



Legislation Text

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SUBSTITUTE 1

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Substitute resolution authorizing and directing the City Clerk to execute a Restated Intergovernmental Cooperation Agreement between the City of Milwaukee, County of Milwaukee, and the Forest County Potawatomi Community of Wisconsin.

- Analysis -

This substitute resolution authorizes the City Clerk to enter into a Restated Intergovernmental Cooperation Agreement with the Forest County Potawatomi Community of Wisconsin and Milwaukee County. The City, County and Potawatomi entered into a Cooperation Agreement approved under Common Council File No. 981393 on March 3, 1999 ("Original Agreement"). Despite the parties' express intention to qualify all Potawatomi payments under the Original Agreement as payments to help fund the operations of City and County governmental agencies in accordance with 25 U.S.C. sec. 2710(b)(2)(B)(v), sec. 2710(d)(1)(A)(ii) and sec. 66.60(2), Stats., the Assistant Secretary of the United States Department of Interior concluded in a May 14, 1999 communication to the Potawatomi's legal counsel that the Tribe's payments under the Original Agreement constituted a local tax impermissible under 25 U.S.C. sec. 2710(d)(4). The parties therefore propose to enter into the Restated Intergovernmental Cooperation Agreement attached to this file to clarify their intent to qualify all Tribal payments under the provisions of 25 U.S.C. sec. 2710(b)(2)(B)(v) and sec. 2710(d)(1)(A)(ii).

Whereas, The Forest County Potawatomi Community of Wisconsin ("Tribe") operates Potawatomi Bingo and Casino ("Casino") on land within the exterior boundaries of the City and County that is held in trust for the benefit of the Tribe by the United States of America ("Menomonee Valley Land"); and

Whereas, The Tribe and the State of Wisconsin ("State") have entered into the Forest County Potawatomi Community of Wisconsin and the State of Wisconsin Gaming Compact of 1992 ("Compact"); and

Whereas, The Tribe and the State have entered into an amendment to the Compact, executed on December 3, 1998, ("Compact Amendments") that extended its term and will increase the economic activity within the City and County; and

Whereas, The Compact Amendments provide for the payment of monies by the Tribe to the State on account of gaming on the Menomonee Valley Land ("State Payments"); and

Whereas, The Compact Amendments include a Memorandum of Understanding Regarding Government to Government Matters in which the Governor of Wisconsin agreed to undertake his best efforts within the scope of his authority to assure that the State Payments will be expended to benefit the City and County for:

1. Economic development initiatives to benefit Tribes and/or American Indians within Wisconsin,
2. Economic development initiatives in regions around casinos,
3. Promotion of tourism within the State of Wisconsin,
4. Support of programs and services within the County in which the Casino is located; and

Whereas, The Compact Amendments allow the Tribe to offer additional Class III gaming on the Menomonee Valley Land; and

Whereas, The Tribe will benefit from government services provided by the City and County; and

Whereas, In accordance with 25 U.S.C. sec. 2710(b)(2)(B)(v) and 2710(d)(1)(A)(ii) and sec. 66.30(2), Stats., the Tribe has agreed to make certain payments to help fund the operations of the City and County in recognition of the increased governmental services that the City and County will provide as a result of the Casino operations; and

Whereas, Despite the parties' express intention to qualify all Tribal payments under the Intergovernmental Cooperation Agreement ("Original Agreement"), approved under Common Council File No. 981393, as payments to help fund the operations of City and County governmental agencies in accordance with 25 U.S.C. sec. 2710(b)(2)(B)(v) and sec. 2710(d)(1)(A)(ii) and sec. 66.60(2), Stats., the Assistant Secretary of the United States Department of Interior concluded in a May 14, 1999 communication to the Tribe's legal counsel, that the Tribal payments to be made under the Original Agreement constituted a local tax impermissible under 25 U.S.C. sec. 2710(d)(4); and

Whereas, The parties have entered into the Restated Intergovernmental Cooperation Agreement to clarify their intent to qualify all Tribal

payments hereunder under the provisions of 25 U.S.C. sec. 2710(b)(2)(B)(v) and 2710(d)(1)(A)(ii); and

Whereas, The corporate authorities of the City and County are of the opinion that it is in the best interest of the City and County to enter into the Restated Agreement; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee that subject to the execution of the Restated Intergovernmental Cooperation Agreement attached to this file by the Tribe and Milwaukee County, the Common Council approves the removal of existing limitations on Class III games the Tribe may operate on the Menomonee Valley site; and, be it

Further Resolved, That the City Clerk is authorized and directed to execute the attached Restated Intergovernmental Cooperation Agreement with the Tribe, the City of Milwaukee and Milwaukee County for funding of City and County operations.

City Attorney's Office

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