

May 28th, 2010 Special Session of the Crow Tribal Legislature

Joint Action Resolution No. JAR 10-07

Introduced by Cedric Black Eagle
Crow Tribal Chairman

A Joint Action Resolution of the Crow Tribal Executive Branch and Crow Tribal Legislature
Entitled:

“Approval of the Summary of Terms of the \$3 Million Phase I Casino Loan and Limited Waiver of Sovereign Immunity”

WHEREAS, under Article IV, Section 3(c) of the Constitution, the Executive Branch has the power to “engage in any business that will further the economic well-being of the members of the Tribe and undertake any economic development activity which does not conflict with the provisions of the Constitution;” and, in Section 3(k), to “negotiate and approve limited waivers of sovereign immunity when such a waiver is necessary for business purposes in accordance with Article V, Section 2(f); and

WHEREAS, under Article V, Section 2(f) of the 2001 Constitution, the Legislative Branch has the power and the duty to “grant final approval or disapproval of limited waivers of sovereign immunity by the Executive Branch when waivers are necessary for business purposes provided that a process for such approval or disapproval may be established by legislation”;

WHEREAS, under Article IV, Section 3(f) of the 2001 Constitution, the Executive Branch has the authority to negotiate and approve or prevent any sale, disposition, lease or encumbrance of Tribal lands, interests in lands or other Tribal assets, subject to final approval by the Legislative Branch in accordance with Article V, Section 2(d) of the 2001 Constitution;

WHEREAS, on July 14, 2004 Tribal Chairman Carl Venne signed into law Joint Action Resolution 04-03, which authorized the Tribal Chairman and his designees to “investigate and pursue additional gaming opportunities for the Crow Tribe, and to negotiate agreements to provide for expanded Tribal gaming activities, with such agreements to be presented to the Legislature for final approval as required by the Crow Tribal Constitution”;

WHEREAS, Tribal Council Resolution 94-20 established the Apsaalooke Casino Enterprise (“ACE Corporation”) as a tribally-owned business corporation with the exclusive right to conduct Class II and Class III gaming on the Crow Reservation and whose acting shareholders are the Chairman, Vice-Chairman, Secretary, and Vice-Secretary of the Crow Tribe;

WHEREAS, the current casino facility utilized by the ACE Corporation for the Little Big Horn Casino is under a mandatory closure order from the National Indian Gaming Commission effective November 1, 2010;

WHEREAS, Tribal Chairman Cedric Black Eagle has made the securing of financing for a new gaming facility a top priority for the Crow Tribe;

WHEREAS, the ACE Corporation Board of Directors and the Crow Tribal Executive Branch have worked together to obtain potential financing from the Shakopee Mdewakanton Tribe of Minnesota (“Shakopee Tribe”) for a new casino building in Crow Agency;

WHEREAS, the Shakopee Tribe has demonstrated their generosity through a \$1,000,000 grant to the Crow Tribe and through their support of Crow tribal efforts to finalize a loan agreement;

WHEREAS, the ACE Corporation Board of Directors and the Shakopee Tribe have established a multiple-phase multi-million dollar development plan for expanded gaming on the Crow Reservation;

WHEREAS, the Crow Tribe seeks to implement the first of the multiple development phases (“Phase I”) with \$3,000,000 in loan financing from the Shakopee Tribe to the Crow Tribe, which includes the construction of a new casino building;

WHEREAS, the Executive Branch and Legislative Branch, agree to work together to ensure the successful construction and operation of Phase I which will create jobs for Crow citizens and increase revenues for Crow tribal purposes and initiate a new era of gaming for the Crow Tribe;

WHEREAS, the final loan documents are not yet available for approval by the Legislature for the May 28th, 2010 special session.

Now, therefore, be it hereby resolved by the Crow Tribal Legislative Branch and the Crow Tribal Executive Branch:

Section 1. That the “Summary of Terms” (referenced as “Attachment A” and incorporated herein as part of this Resolution) for Phase I of the loan agreement which secures financing is hereby approved as to all conditions and terms contemplated and addressed in the Summary of Terms.

Section 2. That the limited waiver of Crow tribal sovereign immunity necessary for the closure of the loan and construction agreements is hereby approved to the extent that authority of the Crow Tribal Court to enforce an arbitration award shall be preserved.

Section 3. That the land parcel of approximately 9.86 acres as described in the accompanying ALTA survey report (referenced as “Attachment B” and incorporated herein as part of this Resolution) is hereby set aside for the use of the Crow Tribe for gaming and related economic ventures, with no change to the underlying title.

Section 4. That a verified copy of all financial reports which shall be provided to the Shakopee Tribe from the Executive Branch or ACE Corporation in relation to this \$3,000,000 loan shall at the same time also be provided to the Speaker of the House and the Chairman of the Gaming Committee of the Legislature.

Section 5. That this Resolution shall be considered an endorsement of the attached Summary of Terms only and the Legislature reserves the constitutional right to give final approval of the Phase I loan agreement through a future legislative action when all loan documents are finalized and a special session is called in the near future in accordance with Crow tribal law.

Section 6. That after loan closure, Executive Branch staff and Legislative Branch staff are directed to work collaboratively and in good-faith with the highest priority to update and revise the Crow Tribal Gaming Ordinance.


Section 7. That all gaming conducted on the Crow Reservation shall be fully in accordance with all applicable Crow tribal laws, including but not limited to Title 23 of the Crow Law and Order Code (the Crow Tribal Gaming Ordinance, as amended), the Crow Tribal Fiscal Management Act, and the ACE Corporation Articles of Incorporation.

Section 8. That this Resolution shall take effect immediately upon its passage by the Legislature and approval by the Chairman.

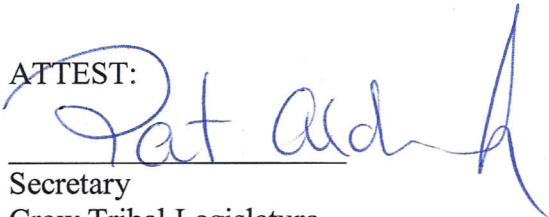
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CERTIFICATION

I hereby certify that this Joint Action Resolution entitled **Approval of the Summary of Terms of the \$3 Million Phase I Casino Loan and Limited Waiver of Sovereign Immunity** was duly enacted by the Crow Tribal Legislature with a vote of 13 in favor 0 opposed, and 2 abstaining and that a quorum was present on this 28th day of May, 2010.


Speaker of the House
Crow Tribal Legislature

ATTEST:


Secretary
Crow Tribal Legislature




EXECUTIVE ACTION

I hereby:

X approve
 veto

this Joint Action Resolution entitled **Approval of the Summary of Terms of the \$3 Million Phase I Casino Loan and Limited Waiver of Sovereign Immunity** 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 or Indians, on this 28 day of May, 2010.


Cedric Black Eagle, Chairman
Crow Tribal Executive Branch

Attachment A to Joint Action Resolution Approval of the Summary of Terms of the \$3 Million Phase I Casino Loan and Limited Waiver of Sovereign Immunity

May 28th

**SHAKOPEE MDEWAKANTON SIOUX COMMUNITY
\$3,000,000 SECURED TERM LOAN
TO
CROW TRIBE OF MONTANA**

Summary of Terms

(15 year term loan; fixed rate)

- Borrower:** Crow Tribe of Montana, a federally recognized Indian Tribe (the “**Borrower**” or the “**Tribe**”)
- Lender:** Shakopee Mdewakanton Sioux Community
- Loan:** \$3,000,000 secured term loan (the “**Loan**”)
- Closing Date:** The date all conditions precedent to the initial advance have been satisfied.
- Conversion Date:** Conversion Date: the earlier of (A) the 5th day of the month following the final construction loan advance, or (B) November 5, 2010.
- Maturity Date:** 15th anniversary of the Closing Date.
- Purpose:** The proceeds of the Loan will be used to: (i) finance the construction and development costs associated with the new casino and related facilities (the “**Casino**”, and such construction, the “**Project**”); (ii) finance the purchase of certain furniture, fixtures and equipment related to the Project; and (iii) finance transaction costs.
- Loan Advances:** Proceeds of the Loan will be advanced on the closing date to:
- (i) fund costs of the Project that have been incurred as of the closing date;
 - (ii) fund three months debt reserve equaling an amount of \$50,000; and
 - (iii) pay transaction costs of the Lender.

Thereafter, in the absence of a default under the loan documents, funds will be advanced on an as needed basis, pursuant to the submission of appropriate documentation, including draw requests. Prior to the Conversion Date, the amount Loan advances that may be requested is limited to \$2,950,000.

Notwithstanding the foregoing, at no time shall the amount of the advances outstanding, plus the accrued but unpaid interest thereon, exceed \$3,000,000.

**Interest
Payments/Amortization:**

Interest shall accrue on the outstanding amount of the Loan commencing on the initial advance and continuing thereafter through and including the Conversion Date. During such period, the Borrower may (but is not obligated to) make payments on such interest as it accrues.

On the Conversion Date, the entire principal amount outstanding from the Loan (including any accrued but unpaid interest thereon) shall be amortized in equal monthly installments of principal and interest over the remaining term of the Loan, with monthly principal and interest payments due commencing on the 5th day following the Conversion Date, and thereafter on the 5th day of each calendar month through and including the Maturity Date.

Interest Rate:

Fixed at 6.50% per annum

After the occurrence and during the continuance of an event of default, interest will accrue at the rate otherwise applicable plus 2.00% per annum.

Prepayment:

The Loan will be prepayable in part or in whole on any monthly payment date, without penalty or premium upon fifteen (15) days' prior written notice.

Security:

Neither the general obligation nor the full faith and credit or taxing power of the Borrower will be pledged to the payment of any amounts due on the Loan.

The obligation of the Borrower to pay amounts due on the Loan will be a limited obligation of the Borrower, solely payable from and enforceable against the following pledged assets (the "**Pledged Assets**"):

- (i) a first priority security interest in gross revenues derived from the operation of the Casino and related facilities, including, without limitation, restaurants and other facilities or businesses hereafter established or acquired and managed on a day to day basis by the Casino (collectively, such enterprises and facilities are the "**Casino Facilities**") through

a Depository Agreement (defined below);

(ii) a first priority security interest in the Casino Facilities' accounts, capital reserve accounts, debt repayment accounts and deposit accounts, wherever located, by appropriate control agreements; and

(iii) a first priority security interest in the inventory, intangibles, furniture, fixtures and equipment located at the Casino Facilities.

Depository Agreement:

The Borrower will enter into a depository agreement (the "**Depository Agreement**") with a depository bank (the "**Depository Bank**") whereby the Borrower will agree to deposit by the agreed monthly payment date sufficient monies to fully fund the monthly debt service payment on the Loan. The Depository Bank will notify the Borrower if the Loan payment is not received in a timely manner.

The Borrower will deposit on a daily basis all revenues from the operations of the Casino Facilities (the "**Pledged Revenues**", such definition to except only those revenues of the Casino Facilities which are reasonably necessary for the daily cash-on-hand requirements) to a pledged revenues account (the "**Pledged Revenues Account**").

The Depository Bank will deposit all moneys received pursuant to the Depository Agreement from the Pledged Revenues Account to the following accounts in the following order:

1. **Operating Account.** To the operating account to pay monthly operating expenses of the Casino Facilities.
2. **Secured Obligations Account.** To the secured obligations account to pay monthly debt service on the Loan.
3. **Debt Service Reserve Account.** To the debt service reserve account to fund the account with 3 months of debt service.
4. **Repair and Replacement Account.** To the extent the Operating Account and the Secured Obligations Account are fully funded for the next month, Pledged Revenues in an amount equal to 5.0% of Excess Pledged Revenues (defined below) are required to be transferred from the Pledged Revenues Account to fund the Repair and Replacement Account for the purpose of providing for repairs to the Casino Facilities and replacement of equipment at the Casino Facilities. As used herein, "**Excess Pledged Revenues**" refers to such amount of Pledged Revenues as remain in the

Pledged Revenue Account after disbursement of the appropriate amounts to the Operating Account, the Secured Obligations Account, and the Debt Service Reserve Account.

5. ***Excess Pledged Revenues Account.*** After the Repair and Replacement Account is funded, the balance of Pledged Revenues will be deposited to an Excess Pledged Revenues account to be paid to or at the direction of the Borrower.

Reporting Requirements:

The Borrower will agree to provide the Lender with current financial information regarding the Casino Facilities and the Borrower, including, but not limited to:

- *an annual audit of the Tribe* within nine months of the end of the Tribe's fiscal year;
- *an annual audit of the Casino Facilities* within one hundred twenty (120) days of the end of the Casino Facilities' fiscal year;
- *monthly financial statements of the Casino Facilities* no later than thirty (30) days after the end of each month;
- *monthly compliance certificate of the Casino Facilities* at the same time as the Monthly Operating Statements are provided; and
- *a monthly financial summary* reflecting actual to budget construction costs and status;
- *an annual projected budget of the Casino Facilities* within thirty (30) days of the end of the Casino Facilities' fiscal year.

Covenants:

Gaming Compact

The Borrower will maintain its gaming compact with the State of Montana in full force and effect and will timely apply for and defend any necessary extensions and renewals.

Other Indebtedness

The Borrower will not incur any other indebtedness secured in whole or in part by a lien on the Pledged Assets, or waive its sovereign immunity in such a manner as to permit the holder of any debt to have recourse against the Pledged Assets except (i) indebtedness in existence on the Closing Date and approved by the Lender and (ii) unsecured operating indebtedness incurred in the ordinary course of business.

Other Liens

The Borrower will not grant any liens on Pledged Assets, except specified "permitted liens." Any existing lien on Pledged Assets that is not a permitted lien will be terminated

Financial Covenants

The Borrower will comply with certain financial covenants to be agreed upon, including a debt service coverage ratio and a minimum net worth requirement.

Construction

GMP

The Borrower will be required to have a guaranteed maximum price contract in place prior to the Closing Date in connection with the Project.

**Payment &
Performance
Bonds**

A payment and performance bond will be required for the Project.

Other Covenants

Additional usual and customary provisions and documents for projects of this nature will be required.

Costs of Issuance:

The Borrower will be responsible for all costs, fees and expenses of issuance, including, but not limited to, the fees of Lender's legal counsel.

Costs of Construction

The Borrower will be responsible for all construction costs, fees and expenses, including, but not limited to, the cost of environmental studies, surveys and project reviews as well as the fees for the inspecting architect and draw coordinator.

Transaction Costs:

The Borrower will reimburse the Lender for all of the Lender's costs, fees and expenses incurred in connection with the preparation, due diligence and closing of the Loan, including, but not limited to, the Lender's legal fees and expenses, recording fees, printing, mailing, travel and other out-of-pocket costs and expenses.

**Limited Waiver of
Sovereign Immunity:**

The Borrower will be required to adopt a resolution whereby, among other things, the Borrower will enter into a limited waiver of sovereign immunity and authorize dispute resolution procedures satisfactory to the Lender for the purposes of enforcing the provisions of any note and all documents related to the Loan, including any suits or actions with respect to Pledged Assets.

**Representations and
Warranties:**

Usual and customary for transactions of this nature, including, but not limited to, the following, applicable to the Borrower and related entities with such knowledge and materiality qualifications as the parties may agree: proper organizational

status and authority; Loan Documents valid, binding and enforceable against the Borrower; Loan Documents not violating laws or existing agreements or requiring governmental, regulatory or other approvals; no litigation that may have a material adverse effect on the business, operations, condition (financial or otherwise) or prospects of the Borrower; compliance with environmental and other laws and regulations; no adverse agreements, existing defaults or non-permitted liens; and that financial statements true and correct.

Other Representations and Warranties as appropriate.

Conditions Precedent to Closing:

Usual and customary for transactions of this nature, including, but not limited to:

- (a) Due diligence satisfactory to Lender and its counsel.
- (b) Documentation satisfactory to Lender, including all loan documentation.
- (c) Evidence of valid, perfected first priority lien on collateral.
- (d) The existence or adoption of an ordinance or law satisfactory to the Lender for determination of priorities among competing creditors and making available information concerning the existence of non-possessory security interests. The Borrower shall also adopt as the law of the Borrower with respect to any security interest granted by the Borrower in any cash, revenues or other similar personal property, legislation amending the Crow/Apsaalooke Secured Transaction Act to provide that a security interest in cash and revenues may be perfected (in addition to any method of perfection provided under the Crow/Apsaalooke Secured Transaction Act) by the filing of a financing statement (such ordinance as amended, the “**Secured Transaction Code**”).
- (e) Certified resolutions, incumbency certificate, and organizational documents from Borrower.
- (f) No material adverse change in Borrower’s business, operations, property, condition (financial or otherwise), performance or prospects.
- (g) Evidence of required insurance, including, but not limited to liability and other insurance on the Casino Facilities, naming the Lender as lender loss payee or assignee, as appropriate.
- (h) Receipt and delivery to Lender of all necessary approvals from the Bureau of Indian Affairs and other governmental entities and third parties, if required.
- (i) Payment of all fees and expenses owing to the

Lender.

- (j) Material compliance with all applicable laws and regulations including, without limitation, environmental laws.
- (k) Opinion of counsel to the Borrower in form and substance acceptable to the Lender.
- (l) Other Conditions Precedent as deemed appropriate by the Lender.

Conditions Precedent to Advances:

Approval by the general contractor/design-builder, architect, project management and inspector must be obtained prior to the submission of any draw request to the Lender. Disbursements shall be approved by the Lender and made in accordance with its standard practices and procedures. Additional conditions precedent as deemed appropriate by the Lender shall also apply.

Governing Law, Venue, Jurisdiction:

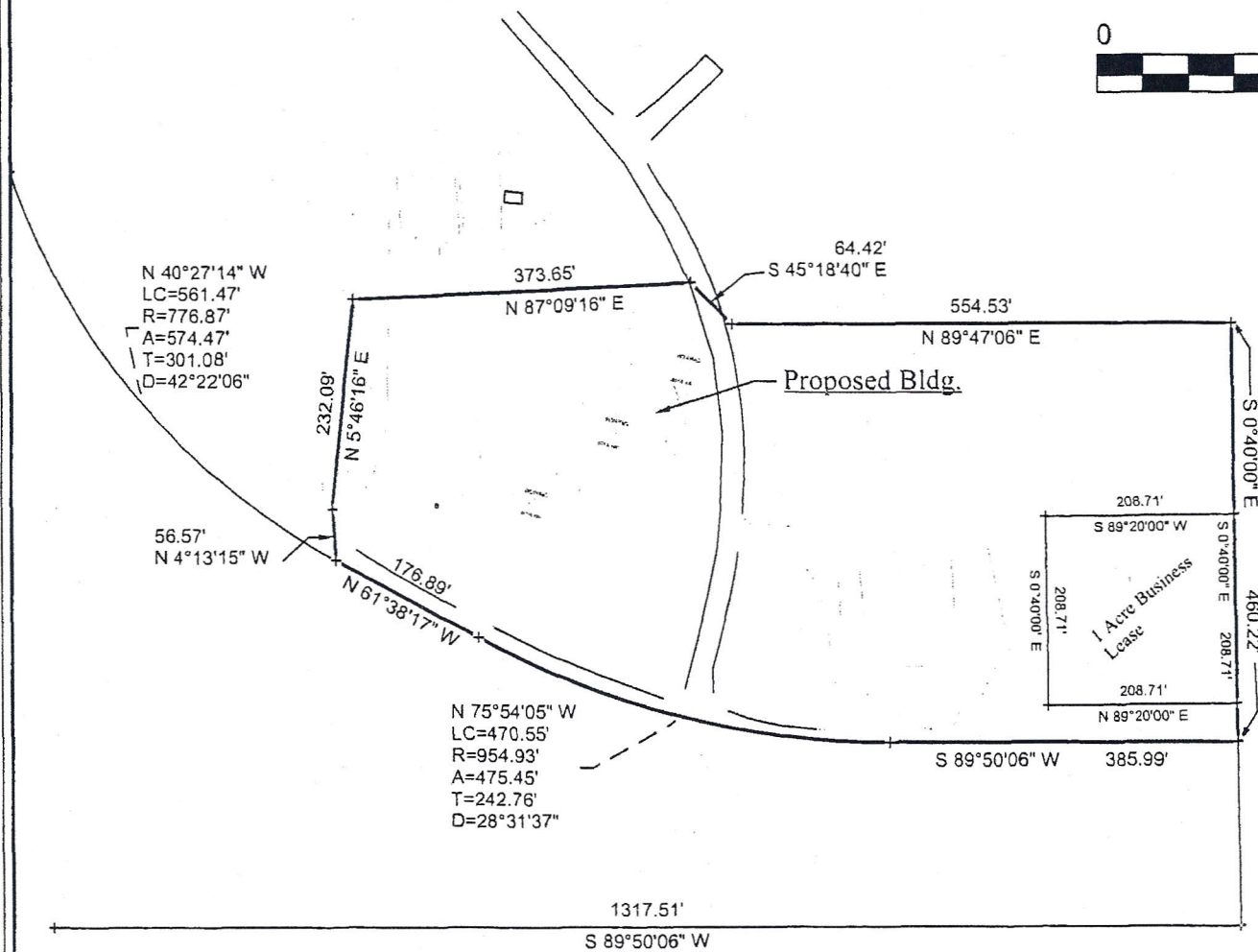
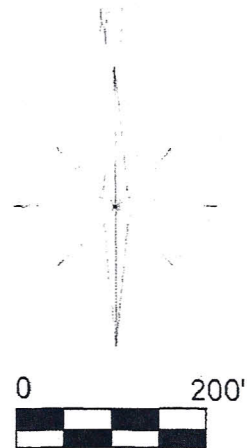
The laws of the State of Minnesota shall govern all loan documents, provided, however that the Lender's rights as a secured party to enforce its security interest in the Pledged Assets shall be governed by the Secured Transaction Code (as defined above).

Any disputes, claims or controversies arising out of or in relation to the Loan or the loan documents, or breach thereof, shall be settled by binding arbitration through the adoption of an arbitration resolution applicable to this Loan, or the adoption of a generally applicable arbitration ordinance that provides the same protection to the Lender.

Other:

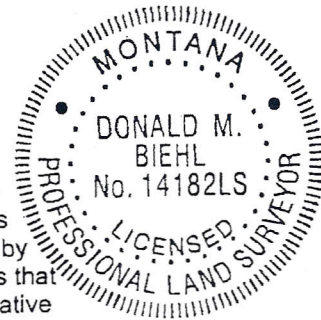
Additional usual and customary provisions and documents for transactions of this nature will be required, including covenants, events of default, rights and remedies and other provisions. Negotiation of mutually satisfactory documentation is a condition precedent to the Loan.

ALTA / ACSM LAND TITLE SURVEY for LITTLE BIG HORN CASINO



To LITTLE BIG HORN CASINO:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA and NSPS in 2005, and includes Items 1,2,4,5,7,9,10,11,14, of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, undersigned further certifies that in my professional opinion, as a land surveyor registered in the State of Montana, the Relative Positional Accuracy of this survey does not exceed that which is specified therein.



Donald M. Biehl
 Donald M. Biehl

Date: 6 May 2010

Registration No. 14182 LS

ALTA/ACSM LAND TITLE SURVEY

LEGAL DESCRIPTION OF PARTIAL AREA OF PROPERTY OWNED BY
LITTLE BIG HORN CASINO, CROW AGENCY

A tract of land located in US Government Lot 4, Section 7, T.3S., R35E., P.M.M.: Beginning at the southeast corner of Allotment No. 3613T (Eloise White Bear) also known as U.S.D.I., B.I.A. Business Lease No. 0-9106 point being an iron pin encased in concrete; Thence S.00°40'00"E. along the easterly line of said Lot 4, a distance of 460.22 feet to the center line of Frontage Road (37 & I-90 Interchange to Crow Agency), said point is N.00°40'00"W., a distance of 202.24 feet from the W 1/16 common between said Section 7 and Section 18; Thence along the said easterly projection and the centerline of said Frontage Road S.89°50'06"W., a distance of 385.99 feet to the beginning of a circular curve, along said curve to the right with a radius of 954.93 feet, a distance of 475.45 feet; Thence N.61°38'17"W., a distance of 176.89 feet, said point being an iron pin buried in existing asphalt; Thence N.04°13'15"W., a distance of 56.57 feet, point being a MDOT spike with washer; Thence N.05°46'16"E., a distance of 232.09 feet, to a chiseled "X" on a concrete island to the southwesterly side of the existing casino building; Thence N.87°09'16"E., a distance of 373.65 feet, to a point on the southwesterly boundary of aforesaid Business Lease No. 0-9106; Thence continuing along the southerly boundary of said Business Lease, S.45°18'40"E., a distance of 64.42 feet, to a found iron pin as shown on the Plat by Leslie D. Jones (1823S); Thence N.89°47'06"E., a distance of 554.53 feet to the Point of Beginning,.

Said tract contains 9.86 Acres more or less.



LEGISLATIVE BRANCH OF THE CROW TRIBAL GOVERNMENT

P.O. Box 309 – MAKAWASHA Avenue
Crow Agency, Montana 59022

Phone: (406) 638-2023/2025/2238 Fax: (406) 638-2030

Crow Country

Legislative Branch

Pryor:

Arrow Creek

Carlson Goes Ahead
Bryce Hugs
Lawrence DeCrane

Big Horn:

Valley of the Give

Away

Vincent Crooked Arm
Marlin D. Not Afraid
Pat Alden, Jr.

Dunmore:

Black Lodge

Conrad J. Stewart
V. Jeannie Pretty Paint
H.Noel Two Leggins

Reno:

Center Lodge

Oliver Half, Jr.
Shawn E. Backbone, Sr.
Kenneth G. Shane

Lodge Grass:

Valley of the Chief

Manuel Covers Up, Sr.
Speaker of the House
R. Knute Old Crow, Sr.
Woodrow Plainfeather

Wyola:

Mighty Few

Dana Wilson
M. Tye Backbone
Gordon Real Bird, Jr.

Staff

Attorney Ron Arneson, Esq.
Attorney at Law

Leslie Plain Feather
Legal Assistant

Gerald Jay Harris
Legal Clerk

Jackie Blacksmith,
Administrative Officer

William Old Crow
Finance Officer/Admin.
Assist.

Sheri Chandler
Office Assist./Receptionist
/Editor

Kenny Pretty On Top
Maintenance/Custodian
Sergeant at Arms

OFFICIAL CERTIFICATE OF DELIVERY

I, Pat Alden, Jr. Secretary of the Legislative Branch of the Crow Tribal Government hereby
this Transitional Action do deliver a True and Correct Official copy

Of the Final Approval for the following:

Introduced by: Co-Introduced By Cedric Black Eagle, Chairman of the Executive
and The Infrastructure Committee of the Legislature

“Approval of the Summary of Terms of the \$3 Million Phase I Casino Loan and
Limited Waiver of Sovereign Immunity”

JAR10-07 to Cedric Black Eagle in the

Position of: Chairman for the

Crow Tribal Executive Branch.

Done and dated this 28th day of May, 2010 @ 3:45 a.m./p.m.

Pat Alden Jr.
Secretary Of The House
Legislative Branch of the
Crow Tribal Government

Served by:

Jackie M. Blacksmith
Legislative Branch Staff

Cc: file

