



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

*A Resolution entitled, "Consent to Approval of a Right-of-Way across Tribal land (871A) for the Enerplus Racer Pad Project Submitted by McKenzie Electric Cooperative Inc."*

- 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 IX, Sections 1 and 3 of the Constitution, provides 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 and 21-082-FWF (Amending Fee Structure); and



**WHEREAS,** McKenzie Electric Cooperative Inc. submitted a ROW application for the Enerplus Racer Pad for Proposed Underground Powerline, across Tribal tract Allotment 871A (0.3238095238 Tribal interest), located in Section 36, of Township 149 North, Range 93 West, in Dunn County, North Dakota as more particularly described in Appendix A.1.; and

**WHEREAS,** The ROW application, has been reviewed and recommended for approval in accordance with the MHA Nation’s approved procedure for authorizing ROWs on Tribal Land.

**NOW THEREFORE BE IT RESOLVED,** Subject to the MHA Nation Public Utility Right-of-Way Consent Terms and Conditions with McKenzie Electric Cooperative, Inc., and payment of applicable ROW fees, the Tribal Business Council hereby approves the ROW application, attached as Appendix A.1, and consents to the following ROW:

- **McKenzie Electric Cooperative Inc.– Enerplus Racer Pad:**
  - The length of the powerline being proposed is 461.74’, with the width of 30’ permanent (100’ temporary) containing 0.318 permanent acres and 0.749 temporary acres, more or less.
  - Total Disturbance for this project is 1.067 Acres.

Across certain Tribal tract in Allotment 871A in Section 36, of Township 149 North, Range 93 West, in Dunn County, North Dakota, with 0.3238095238 Tribal interest.

**BE IT FURTHER RESOLVED,** That The ROW shall have a thirty (30) year term, from the date of the BIA’s execution of the grant of the ROW for said project.

**BE IT FURTHER RESOLVED,** That The Tribe does not consent to waive any bond, insurance, or alternative form of security.

**BE IT FURTHER RESOLVED,** That The MHA Nation Standard Terms and Conditions for Right-of-Ways, executed by McKenzie Electric Cooperative Inc. and the MHA Nation Energy Division, constitute a written agreement as part of the MHA Nation’s consent to the grant of the ROW, and 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 Enerplus Racer Pad.



**BE IT FURTHER RESOLVED,** That the Tribe retains the authority to issue fines and set conditions to address and resolve ROW trespass, abandonment, non-use, and other violations, including violations of the applicable MHA Nation Standard Terms and Conditions for Rights-of-Way, and further requests the Bureau of Indian Affairs to defer to these remedies, in accordance with the intent and notice provisions, as provided in 25 CFR §169.403(a).

**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.

[Remainder of Page 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, 7 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 19<sup>th</sup> day of October, 2023, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 5 members for, 0 members opposed, 0 members abstained, and 2 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman ( ) Voting, ( X ) Not Voting.

Dated this 19<sup>th</sup> day of October 2023.

**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