



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

A Resolution Entitled, "*Amendment to Resolution No. 22-212-FWF Authorizing Funding for the FBRWS Subsequent User and System Improvement Contract.*"

- 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 MHA Nation constructs, operates, maintains, and replaces (OM&R) the Fort Berthold Rural Water Supply (FBRWS) system under Indian Self-determination and Education Assistance Act contracts in order to provide safe drinking water throughout the Fort Berthold Indian Reservation (Reservation); and
- WHEREAS,** Resolution 22-212-FWF authorized the expenditure of up to \$20,000,000.00 for the new Mandaree WTP project; and
- WHEREAS,** The MHA Nation submitted Bipartisan Infrastructure Law (BIL) Aging Infrastructure funding applications for twelve FBRWS projects including the new Mandaree WTP project. All twelve BIL projects were subsequently approved for funding in March of 2023 including \$20,100,000.00 for the new Mandaree WTP; and
- WHEREAS,** The Dakota Water Resources Act (DWRA) as amended authorized a \$70 million construction ceiling for the MHA Nation FBRWS project which will be reached in



the next couple years. Once the FBRWS construction ceiling is reached, the MHA Nation will no longer receive federal construction funds for the project; and

WHEREAS, FBRW continues to receive water service connection (subsequent users) requests from individuals and businesses on the Fort Berthold Reservation and expects these water service requests to continue well after the FBRWS construction ceiling has been reached and federal funding has ceased. FBRW also continues to receive water service and water system improvement requests from the Fort Berthold Reservation Segments and the MHA Nation to provide potable drinking water for planned Tribal facilities; and

WHEREAS, FBRW also uses federal FBRWS construction funds to complete environmental and cultural resource compliance requirements and easement acquisition to facilitate the use of Indian Health Service (IHS) funds to provide water service connections to Native Americans living on the Fort Berthold Reservation; and

WHEREAS, The FBRWS Master Plan of August 2021 identifies the need for water system upgrades and expansions through 2050, including FBRWS water service connections and system improvements which are essential for future economic development of the Fort Berthold Indian Reservation; and

WHEREAS, FBRW, a division of the MHA Nation, intends to continue providing water service connections (subsequent users) and system improvements after the FBRWS construction ceiling has been reached at an estimated total cost of \$10,000,000.00 over the next two fiscal years with the following construction schedule:

- **FY 2024 - \$5,000,000.00**
- **FY 2025 - \$5,000,000.00; and**

WHEREAS, FBRW will follow all federal government and Bureau of Reclamation requirements for environmental and cultural resource compliance and easement acquisition so the \$10,000,000.00 of water service connections (subsequent users) and system improvements work will be eligible for reimbursement if the FBRWS construction ceiling is increased by amending DWRA or other federal legislation if the authorizing legislation approves the reimbursement of such MHA Nation water system expenditures; and

WHEREAS, Since the MHA Nation is approved to receive \$20,100,000.00 in BIL Aging Infrastructure funding for the new Mandaree WTP, Fort Berthold Rural Water requests that the authorized expenditure of \$20,000,000.00 in funding for the new Mandaree WTP (Resolution No. 22-212-FWF) be revised to expend up to \$10,000,000.00 for the new Mandaree WTP and up to \$10,000,000.00 for the Subsequent User and Systems Improvements Contract.



NOW, THEREFORE, BE IT RESOLVED, That the Tribal Business Council of the MHA Nation hereby authorizes the expenditure of up to \$10,000,000.00 for the new Mandaree WTP and \$10,000,000.00 for the Subsequent User and Systems Improvements Contract; and

BE IT FURTHER RESOLVED, That the MHA Nation shall continue to pursue all available state and federal funding to support the project and/or reimbursement of the actual Tribal funding expended; and

BE IT FINALLY RESOLVED, 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.

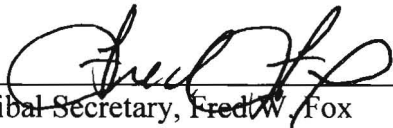
CERTIFICATION

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 13th day of July, 2023, 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 13th day of July, 2023.

ATTEST:



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



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