



Crow Country

LEGISLATIVE BRANCH OF THE CROW TRIBAL GOVERNMENT

P.O. Box 309 – 144 MAKAWASHA Avenue

Crow Agency, Montana 59022

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

www.ctlb.org

Legislative Branch

Prvor:

Arrow Creek

Jonny J. Demontiney

Lawrence DeCrane

Secretary of the House

Bryce Hugs

Big Horn:

Valley of the Give

Away

Pat Alden, Jr.

Speaker of the House

Marlin Not Afraid

Paul Spotted Horse, Jr.

Dunmore:

Black Lodge

Frank White Clay

Darwin Spotted

Merritt White Clay

Reno:

Center Lodge

Shawn Real Bird

Benito Brown

Lloyd Hogan, III

Lodge Grass:

Valley of the Chief

Victor C. Nomee

Tom Yellowtail

Tyson Gros Ventre

Wyola:

Mighty Few

Harold Male Bear-Stone, Jr.

Brandon Good Luck

Newton Old Crow, Jr.

Staff

Dawn Gray

Attorney

Jackie M. Blacksmith,

Administrative Officer

Rachel Pretty on Top

Accounts Payable Clerk/

Travel Specialist

Sheri Chandler

Public Relations/Editor

Celisa Jefferson

Receptionist/Office Assistant

Kenny Pretty On Top

Maintenance/Custodian

Sergeant at Arms

NOTICE OF VETO OVERRIDE

THIS IS AN OFFICIAL NOTICE AS AUTHORIZED BY CLB06-08 "AN ACT TO ESTABLISHED A TIME LIMIT FOR EXECUTIVE VETO, A VETO OVERRIDE PROCESS AND REFERENDUM PROCESS."

THE CROW LEGISLATURE IN REGULAR SESSION ON JANUARY 18th, 2018

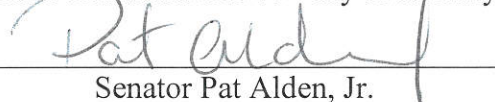
TOOK THE FOLLOWING VETO OVERRIDE ACTION RELATIVE TO,

JOINT ACTION RESOLUTION NO. JAR17-21

"RESOLUTION APPROVING THE CROW TRIBE'S AND AWWWA'S LIMITED WAIVERS OF SOVEREIGN IMMUNITY IN THE INTERLOCAL AGREEMENT WITH BIG HORN COUNTY, MONTANA FOR CDBG FUNDING FOR AWWWA'S PHASE 3C WASTEWATER PROJECT."

LEGISLATION IS ATTACHED IN REFERENCE AND INCORPORATED REFERENCE HERETO.

Done and dated this 18th day of January 2018



Senator Pat Alden, Jr.

Speaker of the House



Senator Lawrence DeCrane

Secretary of the House

CERTIFICATE OF SERVICE

Rosalla Bear Don't Walk Staff for the Executive Branch was served from Legislative Branch Staff member Jackie M. Blacksmith the following

JOINT ACTION RESOLUTION NO. JAR17-21

"RESOLUTION APPROVING THE CROW TRIBE'S AND AWWWA'S LIMITED WAIVERS OF SOVEREIGN IMMUNITY IN THE INTERLOCAL AGREEMENT WITH BIG HORN COUNTY, MONTANA FOR CDBG FUNDING FOR AWWWA'S PHASE 3C WASTEWATER PROJECT."

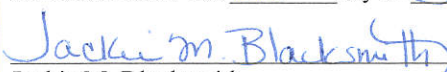
I, Rosalla Bear Don't Walk received as stated above. Done and dated this 25 day of January 2018.

~TO BE COMPLETED BY LEGISLATIVE STAFF MEMBERS ONLY~

I, the undersigned Crow Tribal Legislative Branch Staff member hand delivered the above to

Rosalla Bear Don't Walk or designee for the Executive Branch at Approximately 4:53 a.m./p.m.

Done and dated this 25th day of January, 2018.



Jackie M. Blacksmith

Administrative Officer

Crow Tribal Legislative Branch

-VETO-OVERRIDE-

JOINT ACTION RESOLUTION ENTITLED: RESOLUTION APPROVING THE CROW TRIBE'S AND AWWWA'S LIMITED WAIVERS OF SOVEREIGN IMMUNITY IN THE INTERLOCAL AGREEMENT WITH BIG HORN COUNTY, MONTANA FOR CDBG FUNDING FOR AWWWA'S PHASE 3C WASTEWATER PROJECT."

Bill or Resolution: JAR17-21 **Introduced by:** Chairman Alvin Not Afraid, Jr. **Date of Vote:** 1/18/2018
Number

REPRESENTATIVE:	YES	NO	ABSTAINED
M. White Clay	X		
D. Spotted	X		
F. White Clay	X		
L.Hogan, III			
B. Brown	X		
S. Real Bird			
V. Nomee			
T. Yellowtail			
T. Gros Ventre	X		
M. Not Afraid	X		
P. Spotted Horse, Sr.	X		
J. Domontiney	X		
B. Hugs			
N. Old Crow, Jr.	X		
B. Good Luck	X		
H. Stone, Jr.	X		
L. DeCrane, <i>Secretary of the House</i>	X		
P. Alden, Jr., <i>Speaker of the House</i>	X		
Total:	13	0	0

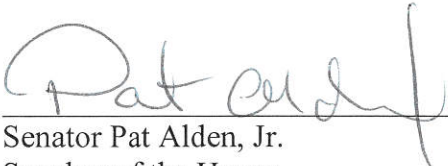
Result of Vote:

Passed

Not Passed


Tabled

Veto-Override


Senator Pat Alden, Jr.
Speaker of the House

Date

1-19-18


Senator Lawrence DeCrane
Secretary of the House

Date

1-19-2018

OCTOBER 2017 CROW TRIBAL LEGISLATURE

JOINT ACTION RESOLUTION NO. JAR 17-21

INTRODUCED BY ALVIN NOT AFRAID, JR., CHAIRMAN
CROW TRIBAL EXECUTIVE BRANCH

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

“RESOLUTION APPROVING THE CROW TRIBE’S AND AWWWA’S LIMITED WAIVERS OF SOVEREIGN IMMUNITY IN THE INTERLOCAL AGREEMENT WITH BIG HORN COUNTY, MONTANA FOR CDBG FUNDING FOR AWWWA’S PHASE 3C WASTEWATER PROJECT.”

WHEREAS, pursuant to Article V, Section 2(a) of the 2001 Crow Tribal Constitution, the Crow Tribal Legislature (hereinafter, the “Legislature”) is vested with the power and duty to promulgate and adopt laws, resolutions, ordinances, codes, regulations, and guidelines in accordance with the 2001 Crow Constitution and federal laws; and

WHEREAS, pursuant to the Act denoted CLB04-10 (October 2004) the Crow Tribal Legislature and Executive Branch have established the Apsaalooke Water and Waste Water Authority (“AWWWA”) as an instrumentality of the Crow Tribe for the purpose of remedying unsafe and unsanitary water, sewer, and other related facilities on the Crow Reservation in the interests of protecting public health, safety and the environment; and

WHEREAS, Big Horn County (the “County”) is the recipient of a Community Development Block Grant (“CDBG”) from the Montana Department of Commerce (“MDOC”) to support construction costs associated with improving the wastewater collection system, owned and operated by the AWWWA in Crow Agency, specifically the Phase 3c wastewater infrastructure improvement project consisting of the replacement of approximately 6,700 feet of wastewater pipe and a new East Frontage Road Lift Station (the “Project”); and

WHEREAS, the County, in its capacity as a CDBG grantee, has determined that the Crow Tribe and AWWWA can better supervise the design and construction of the facilities, as well as the collection and payment of assessments; and

WHEREAS, the County, the Crow Tribe and AWWWA have agreed that entering into an Interlocal Agreement with the Crow Tribe and AWWWA specifying the terms and condition of the County's delegation of certain CDBG responsibilities under the County’s

October 2017 Quarterly Session

**RESOLUTION APPROVING THE CROW TRIBE’S AND AWWWA’S LIMITED WAIVERS OF
SOVEREIGN IMMUNITY IN THE INTERLOCAL AGREEMENT WITH BIG HORN COUNTY,
MONTANA FOR CDBG FUNDING FOR AWWWA’S PHASE 3C WASTEWATER PROJECT.**

contract with MDOC (the “CDBG Contract”) to the Crow Tribe and AWWWA is in the best interests of the parties; and

WHEREAS, as part of the Interlocal Agreement, the County has requested the Crow Tribe and AWWWA, to grant limited waivers of the Tribe’s and AWWWA’s sovereign immunity for the purpose of enforcing the CDBG Contract and Interlocal Agreement terms; and

WHEREAS, the Interlocal Agreement between the County, the Crow Tribe and AWWWA will enable them to enhance cooperation in implementing the County's CDBG award to accomplish the Project; and

WHEREAS, the Chairman of the Executive Branch has authority and responsibility pursuant to the “enumerated powers” in Article IV, Section 3 of the Constitution and Bylaws of the Crow Tribe of Indians to represent the Crow Tribe in negotiations with Federal, State and local governments and other agencies, corporations, associations, or individuals in matters of economic development affecting the Crow Tribe, and 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) of [the] Constitution;” and

WHEREAS, the Chairman of the Executive Branch has negotiated the terms of the Interlocal Agreement with the County, including the limited waivers of sovereign immunity, as set forth in Exhibit A to this Resolution, attached hereto and incorporated by reference; and

WHEREAS, the Legislative Branch has authority and responsibility pursuant to its “powers and duties” in Article V, Section 2(f) of the Constitution 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, although the terms of the Agreement, other than the limited waivers of sovereign immunity, are generally not subject to Legislative Branch approval under the Tribal Constitution, the County has requested that both Branches approve and affirm that the Agreement is binding on both the Crow Tribe and AWWWA; and

WHEREAS, entering into the Interlocal Agreement with Big Horn County is in the best interests of the Crow Tribe and AWWWA, and the limited waivers of sovereign immunity are necessary for the business purpose of entering into the Interlocal Agreement; and

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

Section 1. That the limited waivers of the Crow Tribe's and AWWWA's sovereign immunity in the Interlocal Agreement between the Crow Tribe, Apsaalooke Water and Waste Water Authority and Big Horn County, Montana for the County's CDBG grant funding, in the form set forth in Exhibit A attached hereto and incorporated herein by reference, are hereby approved.

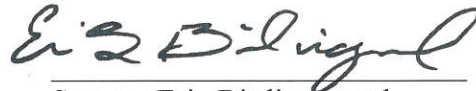
Section 2. That upon it being duly executed by the parties, the terms of the Interlocal Agreement set forth in Exhibit A shall be fully binding and legally enforceable obligations of the Crow Tribe and AWWWA, and the terms of the Agreement are hereby approved and confirmed.

Section 3. That the approvals granted herein are effective on the date of approval of this Resolution and the execution of the Interlocal Agreement.

[Remainder of Page Intentionally Left Blank]

CERTIFICATION

I hereby certify that this Joint Action Resolution entitled “**RESOLUTION APPROVING THE CROW TRIBE’S AND AWWWA’S LIMITED WAIVERS OF SOVEREIGN IMMUNITY IN THE INTERLOCAL AGREEMENT WITH BIG HORN COUNTY, MONTANA FOR CDBG FUNDING FOR AWWWA’S PHASE 3C WASTEWATER PROJECT.**” 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 19th day of October, 2017.



Senator Eric Birdinground
Speaker of the House
Crow Tribal Legislature

ATTEST:



Senator Shawn Real Bird
Secretary Pro-Tem
Crow Tribal Legislature

EXECUTIVE ACTION

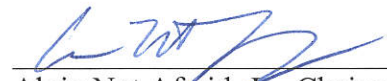
I hereby

_____ approve or

 veto.

This Joint Action Resolution entitled “**RESOLUTION APPROVING THE CROW TRIBE’S AND AWWWA’S LIMITED WAIVERS OF SOVEREIGN IMMUNITY IN THE INTERLOCAL AGREEMENT WITH BIG HORN COUNTY, MONTANA FOR CDBG FUNDING FOR AWWWA’S PHASE 3C WASTEWATER PROJECT.**”

pursuant to the authority vested in the Chairman of the Crow Tribe by Article V, Section 8 and Article IV, Section 3(k) of the Constitution and Bylaws of the Crow Tribe of Indians, on this _____ day of _____, 2017.



Alvin Not Afraid, Jr., Chairman
Crow Tribal Executive Branch

October 2017 Quarterly Session

RESOLUTION APPROVING THE CROW TRIBE’S AND AWWWA’S LIMITED WAIVERS OF SOVEREIGN IMMUNITY IN THE INTERLOCAL AGREEMENT WITH BIG HORN COUNTY, MONTANA FOR CDBG FUNDING FOR AWWWA’S PHASE 3C WASTEWATER PROJECT.

Bill or Resolution: JAR17-21 **Introduced by:** Alvin Not Afraid, Chairman **Date of Vote:** 10/19/2017
Number

REPRESENTATIVE:	Yes	No	Abstained
G. Three Irons	<u>X</u>	<u></u>	<u></u>
B. Rogers	<u></u>	<u></u>	<u></u>
F. White Clay	<u>X</u>	<u></u>	<u></u>
P. Hill	<u>X</u>	<u></u>	<u></u>
S. Real Bird	<u>X</u>	<u></u>	<u></u>
V. Nomee	<u></u>	<u></u>	<u></u>
T. Yellowtail	<u>X</u>	<u></u>	<u></u>
T. Gros Ventre	<u>X</u>	<u></u>	<u></u>
P. Alden, Jr.	<u></u>	<u></u>	<u></u>
E. Deputy	<u>X</u>	<u></u>	<u></u>
P. Spotted Horse, Sr.	<u>X</u>	<u></u>	<u></u>
L. DeCrane	<u>X</u>	<u></u>	<u></u>
J. Demontiney	<u>X</u>	<u></u>	<u></u>
B. Hugs	<u></u>	<u></u>	<u></u>
B. Good Luck	<u>X</u>	<u></u>	<u></u>
H. Male Bear, Jr.	<u>X</u>	<u></u>	<u></u>
G. Real Bird, Jr.	<u></u>	<u></u>	<u></u>
<i>Secretary of the House</i>			
Eric Birdinground	<u>X</u>	<u></u>	<u></u>
<i>Speaker of the House</i>			
Total:	<u>13</u>	<u>0</u>	<u>0</u>

Result of Vote:

Passed

Not Passed

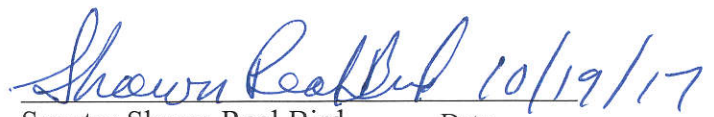
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Veto-Override



Senator Eric Birdinground
Speaker of the House

Date



Senator Shawn Real Bird
Secretary Pro-Tem

Date

EXHIBIT A

October 2017 Quarterly Session

**RESOLUTION APPROVING THE CROW TRIBE'S AND AWWWA'S LIMITED WAIVERS OF
SOVEREIGN IMMUNITY IN THE INTERLOCAL AGREEMENT WITH BIG HORN COUNTY,
MONTANA FOR CDBG FUNDING FOR AWWWA'S PHASE 3C WASTEWATER PROJECT.**

Page 5 of 5

**BIG HORN COUNTY,
CROW TRIBE of INDIANS
AND
APSÁALOOKE WATER & WASTEWATER AUTHORITY
INTERLOCAL AGREEMENT**

THIS AGREEMENT is entered into by Big Horn County, with a mailing address of P.O. Box 908, Hardin MT 59034 herein referred to as "County" the Apsáalooke Water and Wastewater Authority, with a mailing address of P.O. Box 126 Crow Agency, MT 59022 herein referred to as "Authority" and the Crow Tribe of Indians with a mailing address of P.O. Box 159 Crow Agency, MT 59022 herein referred to as "Crow Tribe" or "Tribe".

WITNESSETH THAT:

WHEREAS, the Crow Tribe created established and organized the Authority; and

WHEREAS the Authority is an instrumentality of the Crow Tribe, and even if not specifically set forth, any reference to the Authority shall include the Crow Tribe; and

WHEREAS, the County is the recipient of a Community Development Block Grant (CDBG) to support construction costs associated with improving the wastewater collection system, herein referred to as "Project", owned and operated by the Authority, in Crow Agency; and

WHEREAS County would not enter into this Agreement without the backing of the full faith and credit of the Crow Tribe; and

WHEREAS, this Agreement among the County, the Crow Tribe and the Authority will enable them to enhance cooperation in implementing the County's CDBG award to accomplish the Project; and

WHEREAS, the County, in its capacity as a CDBG grantee, has determined that the Authority and the Crow Tribe can better supervise the design and construction of the Project, as well as the collection and payment of assessments; and

WHEREAS, it is anticipated that prior to the Montana Department of Commerce (“MDOC”), entering into CDBG contract **MT-CDG-15PF-02** with the County (“the CDBG Contract”), MDOC will require the County to enter into an agreement with the Authority, and the County has required that the Crow Tribe be a party to such agreement, specifying the terms and conditions of the County's delegation of certain responsibilities (CDBG and otherwise) to the Crow Tribe and the Authority and the duties of the Authority and Crow Tribe as well as the benefits to County; and

WHEREAS, all parties to this Agreement understand that none of the parties involved herein has in any way, expressly or implied, abrogated any of its individual powers, and that this Agreement does not create any new organization or legal entity.

NOW, THEREFORE, THE COUNTY, THE CROW TRIBE, AND THE AUTHORITY MUTUALLY AGREE AS FOLLOWS:

I. Responsibilities of the Crow Tribe and Authority

- A. The Crow Tribe and Authority will, subject to prior approval by the Board of County Commissioners, retain the services of a consulting engineering firm to design and supervise the construction of the Project. (Note, it is acknowledged by the County that this is already done—Morrison Maierle, Inc. is the approved engineering firm.)
- B. The Crow Tribe and Authority will be responsible for all facets of the design and construction phases of the Project, including but not limited to the following:
 - 1. Design engineering; including the development of design criteria, preparation of approvable plans and specifications and assistance with Project bidding and award;
 - 2. Construction engineering; including full-time resident construction inspection, Project close-out, preparation of an Operation & Maintenance manual, as-built drawings, and post-construction activities;

3. Compliance with all applicable state and federal requirements contained in the Certifications for Application submitted to the MDOC with the County's application for CDBG assistance, dated April 16, 2015;
4. Compliance with all other state and federal requirements as described in the most recent version of the Montana CDBG Program Grant Administration Manual; and
5. Taking, from time to time, in a timely manner, all actions or ceasing any action deemed needed by the County, in its sole discretion, to ensure that County complies with all the provisions of the Contract between County and the Montana Department of Commerce ("CDBG Contract") which has as its purpose to provide funding for the Project. If and when it is executed a copy of said CDBG Contract will be attached hereto as Attachment A and shall be incorporated herein as if set forth in full. It is understood and agreed that neither the Crow Tribe nor the Authority have the authority by virtue of this Agreement to make any requests to the Department under Attachment A (CDBG Contract) or take any other action regarding said Attachment A (CDBG Contract) or which could affect Attachment A (CDBG Contract) in any manner whatsoever without the express written approval of County which may be withheld at County's sole discretion. By way of example, but not limitation this would include requests to extend any time frames, requests to adjust budgets, requests for retention of income or change the duties of County under said Attachment A (CDBG Contract). Without limiting the foregoing, nothing herein shall be construed as preventing the Crow Tribe or the Authority from having informal communications with MDOC regarding the CDBG and their duties under this Agreement, and the Crow Tribe and the Authority shall be included in any formal requests made by the County that may affect the CDBG Contract.
6. Compliance with all other state and federal requirements, including but not limited to those described in Attachment A (CDBG Contract); and
7. Preparation of construction bid documents; and

8. Supervision of the bid process, the awarding of construction contracts, and construction of the Project. The selection of the Project contractor will be subject to the ratification of the County Board of Commissioners and bid solicitation documents will reflect this requirement.
- C. The Authority, the Crow Tribe and its consulting engineer will receive, review, approve and pay, when due, all requests for payment for the items contained in paragraph I(B), above and all other expenses related to the Project, and will prepare a summary of expenditures (Uniform Status of Funds Spreadsheet and Uniform Invoice Tracking Spreadsheet) to keep the County abreast of Project status.
- D. The Crow Tribe and Authority agree to provide the MDOC, the United States Department of Housing and Urban Development, the Comptroller General of the United States, the Montana Legislative Auditor, or their authorized agents, access to any records necessary to determine Agreement compliance. The Authority and Crow Tribe agree to create and retain records supporting the services rendered or supplies delivered for a period of four (4) years after either the completion date of this Agreement or the conclusion of any claim, litigation, or exception relating to this Agreement taken by the County, the Authority, the Crow Tribe, the State of Montana, or a third party, or the end any other period required by law, whichever is later. These records will be kept in the Crow Tribe's offices in Crow Agency, Montana. At the request of County, the Tribe and Authority will submit reports and copies of records on their performance under this Agreement.
- E. The Authority and Crow Tribe will provide documentation that all non-County CDBG funds for the Project have been appropriated and allocated for use prior to the time of construction bid award.
- F. The Authority and Crow Tribe will withhold one percent (1%) of the amount of any claim submitted by the contractor (gross receipts) and will forward this amount to the Montana Department of Revenue pursuant to section 15-50-206(2), Montana Code Annotated; provided, however, that with the written concurrence of the Montana Department of Revenue, this withholding

requirement shall not apply to Indian contractors owned by members of the Crow Tribe for work performed on the Crow Indian Reservation.

- G. Unless provided for otherwise, hereunder, the Authority and the Crow Tribe will perform all duties which would normally be performed by County as the recipient of the CDBG.
- H. Any duty, responsibility, obligation or waiver of either the Crow Tribe or Authority under this Agreement, or any part thereof, shall be the joint and several responsibility, duty, obligation or waiver of the Authority and Crow Tribe. In other words, any and all obligations, duties, responsibilities and waivers under any and all terms of this Agreement of either the Authority or the Crow Tribe shall be the joint and several obligation, duty, responsibility or waiver of both the Crow Tribe and Authority.
- I. The Authority and Crow Tribe shall comply with all applicable local, Tribal, state, and federal laws, regulations, ordinances, and resolutions, and all administrative directives and procedures established by any applicable authority.
- J. The Authority and Crow Tribe agree that all contracts and subcontracts entered into for the completion of the Project will require such contractors and subcontractors to also comply with all applicable local, Tribal, state, and federal laws, regulations, ordinances, and resolutions; all administrative directives and procedures established by any applicable authority; and all applicable design standards and generally accepted industry standards.
- K. The Authority and Crow Tribe agree that the Project will adhere to all applicable design standards required by the Department of Environmental Quality (DEQ) and obtain all applicable federal, state, and local permits required for the Project. If no DEQ standards are applicable to the Project, the Crow Tribe and Authority agree that the Project will adhere to generally accepted industry standards, such as *Recommended Standards for Wastewater Facilities* or *Recommended Standards for Water Works*, published by the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and

Environmental Managers, latest edition.

- L. The Authority and the Crow Tribe expressly agree to repay to the County any funds paid under this Agreement that were not eligible for reimbursement or that the Authority, the Crow Tribe, their contractors or subcontractors, or any public or private agent or agency to which they delegate authority to carry out portions of this Agreement, expends in violation of the terms of this Agreement, Attachment A (CDBG Contract), the statutes and regulations of any applicable authority or any applicable local, state, or federal requirements, including but not limited to state and federal requirements as described in the most recent version of the Montana CDBG Program Grant Administration Manual.

II. Payment of Design, Construction & Administrative Costs Incurred

- A. Each reimbursement payment for engineering and construction costs incurred during the Funding Period (which is the time frame during which the MDOC determines that reimbursement is proper under the CDBG grant, Attachment A (CDBG Contract) and applicable laws and regulations) will be drawn from the Community Development Block Grant. It is understood that there are other funding sources for Project. The reimbursement payment shall be in an amount that is proportionate to the percentage that the CDBG funds represent of the total cost of the Project as specified in Attachment B (Project Budget) a copy of which is attached to this Agreement, and by this reference incorporated herein, and any modifications thereto approved by the MDOC and the County in accordance with the provisions of Attachment A (CDBG Contract). The County is not responsible for payments directly to the engineer or construction contractors.
- B. Administrative costs shall be paid as specified in Attachment B (Project Budget) and any modifications thereto approved by MDOC and the County in accordance with the provisions of Attachment A (CDBG Contract).

III. Payment of Construction Costs by the County

Upon receipt of valid documentation, such as Request for Funds Form, Uniform Status of Funds Spreadsheet, Uniform Invoice Tracking Spreadsheet, Project Progress Report and Invoice, from the Authority and the Crow Tribe, and proof of completed payment of the same, the County shall request from the MDOC the required amount of CDBG funds to reimburse the invoice or the portion of it which was paid. The funds will be transferred jointly to the Crow Tribe and the Authority for reimbursement of payment of the invoice, or a portion of it.

IV. Duration of the Agreement

- A. This Agreement takes effect when the following conditions are satisfied and are all considered conditions precedent:
1. The MDOC and County Board of Commissioners have executed the CDBG Contract which, if and when executed, a copy will be attached hereto as Attachment A;
 2. The MDOC has approved the County's "Request for Release of Funds and Certification";
 3. The County Board of Commissioners, the Crow Tribe's governing authorities and the Authority's governing body have each reviewed this Agreement and agreed fully to its terms and conditions;
 4. Acceptance of this Agreement and all the terms of it by MDOC, including but not limited to those regarding ownership set forth in Article VI hereof; and
 5. The Crow Tribe and Authority have both executed and delivered to County this Agreement which incorporates limited waivers of sovereign immunity, the same having been approved by the Crow Tribal Legislature and executed by the proper Authority and Tribal authorities, including but not limited to the Crow Tribal Executive Branch, and the appropriate Officers and Directors of the Authority, and attorneys for both the Authority and the Tribe have executed and delivered to County an

Estoppel Certificate and all of the above have been, in its sole discretion, approved by County.

- B. This Agreement will terminate when the MDOC approves final closeout of the CDBG Contract, unless terminated earlier in accordance with the terms of this Agreement.
- C. This Agreement may be terminated by the parties, upon thirty (30) days written notice, as provided in Section VIII of this Agreement.
- D. Any termination of Attachment A (CDBG Contract) will work a termination of this Agreement.

V. Administration

- A. For purposes of implementing the joint undertaking established by this Agreement, it is hereby agreed that the parties shall form a project coordinating committee consisting of the personnel designated in the Management Plan (Attachment C to this Agreement) to meet on a regular basis during the term of the CDBG project to provide for the efficient and effective implementation of this Agreement and the activities contained herein.
- B. The Authority and Crow Tribe will comply with all requirements applicable to not only subrecipient or subgrantee entities as set forth in Attachment A (CDBG Contract), but also those applicable to recipients or grantees, in Attachment A (CDBG Contract) which if and when the same is executed will be attached hereto and specifically incorporated herein by this reference.
- C. The Authority and Crow Tribe will carry out each activity under this Agreement in compliance with all federal laws and regulations described in 24 CFR Part 570.
- D. The Authority and Crow Tribe assumes all the County's environmental responsibilities described at 24 CFR Part 58.
- E. The Authority and Crow Tribe assumes all the County's responsibility for initiating the review process under the provisions of 24 CFR Part 52.

- F. The County, Authority and Crow Tribe shall comply with all terms and provisions of the Big Horn County Phase 3c Wastewater System Improvement Project in Crow Agency MT-CDG-15PF-02 Management Plan, for the Project, a copy of which is attached hereto and which by this reference is incorporated herein as if set forth in full marked as Attachment C (Management Plan) .
- G. The Authority and Crow Tribe will comply and adhere to all laws, regulations and contract provisions regarding the Project.
- H. With the exception of matters relating to receiving and disbursing funds set forth in Clause VI, all duties under the terms of the underlying CDBG grant will be performed by the Authority and the Crow Tribe.

VI. Purpose of this Agreement and Disposition of Real Property or Equipment Acquired

- A. As it regards the duties of County, the purpose of this Agreement is to define the procedures by which the County will disburse CDBG funds to reimburse invoices paid for engineering and construction of the Project. Nothing herein unless specifically set forth, shall require performance of any action or the forbearance of any action by County other than the disbursement of CDBG funds to reimburse invoices paid for engineering or construction of the Project. The Project will be constructed or improved as described in Attachment A (CDBG Contract) and the Authority and the Crow Tribe or their assigns will continue to own and operate the Project subject to the limitations contained in subparagraph B of this Section.
- B. Upon the expiration of this Agreement, the Authority and Crow Tribe will transfer to the County any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. With respect to any real property or equipment under the Crow Tribe's or Authority's control that was acquired or improved in whole or in part with CDBG funds in excess of \$25,000 the Authority and Crow Tribe will either:

1. use the property to meet one of the national objectives contained in 24 CFR section 570.901 for five years after expiration of the agreement (or for such longer period of time as is determined to be appropriate by the County) or;
2. dispose of the property in a manner that results in the County being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvements to, the property. Reimbursement is not required after the period of time specified in subparagraph A of this section. The proceeds from such disposition will be subject to the applicable provisions of 24 CFR 570.504 (Program Income) and 24 CFR Parts 85.25 (Program Income), 85.31 (Real Property), and 85.32 (Equipment).

VII. Indemnification and Hold Harmless

The Crow Tribe and Authority jointly and severally waive any and all claims and recourse against the County, including the right of contribution for loss or damage to persons or property arising from, growing out of or in any way connected with this Agreement, except claims arising from the sole negligence or breach of contract by the County or its officers, agents, or employees. The Authority and Crow Tribe jointly and severally will indemnify, hold harmless, and defend the County against any and all claims, demands, damages, costs, expenses, or liability, including reasonable attorneys' fees, arising out of or in any manner related to this Agreement, except for liability arising out of sole negligence or breach of contract by the County or its officers, agents, or employees. The duty to indemnify hereunder shall survive all other performances under this Agreement or the Termination of this Agreement for any reason whatsoever.

VIII. Suspension and Termination

In accordance with 24 CFR 85.43, the County may suspend or terminate this Agreement if the Crow Tribe or Authority materially fails to comply with any term of this Agreement or Attachment A (CDBG Contract). In addition, either party may terminate this Agreement in accordance with 24 CFR 85.44.

IX. Compliance with Laws

- A. The Crow Tribe and Authority must, in performance of work on the Project fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, the Patient Protection and Affordable Care Act ("Affordable Care Act"), and Executive Order No. 12-2015 Amending and Providing For Implementation of the Montana Sage Grouse Conservation Strategy. Any subletting or subcontracting by the Authority or the Crow Tribe will subject subcontractors to the same provisions.
- B. In accordance with Section 49-3-207, Montana Code Annotated and Executive Order No. 04-2016, the Authority and the Crow Tribe agree that the hiring of persons to perform the work on the Project will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, sex, pregnancy, childbirth or medical conditions related to childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status.
- C. In accordance with 41 CFR 60-1.5(a)(7), it is not a violation of the Equal Opportunity requirements to provide preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation, as provided in the Crow Nation Workforce Protection Act.

X. Liaisons

The liaisons for the parties are as follows:

APSÁALOOKE WATER & WASTEWATER AUTHORITY

John Doyle

Chairman

P.O. Box 126
Crow Agency, MT 59022
(406)679-0363

CROW TRIBE OF INDIANS
Alvin Not Afraid, Jr.
Chairman
P.O. Box 159
Crow Agency, MT 59022
(406)638-2059

BIG HORN COUNTY
Chad Fenner
George Real Bird III
P.O. Box 908
Hardin, MT 59034
(406)665-9700

XI. Miscellaneous

- A. No separate legal entity is created hereunder.
- B. The Authority and Crow Tribe, with the exception of the duties of the Administrative Assistant as set forth in Clause 3 of Attachment C (Management Plan), shall be responsible for the manner of financing hereunder and establishment and maintenance of a budget hereunder.
- C. As it regards this Agreement and any and all matters related thereto, the Authority and the Crow Tribe, solely and jointly, hereby unequivocally and irrevocably grant to County limited waivers of their sovereign immunity (the "Waivers"), which Waivers are limited to County, its elected officials, employees and attorneys, past, present or future (hereinafter collectively "Indemnitees") solely and jointly, including any claims to exhaust tribal remedies, if any, for the sole purpose of enforcement of this Agreement and subject to the following limitations:

(1) the Waivers shall only extend to the Indemnitees, and no other or third parties;

(2) the Waivers shall extend only for a period of time until the Crow Tribe's and the Authority's obligations, including but not limited to the duty to indemnify under VII of this Agreement, are satisfied under this Agreement; and therefore, it is understood and agreed that the Waivers granted hereunder shall survive all other performances under the Agreement or Termination of this Agreement for any reason whatsoever; and

(3) The Waivers shall extend to both equitable relief and monetary relief, *provided*, however, that the monetary relief available against the Crow Tribe and the Authority pursuant to the Waivers shall be limited to damages for breach of this Agreement or the CDBG Contract by the Crow Tribe or the Authority, and shall not include any other indirect, consequential, tort, punitive or noncompensatory damages, and in no event shall any judgment or other relief awarded pursuant to the Waivers result in the encumbrance of any Tribal or Authority property or assets which are held in trust by the United States of America.

D. The Crow Tribe and Authority shall maintain insurance in the same amounts and of the same type as required of County in Attachment A (CDBG Contract). Crow Tribe's and Authority's insurance policies shall name County as an additional insured and provide that should either the Crow Tribe or Authority default in any manner under said insurance policy that County be notified by the insurer prior to cancelation of said insurance policy. It is understood and agreed that Crow Tribe's and Authority's insurance policies are primary to any other valid and collectible insurance available. For any claims related to this Agreement or the Project, Crow Tribe's and Authority's insurance coverage shall be primary insurance as respects the County, its elected officials, employees and attorneys. Any insurance or self-insurance maintained by the County, its elected officials, employees, or attorneys shall be excess of the Crow Tribe's and Authority's insurance and shall not contribute with it. It is specifically understood and agreed that the Crow Tribe's and the Authority's insurance company or companies cannot exercise Crow Tribe's or the Authority's sovereign immunity, if any, for any claims or indemnifications asserted by the Indemnitees to the extent of the Waivers granted in Paragraph C of above. At the time of the execution of this Agreement, each

of the Crow Tribe's and the Authority's insurers shall provide County a Certificate of Insurance indicating that it meets the requirements herein, including but not limited to confirmation by Crow Tribe's and the Authority's insurance carrier(s) that the Crow Tribe's and the Authority's insurance is the primary insurance as set forth above.

E. This Agreement is governed by the laws of Montana, including but not limited to those laws regarding the interpretation and performance of contracts. The venue for any action brought under this Agreement shall be in the courts of the State of Montana in Big Horn County, Montana. In the event of any action to enforce rights under this Agreement, each party shall pay its own costs and expenses, including reasonable attorney's fees, incurred in connection with such action. This Agreement shall not be subject to arbitration.

F. This instrument contains the entire agreement between the parties, and no statements, or promises of inducements made by either party which are not contained in this instrument shall be valid or binding. This Agreement may not be enlarged modified, or altered except as provided by written agreement of the parties.

G. County, Crow Tribe and Authority acknowledge and agree that the parties are experienced and competent business professionals who have been given an opportunity to consult with an attorney concerning this Agreement. Therefore, no provision of this Agreement, including any amendment or addendum, shall be construed against the party who drafted this Agreement.

H. All notices required hereunder shall be deemed to have been properly served if delivered in writing personally or by certified mail, to the other party at that party's address given in Section X above. The date of service of the notice by mail shall be the date on which such notice is mailed.

I. Failure on the part of any party to perform the provisions of this Agreement shall be an event of default. Any event of default not timely cured shall entitle the County to pursue the remedies available in law or equity pursuant to the Waivers granted in Paragraph C above.

J. Nothing herein shall be construed to require the County take any action or forebear from taking any action that in the sole opinion of County would cause County to be in default of Attachment A (CDBG Contract).

K. To the extent that any provisions of this Agreement conflict with the provisions of Attachment A (CDBG Contract), the document which results in the least harm to County shall govern.

L Any representations made by the Authority or the Crow Tribe in assisting County applying for grant hereunder are specifically incorporated herein and are made binding on both the Crow Tribe and the Authority regardless of the entity making the representation.

M. Authority and Crow Tribe collectively and individually represents that:

1. It has the authority to enter into this Agreement, including but not limited to the terms regarding the Crow Tribe's and the Authority's limited waivers of sovereign immunity;
2. The execution, delivery and performance of this Agreement has been duly and validly authorized, including but not limited to the terms regarding the Authority's and Crow Tribe's limited waivers of sovereign immunity; and
3. This Agreement constitutes a legal, valid, and binding obligation, enforceable in accordance with its terms, including but not limited to the terms regarding the Authority's and Crow Tribe's limited waivers of sovereign immunity.

N. The covenants and conditions herein shall bind and inure to the benefit of the legal representatives, successors and assigns of the respective parties hereto, provided however neither the Authority nor the Crow Tribe may assign its rights hereunder or delegate its duties hereunder without the written consent of County which may be withheld in County's sole discretion.

IN WITNESS OF THE TERMS SET OUT ABOVE, the parties have executed this Agreement.

BOARD OF COUNTY COMMISSIONERS, BIG HORN COUNTY, MONTANA

BY: _____
SIDNEY FITZPATRICK, CHAIRMAN

DATE: _____

CHAD FENNER, MEMBER

DATE: _____

GEORGE REAL BIRD, III, MEMBER

DATE: _____

ATTEST

BY: _____

DATE: _____

APSÁALOOKE WATER AND WASTEWATER AUTHORITY

BY: _____
John Doyle, Chairman

DATE: _____

ATTEST

BY: _____
[NAME/TITLE]

DATE: _____

CROW TRIBE OF INDIANS

BY: _____
A.J, Not Afraid, Chairman

DATE: _____

ATTESTBY: _____
[NAME/TITLE]

DATE: _____

Estoppel Certificate by Counsel

Approved as to Form and Content and the undersigneds jointly and severally further represent and warrant to County, its elected officials, employees, attorneys and contractors that all necessary actions have been taken by the Crow Tribe of Indians and the Authority to allow the execution of this Agreement by Authority and the Crow Tribe, that the terms of this Agreement, including but not limited to the terms regarding the Authority's and the Crow Tribe's limited waivers of sovereign immunity are fully binding and enforceable, and that all necessary signatures to bind the Crow Tribe and Authority are in place and that the persons executing this Agreement on behalf of the Crow Tribe and Authority had the authority to do so. The venue for any action brought under this clause shall be in the Courts of the State of Montana in Big Horn County, Montana. In the event of any action to enforce rights under this Agreement, each party shall pay its own costs and expenses, including reasonable attorney's fees, incurred in connection with such action.

<u>Signature</u>	<u>Printed Name</u>	<u>Date</u>
<u>Attorney for Authority</u>		

<u>Signature</u>	<u>Printed Name</u>	<u>Date</u>
<u>Attorney for Crow Tribe, Executive Branch</u>		

Pursuant to Montana Code Annotated § 18-11-105 the above Interlocal Agreement was approved as to both form and content by the Office of the Attorney General for the State of Montana on this ____ day of _____ 2017.

By: _____
Title: _____

The above Interlocal Agreement was approved as to both form and content by MDOC on this _
day of _____ 2017.

By: _____

Title: _____