

JUNE 7th, 2018 SPECIAL SESSION CROW TRIBAL LEGISLATURE

LR No. 18-07

Introduced by the Crow Tribal Legislature

A Legislative Resolution Titled:

**A RESOLUTION OF THE CROW TRIBAL LEGISLATURE APPROVING AND
HIRING THOR HOYTE AS LEGISLATIVE BRANCH ATTORNEY**

Legislative Findings:

WHEREAS, The Crow Tribal Legislative Branch is a separate and distinct branch of government under the 2001 Constitution of the Crow Tribe; and

WHEREAS, the Crow Tribal Legislature (hereinafter "Legislature") has the power and duty under Article V, Section 2 of the Crow Tribal Constitution to promulgate and adopt resolutions in accordance with the Constitution and federal laws for the governance of the Crow Tribe; and

WHEREAS, the constitutional power and duty of the Legislature is exercised in accordance with the doctrine of separation of powers from the other branches of Crow Tribal Government; and

WHEREAS, the Crow Tribal Legislative Branch has established the position of the Legislative Branch staff attorney to provide the Legislative Branch with independent and ethical legal counsel, and for legal statutory construction and constitutional interpretation and other relevant areas of law; and

WHEREAS, the Legislature seeks to provide accurate and accountable legislation responsive to Executive Branch Departments in the operation of Crow Tribal government and to the Crow Tribal General Council; and

WHEREAS, for several months the Legislature publicly advertised for an attorney position and upon thorough review of all applicants, the Health and Human Services Committee held a meeting on May 3, 2018, for the purpose of making an official recommendation to the full legislature on the selection of an attorney, and

WHEREAS, The Legislative Body has recommended to employ Thor Hoyte as the Legislative attorney. Thor Hoyte has specialized expertise, educational credentials and training required to provide legal services to the Crow Tribal Legislature. Mr. Hoyte in good standing with the Courts to which he is admitted to practice with no disciplinary proceedings. Mr. Hoyte is admitted to practice in the State of Montana and in the State of Washington and also has extensive knowledge of federal Indian law and including work as legal counsel for Tribes in Oregon, Montana and Washington.

WHEREAS, the Legislature now deems it necessary and proper to give final approval to the contract for legal services with Thor Hoyte.

NOW, THEREFORE, BE IT RESOLVED BY THE CROW TRIBAL LEGISLATURE IN SPECIAL SESSION:

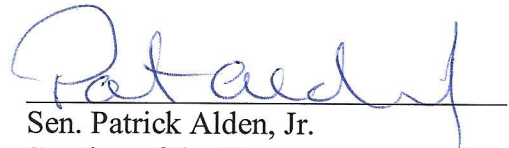
That, Thor Hoyte shall be hired with the Legislative Body final approval.

BE IT FINALLY RESOLVED:

This tribal resolution shall take effect immediately upon becoming duly adopted by the Legislature.

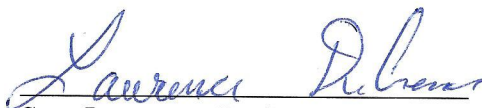
CERTIFICATION

I hereby certify that this Legislative Resolution title **A RESOLUTION OF THE CROW TRIBAL LEGISLATURE APPROVING AND HIRING THOR HOYTE AS LEGISLATIVE BRANCH ATTORNEY** was duly adopted by the Crow Tribal Legislature with a vote of 14 in favor, 1 opposed, and 0 abstained and that a quorum was present on the 7th day of June 2018.



Sen. Patrick Alden, Jr.
Speaker of the House
Crow Tribal Legislature

ATTEST:



Sen. Lawrence DeCrane
Secretary
Crow Tribal Legislature



**LR: A RESOLUTION OF THE CROW TRIBAL LEGISLATURE APPROVING AND HIRING
THOR HOYTE AS LEGISLATIVE BRANCH ATTORNEY**

Bill or Resolution: LR18-07 **Introduced by:** Health & Human Services Com. **Date of Vote:** 6/7/2018
Number

REPRESENTATIVE:

	Yes	No	Abstained
M. White Clay	<u>X</u>	<u> </u>	<u> </u>
D. Spotted	<u> </u>	<u> </u>	<u> </u>
F. White Clay	<u>X</u>	<u> </u>	<u> </u>
L.Hogan, III	<u>X</u>	<u> </u>	<u> </u>
B. Brown	<u>X</u>	<u> </u>	<u> </u>
S. Real Bird	<u> </u>	<u> </u>	<u> </u>
V. Nomee	<u>X</u>	<u> </u>	<u> </u>
T. Yellowtail	<u>X</u>	<u> </u>	<u> </u>
T. Gros Ventre	<u> </u>	<u>X</u>	<u> </u>
M. Not Afraid	<u>X</u>	<u> </u>	<u> </u>
G. Bouyer	<u>X</u>	<u> </u>	<u> </u>
J. Demontiney	<u> </u>	<u> </u>	<u> </u>
B. Hugs	<u>X</u>	<u> </u>	<u> </u>
N. Old Crow, Jr.	<u>X</u>	<u> </u>	<u> </u>
B. Good Luck	<u>X</u>	<u> </u>	<u> </u>
H. Stone, Jr.	<u>X</u>	<u> </u>	<u> </u>
L. DeCrane, <i>Secretary of the House</i>	<u>X</u>	<u> </u>	<u> </u>
P. Alden, Jr., <i>Speaker of the House</i>	<u>X</u>	<u> </u>	<u> </u>
Total:	<u>14</u>	<u>1</u>	<u>0</u>

Result of Vote:

Passed

Not Passed

Tabled

Veto-Override

Pat Alden
Senator Pat Alden, Jr.
Speaker of the House

6-12-18
Date

Lawrence DeCrane
Senator Lawrence DeCrane
Secretary of the House

6-7-18
Date

Crow Tribal Legislative Branch of Government
AND
Thor A. Hoyte (Celadon Law & Business Group)

This is a contract between the Crow Tribal Legislative Branch of Government (hereinafter referred to as "Legislature") and Thor A. Hoyte located Celadon Law Nd Business Group, 6305 Hawks Rd NE, Olympia, WA 98516 (Thereinafter referred to as "Legislative Attorney"),

RECITALS

1. The Crow Tribal Legislature has need for an Attorney and Counselor at Law.
2. Thor Hoyte is qualified and willing to provide those services pursuant to the terms of this Contract.

In consideration of the recitals and the mutual promises contained in this Contract, the parties agree as follows:

I. SCOPE OF REPRESENTATION

The Legislative Attorney shall provide Attorney and Counselor at Law services to the Crow Tribal Legislative Branch of Government. The parties agree that the Legislature (hereinafter "Legislature") shall have the exclusive right to direct personnel policies, to change said policies from time to time, and to direct what services will be available from the Legislative Attorney. The Legislative Attorney shall report directly to the Legislature and its designees, as the circumstance warrants, regarding administrative matters that may arise in implementing this Contract but shall reserve the right and obligation to exercise independent professional judgment in his/her quasi-judicial capacity and shall provide all Legislative Attorney services without interference from the Tribe. Supervision: Attorney shall be under the day-today- day supervision of the Speaker of the House. The Speaker of the House shall communicate any significant issues concerning job performance or compliance with terms and conditions of this Contract to the Attorney in order to establish a corrective plan of action. If unsuccessful in establishing or implementing a corrective plan of action, the Speaker of the House shall immediately communicate such matters to the Legislature.

II. TERM

- A. This Contract shall take effect on _____ and shall terminate on _____ unless it is renewed by agreement of the parties or terminated earlier as

provided below. The term "Contract Year," as used in this Contract, means a period of any one-year during the term of this Contract that begins on _____ and ends on _____ of the following Calendar year.

III. PAYMENT FOR SERVICES

During the term of this Contract, payment for services shall be made at the rate of \$5,000 per month for all Legislative Attorney work, and for all travel to and from the Reservation, to be reimbursed as a pass through. It is understood that the Tribal Legislature may make an upward adjustment in the Legislative Attorney pay rates during the term of this Contract, and that Legislative Attorney will be entitled to any such increase effective as of the date the Tribe adopts the new pay scale.

IV. EXPENSES

The Legislature shall reimburse the Legislative Attorney to cover necessary business expenses, including actual travel costs.

V. LIMITATION ON FEES AND EXPENSES

The Legislative Attorney employed under this Contract shall not receive other compensation for service provided to the Legislature or reimbursement for business expenses incurred on behalf of the Legislature in amount greater than are provided for in this Contract unless the greater payments are first approved by the Legislature.

VI. PAYMENT

The Legislature shall pay all invoices monthly, by the 10th day of the month, or next business day if the 10th day is a weekend or holiday.

VII. RECORDS

Legislative Attorney will maintain adequate financial records, in accordance with generally accepted accounting practices, such that the Legislative Attorney can clearly and easily identify all claimed costs and expenses and the relatedness of those costs and expenses to this Contract.

VIII. INDEPENDENT CONTRACTOR

It is understood that the Legislative Attorney is operating as an independent contractor, and as such shall comply with all applicable laws and regulations and shall pay all applicable taxes and other assessments and hold the Crow Tribal Government harmless from the consequence of any negligent of whatever kind of nature of Legislative Attorney or its employee of the Crow Tribe, and no employer-employee relationship is established by this Contract. Further, the Legislative Attorney is responsible for reporting this income to the applicable federal

and/or state agencies. The Legislative Attorney is responsible for all taxes associated with this income.

IX. TERMINATION

A. The Legislative Attorney employed under this Contract may terminate his or her employment under this Contract upon 30 days' written notice to the Crow Tribal Legislature.

B. The Legislature may terminate WITHOUT CAUSE this Contract and the employment of the Legislative Attorney by giving the Legislative Attorney 30 days' written notice of his/her termination.

C. Neither party may appeal to any administrative or judicial court a decision by either party to terminate under this part.

X. ASSIGNABILITY

This Contract may not be assigned without the prior written approval of the parties.

XI. REPORTS

Upon request of the Legislature, the Legislative Attorney shall, from time to time if requested, submit reports (including a breakdown of hours spent in various matters) to the Tribes service performed under this Contract. This section shall not be interpreted to impose upon the Legislative Attorney any obligation inconsistent with applicable rules of professional conduct.

XII. PRACTICE

A. Thor A. Hoyte states that he is admitted to practice before the following courts: Supreme Court of Montana, Supreme Court of Washington, 9th Cir Ct of Appeals, W.D. WA, Colville Reservation, Lummi Reservation, Warm Springs Reservation, Nisqually Reservation.

B. ASSURANCES. The Legislative Attorney states that he is a member in good standing of the bars of all the courts to which he is admitted to practice, that no disciplinary proceeding has ever been ruled against him in any court or by any bar association of any jurisdiction within the United States or its territories and that none are pending or unresolved, and that he has not ever been suspended or disbarred from the practice of law in any jurisdiction within the United States or its territories.

XIII. BEST EFFORTS OF LEGISLATIVE ATTORNEY

The Legislative Attorney agrees that he will at all times, faithfully, industriously, and to the best of his abilities, experience and talents, perform all of the duties that may be required of and from the Legislative Attorney consistent with the highest standards of the legal profession.

XIV. RULES OF PROFESSIONAL CONDUCT

In providing services and carrying out responsibilities under this Contract, the Legislative Attorney shall at all times conduct himself in accordance with the Rules of Professional Conduct of the Montana State Bar Association and the Crow Tribal Court Rules of Professional Conduct. Legislative Attorney agrees to gain admission to practice in the courts of the Crow Tribal Judicial Branch of Government at the next available administration of the Crow Tribal Bar Exam.

XV. OFFICE SPACE

The Legislature shall provide temporary office space as needed.

XVI. RECORDS

The Legislative Attorney shall support all charges to the Legislature budget with properly executed payrolls, time records, invoices, vouchers, contracts, orders or other accounting documents. Documents pertaining in whole or in part to this Contract shall be clearly identified and readily accessible.

XVII. COMPLETE AGREEMENT

This Contract contains the complete agreement between the parties and shall, as of the effective date of this Contract, supersede all other agreements between the parties. The parties stipulate that neither of them has made any representation with respect to the subject matter of this Contract or any representations including the execution and delivery of this Contract except such representations as are specifically set forth in this Contract, and each of the parties acknowledge that each of them has relied only on its or his or her own judgment in entering into this Contract. The parties further acknowledge that any payments or representations that may have been made by either of them to the other prior to the date this Contract is executed are of no effect and that neither of them has relied thereon in connection with his or its dealings with the other.

XVIII. MODIFICATION OF CONTRACT

Any modification of this Contract or additional obligation assumed by either party in connection with this Contract shall be binding only if such modification or agreement to undertake an additional obligation is evidenced in writing and Legislature shall exercise final approval of modifications by majority vote of a quorum in legislative session.

XIX. CHOICE OF LAW & VENUE

It is the intention of the parties to this Contract that this Contract and the performance under this Contract and all suits and special proceedings under this Contract be construed in accordance with and pursuant to the laws of the Crow Tribe. In any action, special proceeding or

other proceeding that may be brought arising out of, in connection with, or by reason of this Contract, the laws of the Crow Tribe shall be applicable and shall govern to the exclusion of the law of any other forum. The Crow Tribal Courts shall be the exclusive venue of any action or proceeding arising under this Contract. An essential element of consideration in this Contract is that the parties will exhaust all available tribal remedies before attempting to initiate any proceeding in any other forum.

XX. COMPLIANCE WITH APPLICABLE LAW

In performing this Contract, the Legislative Attorney shall comply with all applicable laws and regulations.

XXI. EMBEZZLEMENT

The Legislative Attorney agrees to insert this clause in all approved subcontractors:

Any officer, director, agent, employee or other person connected in any capacity with this contract or any subcontractor hereunder who embezzles, willfully misapplies, steals or obtain by fraud any of the money, funds, assets or property provided through this Contract may be subject or federal and tribal criminal prosecution and may be fined up to \$10,000 or imprisoned for up to two years, or both if convicted.

XXII. CERTIFICATION OF NON-SEGREGATED FACILITIES

By signing this Contract, the Legislative Attorney certifies that it does not maintain or provide for its employees any segregated facilities at any of Legislative Attorney's establishments, and the Legislative Attorney's employees are not permitted to perform their services at any location, under this Contract, when segregated facilities are maintained.

The Legislative Attorney agrees that failure to abide this certification is a breach of this Contract.

XXIII. NON-DISCRIMINATION

Title VI of the Civil Rights Act of 1964, (Public Law 88-352; 42 USC 200d-1) provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

XXIV. WARRANTY OF SPECIAL EXPERTISE

The Legislative Attorney warrants that he has the educational credentials, expertise, and training required to accomplish the purposes of this Contract.

XXV.**INDEMNITY**

The Legislature agree that the Legislative Attorney, when acting in that capacity under this contract shall be considered an Officer of the Tribe for the purpose of sovereign immunity, and the Tribe further agrees to defend (except in cases of termination under **Section IX**) Legislative Attorney and hold him or her harmless from any claim or legal action in which Legislative Attorney is named or may be held liable for any acts performed in good faith by Legislative Attorney in his or her capacity as an Legislative Attorney for and on behalf of the Tribe.

ON BEHALF OF THE LEGISLATIVE ATTORNEY:

Thor Hoyte, Attorney:

Dated: _____

ON BEHALF OF THE LEGISLATURE:

Sen. Patrick Alden, Jr.
Speaker of the House

Dated: _____

Sen. Lawrence DeCrane
Secretary of the Legislature

Dated: _____