



TO: Mayor and Members of the City Council
FROM: T.C. Broadnax, City Manager
SUBJECT: Resolution authorizing the City of Tacoma’s Approval of the Third Limited Modification of the Agreement between the Puyallup Tribe of Indians, Local Governments in Pierce County, the State of Washington, the United States of America, and Certain Private Property Owners – January 27, 2015
DATE: January 7, 2015

SUMMARY:

Resolution authorizing the City of Tacoma to enter into the Third Limited Modification of the Agreement between the Puyallup Tribe of Indians, Pierce County, City of Tacoma, City of Fife, City of Puyallup, the Port of Tacoma, the State of Washington, the United States of America, and certain private property owners. This Third Limited Modification is undertaken in accordance with the “Modification Procedure to the Settlement Agreement,” which was filed with the court on December 1991.

STRATEGIC POLICY PRIORITY:

This resolution best aligns with the strategic policy priority of:

- Strengthen and maintain a strong fiscal management position.
- Foster neighborhood, community, and economic development vitality and sustainability.
- Encourage and promote an open, effective, results-oriented organization.

BACKGROUND:

The Puyallup Land Claims Settlement has been implemented successfully over the last 24 years creating billions of dollars in commerce, greater cultural understanding and unprecedented jurisdictional cooperation. The Land Claims Settlement marks one of Pierce County’s most significant achievements. Current leadership of all the local jurisdictions support continuation of the agreement; and therefore are requesting a third modification to appropriately address an issue raised by the Office of the Attorney General. The Limited Modification would clarify that Section VIII(A)(4) was and is intended by the parties to carry forward state and local jurisdiction on non-trust lands to the extent permitted by federal law, as modified in other sections of the Agreement. The local governments want to join the Puyallup Tribe in clarifying this issue in order to carry out the shared intention of all parties. The Limited Modification would not change in any way the currently existing jurisdiction with the State and local governments. If any of the local governments have unique issues with the Tribe regarding the specific application of a Limited Modification or other provisions of the Agreement, they will continue to use the past practice of working cooperatively with the Tribe by entering into a separate agreement as authorized by the Interlocal Cooperation Act, RCW Chapter 39.34.

Attached for further background are the following documents:

- August 15, 2014 letter to Governor Jay Inslee
- Proposed Third Limited Modification of Settlement Agreement



ISSUE:

The purpose of the Third Limited Modification is to resolve a dispute between the Tribe and State concerning Section VIII(A)(4) of the Agreement. That section reads:

The State and its political subdivisions will retain and exercise all jurisdiction and governmental authority over all non-trust lands and the activities conducted thereon and as provided in federal law over non-Indians.

The State and the Tribe have disagreed on the interpretation of this Section as it applies to certain questions of state jurisdiction and governmental authority. The parties agree that rather than litigating the proper interpretation, the parties are much better served by agreeing on how the subsection will be implemented in future dealings. Approving the Limited Modification would modify the language in this section as follows:

The State and its political subdivision will retain and will continue to exercise those forms of jurisdiction and governmental authority over all non-trust lands and the activities conducted thereon as federal law recognizes to be within their authority. Section VIII(A)(4), as herein modified, does not grant to state or local governmental any authority beyond that which federal law otherwise recognizes. The parties recognize that the extent of that authority may be modified by acts of Congress and rulings of the federal courts. The state and its political subdivisions will also retain and continue to exercise jurisdiction over non-Indians as provided by federal law.

The Third Limited Modification would become effective upon, and only upon, approval and signature of all seven parties

ALTERNATIVES:

The City Council could choose to not authorize the City to enter into the Third Limited Modification, which may result in potential litigation, conflict and disruption of the entire Settlement.

RECOMMENDATION:

Staff recommends the City Council authorize the City to enter into the Third Limited Modification to resolve the dispute between the Tribe and State concerning Section VIII(A)(4), to avoid potential litigation, and to better serve all parties in continued jurisdictional cooperation.

FISCAL IMPACT:

There is no fiscal impact.