



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

*A Resolution entitled, "Amending Resolution No. 19-028-FWF to Update the Right-of-Way Application and Consent Request for the Whales Loop 3 Project Submitted by Targa Badlands LLC."*

- 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, also known as the Mandan, Hidatsa, and Arikara Nation ("Tribes" or "MHA Nation"), 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 provide 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 14, 2019 the Tribal Business Council passed Resolution No. 19-028-FWF, entitled, "*Consent to Approval of Right-of-Way across Tribal land for the Whales Loop 3 Project Submitted by Targa Badlands LLC*"; and



**WHEREAS,** Subsequent to passage of Resolution No. 19-028-FWF, the routing for the previously approved pipelines ROW changed, but the Bureau of Indian Affairs has not yet granted an easement for the Whales Loop 3 Project; and

**WHEREAS,** On October 30, 2019, Targa Badlands LLC submitted a request to amend Resolution No. 19-028-FWF regarding routing change for the Whales Loop 3 Project, and filed an updated ROW application and consent request for the Whales Loop 3 Project, for a one-hundred (100) foot wide easement consisting of a seventy (70) foot wide temporary easement, plus additional temporary workspace areas, for the construction, maintenance, and repair, for up to four (4) oil and/or gas pipelines up to sixteen inches (16”) in diameter for constructing, reconstructing, operating, maintaining, installing gates, inspecting, repairing, replacing, changing the size of, re-laying, or removing pipelines together with such valves, fittings, meters, corrosion control devices, wires, cables, electronic telemetry, communications equipment, pipelines operating control devices, and other equipment and appurtenances, (referred to collectively as “above ground appurtenances”), and then reverting to a 30 foot wide permanent easement; a one-hundred (100) foot by one-hundred (100) foot Surface Site, consisting of 0.23 acres; and multiple access roads as may be necessary or convenient for the gathering and transportation by pipelines of oil, gas, condensate, natural gas liquids, petroleum, or any products or byproducts thereof, other liquids and gases and mixtures of any of the foregoing, together with all other rights necessary and convenient of the enjoyment of the rights, privileges across certain Tribal tracts in Allotment No. 866A (10.27% Tribal interest) in Section 5, Township 148 North, Range 93 West; Allotment No. 865A-A (5.13% Tribal interest) in Section 5, Township 148 North, Range 93 West; Tribal Tract No. T1799-E (100% Tribal interest) in Section 4, Township 148 North, Range 93 West; and Tribal Tract No. T1799-F (100% Tribal interest) in Section 4, Township 148 North, Range 93 West, all in Dunn County, North Dakota as more particularly described in Appendix A.1.; and

**WHEREAS,** The ROW for this application consists of 34.34 total disturbed acres, encompassing 17.68 acres for pipelines (5.38 permanent acres and 12.3 temporary acres), 2.91 acres for access road(s), 0.23 acres for surface site, and 13.52 acres for additional temporary work space; 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 \$20,469.16, in addition to the one-time application fee and an annual rental fee for the pipeline ROWs starting on the first anniversary of the Grant of Easement for the term of said grant; and



**WHEREAS,** The ROW application and consent request, submitted by Targa Badlands LLC for the Whales Loop 3 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,** On November 6, 2019, at a duly held meeting of the Energy Committee ("EC"), the MHA Nation Energy Division recommended approval of Targa Badlands LLC's ROW application and consent request for the Whales Loop 3 Project, more fully described herein, and in the attached Appendix A.1., and the EC approved Targa Badlands LLC's application and forwarded it to the Tribal Business Council for final action.

**NOW THEREFORE BE IT RESOLVED,** Subject to Targa Badlands LLC'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 updated ROW application, attached as Appendix A.1, and ROW consent, as follows:

- Targa Badlands LLC – The Whales Loop 3 Project, to construct up to four (4) oil and gas pipelines up to sixteen inches (16") in diameter, surface sites and permanent access roads on an easement, across certain Tribal tracts in Allotment No. 866A (10.27% Tribal interest) in Section 5, Township 148 North, Range 93 West; Allotment No. 865A-A (5.13% Tribal interest) in Section 5, Township 148 North, Range 93 West; Tribal Tract No. T1799-E (100% Tribal interest) in Section 4, Township 148 North, Range 93 West; and Tribal Tract No. T1799-F (100% Tribal interest) in Section 4, Township 148 North, Range 93 West, all in Dunn 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 TAT Pipeline Project will be subject to a twenty (20) year term, from the date of the MHA Nation'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 \$20,469.16, in addition to the one-time application fee and an annual rental fee for the pipeline ROWs starting on the first anniversary of the Grant of Easement for the term of said grant, 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, 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 Whales Loop 3 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 Right-of-Ways, executed by Targa Badlands LLC and the MHA Nation Energy Division, constitutes a written agreement as part of the MHA Nation's consent to the grant of the ROW, 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 Whales Loop 3 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 FURTHER RESOLVED,** That Resolution No. 19-028-FWF is hereby amended consistent with the updated ROW parameters for the Whales Loop 3 Project, approved by this Resolution.

**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.



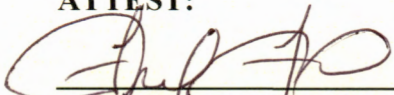
### CERTIFICATION

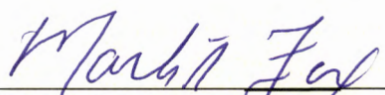
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 7 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 19<sup>th</sup> day of December 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 [ X ] voting. [ ] not voting.

Dated this 19<sup>th</sup> day of December, 2019.

**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



### APPENDIX A.1

For a pipeline easement that shall allow for the installation of up to four (4) oil and/or gas pipelines, up to sixteen inches (16") in diameter, and associated above and below ground appurtenances, associated infrastructure, and pipeline markers as required by law.

< 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 >