

OCTOBER 2014 CROW TRIBAL LEGISLATURE

JOINT ACTION RESOLUTION NO. JAR 14-17

INTRODUCED BY DARRIN OLD COYOTE, CHAIRMAN
CROW TRIBAL EXECUTIVE BRANCH

JOINT ACTION RESOLUTION OF THE CROW TRIBAL LEGISLATURE AND THE
CROW TRIBAL EXECUTIVE BRANCH ENTITLED:

RESOLUTION APPROVING THE LAND LEASE AND LIMITED WAIVER OF THE CROW TRIBE'S SOVEREIGN IMMUNITY IN THE LEASE, GUARANTEES AND PARTNERSHIP AGREEMENT FOR THE DEVELOPMENT OF THE APSÁALOOKE WARRIOR APARTMENTS.

WHEREAS, the Chairman of the Executive Branch has authority and responsibility pursuant to the “enumerated powers” in Article IV, Section 3(f) of the Constitution and Bylaws of the Crow Tribe of Indians (the “Constitution”) to “negotiate and approve or prevent any sale, disposition, lease or encumbrance of Tribal lands, interests in lands or other Tribal assets, including buffalo, minerals, gas and oil with final approval granted by the Legislative Branch,” and in Article IV, Section 3(k) to “negotiate and approve limited waivers of sovereign immunity when such waiver is necessary for business purposes in accordance with Article V, Section 2(f) of [the] Constitution;” and

WHEREAS, the Legislative Branch has authority and responsibility pursuant to its “powers and duties” in Article V, Section 2(d) of the Constitution “to grant final approval or disapproval of items negotiated by the Executive Branch of Government pertinent to the sale, disposition, lease or encumbrance of Tribal lands, interests in lands or mineral assets,” and in Article V, Section 2(f) to “grant final approval or disapproval of limited waivers of sovereign immunity by the Executive Branch when waivers are necessary for business purposes[;]” and

WHEREAS, in 2009 the Legislature enacted Joint Action Resolution 09-04 (titled a “Resolution to Set Aside Lands for Crow Agency Housing Purposes”) to designate certain tribally-owned lands west of Crow Agency as a housing subdivision; and

WHEREAS, Apsáalooke Nation Housing Authority (the “Authority”), wishes to develop a project known as the Apsáalooke Warrior Apartments, consisting of 15 units of low income veteran housing located in Crow Agency, Montana, to be constructed as housing for low-income persons (the “Project”); and

WHEREAS, the Authority has, through its subsidiary AWA Development, LLC, formed a limited partnership known as Apsáalooke Warrior Apartments, LLLP (the “Partnership”), in which AWA Development, LLC is the General Partner, for the purpose of carrying out the Project;

WHEREAS, the Authority wishes to obtain an investment in the Partnership from Enterprise Community Investment, Inc. and/or its affiliates and assignees (“Enterprise”), in the approximate amount of \$2,020,000.00 (the “Investment”); and

WHEREAS, as part of the Investment, Enterprise shall require that the Partnership Agreement be amended and restated in its entirety to reflect the terms of the Investment (the “Amended Agreement”); and

WHEREAS, as part of the Investment, Enterprise shall require that the Crow Tribe enter into various guarantees and other associated agreements as set forth in the Amended Agreement; and

WHEREAS, the Partnership wishes to obtain construction financing for the Project from Enterprise Community Loan Fund, Inc. (“ECLF”) in an amount not to exceed \$1,750,000.00 (the “ECLF Loan”); and

WHEREAS, as collateral for the ECLF Loan, the Partnership agrees to provide a leasehold mortgage on the Project property and an assignment of Low Income Housing Tax Credit (“LIHTC”) equity pay-ins; and

WHEREAS, the ECLF Loan requires that the Crow Tribe enter into certain guarantees relating to the Project; and

WHEREAS, the residential lease for housing for public purposes (the “Lease”) between the Crow Tribe and the Authority is in the best interests of the Crow Tribe because it will enable the Authority to develop the Project, as well as provide for future housing development in the subdivision created on the land set aside in Joint Action Resolution 09-04; and

WHEREAS, the Lease, Amended Agreement, and ECLF Loan Guarantee include limited waivers of the Crow Tribe’s sovereign immunity from suit, which have been negotiated by the Executive Branch, are reasonable and appropriate under the circumstances and protective of the Crow Tribe’s other assets, and are necessary for business purposes; and

WHEREAS, after approval by the Legislature and Executive Branches of the Crow Tribe, the Lease is subject to approval by the Secretary of the Interior or his designee, pursuant to 25 U.S.C. § 415 and/or other applicable Federal law;

**NOW, THEREFORE, BE IT RESOLVED BY THE CROW TRIBAL LEGISLATURE
AND THE CROW TRIBAL EXECUTIVE BRANCH:**

Section 1. That the “Residential Lease of Tribal Trust Land” between the Crow Tribe of Indians and the Apsáalooke Nation Housing Authority, attached hereto and incorporated by this reference, is hereby granted final approval pursuant to Article V, Sections 2(d) and 2(f) of the Constitution and Bylaws of the Crow Tribe.

Section 2. That the Chairman of the Executive Branch is authorized to sign and execute the above-referenced Lease on behalf of the Crow Tribe, and to take all such further actions on behalf of the Crow Tribe as are necessary to implement, administer and enforce the Lease.

Section 3. That the guarantee agreements required for the completion of the Project, as contemplated by the Lease, ECLF Loan and Amended Agreement, which are attached hereto and incorporated by this reference (hereinafter, the “Project Guarantees”), including, without limitation, the provisions in the Agreements on dispute resolution and limited waivers of sovereign immunity contained therein, are hereby granted final approval pursuant to Article IV, Section 3(k) and Article V, Sections 2(d) and 2(f) of the Constitution and Bylaws of the Crow Tribe.

Section 4. That AWA Development, LLC, as an entity controlled and sanctioned by the Crow Tribe, shall be considered a tribal organization and instrumentality of the Tribe with such status and all associated rights, privileges, and immunities as provided for under federal law and Crow tribal law. Provided that, AWA Development, LLC shall be obligated to seek a certificate of authority from the Tribal Secretary as a foreign limited liability company and shall otherwise comply with all relevant provisions of the Apsaalooke Limited Liability Company Act.

Section 5. That the final approval granted herein is effective on the date of approval of this Resolution, and is subject only to such further approvals as are required by Federal law.

CERTIFICATION

I hereby certify that this Joint Action Resolution entitled “**RESOLUTION APPROVING THE LAND LEASE AND LIMITED WAIVER OF THE CROW TRIBE’S SOVEREIGN IMMUNITY IN AND FOR THE CONSTRUCTION LOAN GUARANTEE AND OTHER ASSOCIATED AGREEMENTS RELATED TO THE DEVELOPMENT OF THE APSÁALOOKE WARRIOR APARTMENTS**” was duly enacted by the Crow Tribal Legislature with a vote of 13 in favor 0 opposed, and 0 abstaining and that a quorum was present on this 16th day of October, 2014.


Senator R. Knute Old Crow, Sr.
Speaker of the House
Crow Tribal Legislature

ATTEST:


Senator Gordon Real Bird, Jr.
Secretary
Crow Tribal Legislature




EXECUTIVE ACTION

I hereby

X approve or
_____ veto.

This Joint Action Resolution entitled “**RESOLUTION APPROVING THE LAND LEASE AND LIMITED WAIVER OF THE CROW TRIBE’S SOVEREIGN IMMUNITY IN AND FOR THE CONSTRUCTION LOAN GUARANTEE AND OTHER ASSOCIATED AGREEMENTS RELATED TO THE DEVELOPMENT OF THE APSÁALOOKE WARRIOR APARTMENTS**” pursuant to the authority vested in the Chairman of the Crow Tribe by Article V, Section 8 of the Constitution and Bylaws of the Crow Tribe of Indians, on this 21st day of October, 2014.


Darrin Old Coyote, Chairman
Crow Tribal Executive Branch

JOINT ACTION RESOLUTION OF THE CROW TRIBAL LEGISLATURE AND THE CROW TRIBAL EXECUTIVE BRANCH ENTITLED: RESOLUTION
APPROVING THE LAND LEASE AND LIMITED WAIVER OF THE CROW TRIBE'S SOVEREIGN IMMUNITY IN THE LEASE, GUARANTEES AND
PARTNERSHIP AGREEMENT FOR THE DEVELOPMENT OF THE APSÁALOOKE WARRIOR APARTMENTS.

Bill or Resolution: JAR14-17 **Introduced by:** Chairman Darrin Old Coyote **Date of Vote:** 10/16/2014
Number

<u>Representative:</u>	Yes	No	Abstained
G. Three Irons	_____	_____	_____
B. Rogers	<u> X </u>	_____	_____
C. J. Stewart	_____	_____	_____
P. Hill	<u> X </u>	_____	_____
E. Birdinground	<u> X </u>	_____	_____
A.Coyote-Runs, Sr.	<u> X </u>	_____	_____
V. Nomee	<u> X </u>	_____	_____
T. Gros Ventre	<u> X </u>	_____	_____
P. Alden, Jr.	<u> X </u>	_____	_____
V. Crooked Arm	<u> X </u>	_____	_____
P. Spotted Horse, Sr.	<u> X </u>	_____	_____
L. DeCrane	_____	_____	_____
C. Goes Ahead	<u> X </u>	_____	_____
B. Hugs	_____	_____	_____
B. Good Luck	<u> X </u>	_____	_____
G. Stewart	_____	_____	_____
G. Real Bird, Jr. <i>Secretary of the House</i>	<u> X </u>	_____	_____
R. Old Crow, Sr. <i>Speaker of the House</i>	<u> X </u>	_____	_____
Totals:	<u> 13 </u>	<u> 0 </u>	<u> 0 </u>

Result of Vote:

Passed

Not Passed

Tabled

Veto-Override



Senator R. Knute Old Crow, Sr.
Speaker of the House

Date



Senator Gordon Real Bird, Jr.
Secretary of the House

Date