Inc.’s application and forwarded it to the Tribal Business Council for final action.

NOW THEREFORE BE IT RESOLVED, Subject to McKenzie Electric Cooperative Inc. 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:

- T664A (100% Tribal Interest), in Section 33 Township 150 North, Range 94;
- 1083A (0.8571759259 Tribal Interest), in Section 34 Township 150 North, Range 94;
- 1082A (0.6934027778 Tribal Interest), in Section 35 Township 150 North, Range 94;
- T1788 (100% Tribal Interest), in Section 36 Township 150 North, Range 94;
- T1725 (100% Tribal Interest), in Section 25 Township 150 North, Range 94;
- 1724 (0.5642857143 Tribal Interest), in Section 24 Township 150 North, Range 94;
- T751A (100% Tribal Interest), in Section 19 & 30 Township 150 North, Range 93;
- T5201 (100% Tribal Interest), in Section 19 Township 150 North, Range 93;

BE IT FURTHER RESOLVED, In accordance with the MHA Nation Standard Terms and Conditions for Right-of-Ways, the ROW for the Mandaree Water Intake Line

Rebuild 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 Standard Terms and Conditions for Right-of-Ways, executed by McKenzie Electric Cooperative Inc. and the MHA Nation



Energy Division, 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 the ROW grant for the Mandaree Water Intake Line Rebuild.

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 FURTHER RESOLVED, That this Resolution amends Resolution 18-159-FWF as stated above and retains the effective date of Resolution 18-159-FWF.

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 12th day of September, 2019, 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 Voting. Not Voting.

Dated this 12th day of September, 2019.

ATTEST:

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

Chairman, Mark N. 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 >

APPENDIX A.2

<Attach same information listed in Appendix A.1 for Each separate Applicant >

REPEAT AS NEEDED FOR EACH APPLICANT, LISTING APPENDIX A.3, A.4, ETC.ON SEPARATE PAGES WITH ATTACHMENTS