

CROW TRIBAL LEGISLATURE

SEPTEMBER 5, 2019 SPECIAL SESSION

JOINT ACTION RESOLUTION JAR NO. 19-01

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

“RESOLUTION APPROVING LOAN SERVICES AGREEMENT WITH FINANCIAL COMPANY/GROUP FOR ECONOMIC DEVELOPMENT AND DEBT SERVICE”

WHEREAS, Article IV, Section 3(a) of the Crow Tribal Constitution and Bylaws authorizes the Executive Branch of the Crow Tribal Government to represent the Crow Tribe of Indians in negotiation with Federal, State and local governments and other agencies, corporations, associations, or individuals in matters of welfare, education, recreation, social services and economic development affecting the Crow Tribe of Indians; and

WHEREAS, Article IV, Section 3(a) of the Crow Tribal Constitution and Bylaws authorizes the Executive Branch of the Crow Tribal Government 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

WHEREAS, Article IV, Section 3(a) of the Crow Tribal Constitution and Bylaws authorizes the Executive Branch of the Crow Tribal Government 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 Crow Constitution; and

WHEREAS, Article V, Section 2(f) of the Constitution empowers the Legislative Branch to grant final approval or disapproval of any waivers of sovereign immunity negotiated by the Executive Branch; and

WHEREAS, the Crow Legislature and Crow Executive Branch agree that a loan consolidation effort is in the best interest of the Crow Tribe if: a) it has been reviewed by the Crow Tribe’s attorneys in order to be in the best interest of the Crow Tribe; b) does not impact the Crow Tribe’s senior benefits or per capita from being distributed; and c) includes an interest rate that allows the principal from being paid in a reasonable amount of time; and

WHEREAS, the Crow Tribe will consolidate the following loans:

- 1) First Interstate Bank Loan # 4686- approximately \$7,189,385.81;
- 2) First Interstate Bank Loan # 2 5452- approximately \$2,569,946.60;
- 3) First Interstate Bank Loan #1400 – approximately \$857,741.54;
- 4) US Bank Bond approximately \$4,615,000.00

WHEREAS, the Crow Legislature and Crow Executive Branch understand the principle terms to be:

- a) Stockman Bank will loan the Crow Tribe up to \$15,875,000.00 dollars proceeds to be used to pay off the above referenced loans and any excess to be deposited in a Crow Tribe deposit account at Stockman Bank;
- b) in exchange the Crow Tribe agrees to make bi-annual payments to Stockman Bank in the amount of up to \$1,030,000.00;
- c) both agree that the security interest pledged is the Crow Tribe's interest revenue account (#9053-69-3) held with the Office of Special Trustee;

WHEREAS, the benefits of the proposed loan terms accomplish the following:

- a) Effectively lowers the Crow Tribe's annual debt service;
- b) Shortens the time for paying off loan by eight (8) years (2037 versus 2029);
- c) allows Crow Tribe to pay off existing debt faster;
- d) prevents Crow Tribe losing money by not paying interest for another eight years; and
- e) simplifies management of one (1) loan versus five (5) separate loans.

NOW, THEREFORE, BE IT ENACTED BY THE CROW TRIBAL LEGISLATURE:

Section 1. Approval of the loan proposed by Stockman Bank. The attached letter of commitment for the \$15,875,000.00 million dollars to the Crow Tribal Government from Stockman Bank to the Executive Branch and reviewed by the Legislative Branch is hereby approved by the Crow Tribal Legislature.

Section 2. Tribal interest account. Consistent with the attached letter of commitment including the contemplated security agreement, promissory note, and other loan documents, the interest earned from of the Crow Tribe will be directly deposited by the Office of Special Trustee in an account established for the specific purposes of loan payments to Stockman Bank. In addition to the reports on receipts of royalties currently being provided to the Legislature by the Office of the Special Trustee (OST), the Executive Branch will forward to the Legislature copies of all loan payment account draw-down requests on Form SF-1034 as signed by the Chairman, at the same times they are provided to BIA and OST.

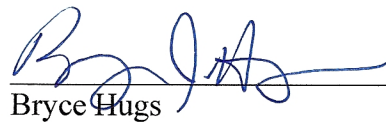
Section 3. Legislative Branch Authority. The Legislative Branch authorizes and approves a limited sovereign immunity waiver in substantially the form as the context requires attached hereto as Exhibit A for purposes of accomplishing and achieving the loan as provided within the contemplated loan documents as the limited sovereign immunity waiver and the loan documents are approved by the Executive Branch, the Executive Branch legal counsel and the Legislative Branch legal counsel.

Section 4. Effective Date. This Act will take effect immediately upon approval by the Tribal Chairman and shall be effective as of _____, 2019. Stockman Bank will make annual reports to the Legislature regarding the finances for the Crow Tribe's loan obligations and payments from the Crow Tribe regarding this debt.

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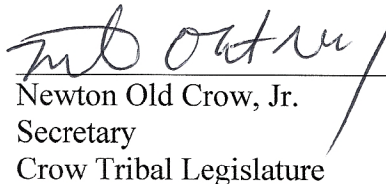
CERTIFICATION

I hereby certify that this Joint Action Resolution entitled "**RESOLUTION APPROVING LOAN SERVICES AGREEMENT WITH FINANCIAL COMPANY/GROUP FOR ECONOMIC DEVELOPMENT AND DEBT SERVICE.**" was duly approved by the Crow Tribal Legislature with a vote of 14 in favor, 0 opposed, and 0 abstained, and that a quorum was present on this 5th day of September, 2019.



Bryce Hugs
Speaker of the House
Crow Tribal Legislature

ATTEST:



Newton Old Crow, Jr.
Secretary
Crow Tribal Legislature

EXECUTIVE ACTION

I hereby

✓ **APPROVE**

 VETO

This Joint Action Resolution entitled "**RESOLUTION APPROVING LOAN SERVICES AGREEMENT WITH FINANCIAL COMPANY/GROUP FOR ECONOMIC DEVELOPMENT AND DEBT SERVICE.**" 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 6th day of September, 2019.



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

“Exhibit A”

Dispute Resolution **And** **Limited Waiver of Sovereign Immunity**

1.1 Arbitration.

- (a) Any Claim or other controversy arising under this LOAN AGREEMENT and all attached documents to such agreement shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (“AAA”) except as otherwise modified herein, and judgment upon the award rendered by the arbitrator(s) may be entered in a court having jurisdiction thereof as further provided herein.
- (b) The arbitration shall be conducted in Billings, Montana. The arbitrator(s) shall have authority to order specific performance and award appropriate injunctive, declaratory or compensatory monetary relief, including interlocutory orders to mitigate damage or prevent irreparable injury to a party, but shall not have authority to award punitive damages or other noncompensatory damages. The Federal Rules of Evidence shall govern evidentiary matters in any arbitration brought hereunder.
- (c) The arbitrator’s fees and other costs of arbitration shall initially be borne equally by the parties, but ultimate responsibility for payment of such costs shall be borne by the party against whom the award is rendered, except the arbitrator(s) may otherwise provide in a written decision.
- (d) The award of the arbitrator(s) shall be conclusive and binding on the parties with respect to the matters decided, and shall be complied with by the parties. A party may enter an award and institute Judicial Proceedings to enforce the award in accordance with Section 1.2 below. In such Judicial Proceedings, neither party, without the consent of the other party, shall be entitled to contend that the award should be vacated, modified or corrected, except where such an award clearly violates applicable law.

1.2 Judicial Proceedings.

- (a) A party may commence court proceedings (“Judicial Proceedings”) only to compel the other party to participate in arbitration proceedings or to enforce an arbitration award. All Judicial Proceedings conducted pursuant to this document shall be initially

commenced in the Crow Tribal Court. Any Judicial Proceedings conducted in the Crow Tribal Court shall be conducted in accordance with the substantive law of the Federal Arbitration Act and the procedural law of the Crow Tribal Court, to the extent that such procedural law is not inconsistent with the Federal Arbitration Act and the procedures expressly provided herein.

- (b) Only in the event that the Crow Tribal Court refuses to compel a party to participate in arbitration proceedings or to enforce an arbitration award as written, or fails to perform said functions within 60 days after commencement of Judicial Proceedings, or such further time as the parties may mutually agree, may either party transfer (“remove”) the Judicial Proceedings from the Crow Tribal Court to the United States District Court for the District of Montana, or if it lacks jurisdiction, to the Montana Twenty-Second District Court, Big Horn County, Montana.
- (c) If allowed pursuant to section (b) above, removal of Judicial Proceedings from the Crow Tribal Court may be accomplished by filing a notice of removal in the Crow Tribal Court and filing an appropriate application in the appropriate federal or state court (the “Deciding Forum”) in accordance with the procedural rules of that forum. The notice of removal and application need be executed on behalf of only the removing party, and such removal shall not be opposed or contested by the other party. Upon removal, all proceedings in the Crow Tribal Court shall be stayed pending final resolution in the Deciding Forum, and all Tribal remedies shall be deemed exhausted. Upon final resolution of the matter, the order or judgment of the Deciding Forum may be entered in the Crow Tribal Court.
- (d) The parties waive any rights to pursue Judicial Proceedings related to the Agreement in any court except as provided in this document.

1.3 Limited Waiver of Sovereign Immunity.

- (a) The Crow Tribe unequivocally and irrevocably grants a limited waiver of its sovereign immunity from suit for the limited purpose of enforcing the Borrower’s obligations under the Agreement by means of arbitration proceedings, Judicial Proceedings instituted for the purpose of compelling participation in arbitration proceedings and Judicial Proceedings for the enforcement of arbitration awards, all in accordance with the provision of this document; provided however, that:
 - a. This limited waiver shall only extend to the Bank, its successors and assigns, and no other or third parties under the LOAN AGREEMENT;

- b. This limited waiver shall not apply to the proceedings in any court except the Judicial Proceedings as provided in Section 1.2 of this document;
- c. This waiver shall extend only for a period of time until all the Borrower's obligations are satisfied under the LOAN AGREEMENT; and
- d. The monetary relief available against the Crow Tribe pursuant to this waiver shall be limited to amounts that are expressly due and payable pursuant to this LOAN AGREEMENT (including the costs of arbitration if so awarded against the Borrower pursuant to this document), and shall not include any other indirect, consequential, tort, punitive or non-compensatory damages. In no event shall any judgment or other relief awarded pursuant to this limited waiver result in the encumbrance of any Tribal property or assets which are held in trust by the United States of America except those trust assets specifically pledged or assigned pursuant to this Assignment.

JOINT ACTION RESOLUTION

RESOLUTION APPROVING LOAN SERVICES AGREEMENT WITH FINANCIAL COMPANY/GROUP FOR ECONOMIC DEVELOPMENT AND DEBT SERVICES

Bill or Resolution: **JAR 19-01**

Introduced by: **Alvin J. Not Afraid, Jr.**

Date of Vote: **9/05/19**

REPRESENTATIVE:

	Yes	No	Abstain
M. White Clay	<u>X</u>	<u> </u>	<u> </u>
D. Spotted	<u>X</u>	<u> </u>	<u> </u>
F. Whiteclay	<u> </u>	<u> </u>	<u> </u>
L. Hogan	<u>X</u>	<u> </u>	<u> </u>
B. Brown	<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> </u>	<u> </u>	<u> </u>
P. Alden	<u>X</u>	<u> </u>	<u> </u>
M. Not Afraid	<u>X</u>	<u> </u>	<u> </u>
G. Bouyer	<u>X</u>	<u> </u>	<u> </u>
L. DeCrane	<u> </u>	<u> </u>	<u> </u>
J. Deomontiney	<u>X</u>	<u> </u>	<u> </u>
B. Good Luck	<u>X</u>	<u> </u>	<u> </u>
H. Male Bear-Stone, Jr	<u>X</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>
TOTAL	<u>14</u>	<u>0</u>	<u>0</u>

Result of Vote:

Passed

Not Passed

Tabled

Veto-Override

Senator Bryce Hugs

Speaker of the House

Crow Tribal Legislative Branch

9-6-19

Date

Senator Newton Old Crow, Jr.

Speaker of the House

Crow Tribal Legislative Branch