



Legislation Text

File #: 55519, **Version:** 1

Fiscal Note

No appropriation required.

Title

Authorizing a Settlement Agreement with Bell Great Lakes LLC, dba Taco Bell Cantina and Issuing a Class B Beer and Class C Wine License to Bell Great Lakes, LLC

Body

WHEREAS, Bell Great Lakes LLC ("Bell") applied to the City of Madison ("City") for a Class B Beer / Class C Wine license for its Taco Bell Cantina restaurant at 534 State Street in Madison; and

WHEREAS, the City's Alcohol License Review Committee ("ALRC") and Common Council approved Bell's license application, with agreed-upon conditions, as shown in Legistar File No. 49261 (the "License"), but the License was vetoed by the Mayor thereafter, and the Council lacked the two-thirds majority necessary to override this veto; and

WHEREAS, on April 13, 2018, Bell filed suit in the Dane County Circuit Court, with the City as Defendant, alleging that the City's rejection of the License was arbitrary and capricious, and without evidentiary support, Bell Great Lakes LLC v. City of Madison, Case No. 2018CV000971 (Dane County Circuit Court); and

WHEREAS, on December 21, 2018, the Circuit Court issued a Decision and Order finding in Bell's favor and ordering the City to grant Bell the License ("12/21/2018 Decision"); and

WHEREAS, on January 25, 2019, the City filed a Notice of Appeal with the Wisconsin Court of Appeals, which appealed the 12/21/18 Decision (Appeal No. 2019AP000235), which challenge is currently pending (this Appeal and the Circuit Court proceeding hereafter collectively referred to as the "Litigation"); and

WHEREAS, the Parties now wish to resolve the Litigation and the dispute between them without further cost and uncertainty; and

WHEREAS, the City wants to avoid the possibility of a Court of Appeals decision with statewide precedential value that limits its authority with respect to issuing future liquor licenses.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Madison:

1. The Settlement Agreement attached to this Resolution is approved, and the Common Council ratifies and authorizes the City Attorney's signature on the Settlement Agreement as binding upon the City.
2. The City hereby issues a Class B Beer and Class C Wine License to Bell. Provided Bell meets any other conditions for issuance of a license (e.g., Building Inspection, Fire Department Inspection), the City Clerk will issue the license within 15 days of the approval of this resolution by the Mayor or as soon as Bell meets the conditions. The License will include all the terms and conditions as approved by the ALRC and presented to the Common Council in 2018, specifically:

- a. Bell shall cease the service of alcohol no later than 10 pm Sunday - Thursday and no later than 11 pm on Friday and Saturday.
 - b. Establishment must meet the definition of a restaurant under Section 38.02 of Madison General Ordinances at all times.
 - c. Food must be available at all times.
 - d. Establishment staff must regularly patrol and discourage loitering at and around the premises.
3. Upon issuance of the license, Bell remains subject to all state and local laws regulating the sale of alcohol and licensing of premises.
4. The City Attorney is authorized and directed to carry out the other steps in the Settlement Agreement and to have the pending litigation dismissed and vacated, in conjunction with the attorney for Bell.