HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

HO-CHUNK NATION LEGISLATURE
AUTHORIZATION TO ENTER INTO INTERGOVERNMENTAL AGREEMENT WITH THE WISCONSIN COUNTY OF SHAWANO
RESOLUTION 4-20-10 L

WHEREAS, on November 1, 1994, the United States Secretary of the Interior approved a new Constitution for the Ho-Chunk Nation, formerly known as the Wisconsin Winnebago Tribe; and

WHEREAS, the Ho-Chunk Nation ("Nation") is a federally recognized Indian Tribe, pursuant to the Indian Reorganization Act of 1934; and

WHEREAS, Article V, Section 2(a) of the Ho-Chunk Nation Constitution ("Constitution") gives the Ho-Chunk Nation Legislature ("Legislature") the power to make laws, including codes, ordinances, resolutions, and statutes; and

WHEREAS, Article V, Section 2(i) of the Constitution grants the Legislature the power to negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals; and

WHEREAS, Article V, Section 2(x) of the Constitution grants the Legislature the power to enact any other laws, ordinances, resolutions, and statutes necessary to exercise its legislative powers delegated by the General Council pursuant to Article III including but not limited to the foregoing list of powers; and

WHEREAS, the Nation is a sovereign government possessed of all sovereign powers and rights thereto pertaining, which include the right to enter into an Intergovernmental Agreement with Shawano County (hereinafter "County"); and

WHEREAS, pursuant to Wis. Stat. § 59.01 (in relevant part), the County "is a body corporate, authorized to sue and be sued, . . . to make such contracts and to do such other acts as are necessary and proper to the exercise of the powers and privileges granted and the performance of the legal duties charged upon it."; and

WHEREAS, the County may enter into an Intergovernmental Agreement with the Nation pursuant to Wis. Stat. § 66.0301, which provides (in relevant part) that "any municipality may contract with other municipalities and with federally recognized Indian tribes and bands in this state, for the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by law;" and

WHEREAS, the Nation and the County have been good neighbors and desire the spirit of cooperation to continue between the two governments; and

WHEREAS, as explained below, the Nation and the County have an opportunity to enter into the attached Intergovernmental Agreement which will facilitate continued positive cooperation between the two governments; and

WHEREAS, a copy of the Intergovernmental Agreement is attached hereto and incorporated by reference as if fully set forth herein within this Resolution; and

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WHEREAS, the Congress of the United States enacted into law the *Indian Gaming Regulatory Act*, (hereinafter "IGRA") P.L. 100-497, 25 U.S.C. §2701, et seq., which provides in part that a tribe and a state may negotiate a tribal/state compact to set forth the rules, regulations and conditions under which a tribe may conduct Class III gaming, as defined in IGRA, on Indian lands within a state permitting Class III gaming; and

WHEREAS, pursuant to the requirements of IGRA, the Nation and the State of Wisconsin entered into a Compact on June 11, 1992; and

WHEREAS, the Nation and State subsequently executed amendments to their Compact three times; and

WHEREAS, a copy of the Third Amendment to the Compact is attached hereto and incorporated by reference as if fully set forth herein within the Intergovernmental Agreement and this Resolution and attached as Exhibit "A"; and

WHEREAS, in relevant part the Third Amendment to the Nation's Compact with the State of Wisconsin provides:

Payment to Counties. Commencing May 1, 2010 and continuing thereafter for as long as the Nation is required to make the Annual Payment, the Nation shall deduct from it's Annual Payment One Thousand Dollars ($1,000.00) paid to each county for every acre of land owned by the United States of America in trust for the Nation as of the effective date of this Compact and the Second Amendment which is located within the county's jurisdiction. The payment made by the Nation to the county(s) under this Paragraph, may be expended by each county for any purpose as determined by each county in its sole discretion, except that the county cannot use any of the funds paid to it under this Paragraph that would diminish the Nation's governmental jurisdiction or have an adverse financial impact on the Nation ("Prohibited Purpose"). If the county uses the funds paid to it by the Nation for a Prohibited Purpose, the Nation shall cease making payments to said county and shall instead pay said county's payment to the State; and

WHEREAS, the effective date of the Compact and the Second Amendment was July 3, 2003; and

WHEREAS, Patricia Olby, Realty Officer of the Midwest Regional Office of the Bureau of Indian Affairs, sent a letter to the Department of Heritage Preservation, Division of Natural Resources of the Ho-Chunk Nation. The letter was dated July 29, 2009. Based on documents of record retained by the Bureau of Indian Affairs and approved by the United States Secretary of the Interior, the July 29, 2009 letter from Ms. Olby provides that the United States government had taken title to land in trust on behalf of the Ho-Chunk Nation geographically located within the borders of twelve Wisconsin Counties as of July 3, 2003; and

WHEREAS, a copy of this July 29, 2009 letter is attached hereto and incorporated by reference as if fully set forth herein within the Intergovernmental Agreement and this Resolution and marked as Exhibit "B"; and

WHEREAS, the Nation and the State of Wisconsin through the Wisconsin Administrator of the Division of Gaming for the Department of Administration have reached an understanding that the amount and location of acreage held in trust within each of the twelve Wisconsin Counties that qualifies for this credit is set out in the July 29, 2009 letter; and

WHEREAS, a copy of the memorandum containing this understanding between the Ho-Chunk Nation and the State of Wisconsin is attached hereto and incorporated by reference as if fully set forth herein within the Intergovernmental Agreement and this Resolution and marked as Exhibit "C"; and

WHEREAS, according to the Midwest Regional Office of the Bureau of Indian Affairs, as of July 3, 2003 the Department of Interior had taken title to 82.500 acres of land in trust for the Ho-Chunk Nation, which are located within the geographic boundaries of the County; and

WHEREAS, pursuant to the terms of the Compact, the Nation may annually provide $82,500.00 dollars to the County and, if it annually makes this payment, the Nation will receive an equal corresponding reduction in the amount that is owed by the Nation to the State. This credit can be taken with the payment due by the Nation to the State on May 1, 2010 and every year thereafter; and

WHEREAS, the attached Intergovernmental Agreement will clarify the terms and conditions associated with the receipt of the funds by the County from the Nation and foster continued positive relationships between the Nation and the County.

NOW THEREFORE, BE IT RESOLVED that the Legislature, pursuant to its Constitutional authority, authorizes the Vice President to execute the attached Intergovernmental Agreement by and between the Ho-Chunk Nation and the Wisconsin County of Shawano.

CERTIFICATION

I, the undersigned, as Tribal Secretary of Ho-Chunk Nation, hereby certifies that the Legislature of the Ho-Chunk Nation, composed of **13 members** of whom **10** constituting a quorum were present at a meeting duly called and convened and held that on the **20th day of April, 2010**, that the foregoing resolution was adopted at said meeting by an affirmative vote of **10 members, 0 opposed, and 0 abstaining**, pursuant to the Article V, Section 2(a) and (x) of the Constitution of the Ho-Chunk Nation approved by the Secretary of the Interior on November 1, 1994, and that the foregoing resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.

Hope B. Smith April 20, 2010

Hope B. Smith, Tribal Secretary Date