



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

*A Resolution entitled, "Consent to Grant of Right-of-Way across Tribal lands for the Mandan USA CTB Project Submitted by Marathon Oil Company."*

**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 (or "Tribes), the Tribal Business Council is the governing body of the Tribes; and

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

**WHEREAS,** Pursuant to Article IX, Sections 1 and 3 of the Constitution, 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 lands 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 Rights-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 September 19, 2019, Marathon Oil Company ("Marathon") submitted a ROW application and consent request for the Mandan USA CTB Project to construct, install, operate, maintain, and manage i) a central tank battery site, ii) an access road, iii) a utility and multiuse corridor for construction, fiber optic cables, electrical lines and appurtenances, snow removal, and maintenance, and iv) up to four (4) flowlines for oil, gas, produced water, fresh water, and/or any other related



products, in, on, over, and across Tribal Tract No. T2195 (100% Tribal interest), in the N½ of Section 22, Township 151 North, Range 94 West, 5th P.M., McKenzie County, ND, as more particularly described in Appendix A.1.; and

**WHEREAS,** The ROW for this application consists of 9.00 acres for fenced-in central tank battery site, 0.39 acres for an access road and utility and multiuse corridor, and 0.54 acres for permanent acres for flowlines and 1.26 acres for temporary construction; and

**WHEREAS,** Marathon's ROW application and consent request for the Mandan USA CTB Project also includes a request to assign to McKenzie Electric Cooperative, Inc., the ROW for the utilities for the Mandan USA CTB Project; and

**WHEREAS,** The ROW application submitted by Marathon for the Mandan USA CTB Project, described above, has been reviewed and recommended for approval by the MHA Natural Resources Department and the MHA Energy Division in accordance with the MHA Nation's approved procedure for authorizing ROWs on Tribal lands; 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 \$32,755.00, in addition to the one-time application fee and an annual rental fee of \$1,080.00 starting on the first anniversary of the Grant of Easement for the term of said grant; and

**WHEREAS,** On October 7, 2019, at a duly held meeting of the Energy Committee, the MHA Energy Division recommended approval of Marathon's ROW application and consent request for the Mandan USA CTB Project, more fully described herein and in the attached Appendix A.1., and Marathon's request to assign to McKenzie Electric Cooperative, Inc. the ROW for the utilities for the Mandan USA CTB Project, and the Energy Committee approved Marathon's application and forwarded it to the Tribal Business Council for final action.

**NOW THEREFORE BE IT RESOLVED,** Subject to Marathon's agreement to the execution of the MHA Rights-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 consent request, as follows:

- Marathon Oil Company – Mandan USA CTB Project to construct, install, operate, maintain, and manage i) a central tank battery site, ii) an access road, iii) a utility and multiuse corridor for construction, fiber optic cables, electrical lines and appurtenances (assignable to McKenzie Electric Cooperative), snow removal, and maintenance, and iv) up to four (4) flowlines for oil, gas, produced water, fresh



water, and/or any other related products, in, on, over, and across Tribal Tract No. T2195 (100% Tribal interest), in the N½ of Section 22, Township 151 North, Range 94 West, 5th P.M., McKenzie County, ND, for a fenced-in central tank battery site of 9.00 acres, access road and utility and multiuse corridor of 0.39 acres, and flowlines of 0.54 permanent acres and 1.26 temporary construction acres.

**BE IT FURTHER RESOLVED**, In accordance with the MHA Nation Standard Terms and Conditions for Rights-of-Way, the ROW for the Mandan USA CTB Project will be subject to a term of twenty (20) years.

**BE IT FURTHER RESOLVED**, The Tribal Business Council consents to the estimated compensation for the ROW application for the Mandan USA CTB Project in the amount of \$32,755.00 and \$1,080.00 for the annual rental, which is based on the MHA Nation ROW compensation and application fees established by and set forth in Resolution No. 18-212-FWF.

**BE IT FURTHER RESOLVED**, The Tribal Business Council approves Marathon Oil Company's request for the consent of the MHA Nation to assign to McKenzie Electric Cooperative, Inc., the utilities ROW for the Mandan USA CTB Project, provided that Marathon remits payment of the MHA Nation's \$3,500.00 assignment processing fee within fifteen (15) days of the passage of the Resolution, and provided further, that McKenzie Electric executes the MHA standard terms and conditions for this ROW application and consent request and agrees to payment of the annual rental fee for the term of this ROW for the Mandan USA CTB Project.

**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 any further assignment of the ROW for the Mandan USA CTB Project.

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

**BE IT FURTHER RESOLVED**, The MHA Nation Standard Terms and Conditions for Rights-of-Way, executed by Marathon Oil Company and the MHA Nation Energy Division, 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 the Bureau of Indian Affairs to incorporate these terms and conditions into the ROW grant for the Mandan USA CTB Project.

**BE IT FURTHER RESOLVED**, The Tribal Business Council retains the authority, as well as the delegation of authority to the MHA 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 10th day of October, 2019, 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 10<sup>th</sup> day of October, 2019.

**ATTEST:**

  
Tribal Secretary, Fred W. Fox  
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 No. 15-045-LKH, (3) signed ROW Terms and Conditions per Resolution No. 14-089-VJB, (4) map, and (5) other necessary information >