

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

- WHEREAS,** This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and
- WHEREAS,** The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and
- WHEREAS,** The sewage lagoon serving the communities of the Four Bears segment, as well as other facilities on the Four Bears Peninsula, including the Four Bears Casino and Lodge, is badly in need of expansion and relocation; and
- WHEREAS,** The Tribal Business Council has already passed Resolution No. 97-124-DSB, which approved the submission of a pre-application for a grant and loan from the Rural Utilities Service, through the Rural Development arm of the United States Department of Agriculture, to obtain the funds needed for the project in the approximate amount of \$1,300,000; and
- WHEREAS,** The Three Affiliated Tribes has now been invited by Rural Development to submit an Application for the funds needed for the sewage lagoon project; which may be available as early as the fall of 1997; and
- WHEREAS,** As part of the Application process, the Tribe, as the applicant, is required by Rural Development to approve various contracts for legal and engineering services to allow the Application to go forward; and
- WHEREAS,** The contracts needed, and the resolution which Rural Development requires to be executed are attached hereto; and
- WHEREAS,** The engineering contract is with High Plains Consortium, Inc., and the legal services contract is with the Tribe's own legal department, so that the legal costs of having a staff attorney do the legal work can be reimbursed to the Tribe from the grant as awarded to the Tribe, it being understood that the staff attorneys who work on the project receive no additional compensation; and
- WHEREAS,** Both High Plains Consortium, Inc. and the Tribal legal department are qualified to do the work outlined in their contracts;
- NOW, THEREFORE, BE IT RESOLVED,** that the Tribal Business Council of the Three Affiliated Tribes hereby authorizes the Tribal Chairman and the Tribal Treasurer to execute the Resolution approving the Legal and Engineering contracts necessary for the sewage lagoon expansion project for the Four Bears segment to go forward, and further, authorizes the Tribal Chairman and the Tribal Treasurer

LEGAL SERVICE AGREEMENT

This agreement made this 21st day of July, 1997, between Three Affiliated Tribes, hereinafter called "Owner", and Thomas M. Disselhorst, Christopher Attorney at Law, of New Town, North Dakota, hereinafter called "Attorney", D. Quale, P. Diane Ave
WITNESSETH:

SECTION A - LEGAL SERVICES

"Whereas, the Owner is planning on the construction of a Waste Water Treatment Plant to serve its residents and/or members and the Attorney agrees to perform all the legal services necessary to establish the legal existence of Owner under the laws of the State of North Dakota, and to perform all customary legal services necessary to the organization, financing, construction and initial operation of the facility constructed, such services to include, but not to be restricted to the following:

1. Search of appropriate records and references to appropriate statutes or other law to establish the legal existence of Owner, or if necessary, prepare and file petitions for incorporation.
2. Preparation for and furnish advice and assistance to the governing body and officers of Owner in connection with (a) the notice for and conduct of meetings; (b) the preparation of minutes of these meetings; (c) the preparation and enactment of such resolutions as may be necessary in connection with the authorization, financing, construction and initial operation of the facility; (d) preparation of such affidavits, publication notices, ballots, reports, certifications, and other instruments and advice as may be needed in the conduct of such elections as may be necessary; (e) the preparation and completion of such obligations as may be necessary to finance the facility; (f) the completion and execution of documents for obtaining a loan made or insured or a grant made by the United States of America; (g) entering into construction contracts; (h) adoption of By-Laws, Rules and Regulations and rate schedules; and (i) such other corporate action as may be necessary in connection with the financing, construction, and initial operation of the facility.
3. Review of construction contract, bid-letting procedure and surety and contractual bonds in connection therewith.
4. Preparation, negotiation, or review of contract with a city for other source of water supply, when necessary.

5. Preparation, where necessary, and review of deeds, easements and other right-of-way documents, and other instruments for sites for source of water supply, pumping stations, treatment plants, and other facilities necessary to the facility and to provide continuous right-of-way thereto; and providing for the recordation thereof.
6. Obtain necessary permits and certificates from county and municipal bodies, and from state regulatory agencies and from other public or private sources with respect to the approval of the facility, the construction and operation thereof, pipeline crossings and the like.
7. Cooperate with the engineer employed by owners in connection with preparation of tract sheets, easements, and other necessary title documents, construction contracts, water supply contracts, health permits, crossing permits, and other instruments.
8. Advice and assistance in the required assessment of benefits.
9. When applicable, secure assistance of and cooperate with recognized bond counsel in the preparation of the documents necessary for the financing aspects of the facility. Where bond counsel is retained, the Attorney will not be responsible for the preparation and approval of those documents pertaining to the issuance of the Owner's obligations.

SECTION B - COMPENSATION

1. Owners will pay to the Attorney for professional services rendered in accordance herewith fees as follows:
 - a. For all services enumerated in paragraphs A-1 through A-9, a fee to be based on conditions stated below.
\$90.00 per hour not to exceed \$ 3,000.00.
 - b. Additional compensation will be paid for necessary court appearances at the rate of \$250.00 per day.
 - c. In addition, the Owners will pay the Attorney for all out of pocket expenses he may advance for filing fees, court costs, and costs advanced in connection with necessary supplies incidental to and in connection with the administration of the loan, both during construction and the organization of the facility. The Attorney shall also be compensated for actual travel expenses when such travel is authorized by the Board of Directors in connection with duties which will take him away from the city residence overnight.

- d. Where it is necessary to cooperate with and engage certain recognized bond counsel in the preparation of documents necessary for the financing of the facility, the Attorney shall select and negotiate with such recognized bond counsel. The fee is to be paid by the Owners.

Said fees to be payable in the following manner and at the following times:

As funds are available, in monthly installments, based upon submission of a monthly progress statement to the Owners with a 20% retainage until final review by Rural Development is completed.

SECTION C - OTHER PROVISIONS

1. That upon organization and incorporation, or if properly organized, the Owner shall by appropriate resolution, adopt and ratify this Agreement, and that the Owners as individuals shall thereupon be relieved of all personal liability existing or arising from this Agreement.
2. If the Owners should not be granted the loan or should not obtain financing for said facility or for any reason fail to continue the facility outlined herein so that it will not be necessary for the Attorney to complete all of the work as outlined in this Agreement, the Owners shall become liable to the Attorney for sum equal to the amount of work he has accomplished on behalf of the Owners to the time it becomes apparent that said financing will not be available or the facility otherwise not be completed.
3. This amount shall be based upon the amount the Attorney has advanced for filing fees, court costs, and other out of pocket items, plus a sum equal to the total hours he has worked on said facility based upon an hourly rate stated above.

SECTION D - APPROVAL BY RURAL DEVELOPMENT

This Agreement shall not become effective until approved by Rural Development. Such approval shall be evidenced by the signature of a duly authorized representative of Rural Development in the space provided at the end of this Agreement. The Approval so evidenced by Rural Development shall in no way commit Rural Development to render financial assistance to the Owner, but in the event such assistance, is provided, the approval shall signify that the provisions of this Agreement are consistent with the requirements of Rural Development.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in four parts on the respective dates indicated below.

(SEAL)

OWNER:

By *[Signature]*

Type Name Russell D. Mason, Sr.

Title Chairman

Date 8/5/97

ATTEST:

Mark N. Fox
Type Name Mark N. Fox

(SEAL)

ATTORNEY:

By *[Signature]*
Type Name Thomas M. Disselhorst

Title Staff Attorney

Date 8-5-97

ATTEST:

Daylon Spotted Bear
Type Name Daylon Spotted Bear
Title Secretary
Tribal Business Council

APPROVED:
RURAL DEVELOPMENT

Date _____

By _____

Type Name _____

Title _____

ATTORNEY:

By *[Signature]*
Type Name P. Diane Avery

Title Staff Attorney

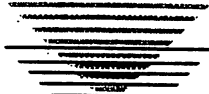
Date 8/05/97

ATTORNEY:

By *[Signature]*
Type Name Christopher D. Quale

Title Staff Attorney

Date 08/05/97



High Plains Consortium, Inc.

June 4, 1997

Mr. Paul Danks, GIS Coordinator
Oil & Gas Division
Three Affiliated Tribes
Fort Berthold Reservation
HC3 Box 2
New Town ND 58763-9402

Dear Paul:

RE: Proposal and Cost Estimate for Design Engineering phase.

As a result of our meeting last week at the Tribal Administration Offices regarding RDA and HUD funding needs, the project was judged to be at a point where a formal work proposal was requested by Mr. John Danks. Costs for this project were last revised April 5 in a letter to you. Although there have been several changes in the scope of work, including relating the site, we believe the Phase I Design Engineering and Construction costs of \$601,500 (estimated for planning purposes related to funding) to service Dragswolf and Bakersfield this year are still basically valid. The costs used for obtaining funding will be referenced hereafter and incorporated as part of this proposal. [The second phase of work involves completion of the master lift station and hookups for the remainder of the Casino area and site reclamation work in 1998 at a cost of \$800,000.]

In the past we have used the term 'Phase I' to refer to feasibility work. That work has been completed. Therefore, 'Phase I' will now refer to the 1997 design and construction services, and 'Phase II' to 1998 services needed to complete the project. For your review:

A. Total Project Breakdown [Reference document dated January 30, 1997.]

Construction Only	\$	957,000
Design Engineering		89,000
Design Support		10,000
Contingency/Tech. Assist.		<u>92,000</u>
TOTAL	\$	1,148,000

B. Phase I (1997) Breakdown [Reference document dated April 5, 1997.]

Lagoon system	\$	375,000
Dragswolf lift station mod.		15,000
Dragswolf station forcemain		30,000

Part of master lift station forcemain	60,000
Bakersfield lift station	96,000
Bakersfield forcemain	20,000
Contingency	<u>5,600</u>
TOTAL	\$ 601,600 *

(* Total includes bidding/basic construction services.)

C. Phase II Breakdown [Reference document dated April 5, 1997.]

Complete lagoon linings	
Complete wetland treatment	
Complete master lift station and piping	
Abandon/reclaim existing Four Bears lagoons	
Reclaim abandoned Dragswolf lagoon site	
TOTAL	\$ 800,000 **

(** Total includes bidding/basic construction engineering services.)

SCOPE OF WORK

Design Engineering and Technical Assistance Services

As requested, this document is a proposal and cost estimate for Design Engineering and Related Technical Services work on the new wastewater treatment lagoon system as outlined in (B) above. These are costs for HPC, and its subcontractors, to perform the design and support services described below. HPC and NCC estimated Phase I Design Engineering and Related Services at a cost of \$79,350.

Phase I 1997 (\$79,350)

- 1) Final engineering design including preparation of construction drawings and specifications, and assistance in obtaining bids and/or contract awards for major portions of the project (\$44,000)
(Does not include costs for a resident inspector for actual construction.)
- 2) Field elevation survey (\$5,000)
- 3) Soil borings at the lagoon site and along pipeline routes and lift stations (\$5,000)
- 4) Related technical assistance including overall project management services as required (\$24,350)

PROPOSED COST AND SCHEDULE

HPC will provide the Design Engineering and Technical Assistance services described above at a total cost of \$79,350. Phase I of the project focuses on the final engineering design and support services needed to be able to prepare for bidding and

construction. This work will begin upon formal authorization by Three Affiliated Tribes, with the goal of completion this season. This will require that the final engineering design be completed by August, followed by construction of items in (B) above, to be completed by November. The timing of this work will need to be reviewed again after the contract for this work has been finalized. Phase II of the project focuses on completing those elements listed above in (C), and would be completed in 1998. As that time approaches closer, a budget breakdown will be prepared that more accurately estimates the work required and associated costs.

This cost estimate covers costs incurred for travel expenses, out-of-pocket expenses, and professional fees for field and office labor. Costs will not be exceeded by more than ten percent (10%) without your express written authorization. This proposal is effective for thirty (30) days. If not authorized within that time, we reserve the right to revise the estimate.

This proposal is presented in duplicate. Should the terms be acceptable, please sign both copies and return one to our office. This proposal, in conjunction with the attached General Conditions, would serve as our contract.

Thank you for the opportunity to continue to work with the Three Affiliated Tribes community toward the overall goal of meeting your needs with a new lagoon facility. If you have any questions, please contact me at (701) 795-1498 or (701) 255-6080.

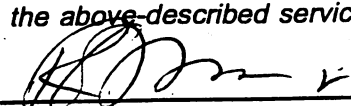
Sincerely,



for

Ray Butler
Senior Project Manager

Attachment: General Conditions

<i>I authorize the above-described services in accordance with the attached General Conditions.</i>	
Signed: 	Dated: <u>8/5/97</u>
Title: <u>Chairman, Tribal Business</u>	Council Phone: <u>(701)627-4781</u>

**HIGH PLAINS CONSORTIUM, INC.,
GENERAL CONDITIONS**

These General Conditions are used by The High Plains Consortium, Inc. The words "we," "us," and "our" refer to this Consortium with which you are contracting. "You" are our client. Our agreement with you is comprised of these General Conditions and the accompanying written proposal or confirmation of services.

SECTION 1: RESPONSIBILITIES

We agree to provide the professional services described in our written agreement with you. We will provide you with written reports containing professional opinions and recommendations regarding conformance of things tested or observed to established or agreed upon criteria. In performing our services, we will use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of our profession practicing in the same locality.

Tests and observations will be conducted using appropriate test procedures and laboratory protocols. Testing carries with it an inherent risk that samples or observations may not be representative of things not sampled or seen and, further, that conditions may change over time. If you direct the manner of taking samples or making observations or tests in number, type, location, depth, or in any other way that varies from our recommended procedures, you agree to hold us harmless from all claims, damages, and expenses arising out of your direction.

SURVEY-We will reference our field observations to available construction staking or other available reference points. Except as agreed in writing, we will not survey, set, or check the accuracy of those points except as is accepted in writing.

SUPERVISION -Our duties do not include supervising your contractors or commenting on, overseeing, or providing the means and methods of their work, unless we agree in writing to accept such duties. We will not be responsible for the failure of your contractors to perform in accordance with their undertakings, and the providing of our services shall in no way relieve others of their responsibilities to you or to others.

HEALTH AND SAFETY - We will provide a health and safety program for our employees, but we will not be responsible for contractor, job or site health or safety unless that duty is accepted in writing.

OTHER CONTRACTORS - You agree to include us as a beneficiary in any hold harmless or indemnity agreements between you and your contractors. Neither party will assign this agreement without the express written approval of the other.

DAMAGE TO THE SITE - You agree to provide us with access to the site. We will use reasonable care to minimize damage to the site. You understand that in the course of our work some damage to the site is normal even when due care is exercised. We have not included the cost of restoration of normal damage in the estimated charges. At your option and expense, we will correct normal damage. We agree to be responsible for damage beyond that which is normal and that is caused by our negligence.

BURIED OBJECTS - You agree to provide us, in a timely manner, with the information that you have regarding buried objects located at the work site. You agree to provide us with all your plans, changes in plans, and new information regarding site conditions. You agree to hold us harmless from all claims, damages, losses, and related expenses involving buried objects that you had knowledge of but did not timely call to our attention or correctly show on the plans furnished to us.

HAZARDOUS MATERIALS - You will notify us of any knowledge or suspicion of the presence of hazardous materials at the work site, and you will provide us with documents relating to hazardous wastes that may be there. If we observe or suspect the presence of hazardous materials, not anticipated in our agreement, we may terminate our work without liability to you or others, and we will be paid for the services, we have provided.

Neither this agreement nor the providing of service will serve to make us an owner, operator, generator, transporter, treater, storer, or a disposal facility within the meaning of the Resource Conservation Recovery Act, as amended, or within the meaning of any other law governing the handling, treatment, storage, or disposal of hazardous materials. You agree to hold us harmless and indemnify us from any such claim or loss that is not based on our negligence.

Drilling, well installation and remediation services involve an inherent risk of "cross-contamination" of previously uncontaminated air, soil and water. If you are requesting us to undertake work that includes this risk, you agree to hold us harmless and indemnify us from cross-contamination claims and damages, unless the loss is caused by our negligence.

All samples remaining after tests are conducted and field and laboratory equipment which cannot be adequately cleansed of hazardous materials remain your property. They will be discarded or returned to you, at our discretion, unless within 60 days of the report date you give written direction to store or transfer the materials, at your expense. We may charge a disposal fee.

SECTION 2: REPORTS AND RECORDS

We will retain copies of principal documents relating to the services performed for five years following transmittal of our final report.

RELEASE OF REPORTS - Our reports, notes, calculations, and other documents are instruments of our service to you. We agree to provide our reports for your use only for the purposes disclosed to us. You agree not to transfer our reports to others or to use them for a purpose for which they were not prepared without our written approval, which will not be unreasonably withheld. Upon your written request, we will provide endorsements to others of our reports or letters of reliance, but only if those others agree in writing to be bound by the conditions of our agreement and these General Conditions in full and only if we are paid the administration fee set forth in our then current Schedule of Charges.

DISCLOSURE OF FINDINGS - You agree to make the disclosures required by law to the appropriate governmental agencies. In the event you do not own the site, you acknowledge that it is your duty to inform the owner of the discovery of or release of hazardous materials. You agree to hold harmless and indemnify us from all claims related to disclosures made by us that are required by law and from all claims related to the informing or failure to inform the site owner of the discovery of hazardous materials.

SECTION 3: COMPENSATION

PAYMENT AND RATES - You agree to pay for services as agreed upon or according to our current Schedule of Charges if there is no other written agreement. Our price proposal for the work is predicted upon your acceptance of the conditions and allocations of risks and responsibilities described in our agreement. An estimate or statement of probable cost is not a firm figure unless stated as such. You agree to pay invoices as stated unless you notify us in writing of a particular item that is alleged to be incorrect within 15 days from receipt of the invoice.

DELAYS - If we are delayed by, or the period of performance is materially extended because of, factors beyond our control, or if product conditions or the scope or amount of work change, or if the standards or methods of testing change, we will give you timely notice of the change and we will receive an equitable adjustment of our compensation.

PAYMENT SCHEDULE - You agree to pay invoices within 30 days of receipt and to pay interest on unpaid balances beginning 30 days after invoice date at the rate of 1.5% per month, but not to exceed the maximum rate allowed by law.

FAILURE TO PAY - In the event you fail to pay us within 50 days following the invoice date, we may consider the default a total breach of our agreement and we may, at our option, terminate all of our duties without liability to you or to others.

If you do not pay for our services as agreed, you agree that we may retain all reports and work not yet delivered to you, all reports and other work in your possession will be returned to us upon demand, and reports and other work will not be used by you for any purpose whatsoever.

If we bring a lawsuit against you to collect our invoiced fees and expenses, you agree to pay our reasonable collection expenses. Our expenses may include reasonable attorney fees.

REIMBURSEMENT DURING LEGAL PROCESS - You agree to compensate us according to our Schedule of Charges if we are required to respond to a subpoena or other legal process related to our services for you that arises out of a lawsuit or proceeding as to which we are not a party. You also agree to reimburse us for our reasonable expenses necessarily incurred in connection with a response.

SECTION 4: CONTINUITY OF SERVICES

It is customary for the consultant that provides remediation recommendations to be retained to provide observation and related services during remediation work. If we are not retained to provide continuing services, you agree to hold us

harmless from all claims, losses, and expenses arising out of any interpretations, clarifications, substitutions, or modifications of our work provided by you or others.

SECTION 5: RISK ALLOCATION, DISPUTES, AND DAMAGES

Many risks potentially affect us by virtue of entering into this agreement to provide services on your behalf. For you to obtain the benefit of a fee which includes a reasonable allowance for dealing with our liability, you agree that our aggregate liability will not exceed the fee paid for our services or \$25,000, whichever is greater, for negligent acts, errors, or omissions, and you agree to indemnify us from all liabilities to others in excess of that amount. If you are unwilling to accept this allocation of risk, we will waive this provision provided that, within 10 days of the date of this agreement, you agree to an increase in our fees of 10% or \$250, whichever is greater, to compensate us for the greater risk undertaken. This increased fee is not the purchase of insurance.

Neither we nor you will be liable to the other for special, incidental, consequential, or penal losses or damages including but not limited to those arising from delay, loss of use, loss of profits or revenues, or the cost of capital.

We will not be liable to you for damages unless suit is commenced within two years of the date of injury or loss or within two years of the date of the completion of our services, whichever is earlier. In no event will we be liable to you unless you have notified us of the discovery of the claimed negligent act, error, or omission within 30 days of the date of its discovery and unless you have given us an opportunity to investigate and to recommend ways of mitigating your damages.

You and we agree that disputes will be submitted to "Alternative Dispute Resolution" (ADR) as a condition precedent of litigation and other remedies provided by law. Each of us agrees to exercise good faith efforts to resolve disputes through mediation unless we both agree upon a formal ADR procedure. We may, however, pursue any property lien rights we have in order to secure payment of our invoices without utilizing mediation or ADR, but we will attempt to resolve payment disputes with you before filing a lien notice. All disputes shall be governed by the law of the place where our services are rendered or, if our services are rendered in more than one state, you and we agree that the law of North Dakota will govern.

SECTION 6: WORKER COMPENSATION IMMUNITY

To the extent that may be necessary to indemnify either of us from loss caused by the negligence of the other, you and we expressly waive, in favor of the other only, any immunity or exemption from liability that exists under any worker compensation law.

SECTION 7: ENTIRE AGREEMENT

These General Conditions and the accompanying proposal or confirmation constitute the entire agreement between you and us, and it supersedes all prior agreements. Any term, conditions, prior course of dealing, course of performance, usage of trade, understanding, purchase order conditions, or other agreement purporting to modify, vary, supplement, or explain any provision of this agreement is of no effect unless placed in writing and signed by both parties subsequent to the date of this agreement. In no event, however, will the printed terms and conditions stated in your purchase or work order or in our acceptance be considered an amendment or modification of this agreement, even if the document is signed by both of us.

to execute the legal services and engineering contracts with the Tribal legal department and High Plains Consortium, Inc.

NOW, THEREFORE BE IT FURTHER RESOLVED,

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 Special Meeting thereof duly called, noticed, convened, and held on the 21st day of July, 1997; 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.

Dated this 21st day of July, 1997.

Daylon Spotted Bear
Secretary, Tribal Business Council

ATTEST:



Chairman, Tribal Business Council