



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

A Resolution Entitled: “*Authorization to Amend Lease 102-11-0203 with the Indian Health Service with Addendum No. 4 to Modify the land description for Trust Parcel 301-T3096.*”

WHEREAS, The Mandan Hidatsa and Arikara Nation, also known as the Three Affiliated Tribes (“MHA Nation” or “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, Article III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and

WHEREAS, The Three Affiliated Tribes Constitution authorizes and empowers the Three Affiliated Tribes' Tribal Business Council to engage in activity on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

WHEREAS, Article VI, Section 5(1) of the Three Affiliated Tribes Constitution provides that the Tribal Business Council has the power to adopt resolutions regulating the procedure of the Tribal Business Council; and

WHEREAS, Article VI, Section 5(c) of the Three Affiliated Tribes Constitution specifically authorizes and empowers the Tribal Business Council to administer funds within the exclusive control of the Tribes and to make expenditures from available Tribal funds for public purposes for the Tribes; and

WHEREAS, Pursuant to Resolution No. 11-031-VJB, the Tribal Business Council authorized a lease of tribal trust land to the Indian Health Service for the operation of the Elbowoods Memorial Health Care Facility for a parcel containing 39.98 acres more or less; and

WHEREAS, The Three Affiliated Tribes now desires to construct additional medical buildings and supporting infrastructure on said Trust Parcel 301-T3096, including construction of a parking lot over the current IHS Elbowoods Memorial Health Center Health Facility geothermal well field and distribution lines; and

WHEREAS, The Three Affiliated Tribes agrees to share existing infrastructure including streets, water lines, sewer lines communication lines, electrical lines with the Indian Health Service; and

WHEREAS, The Three Affiliated Tribes (**LESSOR**) wishes to amend lease 102-11-0203 with the Indian Health Service (**LESSEE**) and adopt Addendum No. 4; and



WHEREAS, The Lessee (Indian Health Service) agrees to modify the area of the lease to the following described "Lease Boundary" dated June 14, 2023, prepared by Terry Baltzer, RLS, Swenson, Hagen & Co.:

Lease Boundary

ALL THAT PART OF SECTION 16, TOWNSHIP 152 NORTH, RANGE 92 WEST, OF THE 5TH P.M., NEW TOWN, MOUNTRAIL COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS.

COMMENCING AT THE SOUTHWEST CORNER OF THE NW ¼ OF THE NW ¼ OF SAID SECTION 16, THENCE NORTH 01 DEGREE 25 MINUTES 55 SECONDS EAST ON THE WEST LINE OF SAID SECTION, A DISTANCE OF 446.65 FEET; THENCE SOUTH 88 DEGREES 34 MINUTES 05 SECONDS EAST, A DISTANCE OF 271.78 FEET, TO THE EXTERIOR WALL LINE OF THE ELBOWOODS CLINIC BUILDING AND THE POINT OF BEGINNING; THENCE NORTH 43 DEGREES 43 MINUTES 17 SECONDS EAST, ON SAID EXTERIOR WALL LINE, A DISTANCE OF 179.96 FEET; THENCE CONTINUING ALONG SAID EXTERIOR WALL LINE, NORTH 46 DEGREES 18 MINUTES 00 SECONDS WEST, A DISTANCE OF 56.67 FEET; THENCE CONTINUING ALONG SAID EXTERIOR WALL LINE, NORTH 43 DEGREES 46 MINUTES 05 SECONDS EAST, A DISTANCE OF 41.86 FEET; THENCE NORTH 46 DEGREES 06 MINUTES 26 SECONDS WEST, A DISTANCE OF 7.59 FEET; THENCE NORTH 44 DEGREES 57 MINUTES 07 SECONDS EAST, A DISTANCE OF 12.96 FEET; THENCE SOUTH 45 DEGREES 02 MINUTES 52 SECONDS EAST, A DISTANCE OF 7.32 FEET, TO SAID EXTERIOR WALL LINE; THENCE CONTINUING ALONG SAID EXTERIOR WALL LINE, NORTH 43 DEGREES 46 MINUTES 05 SECONDS EAST, A DISTANCE OF 82.05 FEET; THENCE CONTINUING ALONG SAID EXTERIOR WALL LINE, SOUTH 46 DEGREES 11 MINUTES 52 SECONDS EAST, A DISTANCE OF 93.48 FEET; THENCE CONTINUING ALONG SAID EXTERIOR WALL LINE, NORTHEASTERLY AND TO THE RIGHT ON A 421.49 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS SOUTH 52 DEGREES 04 MINUTES 04 SECONDS EAST, AN ARC LENGTH OF 57.59 FEET; THENCE CONTINUING ALONG SAID EXTERIOR WALL LINE, NORTH 43 DEGREES 45 MINUTES 02 SECONDS EAST, A DISTANCE OF 26.50 FEET; THENCE CONTINUING ALONG SAID EXTERIOR WALL LINE AND ITS SOUTHEASTERLY EXTENSION, SOUTH 46 DEGREES 12 MINUTES 17 SECONDS EAST, A DISTANCE OF 71.84 FEET; THENCE SOUTH 43 DEGREES 47 MINUTES 43 SECONDS WEST, A DISTANCE OF 117.62 FEET;



THENCE SOUTH 46 DEGREES 10 MINUTES 42 SECONDS EAST, A DISTANCE OF 31.19 FEET; THENCE SOUTH 25 DEGREES 55 MINUTES 32 SECONDS WEST, A DISTANCE OF 25.54 FEET; THENCE SOUTH 88 DEGREES 30 MINUTES 30 SECONDS WEST, A DISTANCE OF 55.47 FEET; THENCE SOUTH 43 DEGREES 47 MINUTES 43 SECONDS WEST, A DISTANCE OF 219.17 FEET; THENCE NORTH 46 DEGREES 14 MINUTES 50 SECONDS WEST, A DISTANCE OF 106.38 FEET, TO THE POINT OF BEGINNING. THE ABOVE-DESCRIBED LEASE CONTAINS 1.13 ACRES; and

WHEREAS, With regard to Access Easement – The LESSOR agrees to grant a “non-exclusive” access easement to the LESSEE to provide vehicle and pedestrian access and parking for the enjoyment and development of the leased premises. (page 4 of the presented exhibit). The LESSOR agrees to accept maintenance and repair of the looped access road around the existing Elbowoods Memorial Healthcare Facility. The LESSEE is responsible for maintenance and repairs of the parking lot and driveways off of the looped access road; and

WHEREAS, With regard to Communication Easement - The LESSOR agrees to grant a “non-exclusive” communication easement for the existing RTC line that services the Elbowoods Memorial Healthcare Facility. The communication line is owned by the RTC Cooperative. The “non-exclusive” clause allows both the LESSEE and the LESSOR to be serviced from the same communication line (presented Communication Easement exhibit); and

WHEREAS, With regard to Electrical Easement - The LESSOR agrees to grant a “non-exclusive” electrical easement for the re-routed Mountrail Williams Electric Cooperative (MWEC) electric service line to service the Elbowoods Memorial Healthcare Facility. The electric line is to be owned by MWEC. The “non-exclusive” clause allows both the LESSEE and the LESSOR to be serviced from the same electric distribution line (presented Electrical Easement exhibit); and

WHEREAS, With regard to Water main Easement – The LESSOR agrees to grant a “non-exclusive” water main easement for the existing 10 inch water line and the water service line off of said 10 inch water line that serves the Elbowoods Memorial Healthcare Facility. The “non-exclusive” clause allows the LESSOR to utilize and connect to the existing 10 inch water line. The LESSOR shall be responsible for maintenance and repair of the 10 inch water line. The LESSEE shall be responsible for the maintenance and repair of the IHS service line off of the 10 inch water line (presented Water main Easement exhibit); and



WHEREAS, With regard to Storm sewer easement – The LESSOR agrees to grant a “non-exclusive” storm sewer easement for the existing and proposed storm sewer line that serves the Elbowoods Memorial Healthcare Facility and the Eye/Dental Clinic currently under construction. The “non-exclusive” clause allows both clinics to utilize the storm sewer lines. The LESSOR shall be responsible for that portion of the storm sewer line where storm water from the Eye/Dental Clinic flows in said sewer lines (presented Storm sewer exhibit); and

WHEREAS, With regard to Sanitary sewer easement- The LESSOR agrees to grant a “non-exclusive” sanitary sewer easement for the existing and proposed sanitary sewer line that serves the Elbowoods Memorial Healthcare Facility and the Eye/Dental Clinic currently under construction, plus any additional LESSOR medical buildings that may attach to said sanitary sewer line now or in the future. The LESSEE shall only be responsible for any maintenance or repairs on the sanitary sewer line where the LESSEE is the sole user of that portion of the line (presented Sanitary sewer easement exhibit); and

WHEREAS, With regard to Geothermal easement - The LESSOR agrees to grant a “non-exclusive” geothermal easement for the existing geothermal wells and accessories that serve the Elbowoods Memorial Healthcare Facility. The LESSOR does not intend to use or modify the IHS geothermal improvements. The “non-exclusive” clause is agreed to by the LESSEE to allow the LESSOR to construct a parking lot over the existing IHS geothermal well field and piping. The LESSOR will be responsible for any damage to the existing geothermal well field as a result of constructing the parking lot and its accessories (presented Geothermal easement exhibit); and

WHEREAS, With regard to Generator easement - The LESSOR agrees to grant a “non-exclusive” generator easement to serve the relocated IHS emergency generator and line to the Elbowoods Memorial Healthcare Facility. The LESSOR does not intend to utilize the emergency generator. The “non-exclusive” easement is to allow the LESSOR the ability to construct a skywalk over the electrical line that runs between the emergency generator and the Elbowoods Memorial Healthcare Facility (presented Generator easement exhibit); and

WHEREAS, With regard to Adequate room for repairs and maintenance - The LESSOR and the LESSEE agree to provide adequate room for maintenance and repair of the above items on a temporary basis beyond the described limits of each easement as needed to maintain and/or repair the improvements.



NOW, THEREFORE, BE IT RESOLVED, that the Tribal Business Council of the Three Affiliated Tribes hereby authorizes Addendum No. 4 to lease 102-11-0203 and modification to land description for Trust Parcel 301-T3096 as referenced above; and

BE IT FURTHER RESOLVED, that this Resolution shall rescind and supersede any prior Resolutions regarding the tribal trust lands to be leased for the Elbowoods Memorial Health Care Facility including but not limited to Resolution 11-031-VJB; and

BE IT FINALLY RESOLVED, that the Tribal Chairman and Secretary of the Three Affiliated Tribes or designated representatives are hereby authorized to execute said lease on behalf of the Tribe.

[CERTIFICATION PAGE TO FOLLOW]



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 September, 2023, 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. Signature page to follow.

Chairman [X] Voting. [] Not Voting.

Dated this 13th day of September 2023.

ATTEST:

Executive Secretary Fred Fox
Tribal Business Council
Three Affiliated Tribes

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