



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

A Resolution Entitled, “Approval Of Lease With Ken Fredericks, Jr., For Airstrip”

WHEREAS, The Mandan Hidatsa and Arikara Nation (MHA Nation), also known as the Three Affiliated Tribes, having accepted the Indian Reorganization Act of June 18, 1934, the authority under said Act, and having adopted a Constitution and By-laws (the Constitution) under said Act, and

WHEREAS, Pursuant to Article III, Section 1 of the Constitution, the Tribal Business Council is the governing body of the MHA Nation; and

WHEREAS, The Constitution 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 MHA Nation and of the enrolled members thereof; 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, Article VI, Section 5(c) of the Constitution specifically authorizes and empowers the Tribal Business Council to administer funds within the exclusive control of the Nation and to make expenditures from available Tribal funds for public purposes for the Nation; and

WHEREAS, The Tribe has need for an airstrip in the Twin Buttes Segment; and

WHEREAS, Ken Fredericks, Jr., has offered to lease the airstrip contained within the land legally described as S 26 T 147 R 91, NE ¼ NW ¼; and

WHEREAS The Tribe has negotiated a lease (the “Lease”), attached as **Exhibit A**, for the airstrip; and

WHEREAS, Under the lease the Tribe will pay the cost required to pave the airstrip on the above described land; and

WHEREAS, Legal counsel for the Tribe has reviewed the Lease and finds the terms agreeable.

THEREFORE BE IT RESOLVED, That the Tribal Business Council hereby authorizes and approves the Lease with Ken Fredericks Jr., and further authorizes the Tribal Chairman to execute the Lease.



BE IT FINALLY RESOLVED, That the Tribal Chairman is authorized to take such action as is necessary to carry out the terms and intent of this Resolution.

[THIS SPACE INTENTIONALLY LEFT BLANK. CERTIFICATION FOLLOWS.]



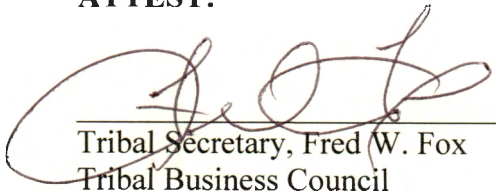
CERTIFICATION

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, 6 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 9th day of September, 2020, 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 9th day of September, 2020.

ATTEST:



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



Chairman, Mark N. Fox
Tribal Business Council
Three Affiliated Tribes

LAND USE LEASE

This Land Use Lease (the "Lease") dated this ___ day of September, 2020 is entered into by the Three Affiliated Tribes of North Dakota, 404 Frontage Road, New Town, ND 58763 (the "Lessee") and Ken Fredericks Jr, 761 Highway 8 North Halliday, ND 58636 the ("Lessor"). Each may be referred to as a Party and collectively as the Parties.

RECITALS

Lessor is the sole owner of the following legally described land:

S 26 T 147N R 91W, NE ¼ NW ¼ of allotment T 509-A

Consisting of 43 acres more or less

The purpose of such lease is for use of the airstrip and aircraft operations only.

NOW THEREFORE, in consideration of the foregoing, the mutual covenants contained herein, and the compensation hereinafter provided, the Parties agree as follows:

- 1) **Lease.** Lessor hereby leases the existing dirt airstrip on the Premises to Lessee, and Lessee leases the same from Lessor, in accordance with the laws of the Three Affiliated Tribes of North Dakota and for no other purposes and on the terms, covenants, and conditions set forth herein. Lessor reserves all other rights associated with the Premises including, but not limited to, the right to develop the oil, gas, and other minerals underlying the Premises.
- 2) **Term, Renewal, Reclamation, and Termination**
 - a. **Term.** The term of this Lease shall initially be for a term of twenty-five (25) years commencing on the date of this lease.
 - b. **Renewal.** Upon expiration of the initial term pursuant to Paragraph 2(a) above, this lease shall automatically renew for an additional twenty-five (25) year term.

- c. Termination. This lease may only be terminated for cause. The parties may agree to an earlier termination in writing.

3) **Compensation**

- a. Paving of Strip. Lessee shall pay for the paving and creation of an airstrip on the Premises. The cost for paving and creation of the air strip shall be the sole responsibility of the Lessee and shall operate as the sole compensation for the initial and renewal terms of this Lease.

4) **Maintenance and Upkeep.**

- a. Daily Maintenance. Lessor shall be responsible for the daily and minor maintenance of the Premises and airstrip. Such responsibilities shall include, but are not limited to, snow removal, mowing, fence repair, and general area maintenance.
- b. Major Maintenance. Major maintenance shall include, but is not limited to, repaving, crack repair, and surface sealing. Major maintenance shall be the responsibility of the Lessee. The Lessee shall have the sole right to decide whether major maintenance is necessary.

- 5) **Possession and Quiet Enjoyment.** Upon the execution of this Lease, Lessee shall be entitled to peaceably hold and enjoy the Premises during the term of this Lease without any interruption by Lessor. Lessors shall have the right during the term of this Lease to enter upon the Premises for the purposes of daily maintenance. Lessor shall further have the right to enter the Premises for inspection and determining lessee's compliance with the terms, covenants, and conditions of this Lease. The right to inspect and determine compliance shall also extend to the BIA.

- 6) **Construction of Improvements.** Lessee may, at its own expense and upon approval by the Lessor, construct such building, structures, and other improvements on the Premises as are reasonably necessary for the conduct of its operations. Lessor shall not unreasonably withhold approval. All such buildings, structures, and improvements constructed by Lessee shall either become the property of the surface estate owners and remain on and be surrendered with the Premises as a part thereof at the termination of this Lease or, at Lessee's option, shall be removed at Lessee's expense.

- 7) **Insurance.** The Lessor waives any requirement for the Lessee to maintain insurance as required by 25 C.F.R. § 162.437. In the event insurance is required the Lessee shall obtain insurance in an amount agreed upon by the parties.

8) **Use of the Premises And Compliance With Law.**

- a. Lessee shall comply with all applicable environmental rules and regulations. The use of hazardous materials on the Premises is not permitted unless expressly used in accordance with a valid permit.
- b. Pursuant to 25 C.F.R. § 162.014, the Lessee shall comply with all tribal and federal laws applicable to land use within the Reservation.
- c. Pursuant to 25 C.F.R. § 162.413(c)(4) the Tribe shall cease activities should it come into contact with any archeological resources, human remains, or other cultural items not previously reported.

9) **Mutual Release and Indemnification.**

- a. **Lessor Indemnification.** To the maximum extent permitted by law, Lessee releases, waives, and discharges Lessors and his respective heirs, devisees, personal representatives, successors and assigns from any and all liability for personal injury, death, property damage, or other damage arising out of Lessee's operation on the Premises pursuant to this Lease. Lessee accepts liability and shall indemnify, defend and hold Lessors and their respective heirs, devisees, personal representatives, successors, and assigns harmless for any loss that may be suffered by any person or property, when such loss is in any way related to the Lessee's use of the Premises. Such an indemnification shall extend to the United States. This indemnification shall be read as to comply with 25 C.F.R. 162.413.
- b. **Lessee Indemnification.** To the maximum extent permitted by law, Lessor releases, waives, and discharges Lessee and their respective devisees, personal representatives, successor and assigns for any and all liability for personal injury, death, property damage, or other damage arising from the actions of Lessor upon the Premises. Lessor accepts liability and shall indemnify, defend and hold Lessees and their devisees, personal representatives, successor, and assign harmless for any loss that may be suffered by any person or property, when such loss is in any way related to the Lessor's actions upon the Premises.

- 10) **Encumbrances** Lessee shall not permit any liens, mortgages, or other similar encumbrance to be placed on the Premises. Lessee shall defend, indemnify and hold Lessors harmless from all liens, mortgages, or other similar encumbrance placed against the Premises which arise on account of or due to Lessee's operations on the Premises or caused by Lessee's failure to comply with applicable laws and regulations.

- 11) **Default or Non-Compliance.** In the event Lessee defaults or fails to comply with any of the terms, covenants or conditions of this Lease, Lessor shall give Lessee written notice of such default specifying in general terms the nature of such default and if Lessee fails to cure such default within 90 days after Lessor has sent notice thereof to Lessee in the manner provide for herein, then this Lease shall automatically terminate. The BIA, pursuant to 25 CFR 162.413 may also consider any refusal to provide records a violation of this Lease. The BIA may also enforce any violation pursuant to 25 C.F.R. § 162.431(e).

- 12) **Notice.** Any notices required or authorized to be given by this Lease shall be in written form and shall be deemed to have been sufficiently given or served in written form if sent by registered or certified delivery, postage prepaid and return receipt requested, addressed to the proper Party as the address appearing on Page 1 of this Lease or such address as the Party shall have designated to the other Party in accordance with this Section. Notice given in this manner shall be deemed to have been received by the addressee five days from the date of mailing. Any notice required or authorized to be given by this Lease shall be deemed to have been sufficiently given or served in written form if personally delivered to the proper Party and such notice shall be effective upon the date of receipt by such Party.

- 13) **Assignment.** Lessor and Lessee agree to provide each other with written notice of any assignment, succession, or change of ownership, in whole or in part, in connection with this Lease and the Premises. The terms of this Lease are binding on all heirs, successors or assigns of Lessor and Lessee and other parties accessing the Premises for the purposes of mineral exploration and production. This Lease shall run with the Property.

- 14) **Severability.** If any part, term, or provision of this Lease is held by a court of competent jurisdiction to be illegal or in conflict with any law of the United States or Three Affiliated Tribes of North Dakota, the validity of the remaining portion or provision shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Lease did not contain that particular part, term, or provision held to be invalid.

- 15) **Enforcement.** If any Party incurs any expenses including reasonable attorneys' fees, in instituting or prosecuting any action, suit, or proceeding to enforce any of the terms, covenants, or conditions contained herein, or to collect damages, the prevailing Party in any such action, suit, or proceeding shall be entitled to recovery of such attorneys' fees and all court costs incurred therein. The BIA shall also be empowered to enforce this Lease on behalf of the Lessor pursuant to 25 C.F.R. § 162.413.

- 16) **Counterparts**. This Lease may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The Counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature by any of the Parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.
- 17) **Waiver**. No waiver by any Party shall be effective unless in writing, and a waiver shall affect only the matter, and the occurrence thereof, specifically identified in the writing, granting such waiver and shall not extend to any other matter or occurrence.
- 18) **Joint Drafting**. The Parties have jointly cooperated in the drafting and preparation of this Lease and this Lease shall not be construed against one Party or the other as a result of preparation, submittal or other event of negotiation, drafting, or execution hereof.
- 19) **Relationship Limited**. The sole relationship between the Parties created by this Lease is that of lessor and lessee. Nothing contained in this Lease shall be deemed, held, or construed as creating a joint venture or partnership between the Parties.
- 20) **Entire Agreement**. This Lease and its attachment constitute the entire agreement between the Parties and supersede all prior agreements and understandings, both written and oral, between the Parties with respect to the subject matter hereof.
- 21) **Amendment/Modification**. This Lease may only be amended, modified, or supplemented by a written instrument signed by all the Parties expressly stating that such instrument is intended to amend, modify, or supplement this Lease.
- 22) **Governing Law and Venue**. This Lease shall be governed by the procedural and substantive laws of the Three Affiliated Tribes of North Dakota , without regard to conflicts of law principles. The venue for any dispute shall be the District Court of the Three Affiliated Tribes of North Dakota.
- 23) **Binding Effect**. This Lease shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, devisees, personal representatives, successors, and assigns.
- 24) **Time**. Time is of the essence in this Lease.

LESSOR

Ken Fredericks, Jr.

Date

LESSEE

Chairman Mark Fox

Date