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Court Case Details

Case Number: 19CH00001190 Case Status: ACTIVE
Case WAUKEGAN POTAWATOMI Filed Date: 2019-10-21
Title: VS CITY OF WAUKEGAN
Case Type: CHANCERY
Case SubType: INJUNCTION

Table with 4 tabs: Parties on Case, Judgment, Court Events, Documents Filed. Main table with 3 columns: Party, Role, Responsible Attorney. Rows include WAUKEGAN POTAWATOMI CASINO, LLC (Plaintiff) and CITY OF WAUKEGAN (Defendant).

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<a href="#">Parties on Case</a>	<a href="#">Judgment</a>	<a href="#">Court Events</a>	<a href="#">Documents Filed</a>
<a href="#">Judgment Debtor</a>	<a href="#">Judgment Amount</a>	<a href="#">Plus Costs?</a>	<a href="#">Judgment Date</a>
NO JUDGMENTS AVAILABLE FOR THIS CASE			

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Navigation tabs: Parties on Case, Judgment, Court Events, Documents Filed.
Section: FUTURE COURT EVENTS
Table with 4 columns: Event Date, Event Time, Courtroom, Event Type. Row: 2020-02-14, 09:00:00, C407, STATUS OF PLEADINGS.
Section: PREVIOUS COURT EVENTS
Table with 3 columns: Event Date, Courtroom, Event Type. Rows: 2020-01-24, C407, STATUS; 2020-01-17, C407, ENTER AGREED ORDER; 2020-01-03, C407, MOTION OF PLAINTIFF; 2020-01-03, C407, GRANTED; 2020-01-03, C407, LEAVE TO AMEND COMPLAINT; 2020-01-03, C407, SET STATUS DATE; 2020-01-03, C407, ORDER ENTERED.

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FILED  
10/21/2019 2:54 PM  
ERIN CARTWRIGHT WEINSTEIN  
Clerk of the Circuit Court  
Lake County, Illinois

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
LAKE COUNTY, ILLINOIS

WAUKEGAN POTAWATOMI CASINO LLC

vs.

CITY OF WAUKEGAN

19CH00001190

Gen No. \_\_\_\_\_

CERTIFICATE OF ATTORNEY – CIVIL DIVISION

1) Pursuant to Local Rule 2-2.01(c), I hereby certify that:

There has been no previous Voluntary or Involuntary Dismissal of the subject matter of this litigation.

There is no other litigation presently pending in the county involving these parties.

There has been a previous Voluntary or Involuntary Dismissal of the subject matter of this litigation and at the time of dismissal that Case No. \_\_\_\_\_ was assigned to the

There is other litigation presently pending in the county involving the parties to or subject matter to this lawsuit and that case(s) is/are assigned Case No.(s) \_\_\_\_\_ which is/are assigned to the

Honorable \_\_\_\_\_

Honorable \_\_\_\_\_

2) Are you seeking any injunctive relief?

Yes - Select the appropriate case subtype under the Chancery-CH heading below.  
 No - Select the appropriate non-Chancery case subtype below.

This data is being gathered for administrative purposes and will not be used for any other purpose.

**Arbitration – AR**

- Arbitration/Tort
- Arbitration/Contract
- Foreign Judgment
- Other subtype \_\_\_\_\_

**Law Magistrate – LM**

- Eviction
- Eviction as result of mortgage foreclosure
- Replevin
- Detinue
- Distress for Rent
- Foreign Judgment
- Confirm Arbitrator's Award
- Confession of Judgment
- Other subtype \_\_\_\_\_

**Miscellaneous Remedy – MR**

- Declaratory Judgment
- Corporation Dissolution
- Election Contest
- Mandamus
- Habeas Corpus
- Review of Administrative Proceeding/Statutory Proceeding/Certiorari
- Review of Administrative Proceeding/Certiorari
- Quo Warranto
- Change of Name
- Forfeiture
- Fugitive from Justice
- Search Warrant
- Application for Eavesdropping Device
- Foreign Judgment
- Non-Attendance of Jurors
- Miscellaneous
- Other subtype \_\_\_\_\_

**Probate – P**

- Decedent/Testate > \$15,000
- Decedent/Intestate > \$15,000
- Decedent/Testate \$15,000 or less
- Decedent/Intestate \$15,000 or less
- Guardianship of Person/ Disabled Person
- Guardianship of Estate/ Disabled Person
- Guardianship of a Person and Estate/Disabled Person
- Guardianship of Person/ Minor
- Guardianship of Estate/Minor
- Guardianship of Person and Estate/Minor
- Proof of Heirship Alone
- Foreign Judgment
- Other subtype \_\_\_\_\_

**Chancery – CH**

- Residential Mortgage Foreclosure
- Residential Mortgage Foreclosure w/Mechanics Lien
- Non-Residential Mortgage Foreclosure
- Injunction
- Specific Performance
- Mechanics Lien Foreclosure
- Complaint for Rescission
- Partition
- Quiet Title
- Class Action
- Structured Settlement
- Foreign Judgment
- Other subtype \_\_\_\_\_

**Law – L**

- Tort
- Contract
- Product Liability
- Medical Malpractice
- Legal Malpractice
- Forcible Entry and Detainer
- Replevin
- Accounting Malpractice
- Foreign Judgment
- Confirm Arbitrator's Award
- Other subtype \_\_\_\_\_

**Tax – TD**

- Deeds
- Other subtype \_\_\_\_\_

**Tax – TX**

- Objections
- Disposition of Collections of Judgment of Settlement
- Sale in Error
- Other subtype \_\_\_\_\_

**Eminent Domain – ED**

- Eminent Domain
- Condemnation
- Other subtype \_\_\_\_\_

**Municipal Corporation – MC**

- Annexation
- Disconnection
- Other subtype \_\_\_\_\_

Print Name Robert T. O'Donnell

Signature \_\_\_\_\_

Attorney

Self-Represented Litigant

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
LAKE COUNTY, ILLINOIS

WAUKEGAN POTAWATOMI CASINO I.L.O  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ )  
Plaintiff(s)

vs.

CITY OF WAUKEGAN  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ )  
Defendant(s)

19CH00001190

Case No: \_\_\_\_\_

Please serve:

Janet E. Kilkelly, City Clerk  
City of Waukegan  
100 N. Martin Luther King Jr. Ave.  
Waukegan, IL 60085

SUMMONS

To each defendant:

You are summoned and required to file an answer to the complaint in this case, a copy of which is hereto attached, or otherwise file your appearance, in the office of the Clerk of this Court, within 30 days after service of this summons, not counting the day of service. If you fail to do so, a judgment by default may be entered against you for the relief asked in the complaint.

E-filing is now mandatory for documents in civil cases with limited exemptions. To e-file, you must first create an account with an e-filing service provider. Visit <https://efile.illinoiscourts.gov/service-providers.htm> to learn more and to select a service provider. If you need additional help or have trouble e-filing, visit <http://www.illinoiscourts.gov/FAQ/gethelp.asp>.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so indorsed.

This summons may not be served later than 30 days after its date.



WITNESS 10/21/2019

*Erin Cartwright Weinstein*  
ERIN CARTWRIGHT WEINSTEIN,  
Clerk of Court

CN

Prepared by:

Name: Robert T. O'Donnell/Gerard P. Callaghan/O'Donnell Callaghan L.L.O. Pro Se

Address: 28045 N. Ashley Circle, Suite 101

City: Libertyville State: IL

Phone: 847-367-2750 Zip Code: 60048

ARDC #: 3124931/3124829

Fax: 847-367-2758

E-mail address: rodonnell@och-law.com/jcallaghan@och-law.com

(If service by facsimile transmission will be accepted, the telephone number of the plaintiff or plaintiff's attorney's facsimile machine is additionally required.)

Date of Service \_\_\_\_\_, 20\_\_\_\_ (to be inserted by officer on copy left with defendant or other person).

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
LAKE COUNTY, ILLINOIS**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ )

Plaintiff(s)

vs.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ )

Defendant(s)

**19CH00001190**

Case No: \_\_\_\_\_

Please serve:

Janet E. Kilkelly, City Clerk  
City of Waukegan  
100 N. Martin Luther King Jr. Ave.  
Waukegan, IL 60085

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WITNESS 10/21/2019

*Erin Cartwright Weinstein*  
ERIN CARTWRIGHT WEINSTEIN,  
Clerk of Court

CN

Prepared by:

Name: Robert T. O'Donnell/Gerald P. Callaghan/O'Donnell Callaghan LLC Pro Se

Address: 28045 N. Ashley Circle, Suite 101

City: Libertyville State: IL

Phone: 847-367-2750 Zip Code: 60048

ARDC #: 3124931/3124829

Fax: 847-367-2758

E-mail address: rodonnell@och-law.com/jcallaghan@och-law.com

(If service by facsimile transmission will be accepted, the telephone number of the plaintiff or plaintiff's attorney's facsimile machine is additionally required.)

Date of Service \_\_\_\_\_, 20\_\_\_\_ (to be inserted by officer on copy left with defendant or other person).

SHERIFF'S FEES

{ Service and return .....	\$ _____
{ Miles .....	\$ _____
{ Total .....	\$ _____

\_\_\_\_\_  
 Sheriff of \_\_\_\_\_ County

I certify that I served this summons on defendants as follows:

(a)-(Individual defendants – personal):

(The officer or other person making service, shall (a) identify as to sex, race and approximate age of the defendant with whom he left the summons, and (b) state the place where (whenever possible in terms of an exact street address) and the date and time of the day when the summons was left with the defendant).

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(b)-(Individual defendants – abode):

By leaving a copy of the complaint at the usual place of each individual defendant with a person of his family, of the age of 13 years or upwards, informing that person of the contents of the summons. (The officer or other person making service, shall (a) identify as to sex, race and approximate age of the person, other than the defendant, with whom he left the summons, and (b) state the place where (whenever possible in terms of an exact street address) and the date and time of day when the summons was left with such person).

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

and also by sending a copy of the summons and of the complaint in a sealed envelope with postage fully prepaid, addressed to each individual defendant at his usual place of abode, as follows:

Name of defendant	Mailing Address	Date of mailing
_____	_____	_____
_____	_____	_____
_____	_____	_____

(c)-(Corporate defendants):

By leaving a copy and a copy of the complaint with the registered agent, officer or agent of each defendant corporation, as follows:

Defendant corporation Service	Registered agent, officer or agent	Date of
_____	_____	_____
_____	_____	_____
_____	_____	_____

(d)-(Other service):

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 Sheriff of \_\_\_\_\_ County  
 By: \_\_\_\_\_  
 (Deputy)

*Wash/MLK* FILED

John D. Idleburg, Sheriff  
11/24/2019 12:44 PM

# AFFIDAVIT OF SERVICE

Lake County Sheriff's Office

Assigned to: DOMERCHIE, ADAM W 14849  
ERIN CARTWRIGHT WEINSTEIN  
Clerk of the Circuit Court  
Lake County, Illinois  
Expires: 11/18/2019

Type of Service: **SUMMONS - LOCAL PAPER**  
Court Case: **19CH1190** Civil Number: **19-07461CP**

Date Received: **10/25/2019**

Name: **CITY OF WAUKEGAN** Sex: Race: DOB:  
Address: **100 N MARTIN LUTHER KING JR. AVE** Apt: City: **WAUKEGAN**  
Care of Attention: **JANET E KILKELLY - CITY CLERK**

**Service Information:**

I certify that I served this **Summons** on the defendant on 10/29/19 Time: 1110 AM

**Personal Service:**

Address of service if different from above

Address: \_\_\_\_\_ City-State-Zip \_\_\_\_\_

**Substituted Service:**

By leaving a copy at the defendant's usual place of abode, with some person of the family or a person residing there of the age of 13 Years or upwards and informing that person of the contents of the **SUMMONS**. *I or some other authorized person sent a copy of the SUMMONS in a sealed envelope with postage fully prepaid, addressed to the defendant at his/her usual place of abode.*

Name \_\_\_\_\_ Relationship \_\_\_\_\_ Age \_\_\_\_\_

**Service On:**  Corporation  Company  Business  Partnership  Other: Government

I left of a copy of the **SUMMONS** with

Name: Ruth One  Registered Agent  Authorized Person  Partner  Other

Personal Info: Sex F Race H DOB/Age 50/04 Height \_\_\_\_\_ Weight \_\_\_\_\_ Eyes \_\_\_\_\_ Hair \_\_\_\_\_

Dates Attempted	Time	AM / PM	Notes
____/____/____	____:	AM / PM	_____
____/____/____	____:	AM / PM	_____
____/____/____	____:	AM / PM	_____

Notes:

**Return Not Found:** Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Reason:  Not At Given Address  Never Home

Moved  No Longer Employed  Refused to Open Door  Deceased  Other \_\_\_\_\_

\*\*\*Internal Use Only\*\*\*

**John D. Idleburg**  
Sheriff of Lake County, Illinois

Deputy: Domerchie # 14849

Notary Public, Lake County, Illinois  
My Commission expires: \_\_\_\_/\_\_\_\_/\_\_\_\_

Additional Comments / Property Inventory Below or Reverse Side

BS

W

FILED  
10/21/2019 2:54 PM  
ERIN CARTWRIGHT WEINSTEIN  
Clerk of the Circuit Court  
Lake County, Illinois

IN THE CIRCUIT COURT OF NINETEENTH JUDICIAL DISTRICT  
LAKE COUNTY, ILLINOIS

WAUKEGAN POTAWATOMI CASINO, )  
LLC, an Illinois limited liability company, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
CITY OF WAUKEGAN, an Illinois municipal )  
corporation, )  
 )  
Defendant. )

19CH00001190

**VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT  
AND INJUNCTIVE RELIEF**

Plaintiff, Waukegan Potawatomi Casino, LLC ("Potawatomi"), by its attorneys, O'Donnell Callaghan LLC, for its complaint against defendant City of Waukegan (the "City"), states as follows:

1. This action is brought pursuant to 735 ILCS 5/2-701 and Section 3 of the Illinois Open Meetings Act (5 ILCS 120/1).
2. Plaintiff is an Illinois limited liability company owned by the Forest County Potawatomi Community of Wisconsin, descendants of the Potawatomi Indian Tribe that through the early part of the 19<sup>th</sup> Century occupied a large territory covering most of the western shore of Lake Michigan including Waukegan. In fact, Waukegan is the Potawatomi word for Trading Post.
3. The Forest County Potawatomi Community of Wisconsin d/b/a Potawatomi Hotel and Casino, operates a casino in Milwaukee, Wisconsin, under the Indian Gaming Regulatory Act, 25 U.S.C. §2701 *et seq.*
4. Effective June 28, 2019, the Illinois General Assembly approved an amendment to the Illinois Gambling Act that provided the City the opportunity to have a casino. The amendment is known as Senate Bill 690 and is codified at 230 ILCS 10/7(e-5) ("SB 690").

5. Under SB 690, the Illinois Gaming Board (the "IGB") may issue one owners license authorizing the operation of a casino in the City.

6. The process by which applicants may apply for the license is set forth in SB 690. Applications are to be submitted to the IGB no later than 120 days following the effective date of SB 690, *i.e.*, October 25, 2019. All applications are to be accompanied by a nonrefundable application fee and a nonrefundable background investigation fee.

7. The IGB will only consider an application for an owners license if the City certifies to the IGB that the City and the applicant have engaged in certain good faith negotiations and/or reached certain agreements with respect to the proposed casino. 230 ILCS 10/7(e-5). The certification is required to be approved by resolution or ordinance passed by the City's corporate authority. 230 ILCS 10/7(e-5)(vi).

8. SB 690 does not limit the number of certifications the City may submit to the IGB.

9. Under SB 690, the IGB will review the proposals of each applicant in accordance with the provisions of the statute and IGB Rules. The review will cover, *inter alia*, the financial wherewithal of each applicant as well as the character and reputation of an applicant's key persons.

10. The IGB after its investigation and review will vote to award a license to operate a casino in the City to only one applicant.

11. On July 3, 2019, the City released a Request for Qualifications and Proposals ("RFQ") for the development and operation of a casino in the City. The initial deadline for proposal was July 22, 2019, but the deadline was extended to August 5, 2019. *See*, Request for Qualifications and Proposals, attached as Exhibit 1.

12. The RFQ required each applicant to submit a \$25,000 non-refundable application fee to the City. Exhibit 1, p. 4.

13. Five applicants, including Potawatomi, responded to the RFQ. During the review process, one of the applicants dropped out, leaving only four applicants, including Potawatomi.

14. The RFQ required applicants to identify the proposed location for the casino. The RFQ identified a City-owned property, known as Fountain Square, as one potential site for the casino, as well as other locations, some of which are owned by the City and some of which are not.

15. The RFQ stated, “[i]f purchase of City property is contemplated, an offer for the selected site(s) should be provided.” Exhibit 1, p. 3. The City did not specify that an “offer” should contain a specific purchase price.

16. On August 5, 2019, in response to the RFQ, Potawatomi submitted its proposal to develop, own and operate a casino, known as the Waukegan Potawatomi Casino (“WPC”), on the Fountain Square property.

17. Plaintiff’s proposal conformed to the requirements detailed in the City’s RFQ. *See*, Waukegan Potawatomi Casino Proposal, attached as Exhibit 2.

18. Potawatomi’s proposal contained an offer to negotiate a contract for the sale of the property within 15% of the property’s fair market value. Potawatomi submitted this offer in an attempt to negotiate in good faith with the City regarding its purchase of the land. The offer was consistent with the statute’s requirements that casino applicants negotiate in good faith with the municipality. 230 ILCS 10/7(e-5).

19. All of the other applicants also submitted proposals to operate a casino on the Fountain Square property.

20. The City retained an outside consultant to assist it in reviewing and evaluating of the proposals submitted in response to the RFQ.

21. On September 12, 2019, a team of Potawatomi representatives were interviewed by the City’s review team regarding its proposal. Those in attendance for the City included Corporation

Counsel Robert Long, Assistant Corporation Counsel Douglas Durando, City Planning and Zoning Director Noelle Kischer-Lepper, City Director of Finance Tina Smigielski, and the outside consultant, C.H. Johnson of Johnson Consulting.

22. On September 18, 2019, the City Council held a public hearing at which all of the applicants, including Potawatomi, were given 15 minutes to present their proposals and 15 minutes to answer questions from the City Council. After the presentations and questioning of applicants, C.H. Johnson provided an oral report assessing the proposals and concluded all of the applicants were qualified.

23. The September 18, 2019 public hearing began at 4:00 pm. and was closed by the Mayor at 8:00 p.m., as previously announced.

24. At the September 18, 2019 public hearing, C.H. Johnson made several erroneous statements concerning Potawatomi's proposal, including a statement that Potawatomi offered to purchase the Fountain Square property from the City for \$5.6 million. Nowhere in Potawatomi's proposal does it state its offer to purchase the Fountain Square property is \$5.6 million. *See*, Exhibit 2.

25. In its proposal, Potawatomi offered to negotiate the purchase price for the Fountain Square property based upon an appraised value thereof. *See*, Exhibit 2, p. 4.

26. After the September 18, 2019 public hearing, Potawatomi contacted the City's Corporation Counsel to ask how it could correct Johnson's erroneous statements made at the public hearing. The City's Corporation Counsel directed Potawatomi to submit a supplemental letter to the City's "Casino Review Team" containing any corrections or additional information in light of Johnson's public comments.

27. On October 4, 2019, Potawatomi followed the City's Corporation Counsel's direction and delivered a letter to the Casino Review Team ("Supplemental Letter"). A copy of the October 4, 2019 Supplemental Letter is attached as Exhibit 3.

28. The Supplemental Letter identified Johnson's misstatement as to the amount of Potawatomi's offer for the Fountain Square property, and clarified that Potawatomi never offered to purchase the property for \$5.6 million. In light of Johnson's erroneous statement, the Supplemental Letter contained a revised offer to purchase the Fountain Square property for \$12 million. Exhibit 3, p. 3.

29. On October 11, 2019, the City posted a report from C.H. Johnson Consulting entitled "Casino Developer and Operator Solicitation - Waukegan, IL: Advisory Services Report" (the "Johnson Report") on its website. *See*, Casino Developer and Operator Solicitation - Waukegan, IL Advisory Services Report, attached as Exhibit 4.

30. The Johnson Report rated the proposals of each of the applicants with regard to: purchase price offered for the Fountain Square property; size of each proposed casino; annual employment created by each proposed casino; gaming admissions taxes that would be generated by each proposed casino; estimated project cost for each casino; projected gross device and table gaming revenue for each proposed casino; and projected average gaming revenue for each proposed casino.

31. The Johnson Report ranked Potawatomi's proposal first or second of the four proposals with respect to every category but one—the proposed purchase price for the Fountain Square property. *See*, generally, Exhibit 4.

32. The Johnson Report then provided an overall ranking of the four proposals, based on the individual factors stated above.



33. The Johnson Report was erroneous and misleading. Notwithstanding Potawatomi's ranking in first or second place in each category but one, the Johnson Report inexplicably assigned Potawatomi the lowest overall ranking of the four proposals, *i.e.*, fourth place. Exhibit 4, p. 18.

34. Moreover, the Johnson Report repeated the erroneous statement that Potawatomi's offer to purchase the Fountain Square property was for \$5.6 million and included this error as part of the evaluation of Potawatomi's proposal. *See*, Exhibit 4, p. 5.

35. Had the Johnson Report contained Potawatomi's corrected purchase offer of \$12 million as stated in the Supplemental Letter, Potawatomi's proposal would have ranked first or second of the four proposals in every category.

36. On October 17, 2019, the City Council held a special meeting for a public hearing to consider the Johnson Report and to vote on resolutions to certify each of the proposals.

37. At the special meeting, C.H. Johnson made an oral presentation describing the methodology of his report and repeating that each of the applicants was qualified and the City would do well if it approved any of the applicants.

38. At the special meeting, C.H. Johnson admitted that he did not consider the information in the Supplemental Letter submitted by Potawatomi, which corrected its purchase price for the Fountain Square property.

39. At the Special Meeting, C.H. Johnson was questioned by an Alderman, who challenged the overall ranking of the applicants, noting Potawatomi ranked first or second in all of the ranking criteria in the Johnson Report except for purchase price, which was evaluated incorrectly.

40. The City refused to allow any public participation, including the ability to address the council or the speakers at the special meeting.

41. Section 2.06(g) of the Illinois Open Meetings Act (5 ILCS 120/1) provides “[a]ny person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body.”

42. The City’s refusal to allow any member of the public to address the Council allowed the rankings in the Johnson Report to go uncorrected and unchallenged, thereby permitting the incorrect and misleading statements contained therein to misinform the City’s decision regarding which applicants to certify to the IGB.

43. At the special meeting, the City Council voted 6-3 to approve resolutions certifying to the IGB two applicants who ranked lower than Potawatomi in each category. The City Council voted 5-4 to approve a resolution certifying the applicant who ranked just above or just below Potawatomi in each category. The City Council voted by a score of 2-7 to deny the resolution for certification of Potawatomi’s application to the IGB.

44. After the special meeting, Mayor Cunningham reported to the press that the reason that Plaintiff’s resolution was not approved was the fact it was ranked fourth of the four proposals by the Johnson Report.

45. On October 18, 2019, Potawatomi delivered a letter to the City, describing the violation of the Open Meetings Act, the factual errors in the Johnson Report, and the erroneous oral statements made by C.H. Johnson at the Special Meeting (“October 18<sup>th</sup> Letter”). A copy of the October 18<sup>th</sup> letter is attached as Exhibit 5.

46. The October 18<sup>th</sup> Letter also attached a chart, showing that an accurate calculation of the numeric criteria in the Johnson Report results in Potawatomi being ranked in second place, slightly below the first ranking and far above the third and fourth rankings. With an accurate calculation, Potawatomi would have received a second place ranking, *even if* its offer to purchase the Fountain Square property had in fact been for \$5.6 million. *See*, Exhibit 5.

47. In the October 18<sup>th</sup> Letter, Potawatomi requested the City Council reconsider its vote to deny the resolution to certify Potawatomi to the IGB at its regular City Council meeting on October 21, 2019. Exhibit 5.

48. In support of reconsideration, three aldermen signed a request that a motion to reconsider the denial of Plaintiff's proposal be placed on the agenda for the City Council meeting on October 21, 2019. *See*, Request for Agenda Item, Motion to Reconsider, attached as Exhibit 6.

49. The Agenda request was delivered to the City Clerk on October 18, 2019 at 3:43 pm. However, the City Clerk refused to sign a receipt for the Agenda request; it was left on the counter.

50. The Agenda request for the motion to reconsider could have been added to the October 21, 2019 agenda at any time before 7:00 pm on October 19, 2019. However, the Agenda request by three aldermen was not honored, and the motion to reconsider was not added to the agenda for the City Council Meeting on October 21, 2019.

51. In addition to the strength of its application based on financial benefits to the City, Potawatomi's proposed WPC is uniquely qualified to meet the IGB standards for awarding a casino license under SB 690. Unlike the other proposals certified by the City, the WPC would be 100% minority owned. SB 690 requires the IGB to give preference to applicants with minority ownership of 16%.

52. Potawatomi paid a \$25,000 application fee to the City in order to participate in a fair process for the review and certification of its bid proposal to the IGB.

53. The amendment to the Illinois Gambling Act requires the City to participate in good-faith review of proposed applications. 230 ILCS 10/7(e-5). The City is required to certify to the IGB that it has participated in such good-faith negotiation and review. Moreover, the Act specifically directs the City to hold a public hearing to discuss the particular issues the City is required to certify to the IGB with respect to each applicant. *Id.*

54. The Act then requires the City to memorialize the details of its review in a resolution or ordinance adopted by a majority of the corporate authority before it may submit its certification to the IGB. *Id.*

55. Pursuant to the Open Meetings Act, the City may only adopt resolutions or ordinances at meetings which are open to the public. 5 ILCS 120/2(e).

56. The location and operation of a new casino in the City is a matter of unique concern to the public health, safety, welfare and morals, and it is vital the City be required to adhere to statutes requiring transparency of government actions and ability of public to participate in the process.

57. Public meetings are required to contain an opportunity for the public to address public officials under the rules established by the public body. 5 ILCS 120/2.06(g).

58. The City's Code of Ordinances provides that the first order of business at each meeting of the City Council, if roll is called and a quorum found to be present, is "audience time," which is the time designated for the public to address public officials under the City's rules. Waukegan Code of Ordinances, §2-62(1).

59. Therefore, the City's public meetings, including special meetings, are required to contain an opportunity for the public to address public officials. 5 ILCS 120/2.06(g).

60. The City's October 17, 2019 special meeting did not contain any "audience time" or other opportunity for public comment, in violation of 5 ILCS 120/2.06(g). Nevertheless, the City proceeded to vote on the resolutions approving certification of three of the casino applicants to the IGB, and denying certification of Potawatomi's application to the IGB at the October 17, 2019 special meeting.

61. The Johnson Report prepared by the City's consultant was erroneous and misleading and Potawatomi was not given an opportunity to correct the errors because the City refused to allow public comment at the October 17, 2019 special meeting, in violation of the Open Meetings Act.

62. The City's resolutions adopted at the October 17, 2019 special meeting purporting to certify the other three applicants to the IGB were not adopted pursuant to the requirements of the Open Meetings Act and therefore should be deemed void by this Court.

63. Potawatomi has a tangible legal interest in requiring the City to comply with the procedures set forth in the Open Meetings Act and 230 ILCS 10/7(e-5).

64. Potawatomi has a further tangible legal interest in participating in the IGB's competitive bidding process to be considered for a license to operate a casino in the City.

65. There is an actual controversy between Potawatomi and the City with respect to the validity of the October 17, 2019 resolutions passed by the City. The City's opposing interest is in a finding that the October 17, 2019 resolutions are valid and thus the City can submit the certifications to the IGB in order to initiate the IGB's review and award of an owners license authorizing the conduct of riverboat gambling in the City. 230 ILCS 10/7(e-5).

66. IGB will not consider Potawatomi's application unless it receives a certification from the City as to that application, but it will consider the other three applications if it receives the City's resolutions approving such certifications. IGB may then decide to issue the single license to one of the other applicants, but Potawatomi will have been denied the right to participate in that process, despite its attempts to negotiate in good faith with the City as required by the statute. 230 ILCS 10/7(e-5).

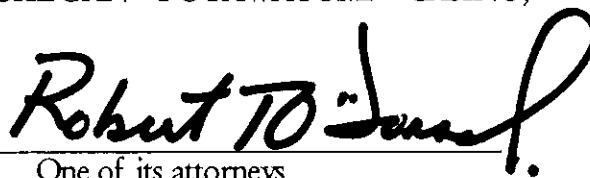
67. The City should be enjoined from submitting the October 17, 2019 certifications to the IGB until this Court can reach a determination on the merits as to whether the City's resolutions approving such certifications were made in violation of the Open Meetings Act.

WHEREFORE, Potawatomi requests this Court:

1. find and declare the City's October 17, 2019 resolutions are invalid due to the City's violation of the Open Meetings Act;
2. enjoin the City from submitting the resolutions or any other certification to the Illinois Gaming Board with respect to the resolutions that were purportedly passed at the October 17, 2019 special meeting in violation of the Open Meetings Act;
3. award plaintiff its attorneys fees and costs pursuant to 5 ILCS 120/3(d); and,
4. any other relief this Court deems proper.

WAUKEGAN POTAWATOMI CASINO,  
LLC

By:



One of its attorneys

Robert T. O'Donnell (ARDC # 03124931)  
Gerald P. Callaghan (ARDC # 3124829)  
Hayleigh K. Herchenbach (ARDC # 6327026)  
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847-367-2758 (Fax)  
[rodonnell@och-law.com](mailto:rodonnell@och-law.com)  
[jcallaghan@och-law.com](mailto:jcallaghan@och-law.com)  
[hherchenbach@och-law.com](mailto:hherchenbach@och-law.com)

**VERIFICATION**

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Verified Complaint for Declaratory Judgment and Injunctive Relief are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

**WAUKEGAN POTAWATOMI CASINO, LLC**

By: Jeffrey A. Crawford  
Name: Jeffrey A. Crawford  
Its: Board Member

(Authorized representative of Waukegan  
Potawatomi Casino Corporation, manager of  
Waukegan Potawatomi Casino LLC)



# Request for Qualifications and Proposals

## Casino Development & Operator

### Waukegan, Illinois

Release Date: Wednesday, July 3, 2019

**Proposal Deadline: ~~Monday, July 22, 2019, 3:00 p.m. (Central)~~**

**UPDATED DEADLINE: MONDAY, AUGUST 5, 2019, 3:00 p.m. (Central)**

*There will not be a public opening of submittals.*

Proposals must be submitted as follows (nonconforming deliveries will not be accepted):

- One (1) unbound original with original signature and notary stamp on Non-Collusion Affidavit
- Ten (10) bound copies
- One (1) electronic copy on USB drive, labeled with Project Team name
- All pages on standard letter (8.5" x 11") or tabloid (11" x 17") paper
- Application fee enclosed
- Any confidential or proprietary information contained in the proposal must be identified as such.
- Clearly labeled in the lower left corner on the front of the package: "Casino Development Proposal"
- Submitted in a sealed package
- Submitted to:

Waukegan City Clerk  
Waukegan City Hall, first floor  
100 N. Martin Luther King, Jr. Avenue  
Waukegan, IL 60085





## **INTRODUCTION**

The City of Waukegan (the “City”) invites qualified Project Teams (the term “Project Team” should be interpreted as reflecting the entire development/operator group) to submit proposals through the issuance of this Request for Qualifications and Proposals (“RFQ/P”) for the development of a successful casino and associated amenities in accordance with the Illinois Gaming Act (the “Act”). The Act was recently amended to allow for a license to be issued to a Riverboat Casino within the corporate limits of the City of Waukegan. The Act further provides for only a 120-day window from the time of the Governor’s signature on the legislation (June 28, 2019) for developers to submit a full application to the Illinois Gaming Board after the City issues a letter of support and has an agreement with a Project Team. Given these requirements, the City seeks to maximize the value of the gaming license and assure long-term viability of the casino while moving quickly through the statutory vetting process.

Waukegan, located in Lake County in northeastern Illinois, sits at the shore of Lake Michigan, just south of the Wisconsin state line. Waukegan is centrally located between Chicago and Milwaukee, and has a population of nearly 90,000. A community diverse in character and opportunities, Waukegan is postured for growth.

The City holds several properties, including some it has identified as possible locations for a casino. One such site, commonly referred to as “the casino site,” is located within its Fountain Square development. This property is approximately 28 acres in total, and is in an area with retail and commercial development. This location is directly accessible to IL-43/Waukegan Road, and close to IL-120/Belvidere Road, US Hwy. 41, and I-94. The property’s PIN number is 07-36-104-001 (see Exhibit A).

The City of Waukegan also owns various other properties, which may be viable locations for a casino, within the downtown or Lake Michigan lakefront areas. These properties range in size, and many are contiguous with other City-owned parcels, which could be combined (see Exhibit B). The City is also amenable to the consideration of privately owned parcels, or to assisting the Project Team in necessary acquisitions of other parcels.

## **DEVELOPMENT OBJECTIVES**

The City is seeking a financially successful development that maximizes sales tax and gaming revenues to the City and that provides a significant number of quality jobs to its residents, as well as increasing the City’s EAV and bolstering its property tax base. The Project Team will be required to make substantial improvements to the selected site, which, at a minimum, shall include a casino, sports betting, and parking facilities, as well as other supporting infrastructure, and to operate and maintain the casino, site, and business operations.

## **SUBMITTAL REQUIREMENTS**

Pursuant to the requirements and timeline of the Act, the City of Waukegan, Illinois (the “City”) is issuing this Request for Qualification/Proposals soliciting responses from qualified Project Teams for the siting, licensure, and development of a Riverboat Casino within the Corporate Limits of the City of Waukegan.

Waukegan Casino Request for Qualifications and Proposals

The successful Project Team, with whom the City of Waukegan will negotiate specific terms for a casino development, will provide a thorough and detailed response to the components herein. There is no specific page limit, but Project Teams must adhere to the submittal guidelines on the cover of this RFP.

1. Property Specifications and Location

Identify the proposed location for the development, including whether located on City-owned or privately held property, and describe the plan to acquire the development location. Provide detail of property size and access requirements, and any other pertinent specifications. If purchase of City property is contemplated, an offer for the selected site(s) should be provided. Because of the 120 day limitation on local vetting described above, the Project Teams are cautioned to consider zoning and special use issues that may require public hearings and to investigate entitlements on specific parcels under consideration. Additional property research can be conducted using the Lake County online mapping system (<https://maps.lakecountyil.gov/mapsonline/>).

2. Description of Proposed Development

- A. Describe, in detail, the proposed casino development. Include the number and types of gaming positions, sports betting plan, the physical layout of the space, the parking plan, and a description of any included restaurant, hotel, convention, retail, entertainment, or other accessory or adjacent facilities. If available, include any site plan, elevations, renderings, floor plans, etc.
- B. Provide a phasing plan and timeline for all project components.
- C. Describe all sustainable development components incorporated into the development, including LEED standard to be met, integration of solar and green roof, energy efficiency, landscape and stormwater management, local food, sustainable waste and material management, water resources stewardship, etc.
- D. Describe the target audience and marketing approach.
- E. Describe the timeline for the development, including temporary operations.
- F. Describe any plans for community reinvestment, including (without limitation)
  - i. local hiring and job training initiatives,
  - ii. organized labor commitments,
  - iii. minority, woman, veteran, disabled person owned business commitments,
  - iv. buy-local commitments,
  - v. sponsorships, contributions, and event participation,
  - vi. foundation establishment or investment,
  - vii. other community-oriented plans.
- G. Explain and quantify the benefits for the City of Waukegan and its residents, including, but not limited to, the estimated economic impacts. Explain and quantify the benefits to Lake County and the Cities of North Chicago and Park City.

Waukegan Casino Request for Qualifications and Proposals

H. Describe, in detail, any expectations or requests the proposal makes of the City.

3. Project Team and Experience

- A. Provide disclosures for the Project Team in accordance with 230 ILCS 10/5.1.
- B. Describe the role of each party managing the proposed casino operation.
- C. Describe the experience of the Project Team. Provide detail for each member of the team, as well as the experience as a team, including experience developing and operating casinos and other proposed operations. Explain why this proposal will result in long-term benefits to the City and constitute a financially successful overall development.

4. Financial Data

- A. Provide three (3) years of Annual Reports intended to give information about the activities and financial position of each member of the organization, such as audited balance sheet, income statement, disclosure of management fees, statement of cash flows, Form 10-K.
- B. Provide information and documentation on *existing projects and those underway in other locations*, including, at a minimum:
  - i. Cost of project
  - ii. Financing associated with project
  - iii. Disclosure of management fees
- C. Financial reports for other similar projects managed by the Project Team  
Financial reference from the principal lender(s) or investor(s), representing at least 51% of the interest, and associated with at least one existing project, that may speak to the financial responsibility and stability of each of the organizations submitting the proposal, based on direct and long-term working relationship with the organization and/or its principals.
- D. Provide information and documentation on financing for *this proposed Waukegan development*, including:
  - i. Expected cost of project
  - ii. Financing associated with the project
  - iii. Incentives, including desired levels and types of incentives that may be requested from the City, along with any rationale that demonstrates that any such incentives may be in the City's best interests, including associated EAV projections to support the request.
  - iv. Preliminary pro forma showing anticipated revenues generated
  - v. Disclosure of all management fees

5. Application Fee

A non-refundable application fee in the amount of \$25,000 is required as part of this submission. A certified check or money order, made payable to "City of Waukegan" and enclosed in the submittal package.

**PROPOSAL EVALUATION**

Proposals will be ranked by a City of Waukegan Review team based on how well the Project Team proposals meet the Development Objectives and Submittal Requirements described in this RFQ/P. Staff and consultants will evaluate economic, financial, and other submittal information. It is anticipated that a selection of finalists will be made, from or with whom the City may chose, in its sole discretion, to request additional written information, conduct interviews, hold site visits, or any combination of these. The review team’s recommendation for the top ranked Project Team(s) will be forwarded to the City Council for its independent review and action.

One or more Project Team(s) will be selected with whom the City will enter negotiations to become the chosen casino developer/operator. Time is of the essence in this effort, as this is an impactful and long-awaited project for the City of Waukegan.

**ADDITIONAL INFORMATION**

All questions should be addressed to [casino@waukeganil.gov](mailto:casino@waukeganil.gov).

Any questions and responses received before 5:00 p.m. on Thursday, ~~July 18~~ August 1 may be posted as addenda to the RFP. Questions received after that time may not receive a response.

All submittals must conform to the requirements detailed in this document. Any incomplete submittals may be rejected.

Any confidential or proprietary information contained in the proposal must be identified as such.

The cost of any survey of the Development Site will be a cost of the developer. Under no circumstances shall the City be liable for any of the costs of any party making a submission under this RFP, negotiating with the City or otherwise participating in the RFP process.

This RFP shall not create any legal obligations on the City to evaluate any responses that are submitted, or to enter into any contract or other agreement with any party who submits responses to this RFP, except on terms and conditions the City deems, in its sole and absolute discretion, to be satisfactory and desirable. The right is reserved by the City to reject or accept any and all submissions in whole or in part, and to accept proposals from more than one Project Team in whole or in part.

## **NOTICE**

### **OF PROHIBITION OF COMMUNICATION WITH, AND GIFTS OR GRATUITIES TO, THE CITY AND OTHERS**

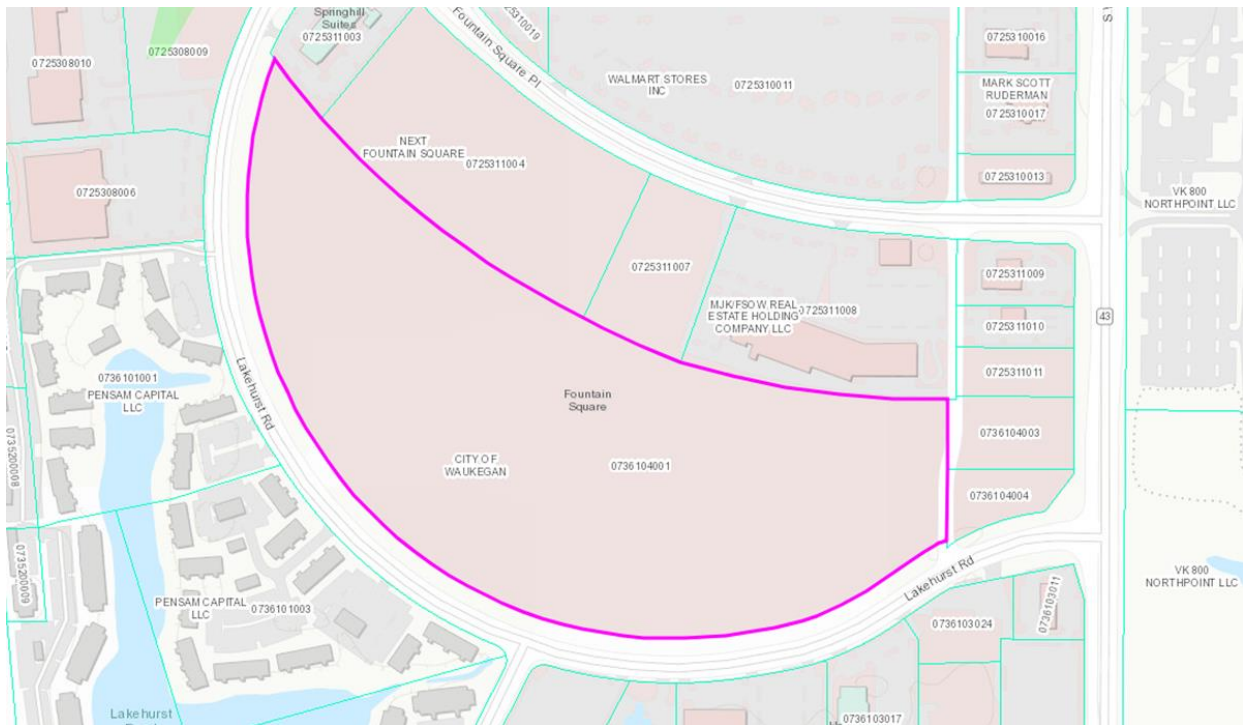
Commencing immediately upon the public release of this RFQ/P, and continuing until negotiations with the Project Team for the development are complete, if any, Project Teams shall not:

1. Hold any meetings, conferences, or discussions with any Waukegan City Council members, City Employees, or City Contractors involved in the RFP process, or any Lake County, City of North Chicago, or City of Park City representatives, except as expressly allowed by this RFP (all communications should be addressed to [casino@waukeganil.gov](mailto:casino@waukeganil.gov));
2. Communicate, in any manner, with the individuals listed in Paragraph 1 of this Section, unless authorized by the City of Waukegan. Project Teams and their representatives are not prohibited, however, from making oral statements or presentations in public to one or more representatives of the City during a public meeting. In addition, Project Teams may write to the City Council as a whole once the staff recommendations are made in anticipation of a public meeting.
3. In addition, from the date of the report to the City Council recommending the issuance of this RFP, to the date on which the City Council awards a contract, if any, a Project Teams must not directly or indirectly give, furnish, donate, or promise any money, compensation, gift, gratuity, or anything of value to the individuals listed in Paragraph 1 of this Section for the purpose of, or which has the effect of:
  - A. Securing or establishing an advantage over other Project Teams;
  - B. Securing or recommending the selection of the Project Team's Proposal; or
  - C. Securing or recommending the Contract's award to the Project Team.
  - D. Violations of Paragraphs 1 or Paragraph 2 of this Section, or both, will constitute grounds for rejection.
4. Pursuant to 230 ILCS 10/5.3(i), note that any and all contacts between Project Team members (or their agents) and any City official or employee must be reported to the Illinois Gaming Board.

Waukegan Casino Request for Qualifications and Proposals

**Exhibit A – Fountain Square Property**

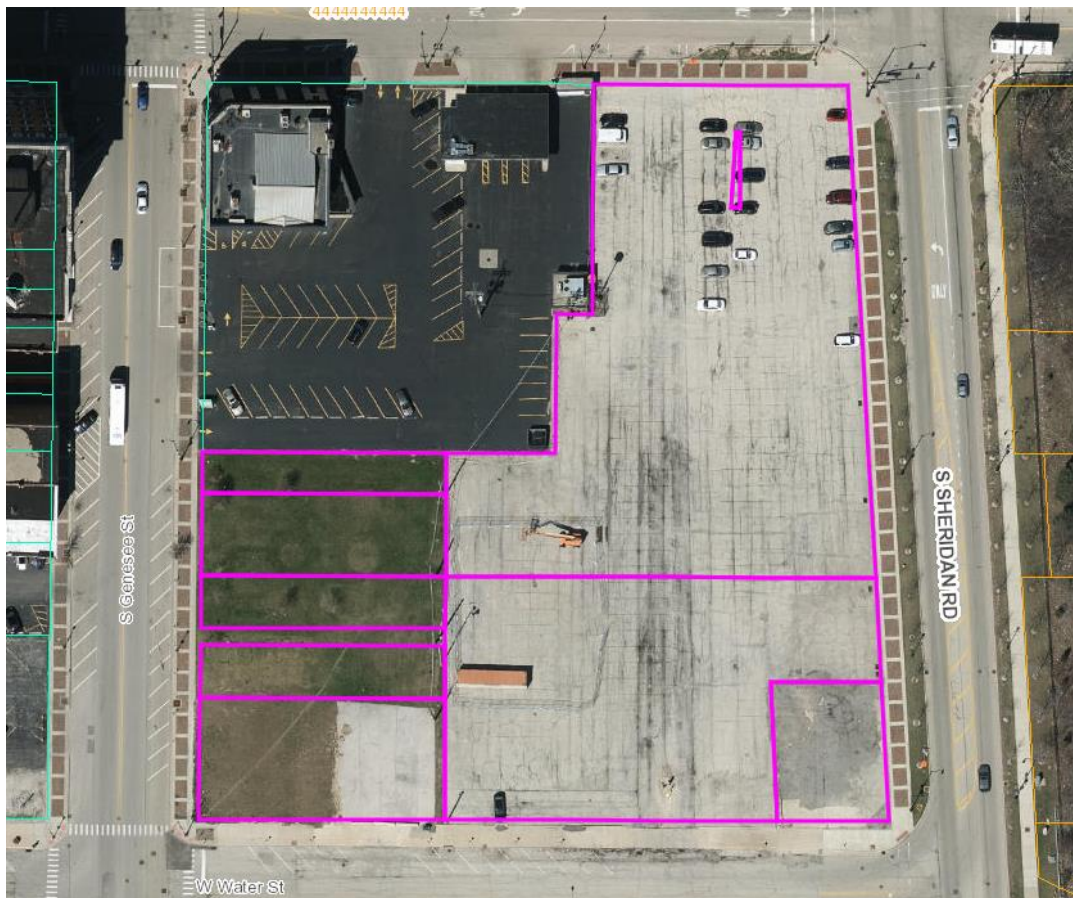
PIN 07-36-104-001



Waukegan Casino Request for Qualifications and Proposals

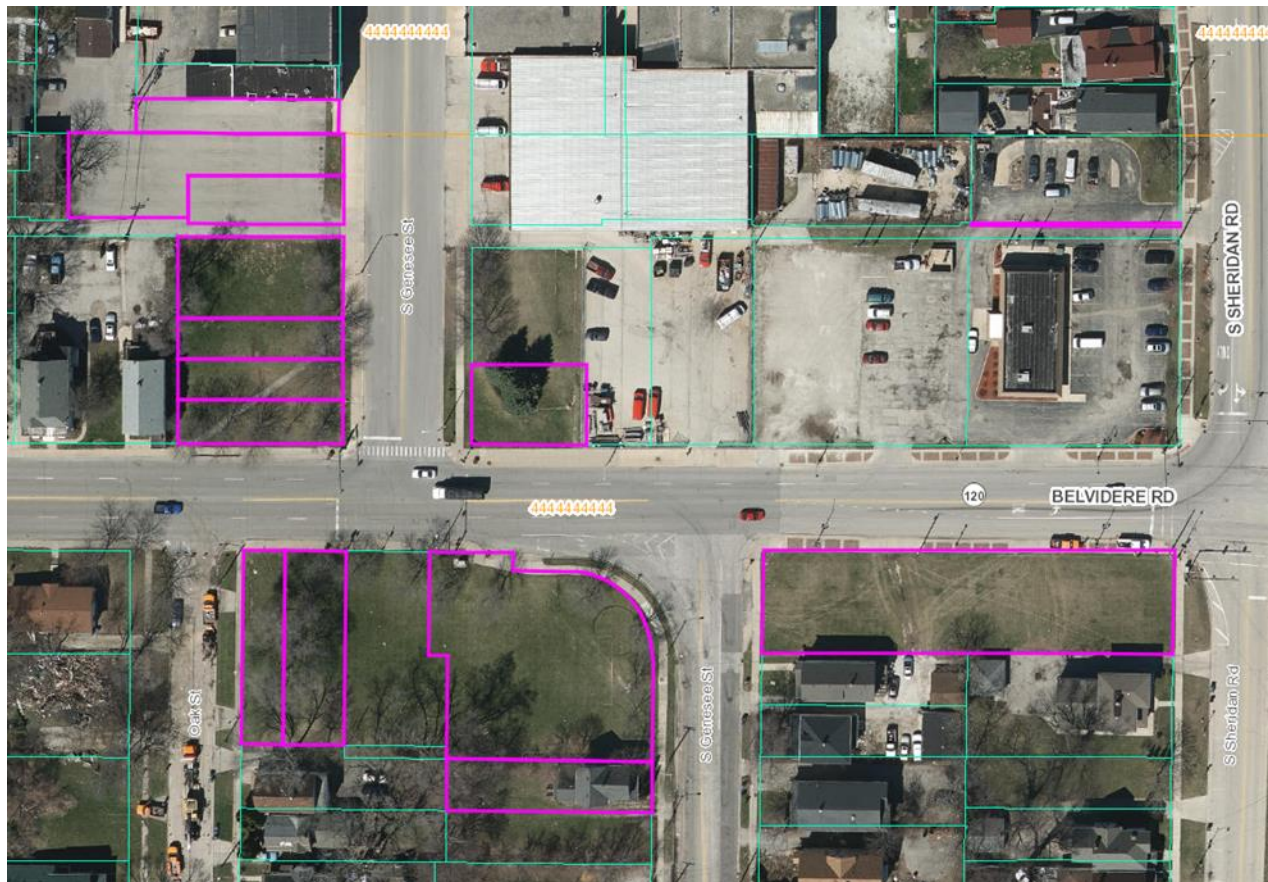
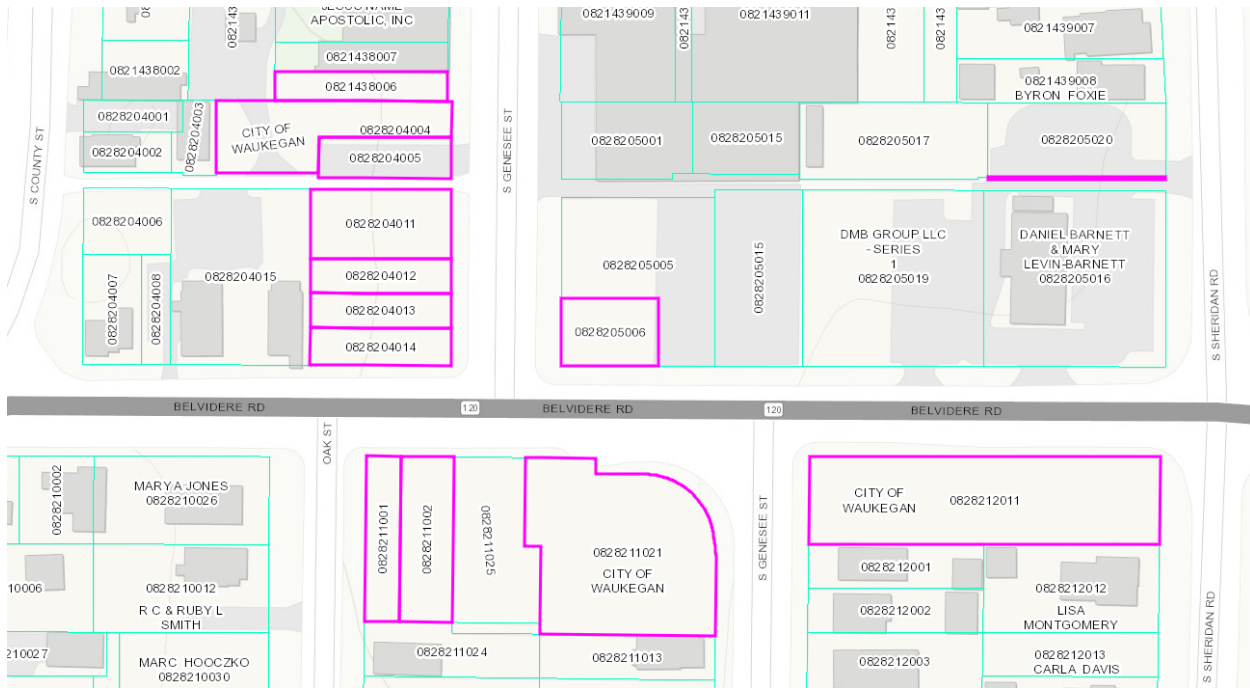
**Exhibit B – Downtown and lakefront properties**

PINs 08-21-426-011, 012, 013, 014, 015, 017, 018, 019



Waukegan Casino Request for Qualifications and Proposals

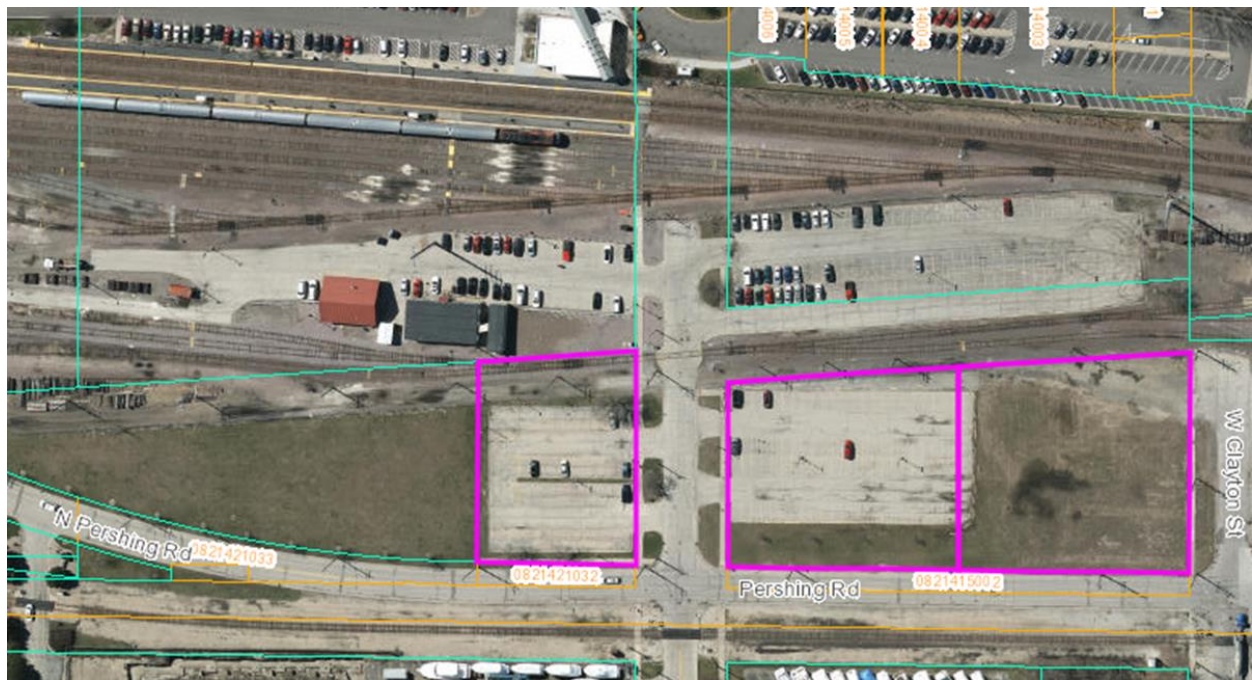
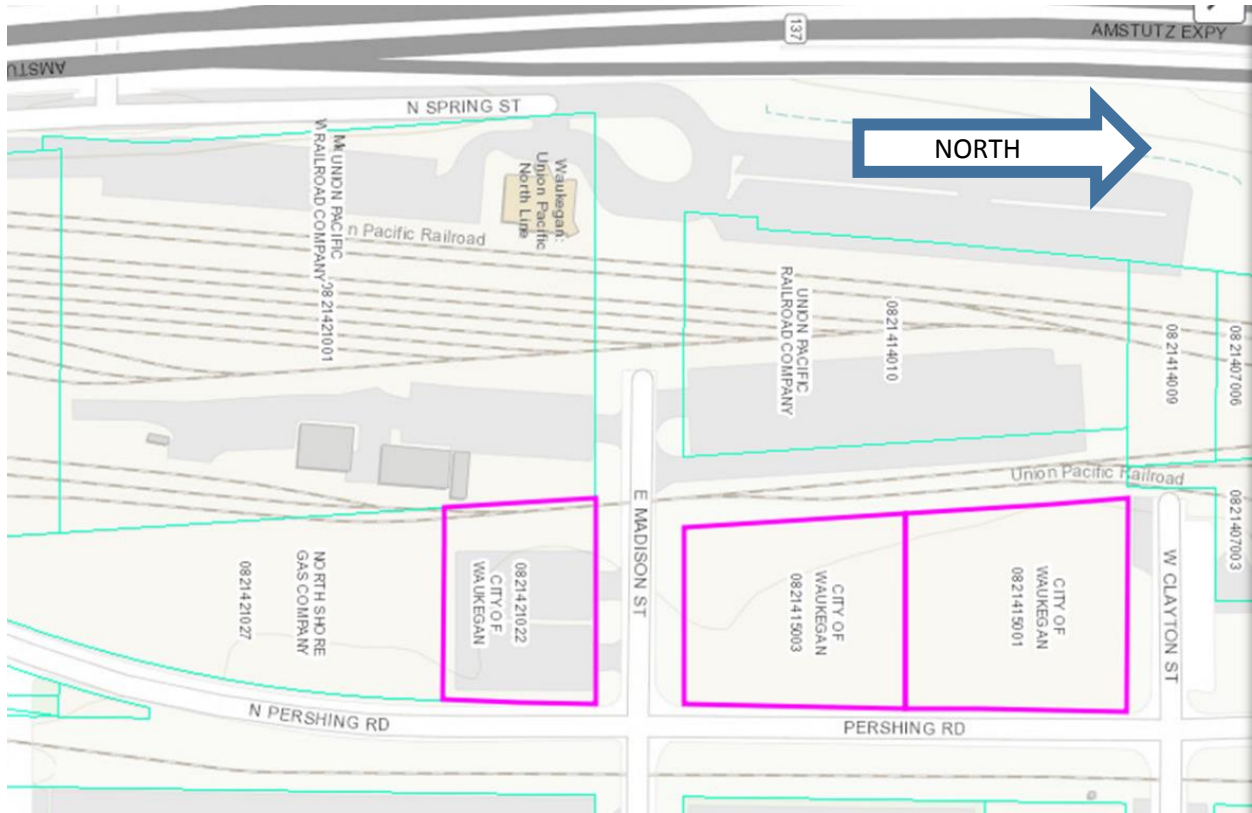
PINs 08-21-438-006, 08-28-204-004, 005, 011, 012, 013,014, 08-28-210-001, 002, 021, 08-28-212-011





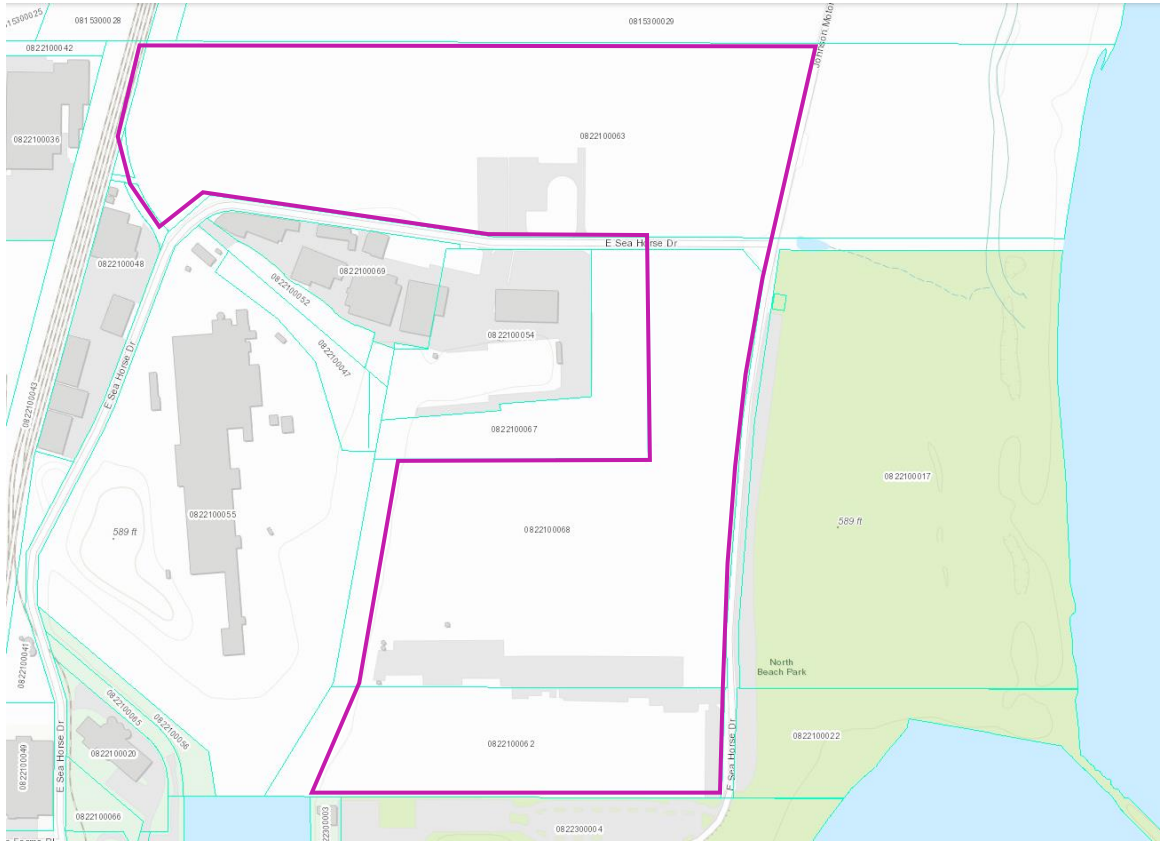
Waukegan Casino Request for Qualifications and Proposals

PINs 08-21-415-001, 002, 08-21-421-022



Waukegan Casino Request for Qualifications and Proposals

PINs 08-22-100-063 (not including dunes), 08-22-100-062, 068



Waukegan Casino Request for Qualifications and Proposals

**EXHIBIT C**

**NON-COLLUSION AFFIDAVIT**

STATE OF ILLINOIS        )  
  ) ss  
COUNTY OF LAKE        )

This Non-Collusion Affidavit is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2019 by \_\_\_\_\_ (the "**Undersigned**"), being the \_\_\_\_\_ (sole owner, partner, president, secretary, etc.) of \_\_\_\_\_ (the "**Project Team**"), in connection with its submission to the City of Waukegan (the "**City**") pursuant to the Request for Qualifications/Proposals issued by the City of Waukegan. The Undersigned states that he or she has personal knowledge of the matters contained herein, and has been authorized by the Project Team to make the statements contained herein.

The Undersigned, being first duly sworn, deposes and says that he or she is the \_\_\_\_\_ (sole owner, partner, president, secretary, etc.) of the Project Team; that the submission was not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation; that said submission is genuine and not collusive or a sham; that said Project Team has not directly or indirectly induced or solicited any other party to submit a false or sham response or bid in response to the RFQ/P, and has not directly or indirectly colluded, conspired, connived, or agreed with any party to put in a sham bid pursuant to the RFQ/P, or that anyone should refrain from bidding pursuant to the RFQ/P; that said Project Team has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix any element of such submission, or of that of any other Project Team, or to secure any advantage against the City or anyone interested in the RFQ/P or any agreement contemplated thereby; that all statements contained in the submission are true and not misleading; and, further, that said Project Team has not, directly or indirectly, submitted its proposal or any breakdown thereof, or the contents thereof or divulged information or data relative thereto, or paid and will not pay any fee in connection therewith to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any other individual except to such person or persons as have a partnership or other financial interest with the Project Team in its general business.

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

(SEAL)

\_\_\_\_\_  
Notary Public

**CONFIDENTIAL AND PROPRIETARY  
INFORMATION OMITTED**

**Competitive  
Environment**

As a result of the gaming expansion in Senate Bill 690, the Waukegan Potawatomi Casino will be operating in a highly competitive environment. One of PHC's strengths has been year-over-year revenue growth for the past decade. A strategic casino partnership between the City of Waukegan and PHC will be a formidable force in a highly competitive gaming market.

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**Application  
Fee  
(RFQ/P 5.0)**

A check for the non-refundable application fee in the amount of \$25,000 is enclosed in the submittal package.



# CASINO DEVELOPER AND OPERATOR SOLICITATION – WAUKEGAN, IL ADVISORY SERVICES REPORT

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SUBMITTED TO  
City of Waukegan

SUBMITTED BY  
Johnson Consulting

DATE  
October 2019



EXHIBIT

tabbles

3



## INTRODUCTION

Johnson Consulting was retained by the City of Waukegan (the “City”) to provide an independent review and evaluation of proposals received in response to the City’s Request for Qualifications and Proposals (RFQ/P) Casino Development and Operator. It is intended that the City will enter into an agreement with one or more selected developer(s) and issue a letter of support to the Illinois Gaming Board (IGB) by October 25, 2019, in accordance with the requirements of the Illinois Gaming Act.

Five (5) proposals were received by the City from (listed in alphabetical order):

1. CDI-RSG Waukegan, LLC. (CDI-RSG)
2. Full House Resorts, Inc. (Full House)
3. Lakeside Casino, LLC dba North Point Casino. (North Point)
4. Potawatomi Hotel and Casino. (PHC)
5. *Waukegan Development Association LLC. (WDA-CGG)* - On September 25, 2019 WDA-CGG provided written notice to the City of withdrawal of their proposal.

It is hoped that the IGB will chose the operator that will optimize returns to all parties. From the City of Waukegan’s perspective, the hope is that the IGB will advance the team that will offer the City the best project that will have the greatest impact for its residents. The selected bidder should have financial capacity and should also be the one that will ultimately create a project that is more than just a casino but rather an entertainment destination within the City of Waukegan.

This memorandum report presents our summary-level analysis and ranking of proposals #1 through #4 as received by the City, based upon the information presented in those proposal.

## OBJECTIVES AND EVALUATION CRITERIA

As stated in the City’s RFQ/P, the City is seeking “a financially successful development that maximizes sales tax and gaming revenues to the City and that provides a significant number of quality jobs to its residents, as well as increasing the City’s EAV and bolstering its property tax base.” The proposed development must include, at a minimum, a casino, sports betting, and parking, along with other necessary supporting infrastructure.

The RFQ/P required that submittals provide the following information:

1. Property Specifications and Location.
2. Description of Proposed Development – including phasing plan and timeline; sustainable development components; target audience and marketing approach; plans for community reinvestment; benefits to the City and its residents; and requests of the City.



3. Project Team and Experience.
4. Financial Data – including annual reports; existing project performance; and cost estimates and operating projections for proposed project.
5. Application Fee.

Our evaluation considers items #1 through 4, as listed above.

## PROCESS AND METHODOLOGY

As independent advisor to the City, Johnson Consulting has provided the following services:

1. Reviewed and summarized all proposals received by the City.
2. Facilitated developer interviews on September 11 and 12, 2019 with all 5 bidders.
3. Participated in a public hearing on September 18, 2019, which included presentations by all 5 bidders, as well as a summary-level report by Johnson Consulting.
4. Reviewed public comments received in writing by the City through October 2, 2019.
5. Prepared a memorandum report providing an independent, third party evaluation of the proposals, reflecting our local and industry knowledge.
6. Presented our findings and recommendations at a special City Council meeting on October 17, 2019.

It is noted that pursuant to our engagement with the City, our scope of services does not include the preparation of independent projections for, nor a market or feasibility assessment of, a new casino project in Waukegan. Our analyses are based on the information provided by the respective bidders and provides our assessment of the viability of their financial projections based upon our industry experience.

## ABOUT US

Johnson Consulting, Inc. is a corporation founded in 1996 in Chicago, IL. Since inception, Johnson Consulting has conducted hundreds of engagements in the U.S. and abroad, including casino, event and entertainment facility, and mixed-use development projects that incorporate a mix of commercial, retail, hotel and specialized uses. Our professionals have worked in real estate and hospitality planning for over 30 years. The majority of our work is focused on market analysis, financial analysis, development consulting, operational reviews, economic and fiscal impact analysis, and developer and operator solicitation.

Johnson Consulting is uniquely qualified to for this assignment based upon factors that include:

- A. Experience in similar engagements that have resulted in casinos and other entertainment facilities supportive of host community's strategic goals and objectives.



- B. Reputation as objective and trusted economic and financing advisor, among investors, underwriters, and developers.
- C. Proven clear and transparent processes that engage leadership, stakeholders, prospective developers and communities.
- D. Proven collaborative processes that utilize appropriate market data, precise analytics and industry knowledge so that our clients can make the most informed decisions.
- E. Substantial prior work for and in the City of Waukegan.

Johnson Consulting's advisory services practice is committed to providing guidance and recommendations that are specific to each of our client's unique needs through a collaborative and tailored approach. At the same time, we rely upon the lessons learned from our experience advising municipalities and private developers on the best ways to realize their desired outcomes. As advisors to community leaders, we understand that success is not defined solely by financial performance but also "return on vision". Therefore, our process always entails a significant amount of engagement and interaction with community leadership and community members to ensure that our recommendations respond to the unique needs and desires of the host community, and positively contribute to economic development.

## EVALUATION OF PROPOSALS

The Appendix to this memorandum report provides a summary of responses to each of the evaluation criteria identified above, based upon the submittal requirements of the RFQ/P, and described below.

### 1. PROPERTY SPECIFICATION AND LOCATION

Each of the remaining 4 proposals identifies the 28-acre, City-owned Fountain Square site as the location for the proposed casino project. While there is considerable variation in the proposed purchase price for the site, the highest bidders include structured annual payments and donations (North Point) or a desire for a long-term lease agreement (Full House). Figure 2 provides a comparison of the proposed purchase price for the Fountain Square site. The amounts shown are as proposed in each submittal, but will be subject to negotiation.





Figure 1



Figure 2 summarizes our commentary on the responses received in relation to Evaluation Criteria #1 Property Specifications and Location.

Figure 2

Waukegan Casino RFQ/P Comparison of Property Specifications and Location				
	CDI-RSG	Full House	North Point	PHC
<b>Commentary</b>	Mid-ranked purchase price.	Highest purchase price; Desire for long-term lease with option to purchase site.	2nd highest purchase price comprised of upfront payments plus structured, annual payments and donations to City-approved projects.	Lowest purchase price.

Source: Respective proposals, Johnson Consulting

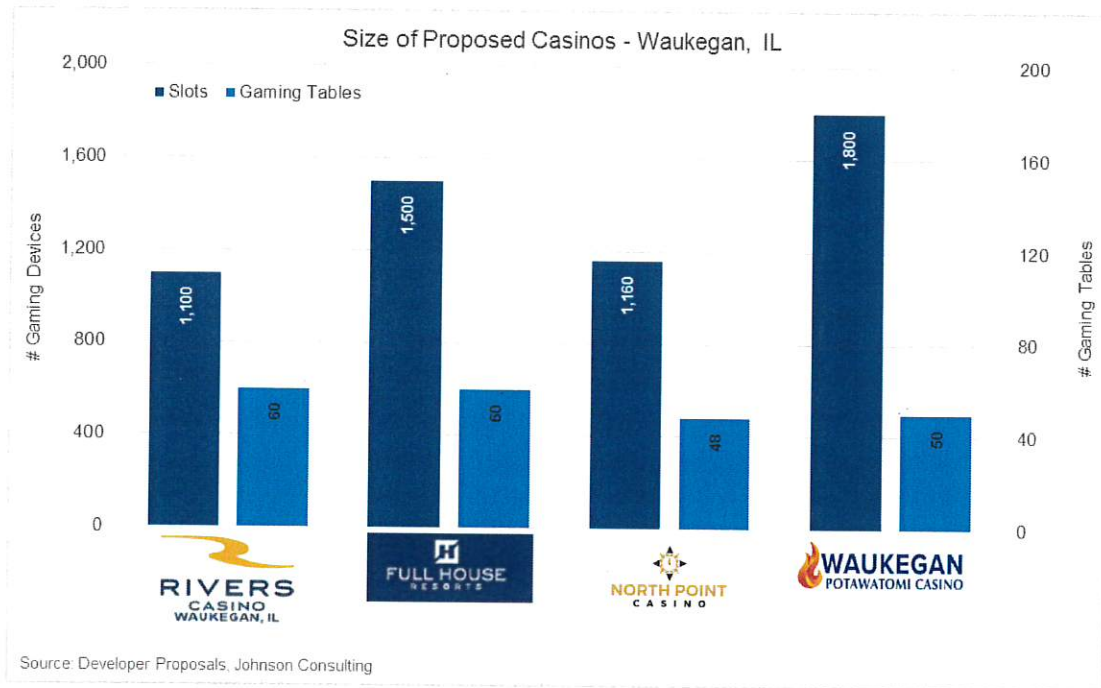


**2. DESCRIPTION OF PROPOSED DEVELOPMENT**

Key components of the proposals are summarized as follows:

- A. **PROPOSED DEVELOPMENT:** Each of the 4 proposals present a unique vision for the development of a casino on the Fountain Square site. Figure 3 provides a comparison of the proposals based upon the number and types of gaming positions. As shown, the number of gaming devices range from 1,100 (CDI-RSG) to 1,800 (PHC) and the number of gaming tables range from 48 (North Point) to 60 (both CDI-RSG and Full House). All proposers indicated that they are willing to pay the per position privilege fee for the maximum allowable 2,000 gaming positions.

**Figure 3**



All proposals include sports betting facilities, along with various restaurants and bars. Only one proposal includes onsite accommodation in the initial phase of development (Full House – 20 luxury villas), while all proposals indicate potential for a hotel in subsequent phases of development.

As it relates to non-gaming amenities, all 4 proposed developments include a variety of dining options. Indoor event space is proposed by Full House (1,500-person Entertainment Center) and PHC (10,000 SF of meeting space), and North Point includes an outdoor amphitheater.



In all 4 of the proposals, parking is provided predominantly in surface lots, although each proposal does include a parking deck in Phase 1 of the development program. It is our opinion that the ratio of parking spaces is in line with the relative scale of each proposed development.

At this preliminary stage, detailed site planning has not been undertaken by any of the proposers. This will be important to ensure appropriate site orientation to minimize impact on adjoining residential areas, access, circulation, and other site planning considerations.

- B. **PHASING PLAN:** The timelines and phasing approaches of each proposer were similar, with each indicating a willingness and ability to commence construction immediately upon receipt of the license.
- C. **SUSTAINABLE DEVELOPMENT COMPONENTS:** All proposers commit to incorporating sustainable development components.
- D. **TARGET AUDIENCE AND MARKETING APPROACH:** All proposers indicate that they have database of potential patrons to market to. The 2 proposers with existing regional operations (CDI-RSG and PHC) indicated some shifting, but no significant cannibalization, of demand.
- E. **TIMELINE:** As it relates to temporary operations, as specifically referenced in the RFP, 2 proposers outlined plans for a temporary casino onsite (Full House and North Point), 1 proposer indicated that they would be willing to discuss temporary operations if desired by the City and/ or pay the City an agreed upon amount annually in lieu of temporary operations, equal to the tax revenues that would be earned by the temporary casino (CDI-RSG), while the remaining bidder did not propose temporary operations (PHC).
- F. **COMMUNITY REINVESTMENT:** All proposers expressed a commitment to local hiring; organized labor; minority, woman, veteran, and disabled-person owned businesses; buy-local, sponsorships, contributions and event participations; foundation establishment or investment; and other community-oriented plans.
- G. **ECONOMIC BENEFITS:** 3 of the 4 proposers included an estimate of total economic impact of ongoing operations at the respective proposed projects, ranging from \$232.9 million per annum (CDI-RSG) to \$392.5 million per annum (PHC). Full House did not provide an estimate of the total economic output generated by the project.

As it relates to ongoing employment, Figure 4 provides a comparison of the proposals based upon anticipated job creation. As shown, the annual on-site jobs (at the casino project) range from 685 (North Point) to 1,382 (PHC), and total jobs, including those that are created elsewhere in the economy, range from 1,180 (North Point) to 2,599 (PHC).



Figure 4

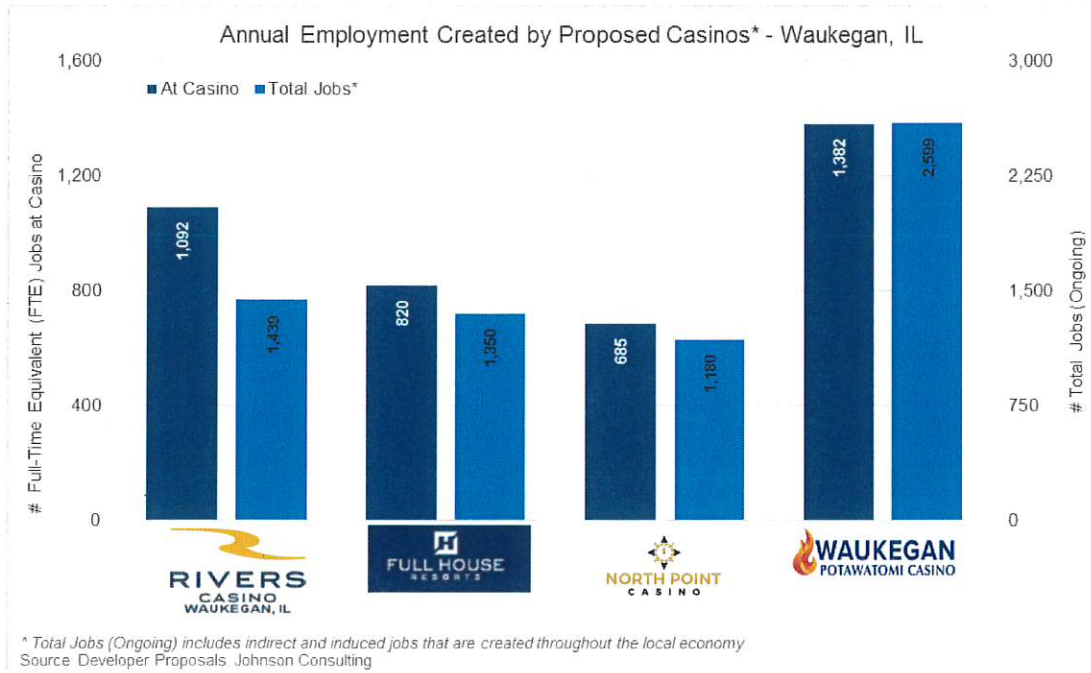


Figure 5 shows the estimated fiscal impact of each of the proposed projects, including gaming and admissions taxes collected by the City of Waukegan and based upon estimates provided by the respective proposers. As shown, annual gaming and admissions taxes range from \$4.4 million (North Point, although it is noted that this figure does not include admissions taxes) to \$9.5 million CDI-RDG).



Figure 5

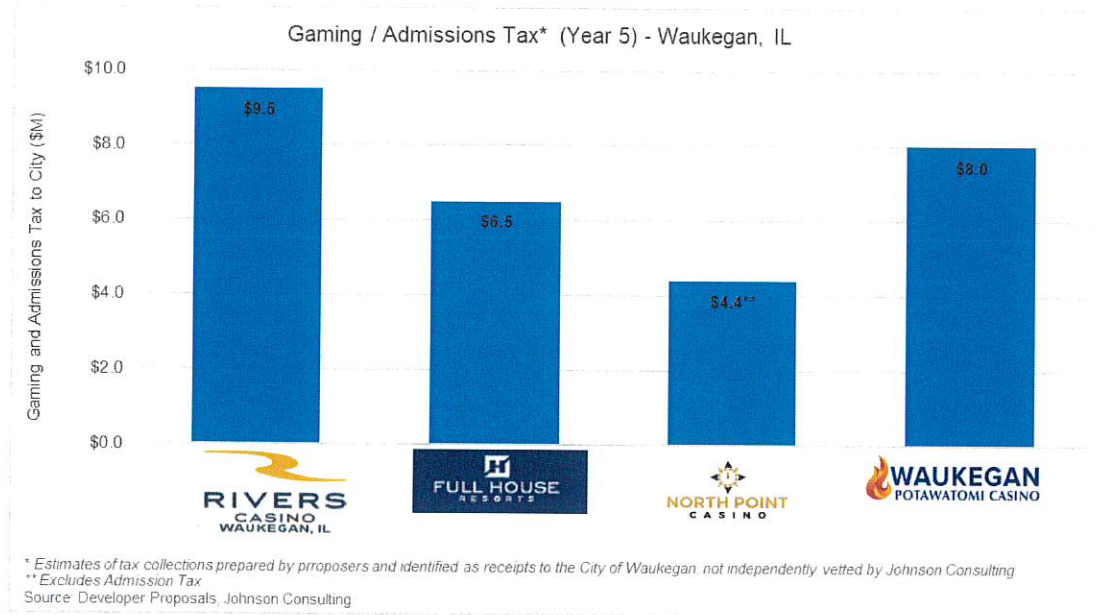


Figure 6 summarizes our commentary on the responses received in relation to Evaluation Criteria #2 Description of Proposed Development.



Figure 6

<b>Waukegan Casino RFQ/P Comparison of Proposed Development</b>				
	CDI-RSG	Full House	North Point	PHC
<b>Commentary</b>	Market-driven concept, with reasonable schedule and phasing.	Market-driven concept, with reasonable schedule and phasing.	Market-driven concept, with reasonable schedule and phasing.	Market-driven concept, with reasonable schedule and phasing.
	Open to temporary casino or payments to City in lieu of temporary operations.	Proposal includes temporary casino.	Proposal includes temporary casino.	Proposal does not include temporary casino.
	Detailed plan for sustainable development components.	Detailed plan for sustainable development components.	Detailed plan for sustainable development components.	Detailed plan for sustainable development components based on existing operations at Milwaukee property.
	Primary Target Market defined as residents in northern Cook County, Lake and McHenry Counties, and southeast Wisconsin up into the Milwaukee area; will leverage database from Des Moines property; anticipate cannibalization will be minimal.	Target Market includes local, day trip market, and Chicago/ southeast WI.	Primary Target Market defined as a 30-mile radius, including 2.3 million adults; will market casino as destination.	Integrated marketing approach leveraging existing customer database; anticipate that cannibalization will be minimal.
	Waukegan First local hiring and vendor program.	Commitment to local workforce hiring and relationships.	Black Chamber of Commerce partnership.	Will replicate Milwaukee hiring policies.
	Highest estimated fiscal impact to City of Waukegan.	Second lowest estimated fiscal impact to City of Waukegan.	Lowest estimated fiscal impact to City of Waukegan (excluding Admission taxes).	Second highest estimated fiscal impact to City of Waukegan.

Source: Respective proposals, Johnson Consulting

### 3. PROJECT TEAM EXPERIENCE

All project teams identified in the proposals have extensive experience nationally as developers and operators of casinos. Two proposers operate existing regional casinos in Des Plaines, IL (CDI-RSG) and Milwaukee, WI (PHC). It is our assessment that all teams include seasoned professionals with skills and resources necessary to deliver a high-quality project to the Waukegan market. Figure 7 summarizes our commentary on the responses received in relation to Evaluation Criteria #3 Project Team and Experience.



Figure 7

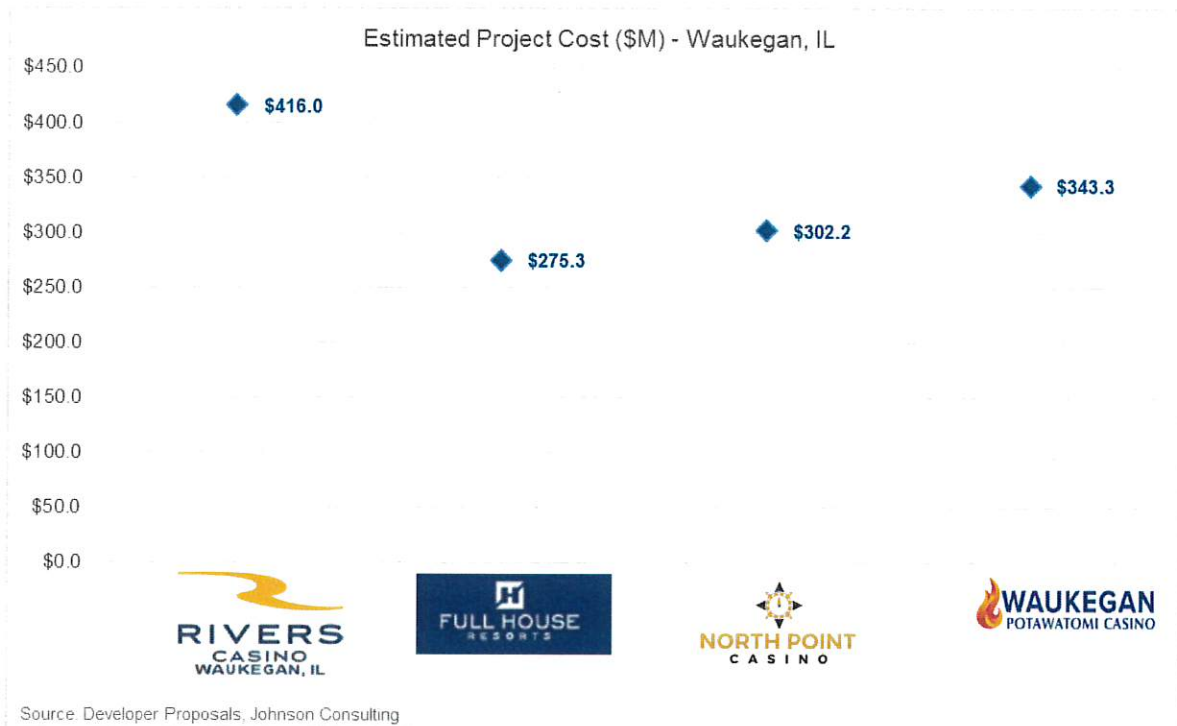
Waukegan Casino RFQ/P Comparison of Project Team and Experience				
	CDI-RSG	Full House	North Point	PHC
<b>Commentary</b>	Extensive experience; Operates regional facility - Des Plaines, IL; Project Team includes silent partner currently engaged in litigation with City.	Extensive experience.	Extensive experience.	Extensive experience; Operates regional facility - Milwaukee, WI.

Source: Respective proposals, Johnson Consulting

4. FINANCIAL DATA

Figure 9 show the estimated project cost as presented by each proposer. As shown, the project costs (including all hard and soft costs) range between \$275.3 million (Full House) and \$416.0 million (CDI-RSG).

Figure 8



Source: Developer Proposals, Johnson Consulting



Each of the proposals includes projected revenues from gaming devices and from table games. Figure 9 provides a comparison of these revenues, highlighting that gross device gaming revenues range between \$103.8 million (North Point) and \$213.3 million (PHC), while gross table gaming revenues range between \$21.0 million (North Point) and \$49.8 million (CDI-RSG) in a stabilized year of operation (assumed to be Year 5).

Figure 9

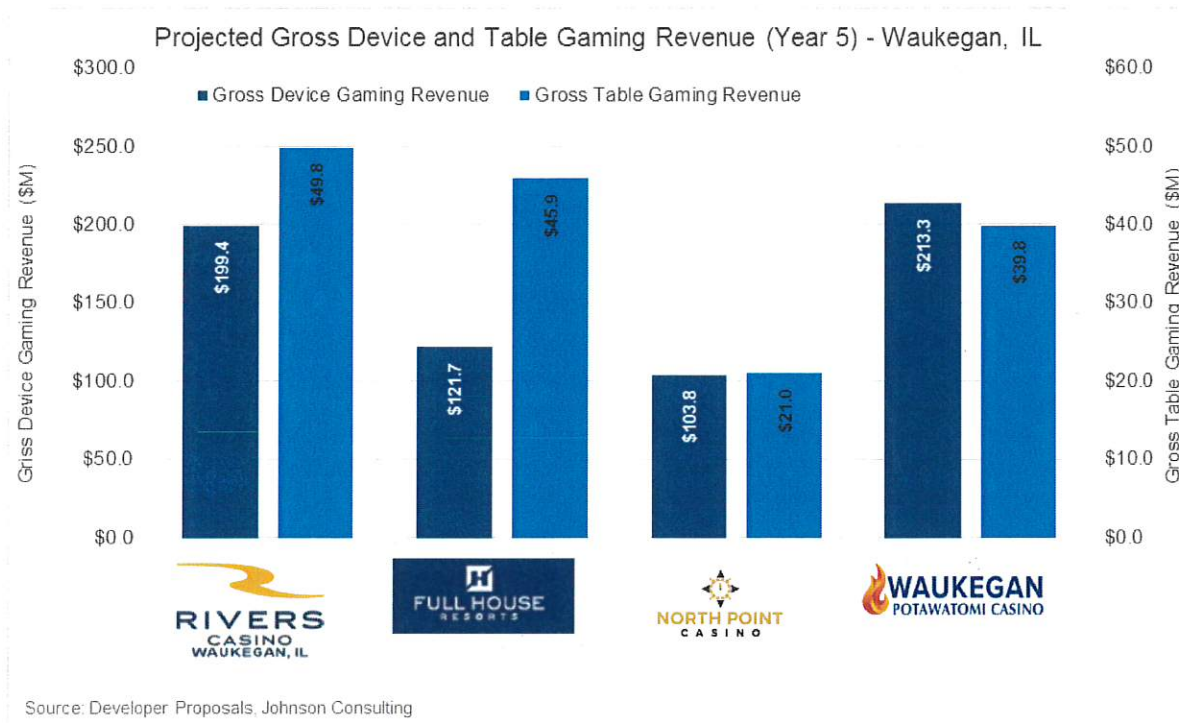


Figure 10 shows the total projected revenues from gaming devices and from table games, as presented by each proposer, relative to the average revenue reported by existing Illinois casinos (based upon data published in the Illinois Gaming Board’s 2018 Annual Report). As shown, the revenue projections presented in 2 of the proposals (Full House and North Point) fall generally in line with, or slightly below, the Illinois average (\$137.3 million), while the projections presented in the other 2 proposals (CDI-RSG and PHC) are significantly higher than the average but still fall well below reported revenues at the Rivers Casino in Des Plaines (\$441.0 million), which is the newest casino in the market and reported the highest revenues in 2018.





Figure 10

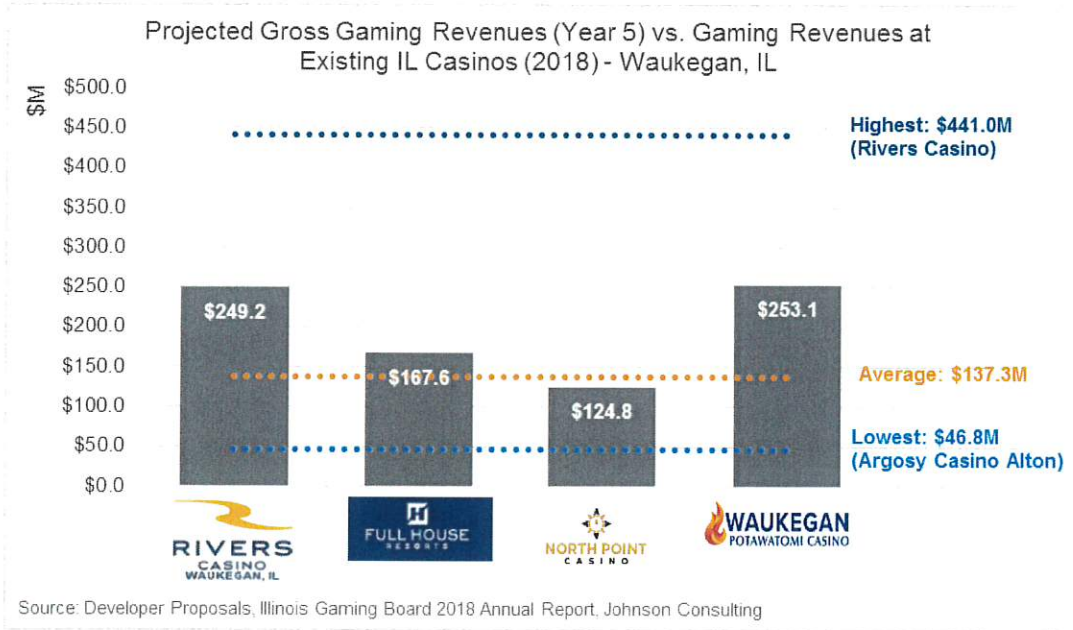


Figure 11 provides a breakdown of revenues per gaming position (slots) and per table (for table games), based upon projections presented in each proposal, highlighting that average device gaming revenues range between \$81,128 per position (Full House) and \$181,273 per position (CDI-RSG), while average table gaming revenues range between \$437,500 per table (North Point) and \$830,000 per table (CDI-RSG), in a stabilized year of operation (assumed to be Year 5).



Figure 11

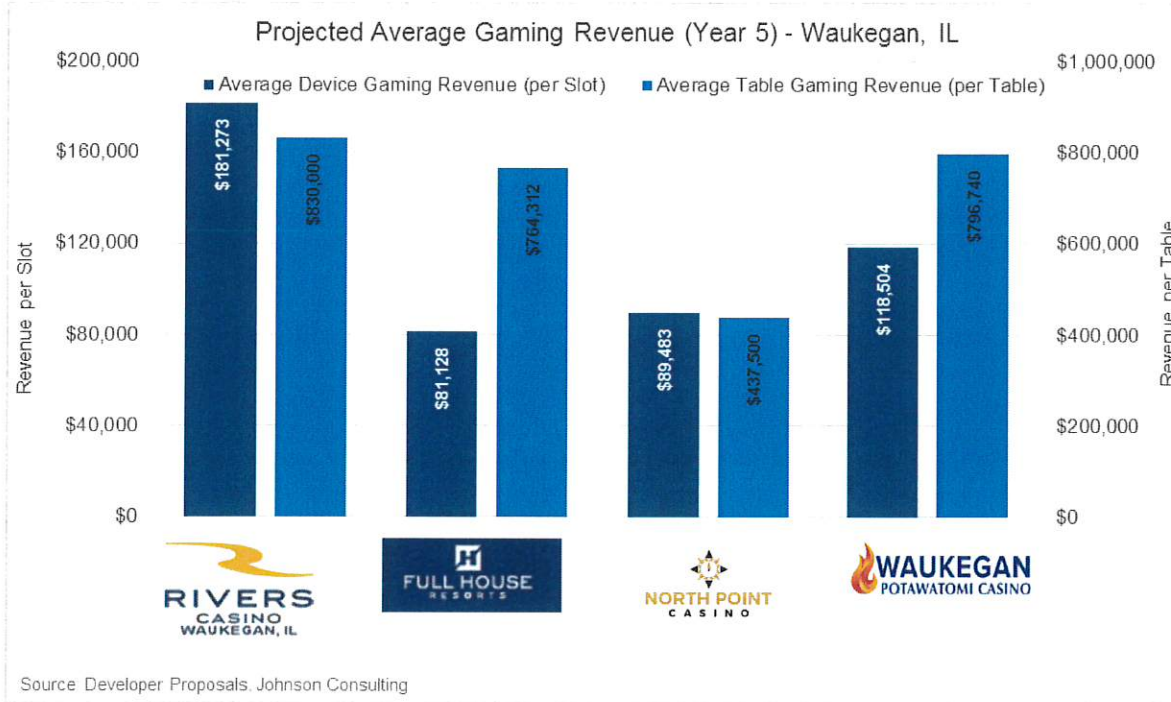


Figure 12 shows the average projected revenues from gaming devices, as presented by each proposer, relative to the average revenue from gaming devices reported by existing Illinois casinos. As shown, the revenue projections presented in 3 of the proposals (Full House, North Point and PHC) fall generally in line with, or below, the Illinois average (\$107,103), while the projections presented in the other proposal (CDI-RSG) are higher than the average but still fall well below reported gaming device revenues at the Rivers Casino in Des Plaines (\$294,890), which is operated by that proposer.



Figure 12

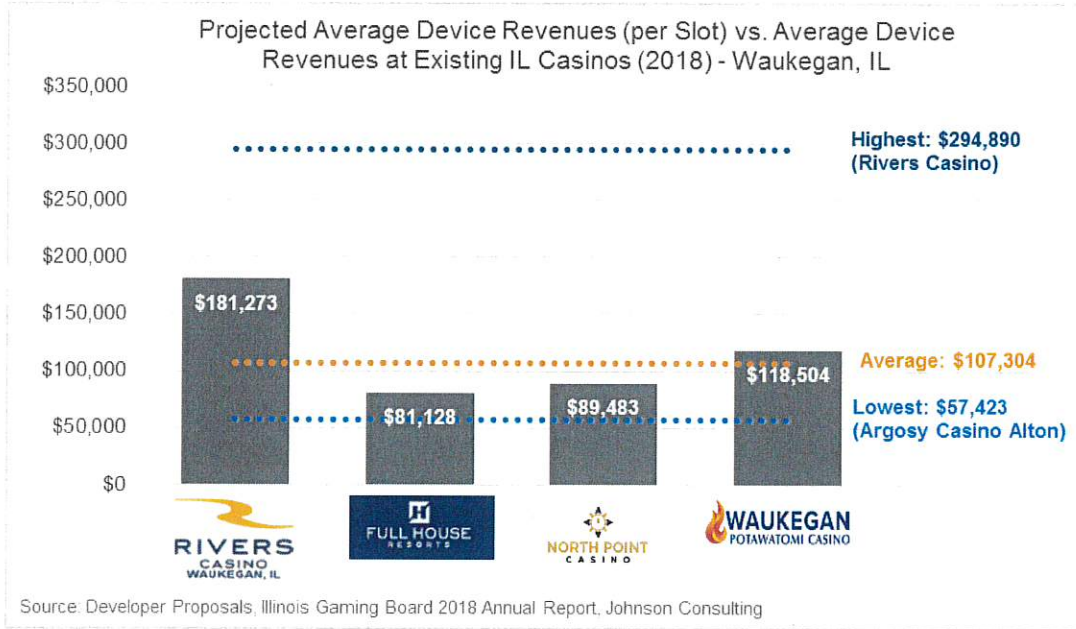


Figure 13 shows the average projected revenues from table games, as presented by each proposer, relative to the average revenue from table games reported by existing Illinois casinos. As shown, the revenue projections presented in all of the proposals fall generally in line with, or below, the Illinois average (\$783,178) and all are well below table gaming revenues at the Rivers Casino in Des Plaines (\$2.7 million), which reported the highest table gaming revenues in the market in 2018.



Figure 13

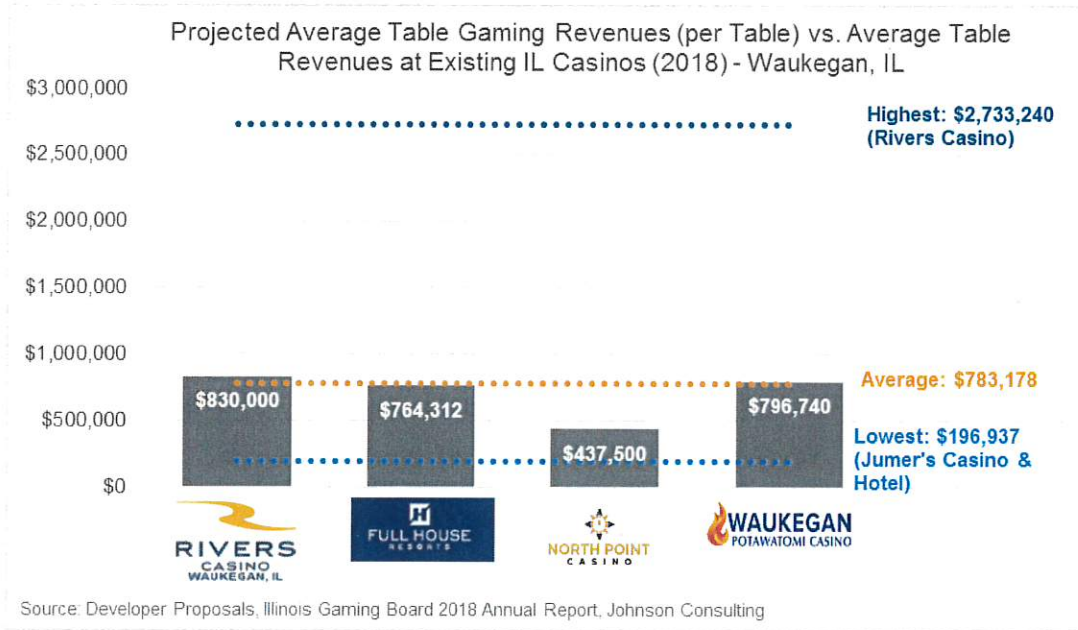


Figure 14 summarizes our commentary on the responses received in relation to Evaluation Criteria #4 Financial Data.



Figure 14

Waukegan Casino RFQ/P Comparison of Financial Data				
	CDI-RSG	Full House	North Point	PHC
<b>Commentary</b>	Reported combined assets of \$2.84B (the majority of which are financial assets) in 2017.	Reported \$182.3M of assets in 2017.	Reported \$834.9M of assets in 2017.	Reported \$392.4M of assets in 2017.
	Of the proposed \$416.0M project cost, CDI-RSG plans to borrow two-thirds (or approx. \$183.0M) from commercial banks, with remaining one-third (or approx. \$91M) as equity.	Of the proposed \$275.3 Million cost, Full House will finance the project through existing cash, debt securities, and a public equity offering.	North Point plans to fund the proposed \$302.2 Million cost as follows: \$90.1M equity, \$132.4M debt financing, \$79.7M funded by casino cash flow.	Of the proposed \$343.3 Million cost, PHC plans to fund the construction and startup of the project, to be repaid by Waukegan Potawatomi Gaming, LLC.
	Bank references from Wells Fargo and JP Morgan Chase Bank.	Bank references came from Credit Suisse Securities (USA) LLC.	Bank references came from Wells Fargo and Canadian Imperial Bank of Commerce (CIBC).	Bank references came from PNC Bank.
	Highest project cost (\$416.0M).	Lowest project cost (\$275.3M).	Second lowest project cost (\$302.2M).	Second highest project cost (\$343.3M).
	Second highest gross gaming device revenue (\$199.4M); Highest gross table gaming revenue (\$49.8M); Projections are aggressive but not unrealistic particularly given performance of Des Plaines property.	Second lowest gross gaming device revenue (\$121.7M); Second highest gross table gaming revenue (\$45.9M); Projections are considered to be conservative.	; Projections are considered to be conservative. Lowest gross gaming device revenue (\$103.8M); Lowest gross table gaming revenue (\$21.0M).	Highest gross gaming device revenue (\$213.3M); Second lowest gross table gaming revenue (\$39.8M); Projections are aggressive but not unrealistic given knowledge and experience in local market.

Source: Respective proposals, Johnson Consulting



## ASSESSMENT

Figure 15 provides Johnson Consulting's independent mathematical ranking of the proposals based upon the 4 categories of information required by the RFQ/P – 1). Property Specifications and Location; 2). Description of Proposed Development; 3). Project Team and Experience; and 4). Financial Data. No weighting or commentary about qualitative or other factors has been considered.

**Figure 15**

Waukegan Casino RFQ/P Score Matrix (Ranking*)				
Evaluation Criteria	CDI-RSG Waukegan, LLC	Full House Resorts, Inc.	Lakeside Casino, LLC dba North Point Casino	Potawatomi Hotel & Casino
<b>#1</b> Property Specification and Locations	3	1	2	3
<b>#2</b> Description of Proposed Development	3	1	1	3
<b>#3</b> Project Team and Experience	1	1	2	2
<b>#4</b> Financial Data	1	3	2	2
<b>Overall Ranking</b>	<b>2.0</b>	<b>1.5</b>	<b>1.8</b>	<b>2.5</b>

\* 1 = Highest Ranking

Source: Respective proposals, Johnson Consulting



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October 4, 2019

Waukegan Casino Review Team  
100 N. Martin Luther King Jr. Ave.  
Waukegan, IL 60085

With Hand Delivery to:

Attorney Robert Long  
Daniels Long & Pinsel LLC  
Corporation Counsel for City of Waukegan  
19 N. County Street  
Waukegan, IL 60085

RE: Waukegan Potawatomi Casino Letter Supplement

Dear Waukegan Casino Review Team,

Enclosed are six printed copies of the Waukegan Potawatomi Casino Supplemental Submission. These documents are also being transmitted in digital form to Corporation and Assistant Corporation Counsel.

Yours truly,

FUQUA WINTER LTD.

By   
Bryan R. Winter

BRY/sa  
Enclosures





October 4, 2019

Waukegan Casino Review Team  
100 N. Martin Luther King Jr. Ave.  
Waukegan, IL 60085

With Hand Delivery to:

Attorney Robert Long  
Daniels Long & Pinsel LLC  
Corporation Counsel for City of Waukegan  
19 N. County Street  
Waukegan, IL 60085

**PROPRIETARY AND  
NEGOTIATION  
FOIA EXEMPTIONS  
CONFIDENTIAL**

RE: Waukegan Potawatomi Casino Letter Supplement

Dear Waukegan Casino Review Team:

The Potawatomi Hotel Casino (“PHC”) submits this Letter Supplement to the Waukegan Casino Review Team (“Review Team”) in support of its request for certification by the City of Waukegan (“City”) to the Illinois Gaming Board (“IGB”) under 230 ILCS § 10/7(e-5) for the Waukegan Potawatomi Casino. We have hand-delivered this Letter Supplement for distribution purposes as recommended by the Waukegan Assistant Corporation Counsel. This Letter Supplement addresses new information and issues that arose during and after the public hearing held on September 18, 2019 (“Public Hearing”).

1. Downtown Development Project.

Community partners do not harm each other, they look for opportunities to help each other. By not including a hotel or an entertainment venue in the PHC application the City benefits from a right sized casino that does not harm struggling Waukegan hotels or the downtown business district. To further build our partnership with Waukegan, Potawatomi proposes to enter into negotiations for a Downtown Development Agreement with the City. Potawatomi would like to do an economic development project which complements and nurtures the revival of downtown Waukegan. Potawatomi has identified sites in the downtown and the harbor areas which can be successfully redeveloped. One or more of these parcels is owned by the City, another is privately owned. We have already begun our due diligence on these sites. As we have not made a decision on which site we would like to develop and we do not have any of the properties under contract we will not disclose their locations until we have a chance to meet to discuss our proposal.

Potawatomi knows how to partner with governments and private interests to spur redevelopment. Our successful twenty year partnership with the City of Milwaukee is



Waukegan Casino Review Team

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documented in the attached Redevelopment in Milwaukee's Menomonee Valley: *What Worked and Why*, Public Policy Forum (2014), attached as Exhibit 1. This independent report identifies what they believe are important factors to spur redevelopment:

We find that several strategies utilized in the Menomonee Valley could be adapted and applied to other large-scale redevelopment efforts. Specifically, we urge public and private sector economic development leaders to consider the following lessons from the Valley's revival as they pursue redevelopment in other priority areas in the region:

- 1) Major redevelopment initiatives need to be accompanied by a robust set of planning and design activities that establish both a common vision for the initiative and a detailed roadmap to achieve that vision.
- 2) Strong intergovernmental cooperation and public-private partnerships will be essential for large-scale redevelopment efforts to succeed.
- 3) Funding must be pursued and creatively assembled from numerous sources to address the many barriers that impede brownfield redevelopment projects.
- 4) Given the key advantages involved with public or public-private ownership of re-developable brownfield properties, the City likely will need to assume considerable financial risk to advance major redevelopment projects.
- 5) Major redevelopment projects must be accompanied by aggressive marketing of the area's existing strengths and amenities.
- 6) Major redevelopment projects should be viewed as opportunities to address multiple community objectives.
- 7) Using redevelopment projects to create jobs for neighborhood residents may require greater emphasis on workforce development.

*Id.* at 3-5.

2. Letter from Hospitality and Gaming Solutions to the Review Team.

PHC engaged Hospitality and Gaming Services ("HGS") to comment on various financial projections discussed at the Public Hearing. John Repa, HGS, has prepared numerous studies of the Illinois gaming market over the past twenty years for many of the Illinois casinos. John Repa relied on that knowledge and he attended the Public Hearing, reviewed video, audio, and written transcripts of the Public Hearing, and conducted additional research and analysis, which is reflected in his letter report attached as Exhibit 2. The HGS report discusses key business and economic facts which differentiate the four remaining applicants including gross revenue,

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cannibalization of revenue, operating expenses, construction costs, financing and feasibility, and jobs and economic impact.

PHC would be happy to arrange for John Repa to meet with the Review Team or other City officials to explain and answer any questions regarding the contents of his letter report or the feasibility study he conducted for PHC.

3. Revised Offer for Fountain Square Parcel.

City consultant, C.H. Johnson, reported at the Public Hearing that PHC had offered to purchase the proposed Fountain Square casino site from the City for \$5.6 million. This was incorrect. The PHC proposal offered to negotiate a contract for sale of the property at fair market value  $\pm 15\%$ . PHC Application at 4. Earlier media reports indicated that the City had commissioned a new appraisal of the Fountain Square parcel. PHC made its offer assuming the City and PHC would negotiate in good faith to agree on terms for purchase of the land. It now appears the City may make a certification decision without negotiating or reaching an agreement with any applicant on the price of the land or any other elements of the proposals. As a result, PHC hereby supplements its application to correct the purchase price error reported at the hearing. PHC will enter into a contract for the sale of the Fountain Square casino site for \$12,000,000 with full payment when IGB issues an owner's license to Waukegan Potawatomi Casino, LLC. We presume the City will negotiate the terms of a contract for sale with any certified applicant and other elements of the casino proposal after it makes a certification decision, but before the IGB issues the owner's license for the Waukegan casino. 230 ILCS 10/7(e-5).

4. City of Waukegan v. Waukegan Gaming.

PHC has been monitoring the litigation filed in the Lake County Circuit Court by the City of Waukegan against Waukegan Gaming, LLC, in which the city seeks a declaratory judgment that Waukegan Gaming's rights under a 2004 Redevelopment Agreement have expired and that the agreement has no application to or effect on the City's RFQ/P and certification process under Senate Bill 690. If PHC is certified by the City under SB 690, PHC is willing to intervene in the litigation in support of the City's position. The particular assistance provided by PHC will be on terms mutually acceptable to the City and PHC.

Waukegan Gaming, LLC submitted a memorandum to the City Clerk dated August 5, 2019 which announced that it has agreed to become a member of CDI-RSG Waukegan, LLC ("CDI-RSG"), an RFQ/P applicant for certification by the City. The Waukegan Gaming, LLC memorandum also stated that the CDI-RSG response to RFQ/P, § 3A, identifies Waukegan Gaming, LLC as a member of the CDI-RSG. CDI-RSG has not acknowledged publicly that Waukegan Gaming, LLC is a member of its LLC. The City is painfully aware that Waukegan Gaming, LLC applied to the IGB for the 10<sup>th</sup> license to operate a casino in Lake County. The IGB selected Rivers Casino to operate a casino in Des Plaines and not Lake County in part because of William Cellini's interest in Waukegan Gaming, LLC. The IGB decision in favor of Des Plaines noted that Waukegan Gaming, LLC provided inaccurate information to the IGB. The IGB may not approve a license for CDI-RSG Waukegan if it concludes a key person with Waukegan

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Gaming, LLC has previously submitted false information to the IGB. 230 ILCS § 10/7(a)(3). The City should consider if Waukegan Gaming's proposed membership in the CDI-RSG application will affect IGB's choice for a Waukegan owner's license.

5. Background Due Diligence.

The IGB will conduct a comprehensive investigation of the background of each license applicant. As discussed in Item 4, above, the City suffered the consequence of this careful IGB background investigation which contributed to the loss of the contest for the 10<sup>th</sup> gaming license in 2009. The Review Team should endeavor to evaluate the extent to which the IGB may downgrade any of the applicants based on background considerations. The IGB may downgrade the North Point application based on the reported notorious political contributions made to candidates for the City Council by or on behalf of the North Point applicant. The IGB scrutiny will likely be heightened if the City certifies the North Point application despite the obvious objective evidence that it will not be the best performing casino for the City. The IGB could well conclude that the North Point applicant was certified because of the political contributions, not the merits of its application.

PHC recommended in its application that the City contact references listed in its application. The Review Team should conduct its own background due diligence for any applicant that may be certified. A review of references and the results of that review should be provided to the members of the City Council. PHC urges the Review Team to contact other independent references who are in a position to know the character and business practices of PHC as well as any other applicant under serious consideration. A failure to know your potential applicant puts the City in a vulnerable position. It now appears that the City will certify one or more applicants before it negotiates definitive agreements with any applicant. Thus, the City will not know whether an applicant will honor its promises when it is certifying an applicant. The City may negotiate definitive agreements with a certified applicant after the applicant is certified. Only in this negotiation process will the City learn whether or not an applicant is willing to be contractually bound to the terms of its promises. The very short time periods imposed by SB 690 suggests that the City should certify more than one applicant to protect against a single applicant renegeing on a promise after it is certified. Having multiple applicants certified will improve the City's bargaining position in reaching definitive agreements post certification. The IGB will likely give weight to the extent of an applicant's good faith negotiation after certification and before the IGB makes a selection under 230 ILCS § 10/7(e-5).

6. Competition and Cannibalization.

PHC is in a substantially better position than is Rivers to benefit from the expanded market opportunity from the Waukegan casino. Figure 1 in the HGS report, Exhibit 2, demonstrates the large new market opportunity for the Waukegan Potawatomi Casino to develop new customers in the heavily populated area south of Waukegan. PHC recognizes Waukegan Potawatomi as a growth opportunity for its brand and its business. Most of the heavily populated market to be served by the Waukegan casino is already in the primary market area of the Rivers Casino. This is not the case for Potawatomi. This fact, together with the substantial investment PHC will make

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in building and operating a first class Waukegan casino makes it the clear best choice to operate a Waukegan casino.

At the Public Hearing, the Rivers' spokesperson argued that a lower tax rate at the Waukegan casino provided an economic motivation for Rivers to send its current customers to Waukegan. Rivers contended that the State tax rate was lower at Waukegan than at Des Plaines. In fact, the tax rates that Rivers will pay at a Waukegan casino are exactly the same as at the Des Plaines casino. 230 ILCS § 10/13(a-4) & (a-5). Rivers also stated at the Public Hearing, but in this case correctly, that the tax rate paid by PHC at its Milwaukee facility is substantially lower than the Illinois tax rates. This is correct, which is why PHC has such a strong financial statement and is able to invest substantial funds in a Waukegan casino which is necessary to create a spectacular casino experience that will attract customers away from Rivers and will generate more gaming revenue for the benefit of Potawatomi and the City.

7. Sioux City: Orpheum – Battery Park Comparison. Sioux City's Orpheum Theatre saw a decline in ticket sales after Hard Rock Casino opened an outdoor amphitheater.

Alderman Moisio asked the North Point Casino representatives at the Public Hearing whether their proposal for Waukegan is similar to Hard Rock Casino's development in Sioux City. Both the North Point proposal and Sioux City's Hard Rock Casino feature an outdoor amphitheater. Both Sioux City and Waukegan have historic theatres which have received financial support from their respective cities - the Orpheum Theatre in Sioux City and Genesee Theatre in Waukegan. Responding to Alderman Moisio's question, North Point claimed that the outdoor amphitheater in Sioux City did not compete with existing venues, including the Orpheum Theatre, but instead grew the market. Importantly, he did not say that the Orpheum Theatre was not harmed by the casino amphitheater. The facts are that the Hard Rock facility grew, but Sioux City's historic Orpheum Theatre suffered. Apparently, to North Point, this is what market growth means.

In July of 2015, the Hard Rock Casino in Sioux City opened a new entertainment facility – the Battery Park outdoor concert venue. Despite North Point's claims that Battery Park does not compete with or cannibalize sales from existing concert venues in Sioux City, the data shows that Sioux City's Orpheum Theatre has struggled considerably in the years since Battery Park's debut.

Percent of capacity: Orpheum Theatre	
2010 - July 2015	68%
2015 - Present	60%

According to Pollstar box office data, between 2010 and July of 2015, the Orpheum Theatre in downtown Sioux City sold roughly 68% of available tickets for shows, despite the economic downturn occurring nationally at the time. Since the opening of Battery Park, however, the Orpheum has seen a decline in attendance. They've sold only 60% of available tickets – an 8%

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drop. This decline is especially troubling considering that the national economy has rebounded since 2015.

Declining attendance at the Orpheum Theatre has been especially problematic for Sioux City, as it has subsidized the Orpheum Theatre through its struggles over the years. At one point in 2017, Sioux City's Event Facilities Department, which was managing the Orpheum, was receiving a \$1.7 million city subsidy while running a \$270,000 operating deficit. As a result, Sioux City began reexamining the Orpheum's operation. In January of 2018, the City turned to Spectra Venue Management to take over management of the Orpheum Theatre. *Sioux City panel recommends moving to new management firm for Orpheum*, Sioux City Journal, September 22, 2017. [https://siouxcityjournal.com/news/local/govt-and-politics/sioux-city-panel-recommends-moving-to-new-management-firm-for/article\\_6cb7374e-d6d2-5a25-9f6a-c72ee42f7ec9.html?utm\\_medium=social&utm\\_source=email&utm\\_campaign=user-share](https://siouxcityjournal.com/news/local/govt-and-politics/sioux-city-panel-recommends-moving-to-new-management-firm-for/article_6cb7374e-d6d2-5a25-9f6a-c72ee42f7ec9.html?utm_medium=social&utm_source=email&utm_campaign=user-share)

Despite the best efforts of the city and management team for the Orpheum Theatre, the opening of Hard Rock Casino's nearby Battery Park has had a noticeably negative effect on attendance at the Orpheum Theatre. Time will tell whether Spectra will be successful in building the Orpheum's audience base, but it is clear that increased competition from Battery Park presents a serious obstacle to overcome in achieving progress.

The Waukegan Potawatomi Casino will use its players club to drive customers to the Genesee Theater, not lure them away.

8. Noise from Entertainment Venue at Fountain Square.

The proposed North Point Casino amphitheater would harm Waukegan residents. The North Point Casino proposal includes a two acre outdoor amphitheater. In addition to harming the Genesee Theater as described in Item 7 above, this outdoor amphitheater would disrupt city residents within several miles of Fountain Square.

A close parallel to North Point's amphitheater proposal can be found in Sioux City, Iowa at the Hard Rock Hotel & Casino. The Hard Rock Hotel & Casino began hosting outdoor concerts and events in a large grassy space in 2014, known as 'The Backyard', before upgrading the facilities and renaming the venue 'Battery Park'. However, noise from the casino's open-air shows has been heard nearly 4 miles away from the venue and caused 40 noise complaints in one night.<sup>1</sup> Although Hard Rock officials took steps to reduce noise from concerts, Sioux City's police department continued to be plagued with complaints.<sup>2</sup> Sioux City's police chief went so far as to comment that as long as there are outdoors concerts, his office would continue to receive complaints.

Various complaints on outdoor events generating noise has led to significant policy differences among the Sioux City council members, as they've recently begun considering an ordinance that

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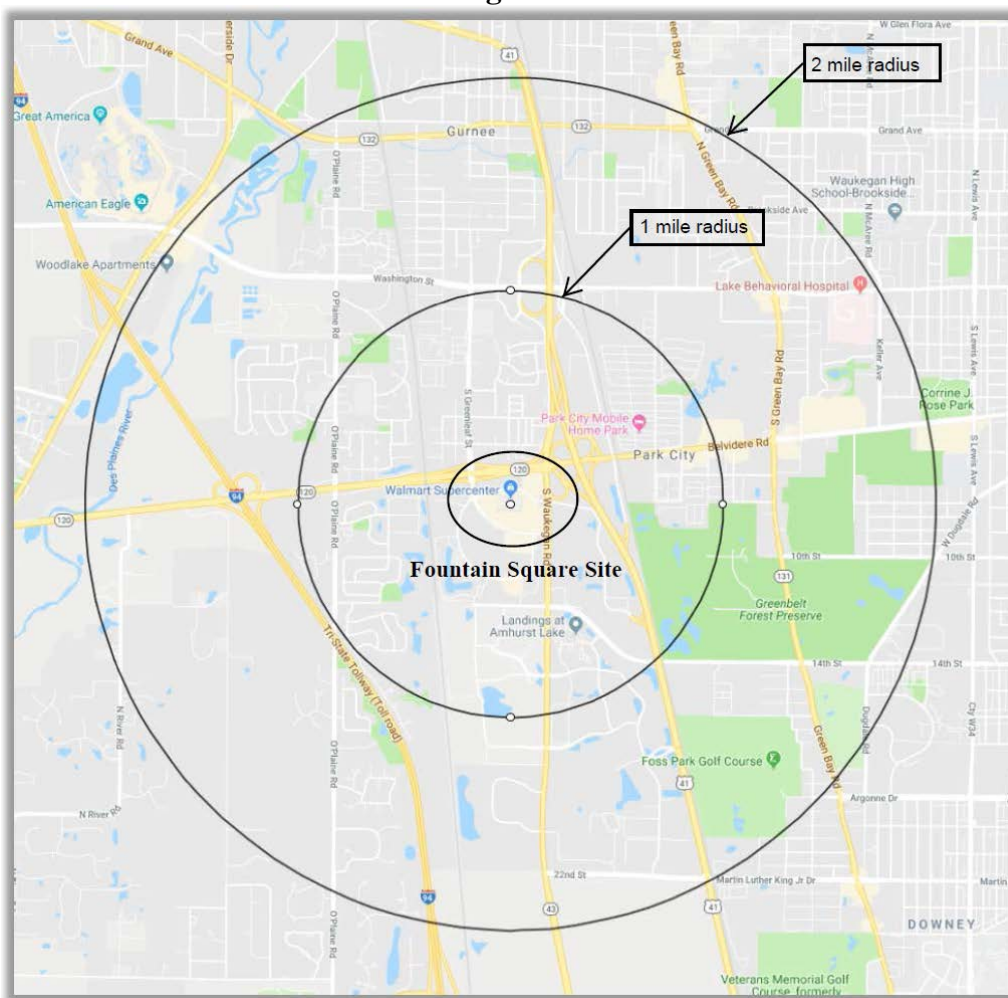
<sup>1</sup> *Hard Rock adjusts after concert noise complaints*, Sioux City Journal, August 29, 2014

<sup>2</sup> *Despite improvement, complaints made over Hard Rock loudness*, Sioux City Journal, July 13, 2015

Waukegan Casino Review Team  
 October 4, 2019  
 Page 7

would limit sound permits to an 11:00 p.m. cutoff.<sup>3</sup> While the council initially voted in favor of the measure, numerous downtown businesses spoke against it – leading to a delay in changes to the ordinance.<sup>4</sup> Sioux City is still considering how to resolve the issue, but is having difficulty weighing the concerns of city residents and businesses against the interests of outdoor event organizers and entertainment venues such as Battery Park.

**Figure 1**



As shown in Figure 1, an outdoor amphitheater at Fountain Square should be expected to trigger a similar debate in Waukegan. Within just a 1-mile radius of the proposed amphitheater are multiple neighborhoods and apartment buildings including Emhurst Lake Apartments, the Landings at Amhurst Lake, Colonial Park Apartments, Park Terrace Apartments, and the Park City Mobile Home Park. Expanding the noise zone to a more realistic two mile radius shows that an outdoor amphitheater would impact residents in neighborhoods in Gurnee, Park City, Waukegan

<sup>3</sup> *Sioux City Council advances ordinance limiting how late noisy events could go on; split decision on parking fee hikes*, Sioux City Journal, August 5, 2019

<sup>4</sup> *Discussion over noise ordinance changes delayed*, KMEG News, August 12, 2019

Waukegan Casino Review Team  
October 4, 2019  
Page 8

and North Chicago including those living near Serenity Park, Arbor Park, Diversity and Kings Park.

9. Project Labor Agreement with Building Trades.

PHC advised Mr. Pete Olson, Lake County Building & Construction Trades Council, in a September 30, 2019 letter, attached as Exhibit 3, that, “If Potawatomi is chosen to develop the new casino in Waukegan, we commit to signing a Project Labor Agreement to ensure that union labor is used in the construction of our facility.”

10. The North Point Casino Proposal does not Qualify for Certification by the City.

The North Point Casino proposal submitted by Lakeside Casino, LLC does not satisfy the requirements of the City’s RFQ/P and the conditions for its certification established by SB 290. 230 ILCS § 10/7(e-5). Michael Bond’s cover letter states expressly that the proposal is conditional, “If we are the only proponent selected by the City.” The condition is then repeated in bold relief, “. . . **if we’re the City’s sole selection.**” North Point Application at 1. The North Point applicant does not want the IGB to compare the merits of its application to any of the other casino applications.

The North Point proposed temporary casino is also dependent on the condition that it be the sole selection. The North Point temporary casino proposal does not comply with the City’s RFQ/P. The RFQ/P, Items 1 and 2E require that an applicant identify whether [a] temporary site is located on City-owned or privately held property, describe the plan to acquire the development location, and provide detail of property size and access requirements. In addition, the RFQ/P states that, “Because of the 120 day limitation on local vetting, project teams are cautioned to consider zoning and special use issues that may require public hearings and to investigate entitlements on specific parcels under consideration.” The North Point temporary casino proposal satisfies none of these requirements. Despite this failure to satisfy the RFQ/P requirements, the North Point application asserts, “The plan is to be operational in such temporary facility within 4-6 months after a determination is made that North Point casino is the sole proponent for the City of Waukegan.” Application Section 2-35. At the same time, the application admits that, “we would need the City to rezone the temporary facility site in a timely manner to accommodate a temporary casino. Our primary choice for a temporary site is not within the Gateway District at this time, so we would ask for the City’s help accommodating a casino site.” *Id.* at Section 2-71.

A temporary facility simply cannot be operational in the time promised by North Point. The temporary facility would require City zoning approval and the IGB to grant North Point a gaming license for the temporary facility. The Waukegan Planning and Zoning Commission meets next on October 10, 2019 and the agenda does not include any requests for action by North Point or any other gaming use. The next meeting of the Commission is on November 14, 2019. It would take several months to obtain approval through the Planning and Zoning Commission, the Judiciary Committee, and finally the City Council. Our advisors inform us that the best case for a zoning action, even in a non-controversial case, is 90 to 120 days. In addition, our gaming licensing experts advise us that a gaming license will not be issued by the IGB in any less than six

Waukegan Casino Review Team

October 4, 2019

Page 9

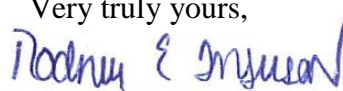
months. There is a huge disparity between the representations and promises in the North Point application and what will actually occur. Certainly, the City has not “agreed to” this planned temporary facility.

The City Council will not be able to timely certify to the IGB that North Point, “. . . [the applicant] and the corporate authority . . . have mutually agreed on the temporary location of the riverboat or casino” or “that the applicant and the corporate authority . . . have mutually agreed on any zoning, licensing, public health, or other issues that are within the jurisdiction of the municipality or county.” 230 ILCS § 10/7(e-5)(iii) & (v).

Conclusion

PHC stands ready to negotiate in good faith with the City regarding its request that the City certify its Waukegan Potawatomi Casino proposal to the IGB in time for PHC to submit an application to the IGB for an owner’s license before the statutory deadline.

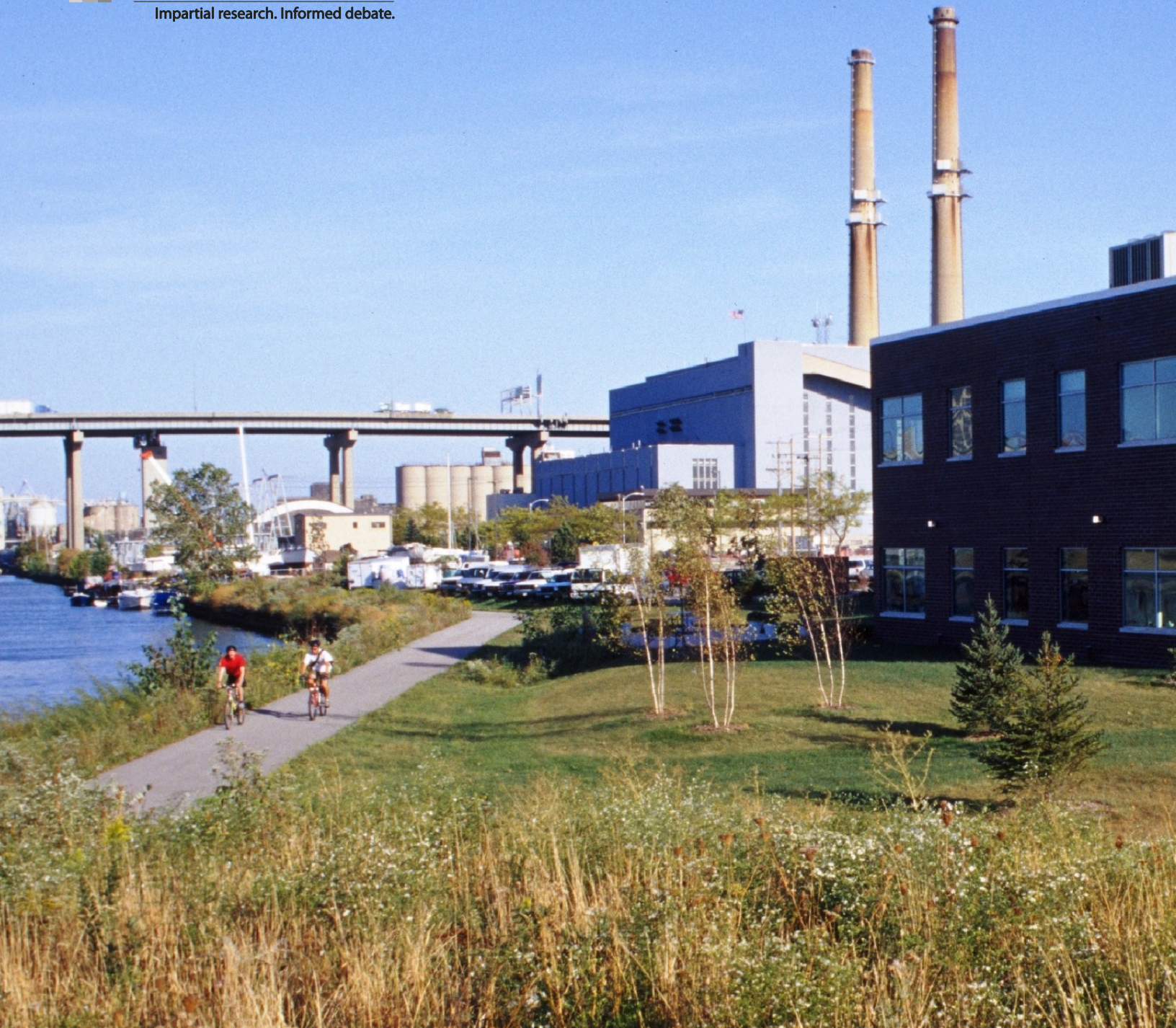
Very truly yours,



Rodney Ferguson  
CEO/General Manager



# **EXHIBIT 1**



# Redevelopment in Milwaukee's Menomonee Valley: *What Worked and Why?*

## ABOUT THE PUBLIC POLICY FORUM

Milwaukee-based Public Policy Forum – which was established in 1913 as a local government watchdog – is a nonpartisan, nonprofit organization dedicated to enhancing the effectiveness of government and the development of southeastern Wisconsin through objective research of regional public policy issues.

## PREFACE AND ACKNOWLEDGMENTS

This report was undertaken to provide citizens, policymakers, and business leaders in the Milwaukee area with a better understanding of the key factors that contributed to the Menomonee Valley's recent redevelopment. We hope that policymakers and community leaders will use the report's findings to inform discussions about economic development strategies that might be used to ensure the success of other major redevelopment projects in our region.

Report authors would like to thank the leadership and staff of the City of Milwaukee's Department of City Development (DCD) and the Redevelopment Authority of the City of Milwaukee (RACM) for patiently answering our questions and providing us with financial information about recent Menomonee Valley projects. We also would like to thank the many public and private sector individuals interviewed for this report for providing additional information and insight, and Eddee Daniel for providing many of the report's photos, including the cover photo.

Finally, we wish to thank Menomonee Valley Partners, Inc. for commissioning this research and for helping to fund it, as well as the Helen Bader Foundation for its grant to the Forum for economic and workforce development research, which also helped make this report possible.





**FOREST COUNTY POTAWATOMI COMMUNITY**

**Legal Department**

- |                     |                   |                   |
|---------------------|-------------------|-------------------|
| Jeffrey A. Crawford | Michael B. Wacker | Scott J. Thomsen  |
| Jo Swamp            | Kimberly M. Vele  | William P. Dockry |
| Aaron Loomis        | Sara M. Drescher  | Martina R. Gast   |
| Douglas W. Huck     | Danielle Wu       |                   |

October 18, 2019

Dear Mayor Cunningham and Members of the City Council:

Our Waukegan Potawatomi Casino (WPC) team attended the Council meeting last night when the Council voted to certify three of the four applicants. Unfortunately, WPC was not certified for reasons that are not apparent to us and to some of the Council Members. That said, we believe the City Council can address the substantive and procedural issues raised by the conduct of the meeting by reconsidering the matter on Monday, October 21. We believe the City Council’s vote should be reconsidered for the following reasons:

**The City Council Meeting Violated the Open Meetings Act**

At the meeting last night, a member of the public asked if public comment was going to be permitted. The Mayor answered that public comment would not be allowed. This was a clear violation of the Open Meetings Act. Section 2.06(g) of the Act (5 ILCS 120/2.06 (g)) states: “Any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body.” Per Section 6, the “provisions of this Act constitute minimum requirements for home rule units.” It is recognized by municipal law experts that a court may invalidate an action taken at an illegal meeting. This possibility can be averted if the City Council reconsiders its actions on Monday night.

**Factual Errors in the C.H. Johnson Report to the City Council Materially Harmed WPC**

The C.H. Johnson report submitted to the Council repeated the error Mr. Johnson made at the public hearing on September 18. In both instances, he reported that WPC offered \$5.6 million for the Fountain Square site. This material and inaccurate statement was corrected in writing to the Waukegan Corporation Counsel and most recently in our Letter Supplement. Johnson failed to correct the error in his report to the Council on October 17. This error, among others, was the basis for the low score he assigned to WPC.

**Oral Statements by C.H. Johnson to the City Council were Factually Wrong and Materially Harmed WPC**

- C.H. Johnson told the Council that the Illinois Gaming Board would “rank” the certified proposals, and the City would then have an opportunity to negotiate with the applicants. This was false and misleading. In accordance with the Riverboat Gambling Act (“RGA”) as amended, Section 7E(5) states that the certification provided to the IGB will have detailed all details concerning the proposed casino. There is no more negotiation contemplated. The IGB shall not alter or change any agreement between the applicant and the municipality. These items will be determined prior to submission of an application and that is

{00190926.2}

3136 W. Kilbourn Ave. ■ Milwaukee, WI 53208 ■ 414-837-3200 TEL ■ 414-342-0741 FAX  
P.O. Box 340 ■ Crandon, WI 54520 ■ 715-478-7258 TEL ■ 715-478-7266 FAX

October 18, 2019

Page 2

the purpose of the Resolution and Certification. The IGB will not share its analysis with the host community. IGB will not “rank” applicants and then send the ranking back to the host community to renegotiate terms. IGB will just issue a final selection decision based on the information submitted with the application. The IGB decision will be binding on the City.

- C.H. Johnson told the Council that he was legally prohibited from considering any supplemental information or analysis submitted by the applicants. This is incorrect. The WPC Letter Supplement included: a further explanation of our proposed Downtown Development Project; a correction of Johnson’s error in the offer price for the land; an offer of \$12 million for the land; significant critique of the financial analysis of the other applications; and rebuttal of information on the impact on the Genesee Theater and of noise pollution triggered by the outdoor amphitheater proposed by North Point. This was critical information the expert ignored.
- Corporation Counsel Long was present and witnessed each of these significant errors during the meeting. He knew each of these was incorrect, yet he remained silent. As a result, the Council based its decision on materially incorrect information.
- As mentioned above, the meeting was conducted without providing an opportunity for public comments or for the applicants to correct the errors made by C. H. Johnson. The Corporation Counsel failed to advise the Council that it was required to offer the applicants and the public an opportunity to speak.

**The C.H. Johnson Report to the City Council was Misleading and Confusing and Materially Harmed WPC**

The C.H. Johnson report was inaccurate and misleading. Several Council members expressed serious concern over the process and the methodology of the study. Johnson could not explain how Potawatomi was rated first or second in nearly every financial category and yet he ranked Potawatomi last. Although Mr. Johnson said his report was scored using simple mathematics, his final rankings are in fact mathematically impossible. See the attached Simple Mathematics Chart, which corrects the C.H. Johnson Report. The Mayor was quoted as conceding that Potawatomi was likely not certified because of Johnson’s ranking.

**Conclusion and Request**

It is obvious to all, and it will be obvious to the citizens of Waukegan, that the failure to certify Potawatomi was based on inaccurate information and a defective and fundamentally unfair process. The City can still make this right by reconsidering the rejection of the vote on Potawatomi. We urge the City Council to do so on Monday, October 21.

October 18, 2019

Page 3

Respectfully,

A handwritten signature in blue ink that reads "Jeffrey A. Crawford". The signature is fluid and cursive, with the first name being the most prominent.

Jeffrey A. Crawford, Attorney General  
Forest County Potawatomi Community

Cc: Robert Long  
Gerald P. Callaghan  
Robert O'Donnell  
Donna B. More  
Bryan Winter

enclosure

## C.H. Johnson October 2, 2019 - Report "Simple Mathematics"

Johnson does not explain his category ranking but it appears he is using a 1 to 4 scoring. Stating that:

"This memorandum report presents our summary-level analysis and ranking of proposals #1 through #4 as received by the City, based upon the information presented in those proposal."

Based on his scoring, one is the highest ranking and four is the lowest ranking. He also states:

"No weighting or commentary about qualitative or other factors has been considered."

The following chart summarizes the Johnson scoring for each applicant. Johnson's Figure 15 rankings do not match the actual scoring of each category. Waukegan Potawatomi Casino added Johnson's scores and then divided by the number of figures. Even if you accept Johnson's scoring, the correct rankings should be:

First- Rivers - 1.73

Second- Waukegan Potawatomi Casino - 1.82

Third- Full House - 2.91

Fourth- North Point -3.55

	Waukegan Potawatomi Casino	Rivers	Full House	North Point
<b>1. Property Specifications and Location</b>				
<b>Figure 1 and 2- Proposed Site Purchase Price</b>	\$5.6 Million* Score:4	\$11.0 Million Score:3	\$30.0 Million Score:1	\$22.0 Million Score:2
<b>2. Description of Proposed Development</b>				
<b>Figure 3 - Size of Proposed Casinos</b>	1,800 - Slots 50- Gaming Tables	1,100 - Slots 60- Gaming Tables	1,500- Slots 60- Gaming Tables	1,160 - Slots 48 - Gaming Tables
<b>A. Proposed Development</b>	Score:1	Score:4	Score:2	Score:3
<b>Figure 4 - Annual Employment Created by Proposed Casinos **</b>	1,382- At Casino 2,599 - Total Jobs	1,092 - At Casino 1,439- Total Jobs	820- At Casino 1,350- Total Jobs	685- At Casino 1,180- Total Jobs
<b>G. Economic Benefits</b>	Score:1	Score:2	Score:3	Score:4

C.H. Johnson October 2, 2019 - Report  
"Simple Mathematics"

	Waukegan Potawatomi Casino	Rivers	Full House	North Point
<b>Figure 5- Gaming/Admissions Tax</b>	\$8.0 Million  Score:2	\$9.5 Million  Score:1	\$6.5 Million  Score:3	\$4.4 Million – excludes Admission Tax***  Score:4
<b>Figure 6- Comparison of Proposed Development</b>	Seconded highest estimated fiscal impact to City of Waukegan  Score: 2	Highest estimated fiscal impact to City of Waukegan  Score: 1	Seconded lowest estimated fiscal impact to City of Waukegan  Score: 3	Lowest estimated fiscal impact to City of Waukegan (excluding Admission taxes)  Score: 4
<b>3. Project Team Experience</b>				
<b>Figure 7 – Comparison of Project Team and Experience</b>	Figure 7 has no score. All 4 applicants are listed as extensive experience.	Figure 7 has no score. All 4 applicants are listed as extensive experience.	Figure 7 has no score. All 4 applicants are listed as extensive experience.	Figure 7 has no score. All 4 applicants are listed as extensive experience.
<b>4. Financial Data</b>				
<b>Figure 8- Estimated Project Cost (\$M)</b>	\$343.3 Million  Score: 2	\$416.0 Million  Score: 1	\$275.3 Million  Score: 4	\$302.2 Million  Score: 3
<b>Figure 9 – Projected Gross Device and Table Gaming Revenue</b>	\$213.3 Million – Gross Device Gaming Revenue  \$39.8 Million – Gross Table Gaming Revenue  Score: 1	\$199.4 Million- Gross Device Gaming Revenue  \$49.8 Million - Gross Table Gaming Revenue  Score: 2	\$121.7 Million - Gross Device Gaming Revenue  \$45.9 Million - Gross Table Gaming Revenue  Score: 3	\$103.8 Million - Gross Device Gaming Revenue  \$21.0 Million - Gross Table Gaming Revenue  Score:4
<b>Figure 10- Project Gross Gaming</b>	\$253.1 Million	\$249.2 Million	\$167.6 Million	\$124.8 Million



C.H. Johnson October 2, 2019 - Report  
"Simple Mathematics"

	Waukegan Potawatomi Casino	Rivers	Full House	North Point
<b>Revenues (Year 5) vs. Gaming Revenues at Existing IL Casinos (2018)</b>	Score:1	Score:2	Score:3	Score:4
<b>Figure 11 – Project Average Gaming Revenue ( Year 5)</b>	\$118,504- Average Device Gaming Revenue ( Per Slot)  \$769,740 – Average Table Gaming Revenue (Per Table)	\$181,273 - Average Device Gaming Revenue ( Per Slot)  \$830,000- Average Table Gaming Revenue (Per Table)	\$81,128 - Average Device Gaming Revenue ( Per Slot)  \$764,312- Average Table Gaming Revenue (Per Table)	\$89,483 - Average Device Gaming Revenue ( Per Slot)  \$437,500- Average Table Gaming Revenue (Per Table)
<b>Figure 12 – Projected Average Device Revenues (Per Slot) vs. Average Device Revenues at Existing IL Casinos (2018)</b>	Score:2 \$118,504	Score:1 \$181,273	Score:3 \$81,128	Score:4 \$89,483
<b>Figure 13 – Projected Average Table Gaming Revenues (Per Table) vs. Average Table Revenues at Existing IL Casinos (2018)</b>	Score:2 \$796,740	Score:1 \$830,000	Score:3 \$764,312	Score:4 \$437,500
<b>Figure 15 – Johnson Report Score Matrix (Rankings)</b>	2.5	2.0	1.5	1.8
<b>Corrected Figure 15 Rankings</b>				
<b>Score Totals</b>	<b>20 (Second)</b>	<b>19 (First)</b>	<b>32 (Third)</b>	<b>39 (Fourth)</b>
<b>Average Score/Ranking</b>	<b>1.82</b>	<b>1.73</b>	<b>2.91</b>	<b>3.55</b>

## C.H. Johnson October 2, 2019 - Report "Simple Mathematics"

\* Potawatomi did not offer this amount.

\*\* Figure 4. Categories B-F are not scored. Category G. Economic Benefits is not scored but WPC is # 1 and Rivers is # 2 on the range of impact. Full House did not provide an estimate, which is a violation of the RFQ/P 2.G. North Point annual impact number is not listed.

\*\*\*North Point failed to provide their Admission Tax Estimate. Report Figure 4 and Figure 5. This is a violation of RFQ/P 2.A.

Request for Agenda Item

Motion to Reconsider

Waukegan City Council Meeting - October 21, 2019

We, the undersigned Members of the Waukegan City Council, hereby request that the following matter be placed on the agenda for the City Council Meeting on October 21, 2019: **Motion to reconsider the City Council's vote of October 17, 2019 on the Resolution for Potawatomi, which resolution is entitled "A RESOLUTION CERTIFYING POTAWATOMI's PROPOSAL FOR A RIVERBOAT GAMING OPERATION TO THE ILLINOIS GAMING BOARD."** A copy of said Resolution is attached hereto.

*Gregg Moran*  
Member, City Council, Ward 2

Dated: 10/18/19

*Jul Horian*  
Member, City Council, Ward 8

Dated: 10/18/19

*Ann Taylor*  
Member, City Council, Ward 9

Dated: 10/18/19

\_\_\_\_\_  
Member, City Council, Ward   

Dated: \_\_\_\_\_

\_\_\_\_\_  
Member, City Council, Ward   

Dated: \_\_\_\_\_

Received:

By: \_\_\_\_\_

Date: \_\_\_\_\_

*Delivered 10/18/19 3:43pm*



**RESOLUTION No. 2019-R-\_\_\_**

**A RESOLUTION CERTIFYING POTAWATOMI'S  
PROPOSAL FOR A RIVERBOAT GAMING OPERATION  
TO THE ILLINOIS GAMING BOARD**

**WHEREAS**, Pursuant to Public Act 101-0031(the "Act"), the State of Illinois earmarked an owner's license for the conduct of riverboat gambling in the City of Waukegan (the "City"); and

**WHEREAS**, Pursuant to Public Act 101-0031(the "Act"), the State of Illinois earmarked an owner's license for the conduct of riverboat gambling in the City of Waukegan (the "City"); and

**WHEREAS**, the City issued a Request for Qualifications and Proposals ("RFQ") to identify prospective developers of a Riverboat gambling operation (hereinafter referred to as either "casino" or "riverboat"); and

**WHEREAS**, the City received a response from Potawatomi (the "Applicant") to build and operate a casino in Waukegan, Illinois hereto attached as Exhibit A; and

**WHEREAS**, the City held a Public Hearing on September 18, 2019 at 4:00pm at the Genesee Theatre, where the Applicant presented their proposal to the public, and the public was given time to address both the Applicant and the City's Corporate Authorities; and

**WHEREAS**, the City allowed three weeks of written comment following the Public Hearing, receiving more than 1,200 comments from residents and the public; and

**WHEREAS**, the City Council further heard oral comments from more than two dozen members of the public on the casino proposals at its regularly scheduled Council meeting held October 7, 2019; and

**WHEREAS**, the City Staff and consultants thoroughly vetted the Applicant's proposal, with their findings being incorporated into the report prepared by Charles Johnson, hereto attached as Exhibit B; and

**WHEREAS**, the Act requires that the corporate authority of the City submit a certification to the Illinois Gaming Board (the "Board") concerning certain items found in Section 230 ILCS 10/7(e-5); and

**WHEREAS**, the City Council desires to certify the Applicant to the Board for its competitive bidding process, pursuant to the Act, as the Board has specialized knowledge and technical expertise to more

thoroughly investigate, and select of the applicants certified by the City, to select that applicant who will be most beneficial to the City and State; and

**WHEREAS**, the City contemplates that final negotiations on all of the terms with the Applicant cannot take place until after the Board completes its process and issues a license; and

**WHEREAS**, the City Council finds that the Applicant has negotiated with the Corporate Authority in good faith; and

**WHEREAS**, the City and the Applicant have mutually agreed in general terms upon a permanent location for the riverboat; and

**WHEREAS**, the City and the Applicant have mutually agreed in general terms on location for a temporary riverboat; and

**WHEREAS**, the City and the Applicant have mutually agreed in general terms on the percentage of revenues to be shared with the City; and

**WHEREAS**, the City and the Applicant have mutually agreed in general terms on the zoning, licensing, public health, and other issues under the jurisdiction of the City;

**NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF WAUKEGAN, LAKE COUNTY, ILLINOIS as follows:**

**SECTION ONE.** The foregoing recitals are hereby incorporated as findings of fact as if fully set forth here.

**SECTION TWO.** The Applicant, Potawatomi, is hereby certified to the Illinois Gaming Board, with the details of the mutual agreements included in the Applicant's Response to the City's Request for Proposals, hereto attached as Exhibit A, which should be read in conjunction with any additional materials submitted by the Applicant, hereto attached as Exhibit C. All Exhibits are hereby incorporated in their entirety as if fully set forth here.

**SECTION THREE.** This Resolution shall take effect immediately upon passage.

PASSED BY THE CITY COUNCIL OF THE CITY OF WAUKEGAN, ILLINOIS, ON THIS \_\_\_\_ DAY OF OCTOBER, 2019.

---

SAMUEL D. CUNNINGHAM, JR.  
MAYOR OF THE CITY OF WAUKEGAN

ATTEST:

---

JANET E. KILKELLY, CITY CLERK

12/26/2019 3:17 PM

ERIN CARTWRIGHT WEINSTEIN

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
LAKE COUNTY, ILLINOIS

Clerk of the Circuit Court  
Lake County, Illinois

WAUKEGAN POTAWATOMI CASINO, )  
LLC, an Illinois limited liability company, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
CITY OF WAUKEGAN, an Illinois municipal )  
corporation, )  
 )  
Defendant. )

Case No. 19 CH 1190

**NOTICE OF FILING**

To: Robert J. Long  
Daniels, Long & Pinsel, LLC  
19 N County St  
Waukegan, IL 60085-4303  
[rlong@dlplawyers.com](mailto:rlong@dlplawyers.com)

**PLEASE TAKE NOTICE** that on December 26, 2019, the undersigned attorney caused to be electronically filed with the Clerk of the 19<sup>th</sup> Judicial Circuit this notice together with a **Notice of Motion** and **Motion for Leave to File First Amended Complaint**, true and correct copies of which are attached hereto and hereby served upon you.

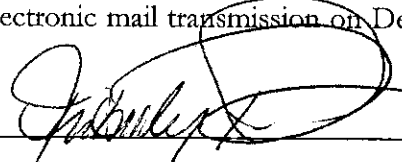
WAUKEGAN POTAWATOMI CASINO, LLC

Robert T. O'Donnell (ARDC No. 3124931)  
Gerald P. Callaghan (ARDC No. 3124829)  
Hayleigh K. Herchenbach (ARCD No. 6327026)  
O'Donnell Callaghan LLC  
28045 N. Ashley Drive, Suite 101  
Libertyville, IL 60048  
847-367-2750  
[rodonnell@och-law.com](mailto:rodonnell@och-law.com)  
[jcallaghan@och-law.com](mailto:jcallaghan@och-law.com)  
[hherchenbach@och-law.com](mailto:hherchenbach@och-law.com)

By:   
One of its Attorneys

**CERTIFICATE OF SERVICE**

Under penalties as provided by law pursuant to 735 ILCS 5/1-109, the undersigned hereby certifies that true and correct copies of the foregoing notice and any attached document(s) were served upon the addressee(s) set forth hereinabove via electronic mail transmission on December 26, 2019.

Signature: 

12/26/2019 3:17 PM

ERIN CARTWRIGHT WEINSTEIN

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
LAKE COUNTY, ILLINOIS

Clerk of the Circuit Court  
Lake County, Illinois

WAUKEGAN POTAWATOMI CASINO, )  
LLC, an Illinois limited liability company, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
CITY OF WAUKEGAN, an Illinois municipal )  
corporation, )  
 )  
Defendant. )

Case No. 19 CH 1190

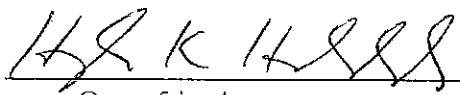
**NOTICE OF MOTION**

To: Robert J. Long  
Daniels, Long & Pinsel, LLC  
19 N County St  
Waukegan, IL 60085-4303  
[rlong@dlplawyers.com](mailto:rlong@dlplawyers.com)

**PLEASE TAKE NOTICE** that on January 3, 2020 at 9:00 a.m., or as soon thereafter as counsel may be heard, we shall appear before the Honorable Stacey L. Seneczko, or any judge presiding in her stead, in Courtroom C-407 of the Circuit Court of the 19<sup>th</sup> Judicial Circuit located at 18 N. County Street, Waukegan, Illinois and shall then and there present Plaintiff's **Motion for Leave to File First Amended Complaint**, a true and correct copy of which is attached hereto and hereby served upon you.

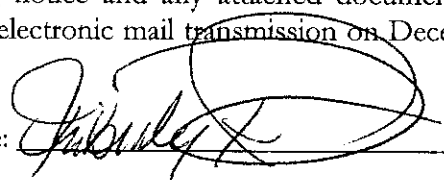
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By:   
One of its Attorneys

**CERTIFICATE OF SERVICE**

Under penalties as provided by law pursuant to 735 ILCS 5/1-109, the undersigned hereby certifies that true and correct copies of the foregoing notice and any attached document(s) were served upon the addressee(s) set forth hereinabove via electronic mail transmission on December 26, 2019.

Signature: 



12/26/2019 3:17 PM

ERIN CARTWRIGHT WEINSTEIN

Clerk of the Circuit Court

Lake County, Illinois

IN THE CIRCUIT COURT OF NINETEENTH JUDICIAL DISTRICT  
LAKE COUNTY, ILLINOIS

WAUKEGAN POTAWATOMI CASINO,  
LLC, an Illinois limited liability company,

Plaintiff,

v.

CITY OF WAUKEGAN, an Illinois municipal  
corporation,

Defendant.

Case No. 19 CH 1190

**MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT**

Plaintiff, Waukegan Potawatomi Casino, LLC (“Potawatomi”), by its attorneys, O’Donnell Callaghan LLC, for its motion for leave to file its first amended verified complaint against defendant City of Waukegan (the “City”), states as follows:

1. Plaintiff seeks leave to file its first amended complaint, which is attached as Exhibit A, without exhibits. If leave is granted, plaintiff will file the first amended complaint complete with all necessary exhibits.

2. This motion is brought pursuant to 735 ILCS 5/2-616(a), which governs the amendment of pleadings. Section 2-616(a) is liberal in allowing amendments to pleadings, stating that “[a]t any time before final judgment amendments may be allowed on just and reasonable terms, introducing any party . . . , dismissing any party, changing the cause of action . . . adding new causes of action . . . , and in any matter, either of form or substance, in any process, pleading, bill of particulars or proceedings, which may enable the plaintiff to sustain the claim for which it was intended to be brought.”

3. Plaintiff brings this motion to amend the original complaint before the City has filed its answer or responsive pleading to the original complaint. Instead, this first amended complaint is

brought because of changed circumstances that occurred immediately after the filing of the original complaint.

4. The first amended complaint refines Count I to account for events that have since transpired from the filing of the original complaint to the present, and adds a request for damages in light of those and other events.

5. The first amended complaint also adds a Count II, which asks this Court to find that the City refused to act in good faith and therefore issue a mandatory injunction directing the City to certify Potawatomi's application to the Illinois Gaming Board.

6. Finally, the first amended complaint adds a Count III that seeks a declaration that the City violated the Open Meetings Act on multiple occasions, asks this Court to find that the City's vote to deny certification to Potawatomi is void, and therefore order the City to certify Potawatomi's proposal to the Illinois Gaming Board.

7. The proposed first amended complaint entirely relates to the same underlying facts and circumstances which prompted the filing of the original complaint, as well as additional related events that followed the filing of the complaint.

8. The additional allegations contained in the common counts, Counts I, II and III cures the prior pleading that became defective only due to intervening circumstances, expands on the allegations contained in the original complaint and brings causes of action to enforce plaintiffs' rights under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, and Article I, Section 2 of the Illinois Constitution.

9. Further, the First Amended Complaint will cause no surprise or prejudice to defendants. The factual bases of Counts I, II and III are substantially related to the cause of action in the original complaint, which relate to the certification of plaintiff's application to the Illinois Gaming Board.

10. No discovery has yet been conducted, this case has not been set for a trial date, and defendants have not yet filed their answer or other pleading in response to the complaint currently on file. Therefore, this motion for leave to file the first amended complaint is timely, and brought within a reasonable first opportunity.

WHEREFORE, Plaintiff requests this Court allow filing of its first amended complaint, *instantly*.

WAUKEGAN POTAWATOMI CASINO,  
LLC

By:   
One of its attorneys

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IN THE CIRCUIT COURT OF NINETEENTH JUDICIAL DISTRICT  
LAKE COUNTY, ILLINOIS

WAUKEGAN POTAWATOMI CASINO,  
LLC, an Illinois limited liability company,

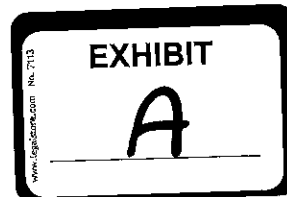
Plaintiff,

v.

CITY OF WAUKEGAN, an Illinois municipal  
corporation,

Defendant.

Case No. 19 CH 1190



**FIRST AMENDED VERIFIED COMPLAINT FOR DAMAGES AND OTHER RELIEF**

Plaintiff, Waukegan Potawatomi Casino, LLC (“Potawatomi”), by its attorneys, O’Donnell Callaghan LLC, for its first amended verified complaint against defendant City of Waukegan, states as follows:

**FACTS COMMON TO ALL COUNTS**

**I. Nature of Action**

1. In the fall of 2019, the City of Waukegan (the “City”) engaged in a flawed process to evaluate and vote on whether to certify each of four casino license applicants to the Illinois Gaming Board, who will make the final determination as to which applicant, if any, will be chosen to receive a license to operate a casino in the City.

2. All four applicants were similarly situated, as confirmed by the independent consultant engaged by the City to evaluate the casino proposals, who represented that all four applicants were well-qualified applicants of high integrity with reasonable proposals. However, Potawatomi was singled out for disparate treatment and, despite being similarly situated to the other applicants, was the sole applicant the City refused to certify to the Illinois Gaming Board.

3. Potawatomi brings this action pursuant to the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, under federal law, 42 U.S.C. §1983, Article

I Section 2 of the Illinois Constitution, the Illinois Gambling Act, 230 ILCS 10/1, *et seq.*, and the Open Meetings Act, 5 ILCS 120/1, *et seq.*

## **II. Parties and Venue**

4. Plaintiff is an Illinois limited liability company owned by the Forest County Potawatomi Community of Wisconsin, descendants of the Potawatomi Indian Tribe that through the early part of the 19<sup>th</sup> Century occupied a large territory covering most of the western shore of Lake Michigan, including Waukegan. In fact, Waukegan is the Potawatomi word for Trading Post.

5. The Forest County Potawatomi Community of Wisconsin d/b/a Potawatomi Hotel and Casino, operates a casino in Milwaukee, Wisconsin, under the Indian Gaming Regulatory Act, 25 U.S.C. §2701 *et seq.*

6. The City of Waukegan (the “City”), is an Illinois municipal corporation in Lake County, Illinois.

## **III. Waukegan Receives the Opportunity to Host a Casino**

7. Effective June 28, 2019, the Illinois General Assembly approved an amendment to the Illinois Gambling Act, 230 ILCS 10 *et seq.*, that provided the City the opportunity to have a casino. The amendment is known as Senate Bill 690 (“SB 690”).

8. Under SB 690, the Illinois Gaming Board (the “IGB”) may issue one owner’s license authorizing the operation of a casino in the City, as codified at 230 ILCS 10/7(e-5).

9. The process by which applicants may apply to the IGB for the license is set forth in SB 690. Applications were to be submitted to the IGB no later than 120 days following the effective date of SB 690, *i.e.*, October 25, 2019. All applications were to be accompanied by a nonrefundable application fee and a nonrefundable background investigation fee.

10. The IGB will only consider an application for a casino license if the corporate authority of the City has certified to the IGB that the corporate authority and the applicant have negotiated in

good faith and have mutually agreed on statutorily prescribed considerations for the proposed casino. 230 ILCS 10/7(e-5).

11. The corporate authority of the City is comprised of the mayor and the City's nine aldermen.

12. At least seven days before the corporate authority certifies any applicant(s) to the IGB, the Illinois Gambling Act requires the corporate authority to hold a public hearing to discuss the statutorily prescribed considerations and other details concerning the casino in the City. 230 ILCS 10/7(e-5)

13. The corporate authority must subsequently memorialize the details about the proposed casino in a resolution that must be adopted by a majority of the corporate authority before certification is sent to the IGB. 230 ILCS 10/7(e-5).

14. There is no statutory limit on how many applicants the City can certify to the IGB; it could certify all applicants or even none.

15. The IGB will review the proposals of an applicant(s) certified by the City pursuant to the provisions of the statute and IGB Rules. The review will cover, among other things, the financial wherewithal of each applicant as well as the character and reputation of an applicant's key persons.

16. After its investigation and review, the IGB may approve a license to only one applicant permitting its operation of a casino in the City.

17. The applicant chosen by the IGB will invest somewhere between \$250-\$500 million in the casino project.

#### **IV. Waukegan's Request for Qualifications and Proposals**

18. On July 3, 2019, the City released a Request for Qualifications and Proposals ("RFQ/P") for those applicants seeking certification by the City to the IGB for a license to develop

and operate a casino in the City. The initial deadline for proposals was July 22, 2019, but the deadline was extended to August 5, 2019. *See* Request for Qualifications and Proposals, attached as **Exhibit 1**.

19. The RFQ/P was written by the City Planner without the advice of a gaming consultant. It was not reviewed or approved by the corporate authority prior to being released.

20. The RFQ/P specified certain Submittal Requirements, including five components for which the applicant was required to provide a thorough and detailed response. Exhibit 1, pp. 2-4.

21. The Submittal Requirements included four components: (1) property specifications and location; (2) description of proposed development; (3) project team and experience; (4) financial data; plus a \$25,000 application fee. Exhibit 1, pp. 2-4.

22. Five applicants, including Potawatomi, responded to the RFQ/P. During the review process, one of the applicants dropped out, leaving only four applicants: Potawatomi, CDI-RSG Waukegan, LLC (commonly known as “Rivers”), Lakeside Casino, LLC d/b/a North Point Casino (“North Point”), and Full House Resorts, Inc. (“Full House”).

23. Each of the four applicants are similarly situated because, in order to be considered, each applicant was required to submit materials and an application fee pursuant to guidelines set forth in the RFQ/P, each applicant ostensibly was to be evaluated based on the same criteria as all other candidates, and a vote was to be taken by the corporate authority as to whether or not to certify the applicant to the IGB based on its merits as set forth in the RFQ/P.

24. The RFQ/P identified the City’s “Development Objectives” as: “[t]he City is seeking a financially successful development that maximizes sales tax and gaming revenues to the City and that provides a significant number of quality jobs to its residents, as well as increasing the City’s EAV [Equalized Assessed Valuations] and bolstering its property tax base.” Exhibit 1, p. 2.

25. The property specifications and location component of the RFQ/P required applicants to identify a proposed location for the casino. The RFQ/P identified a City-owned

property, known as Fountain Square, as one potential site for the casino, in addition to other potential locations, some of which are owned by the City and some of which are not.

26. In addition to identifying the proposed location for the casino, the applicants were asked to describe the plan to acquire the development locations, including “detail of property size and access requirements, and any other pertinent specifications.” Exhibit 1, p. 3.

27. According to the RFQ/P, the proposals would be ranked by a “City of Waukegan Review Team,” or Casino Review Team, including staff and consultants, based on how well the proposals meet the Development Objectives and Submittal Requirements in the RFQ/P. Exhibit 1, p. 5.

28. The applicants were not permitted to communicate with the City Council, City employees or contractors involved in the RFQ/P process, except as allowed by the RFQ/P.

29. The RFQ/P further stated that staff and consultants would “evaluate economic, financial, and other submittal information.” Exhibit 1, p. 5.

30. According to the RFQ/P, one or more Project Team(s) were to be selected “with whom the City will enter negotiations to become the chosen casino developer/operator.” Exhibit 1, p. 5.

31. The City had no clear authority to establish the Casino Review Team.

32. The Casino Review Team did not keep official records of its proceedings.

33. The RFQ/P did not identify the purchase price for City property, if any, as the sole criterion, or even an important criterion, on which it would determine whether to certify an applicant to the IGB. Applicants could have submitted a proposal identifying City property as the proposed site for their casino, or any one of the non-City owned properties identified in the RFQ/P.

34. The Illinois Gambling Act requires the IGB to give preference to applicants with minority ownership of at least 16%. 230 ILCS 10/7(b)(4).



35. Potawatomi is uniquely qualified to meet the IGB standards for awarding a casino license because, in addition to having experience developing and operating a highly successful casino in Wisconsin, the casino proposed by Potawatomi, unlike the other applicants, would be 100% minority-owned. In the RFQ/P, the City committed to selecting one or more of the applicants to enter negotiations with the City to become the chosen casino developer/operator. The City did not limit the number of applications it would certify to the IGB. Exhibit 1, p. 5.

36. On August 5, 2019, in response to the RFQ/P, Potawatomi submitted its proposal to develop, own and operate a casino, known as the Waukegan Potawatomi Casino (“WPC”), on the Fountain Square property. *See* Waukegan Potawatomi Casino Proposal, attached as Exhibit 2.<sup>1</sup>

37. Plaintiff’s proposal was timely and conformed to the requirements detailed in the City’s RFQ/P.

#### **V. Purchase Price for Fountain Square Property**

38. The RFQ/P stated, “[i]f purchase of City property is contemplated, an offer for the selected site(s) should be provided.” Exhibit 1, p. 3.

39. The RFQ/P did not specify that the “offer” should contain a specific purchase price for any specific City-owned property; in fact, the RFQ/P specifically stated that as a result of the RFQ/P process, “[o]ne or more Project Team(s) will be selected with whom the City will enter negotiations to become the chosen casino developer/operator.” Exhibit 1, p. 5.

40. Although they were not required to do so, all four of the applicants selected the Fountain Square property as the proposed location for the casino.

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<sup>1</sup> Exhibit 2 contains the Waukegan Potawatomi Casino Proposal with certain confidential, financial information redacted. The complete, unredacted Proposal will be provided at the appropriate time pursuant to a protective order.

41. Unbeknownst to Potawatomi, the City obtained an appraisal for the Fountain Square property as of June 2019. However, the City did not share the existence or disclose the results of that appraisal with the applicants, who were unaware of what the City believed the fair market value of the Fountain Square property to be.

42. In its July 26, 2019 Update, upon request by one of the applicants, the City declined to state an asking price for the Fountain Square property, stating that it preferred instead to consider offers from the applicants.

43. Prior to submitting its casino proposal to the City, Potawatomi did not know what the fair market value of the Fountain Square property was and like the other applicants did not have sufficient time to obtain its own appraisal in advance of the application deadline.

44. Without an indication of the property's fair market value, Potawatomi's proposal contained a commitment to negotiate and pay cash upfront for the Fountain Square property within 15% of the property's appraised fair market value, which Potawatomi assumed would be determined based on its highest and best use as a casino site.

45. Based on the express language of the RFQ/P, Potawatomi understood its offer of appraised value  $\pm 15\%$  to be an offer to negotiate in good faith with the City for the purchase of its land within the parameters set forth in the RFQ/P either before or after it was certified to the IGB and eventually chosen for the license.

46. Potawatomi's offer for the purchase of the Fountain Square property was consistent with the Illinois Gambling Act's requirements that casino applicants negotiate in good faith with the municipality. Potawatomi's offer followed the requirements set forth in the RFQ/P and it indicated a willingness to negotiate the purchase price within a reasonable range based on a fair market value obtained by an appraisal of the Fountain Square property based on highest and best use. 230 ILCS 10/7(e-5).

47. According to the City, the June 2019 appraisal, which Potawatomi has never had access to, valued the Fountain Square property at \$5.6 million; however, Potawatomi is not privy to the assumptions that were used in the determination of the appraised value including, but not limited to, the property's highest and best use.

48. Potawatomi's offer for the purchase of the Fountain Square property was not based on the City's \$5.6 million appraisal.

49. The other three applicants proposed a variety of purchase scenarios ranging from \$11 million to \$30 million, some of which were highly speculative, including payments over time or a long-term lease from the City. In contrast, Potawatomi offered to pay cash in full at the time the IGB grants the casino license to Potawatomi in an amount based on the property's fair market value.

#### **VI. September 18, 2019 Public Hearing**

50. After receiving the four applications, the City retained an outside consultant, Johnson Consulting, to assist it in reviewing and evaluating the proposals submitted in response to the RFQ; in other words, to help the corporate authority make its decision as to which applicants to certify to the IGB.

51. The City's outside consultant, Johnson Consulting, was not hired using the City's competitive bidding procedures. Rather, Johnson Consulting was hired at the urging of the Mayor without ever being vetted by the City Council.

52. On September 12, 2019, a team of Potawatomi representatives were interviewed by the City's Casino Review Team regarding its proposal. Those in attendance for the City included Corporation Counsel, Assistant Corporation Counsel, City Planning and Zoning Director, City Director of Finance, and two outside consultants from Johnson Consulting.

53. During this interview, there was no discussion of the Fountain Square property purchase price and no disclosure of the City's appraisal.

54. On September 18, 2019, after providing notice to the public as required by the Open Meetings Act, the City Council held a public hearing at which each of the applicants, including Potawatomi, were given 15 minutes to present their proposals and 15 minutes to answer questions from the City Council.

55. The Gambling Act required the City to hold a public hearing to discuss the required terms for certification and other details concerning the proposed casino. 230 ILCS 10/7(e-5).

56. Those required terms for certification and other details concerning the proposed casino were not addressed at the September 18, 2019 public hearing.

57. During the September 18, 2019 public hearing, after the presentations and questioning of applicants, the consultant provided an oral report assessing the proposals.

58. The consultant opined that each of the four applicants presented compelling proposals, and that none of the proposals contained “fatal flaws” that would disqualify them from certification.

59. In fact, two of the other applicants (North Point and Full House) failed to include with their application certain information required by the RFQ; however, the consultant did not address these violations of the RFQ/P in his analysis.

60. The consultant stated that it was his understanding that each of the applicants had “a willingness to negotiate the purchase price” for the Fountain Square property.

61. During his oral report, the consultant made at least one material misstatement regarding Potawatomi’s proposal. The consultant’s report included the statement that Potawatomi offered to purchase the Fountain Square property from the City for \$5.6 million.

62. Nowhere in Potawatomi’s proposal is there an offer to purchase the Fountain Square property for \$5.6 million. *See* Exhibit 2.

63. The consultant apparently obtained his \$5.6 million figure from the City's June 2019 appraisal, which allegedly appraised the Fountain Square property at \$5,625,000, based on unknown criteria.

64. Potawatomi was not provided an opportunity to correct the consultant's misstatement at the public hearing.

65. The September 18, 2019 public hearing began at 4:00 p.m. and was adjourned by the Mayor at 8:00 p.m., as the previously announced time. *See* Agenda for September 18, 2019 public hearing, attached as **Exhibit 3**.

#### **VII. Potawatomi Invited to Correct the Consultant's Error**

66. The day after the September 18, 2019 public hearing at which Potawatomi's proposed purchase price was incorrectly reported by the consultant as \$5.6 million, a representative of Potawatomi spoke with the City's Assistant Corporation Counsel to ask how it could correct the consultant's erroneous statements made at the public hearing.

67. Noting that the City's Corporation Counsel was away on vacation, the City's Assistant Corporation Counsel invited Potawatomi to send a supplemental submission directly to him. According to the Assistant Corporation Counsel, Potawatomi did not need to submit the information through the Casino Review Team website.

68. The RFQ/P and the City's July 15, 2019 Update to the RFQ/P state that the City was permitted to invite applicants to provide additional written information.

69. The Assistant Corporation Counsel stated that the supplemental information could correct the proposed purchase price in light of the consultant's misleading and inaccurate public comments at the September 18, 2019 public hearing.

70. The supplemental materials did not constitute an “enhanced offer” or an “alteration” of the application but rather a supplement to the information contained therein, as provided for by the RFQ/P, to correct the consultant’s misstatements.

71. The City’s Assistant Corporation Counsel never told Potawatomi that the supplemental submission would be barred or was otherwise inappropriate. Instead, he told Potawatomi that he would accept the supplemental materials and would take care of their distribution.

72. Adhering to the Assistant City’s Corporation Counsel’s direction, on October 4, 2019, Potawatomi hand-delivered multiple copies of a letter (the “Supplemental Letter”) to 19 N. County Street and emailed the same to the City’s Corporation Counsel and Assistant Corporation Counsel. A copy of the October 4, 2019 Supplemental Letter is attached as Exhibit 4.

73. The Supplemental Letter corrected the consultant’s misstatement of Potawatomi’s proposal, including the purchase price for the Fountain Square property, which had the effect of putting Potawatomi’s proposal in a negative light when compared to the other proposals, which the City was now treating as “bids” to purchase the Fountain Square property.

74. The Supplemental Letter identified the consultant’s misstatement as to the amount of Potawatomi’s offer for the Fountain Square property, and corrected that Potawatomi’s proposal did not include an offer to purchase the property for \$5.6 million.

75. In light of the consultant’s erroneous statement, the Supplemental Letter contained an offer to purchase the Fountain Square property for \$12 million, Potawatomi’s best estimate of its appraised value based on the highest and best use as a casino. Exhibit 4, p. 3.

76. The purpose of submitting the Supplemental Letter was to put Potawatomi on equal footing with the other applicants in light of the consultant’s misstatements by providing a proposed purchase price with a fixed value to assist the corporate authority in evaluating the applicants’ proposals.

77. Despite the fact that the City invited a bid and the City allowed Potawatomi to make a bid, the City did not actually consider Potawatomi's bid. Instead, the City assigned a value of \$5.6 million to the proposal, even after Potawatomi told the City that this amount was inappropriately attributed to Potawatomi's proposal by the consultant.

78. After the City allowed Potawatomi to submit the Supplemental Letter, the City then refused to accept its efforts to correct the consultant's and the City's error with respect to purchase price.

79. On October 7, 2019, a representative of Potawatomi had a conversation with the City's Corporation Counsel at which time, the representative asked if he had received the Supplemental Letter.

80. The Corporation Counsel claimed that all of the applicants had the same deadline and the City would not accept proposals after that time.

81. After Potawatomi's representative explained that the purpose of the supplemental submission was to correct inaccurate information provided by the consultant during the public hearing, not to submit a new proposal, Corporation Counsel stated that he would make a ruling, and that Potawatomi would be advised in writing.

82. Later, the City's Corporation Counsel inaccurately characterized the Supplemental Letter as an inappropriate attempt by Potawatomi to "sweeten their bid," after it became clear the City had chosen to make erroneous assumptions about its offer to negotiate the purchase price of the Fountain Square property.

83. The City's Corporation Counsel and the City's consultant decided not to revise the consultant's analysis to include the information contained in the Supplemental Letter, claiming it would be "unfair to the other bidders," as if instead of certifying applicants to the IGB, the City was simply auctioning off its property.

84. Notwithstanding the Gambling Act's requirement that the City and any applicants "negotiate in good faith," and the statement in the City's RFQ/P that after evaluating the proposals, the City would "enter negotiations" with selected Project Teams to determine which would become the chosen casino developer, the City did not receive Potawatomi's offer to negotiate the purchase price within a range of the property's fair market value in good faith.

85. The City deviated from the express language of the RFQ/P and, rather than allowing the negotiation of the purchase price, required a numeric bid by which to compare the proposals.

86. Once the City's Corporation Counsel and consultant refused to consider the Supplemental Letter, it became apparent the City was not looking to negotiate in good faith and, contrary to the instructions in its RFQ/P, instead wanted applicants to simply bid on the Fountain Square property.

87. The City's Corporation Counsel and the consultant decided the consultant's report, provided to the corporate authority to evaluate the proposals, would stand despite knowing it erroneously assessed Potawatomi's application as if it had "bid" \$5.6 million.

#### **VIII. The Johnson Report**

88. On October 11, 2019, the City posted on its website a report from Johnson Consulting entitled "Casino Developer and Operator Solicitation – Waukegan, IL: Advisory Services Report" (the "Johnson Report"). *See* Casino Developer and Operator Solicitation – Waukegan, IL Advisory Services Report, attached as **Exhibit 5**.

89. The Johnson Report did not conform with the consultant's proposal to the City with respect to the scope of work, *i.e.*, a market study was not prepared, or with the City's RFQ/P.

90. The Johnson Report rated the proposals of each of the applicants based on the components of the RFQ/P, breaking those components down further into the following seven substantive subcategories for each proposed casino: (i) purchase price offered for the Fountain Square



property; (ii) size of the proposed casino; (iii) annual employment created; (iv) projected gaming admissions tax revenue; (v) estimated project cost; (vi) projected gross device and table gaming revenue; and (vii) projected average gaming revenue. *See* Exhibit 5.

91. Potawatomi's proposal was ranked first or second in the Johnson Report in six of the seven substantive subcategories. The only category Potawatomi was not ranked first or second was the proposed purchase price for the Fountain Square property, which was based on the erroneous \$5.6 million "bid." *See, generally*, Exhibit 5.

92. The Johnson Report then provided an overall ranking of the four proposals using the four components from the RFQ/P, ostensibly based on its assessment of the seven substantive subcategories. Exhibit 5, p. 18.

93. The Score Matrix in the Johnson Report indicates that the consultant used simple averaging of the scores assigned to each of the four RFQ/P components, *i.e.*, the consultant assigned Potawatomi scores of 3, 3, 2, and 2, which averaged out to 2.5. Exhibit 5, p. 18.

94. Notwithstanding Potawatomi's rank of first or second in six of the seven substantive subcategories, the Johnson Report inexplicably assigned values of 2 and 3 to the four RFQ/P components, which resulted in Potawatomi having the lowest overall ranking out of the four proposals. Exhibit 5, p. 18.

95. A review of the Johnson Report demonstrates that its "simple mathematics" just do not add up.

96. For purchase price, the Johnson Report evaluated Potawatomi's application based on its alleged \$5.6 million "bid" for the Fountains Square property, and did not consider the Supplemental Letter the City invited Potawatomi to add to its application, and which specifically corrected the consultant's inaccurate assumption about Potawatomi's purchase price. *See* Exhibit 5, p. 5.

97. Even assuming Potawatomi had offered \$5.6 million to purchase the Fountain Square property, Potawatomi's proposal should have objectively come in second out of four, just slightly below Rivers but significantly ahead of Full House and North Point. *See* October 18, 2019 Letter to the City from Potawatomi, attached as **Exhibit 6**.

98. Had the Johnson Report considered the \$12 million purchase price identified in the Supplemental Letter, Potawatomi would have scored even higher.

99. The Johnson Report did not address or acknowledge that both Full House and North Point failed to include certain required information required by the RFQ/P, including Admission Tax estimates, Economic Benefits and Temporary Casino specificity.

100. Because the Johnson Report was overly simplistic and lacked any substantive analysis of the proposals, the highest "ranking" applicant was Full House, the bidder with the most speculative proposal.

101. Additionally, with respect to purchase price, the consultant did not make even the most basic inferences to account for the value of money over time, particularly in light of the fact that one "bid" called for payments over a series of years and at least one bid could be seen as speculative, while Potawatomi's offer was for \$12 million cash up front.

102. Potawatomi's project team's qualifications and its casino experience were, by any objective measure, superior to both Full House and North Point, yet Full House was arbitrarily given a higher score than Potawatomi, and North Point was scored the same as Potawatomi, for the "project team and experience" component of the RFQ/P.

103. The Johnson Report cast doubt on the projected gaming revenue of Rivers and Potawatomi, but the report did not include an independent projection, a market assessment of a casino in Waukegan or an analysis of the applicants' projections.

104. Despite the fact that the Johnson Report's numerical ranking of the substantive categories put Potawatomi in 1st or 2nd place, Potawatomi was inexplicably ranked last among the four applications.

**X. October 17, 2019 Special Meeting**

105. On October 17, 2019, the City Council held a special meeting for a public hearing to consider the Johnson Report and to vote on resolutions to certify each of the proposals. The October 17, 2019 special meeting was not a continuation of any other prior meeting of the City Council.

106. At the beginning of the meeting, roll call of the corporate authority was called and a quorum found to be present.

107. At the special meeting, the consultant made an oral presentation describing the methodology of his report.

108. During his comments, the consultant informed the City Council that, after reviewing all of the proposals (excluding any supplemental materials), each one of the applicants was qualified and the City would do well if it approved any of the applicants.

109. The consultant further claimed that he assessed the capability and background of each of the applicants and determined them all to be suitable.

110. The consultant was challenged by the Council as to the basis for his overall ranking of the applicants, remarking Potawatomi ranked first or second in each of the ranking criteria in the Johnson Report except for purchase price, yet still somehow was ranked in fourth place overall. The consultant was not able to provide an intelligible response.

111. The Council further challenged the consultant to explain why none of the applicants' supplemental information was included in his findings. The consultant erroneously responded that he was legally prohibited from doing so by a so-called "process."

112. The consultant's reasoning, for which he offered no corroboration, and which was contrary to the express language of the RFQ/P, was that, once the "bids" were in and visible to all "bidders," it was inconsistent in the consultant's view to let the applicants modify their proposals at that point.

113. However, the certification requirement in the Illinois Gambling Act does not contemplate a process by which applicants will "bid" for a municipality's certification.

114. In fact, the IGB did not prescribe a process for the City's consideration of proposals, other than requiring the City to certify it has negotiated with a proposed applicant in good faith and reached an agreement with respect to certain criteria. 230 ILCS 10/7(e-5).

115. Potawatomi's \$12 million offer was not an attempt to modify its proposal or "sweeten its bid"; rather, it had provided supplemental information, based on the City's after-the-fact requirement that applicants provide a fixed monetary "bid" for the Fountain Square property.

116. Despite his protestations that he "could not" consider the Supplemental Letter in his own report, the consultant informed the aldermen that all applicants' supplemental information was contained in the aldermen's meeting packets and they were free to consider the information therein.

117. No one on the Casino Review Team, including the consultant, summarized any of the supplemental information for the corporate authority.

118. The consultant's explanation for why *he* was prohibited from "considering" the applicants' supplement materials, but the aldermen were not, was likewise faulty. The consultant claimed the supplemental materials could be used in subsequent negotiations with the City if the IGB chose one of the applicants to receive the license.

119. However, once an applicant has been certified by the City, its application to the IGB contains all of the information that will be considered and there is no further negotiation contemplated at the municipal level.

120. The IGB makes a final decision to approve a casino license based on the application process at the State level, and that decision is binding on the City.

121. None of the aldermen, the Mayor or the City's Corporation Counsel attempted to disabuse the consultant of his faulty assumption.

122. Johnson Consulting was hired by the City at its own discretion, and thus the City, through the requirements set forth in the RFQ/P, set the parameters for what information could be considered.

123. The RFQ/P specifically states that "the City may chose [*sic*], in its sole discretion, to request additional written information, conduct interviews, hold site visits, or any combination of these." Exhibit 1, p. 5. The City refused to engage the applicants on the casino location.

124. The City invited Potawatomi to provide the supplemental material pursuant to the requirements of the RFQ/P.

125. Ergo, the additional written information submitted by Potawatomi at the Assistant Corporation Counsel's direction became a part of its proposal to be considered in the certification process.

126. Despite criticism of the validity of the Johnson Report from at least two aldermen at the October 17, 2019 special meeting, the consultant stood by his report, noting they had used "simple mathematics" to come up with their ranking, and that no weighting of the data had been employed; in other words, ostensibly no single criterion was given more consideration than the others.

127. However, using "simple mathematics," *i.e.*, an average based on the scores assigned to the seven substantive subcategories by the consultant, without weighting, would place the ranking in the following order, even with the incorrect \$5.6 million purchase price for Potawatomi's proposal: (1) Rivers; (2) Potawatomi; (3) Full House; (4) North Point.

128. There was a roll call and a quorum at the October 17, 2019 special meeting; however, the City Council did not allow for “audience time” as the first order of business or allow any other opportunity for public comment, in violation of the City’s Code of Ordinances and the Open Meetings Act. City Code, §2.62(1); 5 ILCS 120/2.06.

129. The City refused to allow any public participation, including the ability to address the council or the speakers, at the special meeting.

130. When asked by an alderman if the City Council needed to allow for public comment, the Mayor said it was not necessary.

131. The City’s Corporation Counsel, who was present, did not correct the Mayor.

132. The City’s refusal to allow any member of the public to address the Council at the October 17, 2019 special meeting prohibited Potawatomi from disputing the assumptions and the faulty rankings in the Johnson Report and the consultant’s misstatements about the certification process, therefore allowing the misrepresentations to go uncorrected and unchallenged.

133. As a result, the Johnson Report, which was intended to provide the corporate authority with an impartial third party review to assist with its decision-making process and not to add confusion and misinformation, was presented to the aldermen with incorrect and misleading statements that led to a misinformed decision by the City as to which applicants to certify to the IGB.

134. In fact, at least one alderman at the meeting indicated that purchase price of the City-owned property, the one component of Potawatomi’s proposal which the Johnson Report most seriously misrepresented, was the most important criteria for determining whether to certify an applicant to the IGB.

135. However, the Illinois Gambling Act’s certification process does not contemplate a mechanism for the City to entertain and evaluate competing monetary “bids” from applicants seeking certification to the IGB.

136. Nonetheless, the City and its consultant essentially set up an auction for the Fountain Square property, using the City's "offer" to sell its own property for the location of the proposed casino in an improper attempt to compare applicant's "bids" as the primary criteria for whether the City would certify any applicant to the IGB.

137. The City's Corporation Counsel is appointed by the mayor for the purpose of conducting any and all legal matters pertaining to the City as shall be brought to his attention by the mayor and the City Council.

138. The City's Corporation Counsel was involved in many aspects of this process, including but not limited to: the RFQ/P, participating in the Casino Review Team, conducting applicant interviews, presenting at the public hearings, organizing supplemental information, and attending certain City Council meetings.

139. Corporation Counsel was present at the October 17, 2019 special meeting, but failed to advise the Mayor and the City Council when material errors occurred with respect to the Open Meetings Act, the Illinois Gambling Act, the RFQ/P requirements, and the City's obligation to treat each of the four similarly situated applicants equally.

140. Likewise, at the October 17, 2019 special meeting, the Mayor failed to follow procedures set forth in the Open Meetings Act, the Illinois Gambling Act, the RFQ/P requirements, and the requirement to negotiate with Potawatomi in good faith.

141. The corporate authority, Corporation Counsel and the consultant failed to correct the alderman that the RFQ/P did not emphasize purchase price over all other components, nor did the Gambling Act allow the City to do so.

142. Despite claiming that the "Project Team(s)" would enter into negotiations with the City, Potawatomi was never given the opportunity to negotiate with the City with respect to the purchase price of Fountain Square or any other aspect of its proposal.

**XI. The Certification Vote**

143. At the October 17, 2019 special meeting, the City Council voted 6-3 to approve resolutions certifying to the IGB two applicants who ranked lower than Potawatomi on six out of seven criteria: Full House and North Point.

144. The City Council voted 5-4 to approve a resolution certifying Rivers, which ranked just above or just below Potawatomi in each category.

145. The City Council voted by a score of 2-7 to deny the resolution for certification of Potawatomi's application to the IGB.

146. Out of the four candidates, all of whom were deemed qualified candidates by the consultant, Potawatomi was the only one that did not receive a favorable vote for certification.

147. The Illinois Gambling Act requires, after a public hearing on the matter, that the corporate authority must memorialize the details concerning the proposed casino in a resolution that must be adopted by a majority of the corporate authority before any certification is sent to the IGB. 230 ILCS 10/7.

148. The Mayor and nine aldermen constitute the corporate authority in the City; therefore, a majority vote requires at least six of ten members.

149. The Mayor, while present for the meeting, abstained from voting on any of the proposals for certification; each vote was conducted only by the nine aldermen, all of whom were present at the October 17, 2019 Special Meeting.

150. None of the certification resolutions were voted on by the corporate authority, as required by the Illinois Gambling Act.

151. The proposals for Full House, North Point, and Rivers were certified to the IGB on October 21, 2019, even though the vote on the resolution to certify them was not by the corporate authority.



152. After the special meeting, the Mayor reported to the press that the reason that Plaintiff's resolution was not approved was the fact it was ranked lowest of the four proposals by the Johnson Report.

## **XII. Motion for Reconsideration**

153. Immediately after the certification vote, on October 18, 2019, Potawatomi delivered a letter to the City and the Corporation Counsel laying out the factual errors in the Johnson Report, the erroneous oral statements made by the consultant at the Special Meeting and describing the violation of the Open Meetings Act ("October 18th Letter"). *See* Exhibit 6.

154. The October 18th Letter also attached a chart, showing that an accurate calculation of the objective numeric criteria in the Johnson Report, when "simple mathematics" was applied, results in Potawatomi being ranked in second place, slightly below Rivers and far above the Full House and North Point proposals.

155. With an accurate calculation, Potawatomi should have received a second-place ranking in the Johnson Report, even with the erroneous purchase price assumption of \$5.6 million. *See* Exhibit 6.

156. In the October 18th Letter, Potawatomi timely requested the City Council reconsider its vote denying the resolution to certify Potawatomi to the IGB at its upcoming regular City Council meeting on October 21, 2019. Exhibit 6.

157. The Mayor and Corporation Counsel did not respond to the October 18th Letter at that time, nor did they alter the Agenda for the October 21, 2019 City Council meeting.

158. The motion to reconsider the City's denial of Potawatomi's certification could only be brought by one of the nine aldermen who voted on the motion to certify Potawatomi's application.

159. Further, a member can only move to reconsider a City Council vote at the same meeting or the next succeeding meeting.

160. The next succeeding City Council meeting was to take place in four days, on October 21, 2019.

161. The Open Meetings Act requires that agendas for each regular meeting of a public body shall be posted at least 48 hours in advance of the holding of the meeting, 5 ILCS 120/2.02.

162. On October 18, 2019, Potawatomi reached out to certain aldermen to find support for their request that the City Council reconsider their vote not to certify its application, in order that the motion to reconsider could be timely placed on the agenda in advance of the October 21, 2019 City Council meeting.

163. By this time, there was no restriction on Potawatomi contacting City Council members, because the certification vote at the October 17, 2019 special meeting ended the formal RFQ/P process.

164. Representatives from Potawatomi obtained signatures from three aldermen to get the motion to reconsider on the agenda for the October 21, 2019 regular City Council meeting. *See* Request for Agenda Item, Motion to Reconsider, attached as **Exhibit 7**.

165. Of the three aldermen who signed the Request for Agenda Item, Motion to Reconsider, two voted against Potawatomi being certified to the IGB, *i.e.*, they were on the side that prevailed.

166. The Motion to Reconsider met the requirements to be placed on the Agenda for the October 21, 2019 City Council meeting.

167. The Open Meetings Act requires all items to be discussed or acted upon by the corporate authority to be posted on an agenda 48 hours prior to a meeting, or in this case, by Saturday, October 19, 2019.

168. The Agenda request was delivered to the City Clerk on Friday October 18, 2019 at 3:43 pm, the day after the City Council voted; however, without any cause, the City Clerk refused to

sign a receipt for the Agenda request and it was left on the counter. *See* Exhibit 7, lower right-hand corner, p. 1.

169. The City Clerk had no basis for refusing to place the Motion to Reconsider on the Agenda for the October 21, 2019 City Council meeting.

170. The Agenda request by three aldermen was not honored, and the motion to reconsider was not added to the Agenda for the City Council meeting on October 21, 2019 within the required deadline.

171. The Agenda posted for the public did not indicate that Potawatomi's Motion to Reconsider would be discussed or acted on by the corporate authority. *See* Agenda for October 21, 2019, attached as **Exhibit 8**.

172. Potawatomi showed up for the October 21, 2019 meeting, despite the City's failure to include the properly produced Motion to Reconsider on the Agenda, and at approximately 7:00 pm that night, Potawatomi learned its motion to reconsider might be taken up at the City Council meeting.

173. Prior to the vote on the motion to reconsideration, certain aldermen and the Mayor made comments about Potawatomi's proposal.

174. The Mayor incorrectly claimed that the City's appraisal had been provided to the bidders as part of the RFQ/P process when, in fact, the City had purposefully refused to provide the appraisal to the bidders.

175. One alderman reiterated that the purchase price for the Fountain Square property should be the primary consideration, despite the fact that the RFQ/P does not place more weight on any single criterion.

176. In fact, per the RFQ/P, an applicant could have submitted a proposal to build a casino on any number of properties, some of which were not owned by the City and which therefore would not have included a "purchase price" at all.

177. Regardless, neither the Mayor, the City's Corporation Counsel, nor anyone on the City Council corrected the alderman.

178. An alderman also commented that it was not appropriate to consider supplemental materials after the initial proposals were submitted, despite the fact the RFQ/P allowed the City to consider additional written information, and nothing in the Gambling Act prevented it. No one on the City Council corrected the alderman.

179. The Mayor incorrectly asserted that the process was conducted by the standards that the City put out and that they followed the "right process."

180. The City Council voted 5-4 in favor of reconsideration of a resolution certifying Potawatomi's proposal.

181. Therefore, the City Council authorized a vote on Potawatomi's request for certification to the IGB as if it had not been voted on at the October 17, 2019 Special Meeting.

182. However, the City Council voted 3-6 against certifying Potawatomi's proposal and sending it to the IGB. Once again, the Mayor did not participate in the vote.

183. The minutes of the October 21, 2019 City Council meeting indicate the vote to reconsider Potawatomi's casino proposal and vote to approve a Resolution certifying Potawatomi's proposal were discussed by the corporate authority and acted on by the City Council during the "Old Business" portion of the Agenda. *See* Meeting Minutes from October 21, 2019 City Council meeting, attached as **Exhibit 9**.

184. However, the Agenda for the October 21, 2019 City Council meeting did not have any items to either be discussed or acted upon. *See*, Exhibit 8.

**XIII. City Officials Failed to Perform Their Duties in a Manner to Promote the Public Trust and Preserve the Integrity of Gaming.**

185. Before and during the Spring 2019 Waukegan City Council elections, it was known among City officials and those in the gaming industry that the Illinois legislature was contemplating legislation that would authorize the operation of a casino in the City.

186. In the leadup to the City Council election campaigns in the spring of 2019, a principal of the North Point applicant was the dominant source of funding for a number of different City Council candidates.

187. Those campaign contributions were in amounts unprecedented in a Waukegan City Council election and dominated the sources of campaign revenue.

188. During the same election period, one or more principal(s) of North Point met with City Council candidates to discuss North Point's plans for developing a casino at the Fountain Square property.

189. Four of the candidates supported by the North Point principal won their elections. Those four candidates were amongst the six City Council members who would later vote to certify North Point during the October 17, 2019 special meeting.

190. Each of the four candidates supported by the North Point principal voted against certifying Potawatomi's casino proposal to the IGB at both the October 17, 2019 special meeting and the October 21, 2019 City Council meeting.

191. The certification of the North Point application, despite the fact that it objectively came in last based on the criteria in the RFQ/P, creates the impression that loyalty purchased with campaign contributions was a deciding factor for the certification of the North Point application and not the criteria announced in the RFQ/P.

192. The denial of Potawatomi's application, despite the fact that it objectively came in first or second place based on the criteria in the RFQ/P, creates the impression that the desire to eliminate

potential competition for North Point's bid to the IGB for casino certification, and not the criteria announced in the RFQ/P, was a deciding factor for the City's refusal to certify Potawatomi's proposal.

193. The Illinois Gambling Act prohibits host communities, such as Waukegan, from accepting benefits from casino applicants and taking official actions which create an appearance of impropriety. 230 ILCS 10/5.3.

194. By accepting campaign contributions from the principal of North Point and subsequently voting to certify its application while denying Potawatomi's application with no rational basis for doing so, the City Council failed to exercise its duties and responsibilities in such a manner as to promote and preserve public trust and confidence in the integrity and conduct of gaming.

### **XIII. Good-Faith Review**

195. The Illinois Gambling Act requires the corporate authority to conduct a good-faith review of all applications prior to voting on certification.

196. Potawatomi paid a \$25,000 application fee to the City in order to participate in a fair process for the review and certification of its proposal to the IGB.

197. As confirmed by the City's consultant, Potawatomi's proposal conformed with all requirements of the RFQ/P.

198. The City is required to certify to the IGB that it has participated in such good-faith negotiation and review.

199. Moreover, the Act specifically directs the City to hold a public hearing to discuss the particular issues the City is required to certify to the IGB with respect to each applicant. *Id.*

200. The Act then requires the City to memorialize the details of its review in a resolution or ordinance adopted by a majority of the corporate authority before it may submit its certification to the IGB. *Id.*

201. The location and operation of a new casino in the City is a matter of unique concern to the public health, safety, welfare and morals, and it is vital the City be required to adhere to statutes requiring transparency of government actions and ability of public to participate in the process.

202. Public meetings are required to provide an opportunity for the public to address public officials under the rules established by the public body. 5 ILCS 120/2.06(g).

203. The City's Code of Ordinances provides that the first order of business at each meeting of the City Council, if roll is called and a quorum found to be present, is "audience time," which is the time designated for the public to address public officials under the City's rules.

204. Section 2.06(g) of the Illinois Open Meetings Act provides, "[a]ny person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body." 5 ILCS 120/2.06(g).

205. Therefore, the City's public meetings, including special meetings, are required to contain an opportunity for the public to address public officials. 5 ILCS 120/2.06(g).

206. The City's October 17, 2019 special meeting did not contain any "audience time" or other opportunity for public comment, in violation of 5 ILCS 120/2.06(g).

207. Nevertheless, the City proceeded to vote on the resolutions approving certification of three of the casino applicants to the IGB, and denied certification of Potawatomi's application to the IGB at the October 17, 2019 special meeting.

208. The Johnson Report, which was released in October 2019, was not available at the time of the last meeting of City Council where the public, including Potawatomi, had an opportunity to make a public comment, which was the September 18, 2019 public hearing.

209. Thus, Potawatomi never had an opportunity to be heard by the corporate authority in order to correct the errors contained in the Johnson Report prior to the October 17, 2019 vote, and the corporate authority therefore used incorrect data from the consultant to evaluate the proposals.

210. The Johnson Report prepared by the City's consultant was demonstrably erroneous and misleading and Potawatomi was not given an opportunity to correct the errors because the City refused to allow public comment at the October 17, 2019 special meeting, in violation of the Open Meetings Act.

211. The City's RFQ/P did not stipulate that supplemental materials would not be considered. The City's RFQ/P did not identify the purchase price for its land would be the "most important" consideration for its decision whether to certify a casino license applicant to the IGB.

212. The City withheld from the applicants certain information it had about the alleged fair market value of its property, instead essentially auctioned certifications off to the highest "bidders" by inviting them to solicit open, uninformed "bids" for its property, which resulted in one bid being nearly 5x the alleged fair market value of the property.

213. After the proposals were submitted, the City's refusal to consider supplemental materials submitted by the applicants specifically harmed Potawatomi, after the City's consultant erroneously characterized Potawatomi's offer to negotiate in good faith based on the property's fair market value as a "bid" to purchase the property for "\$5.6 million."

214. The City's resolutions adopted at the October 17, 2019 special meeting purporting to certify the other three applicants to the IGB were not adopted within the purview of the Open Meetings Act public comment requirement and therefore should be deemed void by this Court.

215. The City's failure to follow the requirements of the Open Meetings Act as well as its own Code provisions regarding the order of business at City Council meetings, failure to permit public comment, unwarranted refusal to accept the motion to reconsider, and unwarranted refusal to add items to the agenda demonstrates its refusal to act in good faith towards Potawatomi.

216. The City's failure to follow the guidelines in its own RFQ/P for purposes of evaluating the proposals demonstrates the City's refusal to act in good faith towards Potawatomi.



217. In particular, the City's certification of other applicants who failed to follow the RFQ's guidelines, but refusal to certify Potawatomi for offering to pay within a reasonable range of fair market value for the City's property, demonstrates its refusal to act in good faith towards Potawatomi.

218. The City's engagement of a consultant that failed to follow the City's RFQ/P guidelines, and consideration of that consultant's flawed report for purposes of assessing the proposals despite being aware of the errors, demonstrates the City's refusal to act in good faith toward Potawatomi.

219. The City's failure to follow the guidelines of the Illinois Gambling Act with respect to the process of evaluating, voting for and certifying applicants to the IGB demonstrates the City's refusal to act in good faith toward Potawatomi.

220. Potawatomi has a tangible legal interest in participating in the IGB's open and competitive bidding process to be considered for a license to operate a casino in the City.

221. There is an actual controversy between Potawatomi and the City with respect to the validity of the October 17, 2019 and October 21, 2019 resolutions passed by the City.

222. IGB will not consider Potawatomi's application unless it receives a certification from the City as to that application, but it will consider the other three applications because it received the City's resolutions approving such certifications.

223. IGB may then decide to issue the single license to one of the other applicants, but Potawatomi will have been denied the right to participate in that process, despite its attempts to negotiate in good faith with the City as required by the statute. 230 ILCS 10/7(e-5).

**COUNT I  
EQUAL PROTECTION VIOLATION**

224. Potawatomi restates and realleges paragraphs 1-219 of the Facts Common to All Counts as paragraph 220 of this Count I.

225. Potawatomi, as a limited liability company, is a “person” pursuant to the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

226. The City subjected Potawatomi to conduct that occurred under color of state law.

227. The City is a “person” pursuant to 42 U.S.C. §1983.

228. The conduct complained of occurred under 230 ILCS 10/1 *et seq.*, *i.e.*, the Illinois Gambling Act.

229. The City’s conduct deprived Potawatomi of its equal protection rights guaranteed under the Fourteenth Amendment to the United States Constitution.

230. Potawatomi is similarly situated to its fellow applicants: Rivers, Full House and North Point.

231. Despite being similarly situated, the City certified only three of the four applicants, excluding Potawatomi.

232. In so doing, the City arbitrarily treated Potawatomi differently than the other applicants, in violation of 42 U.S.C. §1983 and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

233. Potawatomi had a right to the same consideration as similarly situated applicants, including Rivers, Full House and North Point.

234. There is no rational basis for the City to treat Potawatomi differently than the other applicants.

235. The City’s failure to treat Potawatomi the same as similarly situated applicants serves no legitimate government purpose.

236. The City’s equal protection violations that caused Potawatomi not to be treated the same as similarly situated applicants is not a loss without injury, as the award of a casino license is at stake.

WHEREFORE, Potawatomi requests this Court:

- a. find and declare that the City of Waukegan violated 42 U.S.C. §1983 and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 2 of the Illinois Constitution by treating Potawatomi differently than similarly situated persons, *i.e.*, the other applicants;
- b. find and declare the City of Waukegan's October 17, 2019 resolutions certifying proposals to the Illinois Gaming Board are void due to the City of Waukegan's Equal Protection violations;
- c. issue a mandatory injunction order directing the City to certify Potawatomi's application to the Illinois Gaming Board;
- d. award plaintiff compensatory and punitive damages in an amount to be proven at trial;
- e. award plaintiff its attorneys' fees and costs pursuant to 42 U.S.C. §1988(b); and
- f. any other relief this Court deems proper.

## **COUNT II**

### **VIOLATION OF DUTY TO CERTIFY IN GOOD FAITH (230 ILCS 10/7.5(e-5))**

237. Potawatomi restates and realleges paragraphs 220-232 of Count I as paragraph 233 of this Count II.

238. The Illinois Gambling Act is enacted for the benefit of the people of Illinois. 230 ILCS 10/2(a).

239. As an Illinois limited liability company, Potawatomi is a member of the class for whose benefit the Illinois Gambling Act was enacted.

240. The underlying legislative purpose of the Illinois Gambling Act is to assist in economic development, promote Illinois tourism, and increase state revenue, while promoting public confidence

and trust in the credibility and integrity of gambling operations and its regulatory process. 230 ILCS 10/2(a), (b).

241. The Illinois Gambling Act requires the corporate authority of the City to hold a public hearing to consider whether to certify an applicant to the IGB. 230 ILCS 10/7(e-5).

242. The City is required to use good faith in exercising its discretion to determine whether to certify an applicant to the IGB.

243. Potawatomi submitted its application in conformance with the City's RFQ/P in an attempt to negotiate with the City in good faith to receive a certification to the IGB.

244. The City did not negotiate with Potawatomi in good faith before determining not to certify Potawatomi to the IGB.

245. The City's decision to certify three of the four similarly situated applicants to the IGB while refusing to certify Potawatomi's application was not exercised in good faith.

246. Potawatomi has been damaged by the City's failure to certify its application in good faith in that it has been deprived of the opportunity to participate in the open and competitive bidding process to receive a casino license from the IGB.

247. Had the City exercised good faith in its consideration of Potawatomi's application, it would have certified Potawatomi's application to the IGB for its participation in the open and competitive bidding process with the other applicants.

248. The City's failure to exercise good faith in its consideration of Potawatomi's application does not promote public confidence and trust in the credibility and integrity of gambling operations and the regulatory process thereof.

249. Potawatomi's injury at the hands of the City is one the Act was designed to prevent.

250. The Act does not expressly provide for a private right of action for Potawatomi's injury at the hands of the City.

251. It is necessary to provide an adequate remedy for the City's violation of its duty to exercise good faith in exercising its discretion under the Act.

252. Therefore, it is appropriate for Potawatomi to maintain a cause of action impliedly created by the Act to redress the City's violation.

253. Potawatomi's right to participate in the open and competitive bidding process is a clearly ascertainable right in need of protection.

254. Potawatomi will be irreparably harmed if the IGB awards the casino license to another bidder without considering Potawatomi's application.

255. Potawatomi's damages as a result of the loss of its ability to participate in the open and competitive bidding process for a casino license from IGB cannot be quantified to a reasonable degree of certainty, and thus Potawatomi has no adequate remedy at law.

WHEREFORE, Potawatomi requests this Court:

- a. Find and declare the City's refusal to certify Potawatomi's application to the IGB was in violation of its duty to exercise good faith under the Illinois Gambling Act; and,
- b. Issue a mandatory injunction order directing the City to certify Potawatomi's application to the Illinois Gaming Board.

### **COUNT III – VIOLATION OF OPEN MEETINGS ACT**

256. Potawatomi restates and realleges paragraphs 233 - 251 of its Count II as paragraph 252 of this Count III.

257. Potawatomi's motion to reconsider was not added to the Agenda for the October 21, 2019 City Council meeting.

258. The Open Meetings Act requires that the public shall be given advance notice of and the right to attend all meetings at which any business of a public body is discussed or acted upon in any way. 5 ILCS 120/1.

259. There are exceptions to this policy, but only under limited circumstances that do not exist here.

260. At the October 21, 2019 City Council meeting, the City Council discussed and acted on the motion to reconsider.

261. The City Council discussed and acted on the motion to reconsider, despite not adding the motion to reconsider to the meeting agenda and giving notice to the public, including Potawatomi, that it would be discussed or acted upon.

262. The City's failure to include the motion to reconsider on the statutorily-required agenda prior to the October 21, 2019 City Council meeting violated the requirements of the Open Meetings Act.

WHEREFORE, Potawatomi asks that this Court:

- a. find and declare that the City of Waukegan violated the Open Meetings Act on October 19, 2019, by failing to post an Agenda for the October 21, 2019 City Council meeting indicating the corporate authority's intention to discuss and act upon the Motion to Reconsider submitted on behalf of Potawatomi;
- b. find and declare that the City of Waukegan violated the Open Meetings Act on October 21, 2019 by discussing and acting on the Motion to Reconsider despite failing to properly add it to the Agenda for that meeting;
- c. find and declare that the City Council's October 21, 2019 vote denying certification of Potawatomi's proposal is void;
- d. issue a mandatory injunction order directing the City of Waukegan to immediately certify Potawatomi's proposal to the Illinois Gaming Board; and,
- e. any other relief this Court deems proper.

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WAUKEGAN POTAWATOMI CASINO,  
LLC

By: \_\_\_\_\_  
One of its attorneys

**VERIFICATION**

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this First Amended Verified Complaint for Damages and Other Relief are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

**WAUKEGAN POTAWATOMI CASINO, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_



1/2/2020 3:20 PM

ERIN CARTWRIGHT WEINSTEIN

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
LAKE COUNTY, ILLINOIS - CHANCERY DIVISION  
Clerk of the Circuit Court  
Lake County, Illinois

WAUKEGAN POTAWATOMI CASINO, LLC	)	
an Illinois limited liability company,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 19 CH 1190
	)	
CITY OF WAUKEGAN, an Illinois municipal	)	
corporation,	)	
	)	
Defendant.	)	

**NOTICE OF FILING**

TO: Robert T. O'Donnell  
Gerald P. Callaghan  
Hayleigh Herchenback  
O'Donnell Callaghan LLC  
28045 N. Ashley Drive, Suite 101  
Libertyville, IL 60048

PLEASE TAKE NOTICE that on January 2, 2020, we filed with the Clerk of the Circuit Court of Lake County, **Defendant City of Waukegan's Appearance**, a copy of which is attached hereto and served upon you.

/s/ Rick Hammond  
One of the Attorneys for Defendant

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ARDC#6197431

**CERTIFICATE OF SERVICE**

The undersigned, a non-attorney, states that she served the above stated documents to the party of record in this cause via e-mail, on January 2, 2020.

[x] /s/Tarhonda Jones  
Under penalties as provided by law pursuant to  
735 ILCS 5/1-109, I certify that the statements set forth  
herein are true and correct.

ERIN CARTWRIGHT WEINSTEIN  
Clerk of the Circuit Court  
Lake County, Illinois

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
LAKE COUNTY, ILLINOIS

Waukegan Potawatomi Casino, LLC	)
	)
Plaintiff(s)	)
vs.	)
	)
City of Waukegan	)
	)
Defendant(s)	)

Gen No: 19 CH 1190

**APPEARANCE**

**By an attorney:**

The undersigned Rick Hammond hereby enters an appearance  
on behalf of City of Waukegan in the above entitled cause.

**By an individual as a Self-Represented Litigant (SRL):**

The undersigned \_\_\_\_\_ hereby enters an appearance  
on behalf of myself in the above entitled cause.

/s/ Rick Hammond

Signature

Prepared by:

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FILED  
1/31/2020 11:55 AM  
ERIN CARTWRIGHT WEINSTEIN  
Clerk of the Circuit Court  
Lake County, Illinois

IN THE CIRCUIT COURT OF NINETEENTH JUDICIAL DISTRICT  
LAKE COUNTY, ILLINOIS

WAUKEGAN POTAWATOMI CASINO,  
LLC, an Illinois limited liability company,

Plaintiff,

v.

CITY OF WAUKEGAN, an Illinois municipal  
corporation,

Defendant.

Case No. 19 CH 1190

**FIRST AMENDED VERIFIED COMPLAINT FOR DAMAGES AND OTHER RELIEF**

Plaintiff, Waukegan Potawatomi Casino, LLC (“Potawatomi”), by its attorneys, O’Donnell Callaghan LLC, for its first amended verified complaint against defendant City of Waukegan, states as follows:

**FACTS COMMON TO ALL COUNTS**

**I. Nature of Action**

1. In the fall of 2019, the City of Waukegan (the “City”) engaged in a flawed process to evaluate and vote on whether to certify each of four casino license applicants to the Illinois Gaming Board, who will make the final determination as to which applicant, if any, will be chosen to receive a license to operate a casino in the City.

2. All four applicants were similarly situated, as confirmed by the independent consultant engaged by the City to evaluate the casino proposals, who represented that all four applicants were well-qualified applicants of high integrity with reasonable proposals. However, Potawatomi was singled out for disparate treatment and, despite being similarly situated to the other applicants, was the sole applicant the City refused to certify to the Illinois Gaming Board.

3. Potawatomi brings this action pursuant to the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, under federal law, 42 U.S.C. §1983, Article

I Section 2 of the Illinois Constitution, the Illinois Gambling Act, 230 ILCS 10/1, *et seq.*, and the Open Meetings Act, 5 ILCS 120/1, *et seq.*

## **II. Parties and Venue**

4. Plaintiff is an Illinois limited liability company owned by the Forest County Potawatomi Community of Wisconsin, descendants of the Potawatomi Indian Tribe that through the early part of the 19<sup>th</sup> Century occupied a large territory covering most of the western shore of Lake Michigan, including Waukegan. In fact, Waukegan is the Potawatomi word for Trading Post.

5. The Forest County Potawatomi Community of Wisconsin d/b/a Potawatomi Hotel and Casino, operates a casino in Milwaukee, Wisconsin, under the Indian Gaming Regulatory Act, 25 U.S.C. §2701 *et seq.*

6. The City of Waukegan (the “City”), is an Illinois municipal corporation in Lake County, Illinois.

## **III. Waukegan Receives the Opportunity to Host a Casino**

7. Effective June 28, 2019, the Illinois General Assembly approved an amendment to the Illinois Gambling Act, 230 ILCS 10 *et seq.*, that provided the City the opportunity to have a casino. The amendment is known as Senate Bill 690 (“SB 690”).

8. Under SB 690, the Illinois Gaming Board (the “IGB”) may issue one owner’s license authorizing the operation of a casino in the City, as codified at 230 ILCS 10/7(e-5).

9. The process by which applicants may apply to the IGB for the license is set forth in SB 690. Applications were to be submitted to the IGB no later than 120 days following the effective date of SB 690, *i.e.*, October 25, 2019. All applications were to be accompanied by a nonrefundable application fee and a nonrefundable background investigation fee.

10. The IGB will only consider an application for a casino license if the corporate authority of the City has certified to the IGB that the corporate authority and the applicant have negotiated in

good faith and have mutually agreed on statutorily prescribed considerations for the proposed casino. 230 ILCS 10/7(e-5).

11. The corporate authority of the City is comprised of the mayor and the City's nine aldermen.

12. At least seven days before the corporate authority certifies any applicant(s) to the IGB, the Illinois Gambling Act requires the corporate authority to hold a public hearing to discuss the statutorily prescribed considerations and other details concerning the casino in the City. 230 ILCS 10/7(e-5)

13. The corporate authority must subsequently memorialize the details about the proposed casino in a resolution that must be adopted by a majority of the corporate authority before certification is sent to the IGB. 230 ILCS 10/7(e-5).

14. There is no statutory limit on how many applicants the City can certify to the IGB; it could certify all applicants or even none.

15. The IGB will review the proposals of an applicant(s) certified by the City pursuant to the provisions of the statute and IGB Rules. The review will cover, among other things, the financial wherewithal of each applicant as well as the character and reputation of an applicant's key persons.

16. After its investigation and review, the IGB may approve a license to only one applicant permitting its operation of a casino in the City.

17. The applicant chosen by the IGB will invest somewhere between \$250-\$500 million in the casino project.

#### **IV. Waukegan's Request for Qualifications and Proposals**

18. On July 3, 2019, the City released a Request for Qualifications and Proposals ("RFQ/P") for those applicants seeking certification by the City to the IGB for a license to develop

and operate a casino in the City. The initial deadline for proposals was July 22, 2019, but the deadline was extended to August 5, 2019. *See* Request for Qualifications and Proposals, attached as **Exhibit 1**.

19. The RFQ/P was written by the City Planner without the advice of a gaming consultant. It was not reviewed or approved by the corporate authority prior to being released.

20. The RFQ/P specified certain Submittal Requirements, including five components for which the applicant was required to provide a thorough and detailed response. Exhibit 1, pp. 2-4.

21. The Submittal Requirements included four components: (1) property specifications and location; (2) description of proposed development; (3) project team and experience; (4) financial data; plus a \$25,000 application fee. Exhibit 1, pp. 2-4.

22. Five applicants, including Potawatomi, responded to the RFQ/P. During the review process, one of the applicants dropped out, leaving only four applicants: Potawatomi, CDI-RSG Waukegan, LLC (commonly known as “Rivers”), Lakeside Casino, LLC d/b/a North Point Casino (“North Point”), and Full House Resorts, Inc. (“Full House”).

23. Each of the four applicants are similarly situated because, in order to be considered, each applicant was required to submit materials and an application fee pursuant to guidelines set forth in the RFQ/P, each applicant ostensibly was to be evaluated based on the same criteria as all other candidates, and a vote was to be taken by the corporate authority as to whether or not to certify the applicant to the IGB based on its merits as set forth in the RFQ/P.

24. The RFQ/P identified the City’s “Development Objectives” as: “[t]he City is seeking a financially successful development that maximizes sales tax and gaming revenues to the City and that provides a significant number of quality jobs to its residents, as well as increasing the City’s EAV [Equalized Assessed Valuations] and bolstering its property tax base.” Exhibit 1, p. 2.

25. The property specifications and location component of the RFQ/P required applicants to identify a proposed location for the casino. The RFQ/P identified a City-owned

property, known as Fountain Square, as one potential site for the casino, in addition to other potential locations, some of which are owned by the City and some of which are not.

26. In addition to identifying the proposed location for the casino, the applicants were asked to describe the plan to acquire the development locations, including “detail of property size and access requirements, and any other pertinent specifications.” Exhibit 1, p. 3.

27. According to the RFQ/P, the proposals would be ranked by a “City of Waukegan Review Team,” or Casino Review Team, including staff and consultants, based on how well the proposals meet the Development Objectives and Submittal Requirements in the RFQ/P. Exhibit 1, p. 5.

28. The applicants were not permitted to communicate with the City Council, City employees or contractors involved in the RFQ/P process, except as allowed by the RFQ/P.

29. The RFQ/P further stated that staff and consultants would “evaluate economic, financial, and other submittal information.” Exhibit 1, p. 5.

30. According to the RFQ/P, one or more Project Team(s) were to be selected “with whom the City will enter negotiations to become the chosen casino developer/ operator.” Exhibit 1, p. 5.

31. The City had no clear authority to establish the Casino Review Team.

32. The Casino Review Team did not keep official records of its proceedings.

33. The RFQ/P did not identify the purchase price for City property, if any, as the sole criterion, or even an important criterion, on which it would determine whether to certify an applicant to the IGB. Applicants could have submitted a proposal identifying City property as the proposed site for their casino, or any one of the non-City owned properties identified in the RFQ/P.

34. The Illinois Gambling Act requires the IGB to give preference to applicants with minority ownership of at least 16%. 230 ILCS 10/7(b)(4).

35. Potawatomi is uniquely qualified to meet the IGB standards for awarding a casino license because, in addition to having experience developing and operating a highly successful casino in Wisconsin, the casino proposed by Potawatomi, unlike the other applicants, would be 100% minority-owned. In the RFQ/P, the City committed to selecting one or more of the applicants to enter negotiations with the City to become the chosen casino developer/operator. The City did not limit the number of applications it would certify to the IGB. Exhibit 1, p. 5.

36. On August 5, 2019, in response to the RFQ/P, Potawatomi submitted its proposal to develop, own and operate a casino, known as the Waukegan Potawatomi Casino (“WPC”), on the Fountain Square property. *See* Waukegan Potawatomi Casino Proposal, attached as **Exhibit 2**.<sup>1</sup>

37. Plaintiff’s proposal was timely and conformed to the requirements detailed in the City’s RFQ/P.

#### V. Purchase Price for Fountain Square Property

38. The RFQ/P stated, “[i]f purchase of City property is contemplated, an offer for the selected site(s) should be provided.” Exhibit 1, p. 3.

39. The RFQ/P did not specify that the “offer” should contain a specific purchase price for any specific City-owned property; in fact, the RFQ/P specifically stated that as a result of the RFQ/P process, “[o]ne or more Project Team(s) will be selected with whom the City will enter negotiations to become the chosen casino developer/operator.” Exhibit 1, p. 5.

40. Although they were not required to do so, all four of the applicants selected the Fountain Square property as the proposed location for the casino.

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<sup>1</sup> Exhibit 2 contains the Waukegan Potawatomi Casino Proposal with certain confidential, financial information redacted. The complete, unredacted Proposal will be provided at the appropriate time pursuant to a protective order.



41. Unbeknownst to Potawatomi, the City obtained an appraisal for the Fountain Square property as of June 2019. However, the City did not share the existence or disclose the results of that appraisal with the applicants, who were unaware of what the City believed the fair market value of the Fountain Square property to be.

42. In its July 26, 2019 Update, upon request by one of the applicants, the City declined to state an asking price for the Fountain Square property, stating that it preferred instead to consider offers from the applicants.

43. Prior to submitting its casino proposal to the City, Potawatomi did not know what the fair market value of the Fountain Square property was and like the other applicants did not have sufficient time to obtain its own appraisal in advance of the application deadline.

44. Without an indication of the property's fair market value, Potawatomi's proposal contained a commitment to negotiate and pay cash upfront for the Fountain Square property within 15% of the property's appraised fair market value, which Potawatomi assumed would be determined based on its highest and best use as a casino site.

45. Based on the express language of the RFQ/P, Potawatomi understood its offer of appraised value  $\pm 15\%$  to be an offer to negotiate in good faith with the City for the purchase of its land within the parameters set forth in the RFQ/P either before or after it was certified to the IGB and eventually chosen for the license.

46. Potawatomi's offer for the purchase of the Fountain Square property was consistent with the Illinois Gambling Act's requirements that casino applicants negotiate in good faith with the municipality. Potawatomi's offer followed the requirements set forth in the RFQ/P and it indicated a willingness to negotiate the purchase price within a reasonable range based on a fair market value obtained by an appraisal of the Fountain Square property based on highest and best use. 230 ILCS 10/7(e-5).

47. According to the City, the June 2019 appraisal, which Potawatomi has never had access to, valued the Fountain Square property at \$5.6 million; however, Potawatomi is not privy to the assumptions that were used in the determination of the appraised value including, but not limited to, the property's highest and best use.

48. Potawatomi's offer for the purchase of the Fountain Square property was not based on the City's \$5.6 million appraisal.

49. The other three applicants proposed a variety of purchase scenarios ranging from \$11 million to \$30 million, some of which were highly speculative, including payments over time or a long-term lease from the City. In contrast, Potawatomi offered to pay cash in full at the time the IGB grants the casino license to Potawatomi in an amount based on the property's fair market value.

#### **VI. September 18, 2019 Public Hearing**

50. After receiving the four applications, the City retained an outside consultant, Johnson Consulting, to assist it in reviewing and evaluating the proposals submitted in response to the RFQ; in other words, to help the corporate authority make its decision as to which applicants to certify to the IGB.

51. The City's outside consultant, Johnson Consulting, was not hired using the City's competitive bidding procedures. Rather, Johnson Consulting was hired at the urging of the Mayor without ever being vetted by the City Council.

52. On September 12, 2019, a team of Potawatomi representatives were interviewed by the City's Casino Review Team regarding its proposal. Those in attendance for the City included Corporation Counsel, Assistant Corporation Counsel, City Planning and Zoning Director, City Director of Finance, and two outside consultants from Johnson Consulting.

53. During this interview, there was no discussion of the Fountain Square property purchase price and no disclosure of the City's appraisal.

54. On September 18, 2019, after providing notice to the public as required by the Open Meetings Act, the City Council held a public hearing at which each of the applicants, including Potawatomi, were given 15 minutes to present their proposals and 15 minutes to answer questions from the City Council.

55. The Gambling Act required the City to hold a public hearing to discuss the required terms for certification and other details concerning the proposed casino. 230 ILCS 10/7(e-5).

56. Those required terms for certification and other details concerning the proposed casino were not addressed at the September 18, 2019 public hearing.

57. During the September 18, 2019 public hearing, after the presentations and questioning of applicants, the consultant provided an oral report assessing the proposals.

58. The consultant opined that each of the four applicants presented compelling proposals, and that none of the proposals contained “fatal flaws” that would disqualify them from certification.

59. In fact, two of the other applicants (North Point and Full House) failed to include with their application certain information required by the RFQ; however, the consultant did not address these violations of the RFQ/P in his analysis.

60. The consultant stated that it was his understanding that each of the applicants had “a willingness to negotiate the purchase price” for the Fountain Square property.

61. During his oral report, the consultant made at least one material misstatement regarding Potawatomi’s proposal. The consultant’s report included the statement that Potawatomi offered to purchase the Fountain Square property from the City for \$5.6 million.

62. Nowhere in Potawatomi’s proposal is there an offer to purchase the Fountain Square property for \$5.6 million. *See* Exhibit 2.

63. The consultant apparently obtained his \$5.6 million figure from the City's June 2019 appraisal, which allegedly appraised the Fountain Square property at \$5,625,000, based on unknown criteria.

64. Potawatomi was not provided an opportunity to correct the consultant's misstatement at the public hearing.

65. The September 18, 2019 public hearing began at 4:00 p.m. and was adjourned by the Mayor at 8:00 p.m., as the previously announced time. *See* Agenda for September 18, 2019 public hearing, attached as Exhibit 3.

#### **VII. Potawatomi Invited to Correct the Consultant's Error**

66. The day after the September 18, 2019 public hearing at which Potawatomi's proposed purchase price was incorrectly reported by the consultant as \$5.6 million, a representative of Potawatomi spoke with the City's Assistant Corporation Counsel to ask how it could correct the consultant's erroneous statements made at the public hearing.

67. Noting that the City's Corporation Counsel was away on vacation, the City's Assistant Corporation Counsel invited Potawatomi to send a supplemental submission directly to him. According to the Assistant Corporation Counsel, Potawatomi did not need to submit the information through the Casino Review Team website.

68. The RFQ/P and the City's July 15, 2019 Update to the RFQ/P state that the City was permitted to invite applicants to provide additional written information.

69. The Assistant Corporation Counsel stated that the supplemental information could correct the proposed purchase price in light of the consultant's misleading and inaccurate public comments at the September 18, 2019 public hearing.

70. The supplemental materials did not constitute an “enhanced offer” or an “alteration” of the application but rather a supplement to the information contained therein, as provided for by the RFQ/P, to correct the consultant’s misstatements.

71. The City’s Assistant Corporation Counsel never told Potawatomi that the supplemental submission would be barred or was otherwise inappropriate. Instead, he told Potawatomi that he would accept the supplemental materials and would take care of their distribution.

72. Adhering to the Assistant City’s Corporation Counsel’s direction, on October 4, 2019, Potawatomi hand-delivered multiple copies of a letter (the “Supplemental Letter”) to 19 N. County Street and emailed the same to the City’s Corporation Counsel and Assistant Corporation Counsel. A copy of the October 4, 2019 Supplemental Letter is attached as **Exhibit 4**.

73. The Supplemental Letter corrected the consultant’s misstatement of Potawatomi’s proposal, including the purchase price for the Fountain Square property, which had the effect of putting Potawatomi’s proposal in a negative light when compared to the other proposals, which the City was now treating as “bids” to purchase the Fountain Square property.

74. The Supplemental Letter identified the consultant’s misstatement as to the amount of Potawatomi’s offer for the Fountain Square property, and corrected that Potawatomi’s proposal did not include an offer to purchase the property for \$5.6 million.

75. In light of the consultant’s erroneous statement, the Supplemental Letter contained an offer to purchase the Fountain Square property for \$12 million, Potawatomi’s best estimate of its appraised value based on the highest and best use as a casino. Exhibit 4, p. 3.

76. The purpose of submitting the Supplemental Letter was to put Potawatomi on equal footing with the other applicants in light of the consultant’s misstatements by providing a proposed purchase price with a fixed value to assist the corporate authority in evaluating the applicants’ proposals.

77. Despite the fact that the City invited a bid and the City allowed Potawatomi to make a bid, the City did not actually consider Potawatomi's bid. Instead, the City assigned a value of \$5.6 million to the proposal, even after Potawatomi told the City that this amount was inappropriately attributed to Potawatomi's proposal by the consultant.

78. After the City allowed Potawatomi to submit the Supplemental Letter, the City then refused to accept its efforts to correct the consultant's and the City's error with respect to purchase price.

79. On October 7, 2019, a representative of Potawatomi had a conversation with the City's Corporation Counsel at which time, the representative asked if he had received the Supplemental Letter.

80. The Corporation Counsel claimed that all of the applicants had the same deadline and the City would not accept proposals after that time.

81. After Potawatomi's representative explained that the purpose of the supplemental submission was to correct inaccurate information provided by the consultant during the public hearing, not to submit a new proposal, Corporation Counsel stated that he would make a ruling, and that Potawatomi would be advised in writing.

82. Later, the City's Corporation Counsel inaccurately characterized the Supplemental Letter as an inappropriate attempt by Potawatomi to "sweeten their bid," after it became clear the City had chosen to make erroneous assumptions about its offer to negotiate the purchase price of the Fountain Square property.

83. The City's Corporation Counsel and the City's consultant decided not to revise the consultant's analysis to include the information contained in the Supplemental Letter, claiming it would be "unfair to the other bidders," as if instead of certifying applicants to the IGB, the City was simply auctioning off its property.

84. Notwithstanding the Gambling Act's requirement that the City and any applicants "negotiate in good faith," and the statement in the City's RFQ/P that after evaluating the proposals, the City would "enter negotiations" with selected Project Teams to determine which would become the chosen casino developer, the City did not receive Potawatomi's offer to negotiate the purchase price within a range of the property's fair market value in good faith.

85. The City deviated from the express language of the RFQ/P and, rather than allowing the negotiation of the purchase price, required a numeric bid by which to compare the proposals.

86. Once the City's Corporation Counsel and consultant refused to consider the Supplemental Letter, it became apparent the City was not looking to negotiate in good faith and, contrary to the instructions in its RFQ/P, instead wanted applicants to simply bid on the Fountain Square property.

87. The City's Corporation Counsel and the consultant decided the consultant's report, provided to the corporate authority to evaluate the proposals, would stand despite knowing it erroneously assessed Potawatomi's application as if it had "bid" \$5.6 million.

#### **VIII. The Johnson Report**

88. On October 11, 2019, the City posted on its website a report from Johnson Consulting entitled "Casino Developer and Operator Solicitation - Waukegan, IL: Advisory Services Report" (the "Johnson Report"). *See* Casino Developer and Operator Solicitation - Waukegan, IL Advisory Services Report, attached as **Exhibit 5**.

89. The Johnson Report did not conform with the consultant's proposal to the City with respect to the scope of work, *i.e.*, a market study was not prepared, or with the City's RFQ/P.

90. The Johnson Report rated the proposals of each of the applicants based on the components of the RFQ/P, breaking those components down further into the following seven substantive subcategories for each proposed casino: (i) purchase price offered for the Fountain Square

property; (ii) size of the proposed casino; (iii) annual employment created; (iv) projected gaming admissions tax revenue; (v) estimated project cost; (vi) projected gross device and table gaming revenue; and (vii) projected average gaming revenue. *See* Exhibit 5.

91. Potawatomi's proposal was ranked first or second in the Johnson Report in six of the seven substantive subcategories. The only category Potawatomi was not ranked first or second was the proposed purchase price for the Fountain Square property, which was based on the erroneous \$5.6 million "bid." *See, generally*, Exhibit 5.

92. The Johnson Report then provided an overall ranking of the four proposals using the four components from the RFQ/P, ostensibly based on its assessment of the seven substantive subcategories. Exhibit 5, p. 18.

93. The Score Matrix in the Johnson Report indicates that the consultant used simple averaging of the scores assigned to each of the four RFQ/P components, *i.e.*, the consultant assigned Potawatomi scores of 3, 3, 2, and 2, which averaged out to 2.5. Exhibit 5, p. 18.

94. Notwithstanding Potawatomi's rank of first or second in six of the seven substantive subcategories, the Johnson Report inexplicably assigned values of 2 and 3 to the four RFQ/P components, which resulted in Potawatomi having the lowest overall ranking out of the four proposals. Exhibit 5, p. 18.

95. A review of the Johnson Report demonstrates that its "simple mathematics" just do not add up.

96. For purchase price, the Johnson Report evaluated Potawatomi's application based on its alleged \$5.6 million "bid" for the Fountains Square property, and did not consider the Supplemental Letter the City invited Potawatomi to add to its application, and which specifically corrected the consultant's inaccurate assumption about Potawatomi's purchase price. *See* Exhibit 5, p. 5.



97. Even assuming Potawatomi had offered \$5.6 million to purchase the Fountain Square property, Potawatomi's proposal should have objectively come in second out of four, just slightly below Rivers but significantly ahead of Full House and North Point. *See* October 18, 2019 Letter to the City from Potawatomi, attached as **Exhibit 6**.

98. Had the Johnson Report considered the \$12 million purchase price identified in the Supplemental Letter, Potawatomi would have scored even higher.

99. The Johnson Report did not address or acknowledge that both Full House and North Point failed to include certain required information required by the RFQ/P, including Admission Tax estimates, Economic Benefits and Temporary Casino specificity.

100. Because the Johnson Report was overly simplistic and lacked any substantive analysis of the proposals, the highest "ranking" applicant was Full House, the bidder with the most speculative proposal.

101. Additionally, with respect to purchase price, the consultant did not make even the most basic inferences to account for the value of money over time, particularly in light of the fact that one "bid" called for payments over a series of years and at least one bid could be seen as speculative, while Potawatomi's offer was for \$12 million cash up front.

102. Potawatomi's project team's qualifications and its casino experience were, by any objective measure, superior to both Full House and North Point, yet Full House was arbitrarily given a higher score than Potawatomi, and North Point was scored the same as Potawatomi, for the "project team and experience" component of the RFQ/P.

103. The Johnson Report cast doubt on the projected gaming revenue of Rivers and Potawatomi, but the report did not include an independent projection, a market assessment of a casino in Waukegan or an analysis of the applicants' projections.

104. Despite the fact that the Johnson Report's numerical ranking of the substantive categories put Potawatomi in 1st or 2nd place, Potawatomi was inexplicably ranked last among the four applications.

**X. October 17, 2019 Special Meeting**

105. On October 17, 2019, the City Council held a special meeting for a public hearing to consider the Johnson Report and to vote on resolutions to certify each of the proposals. The October 17, 2019 special meeting was not a continuation of any other prior meeting of the City Council.

106. At the beginning of the meeting, roll call of the corporate authority was called and a quorum found to be present.

107. At the special meeting, the consultant made an oral presentation describing the methodology of his report.

108. During his comments, the consultant informed the City Council that, after reviewing all of the proposals (excluding any supplemental materials), each one of the applicants was qualified and the City would do well if it approved any of the applicants.

109. The consultant further claimed that he assessed the capability and background of each of the applicants and determined them all to be suitable.

110. The consultant was challenged by the Council as to the basis for his overall ranking of the applicants, remarking Potawatomi ranked first or second in each of the ranking criteria in the Johnson Report except for purchase price, yet still somehow was ranked in fourth place overall. The consultant was not able to provide an intelligible response.

111. The Council further challenged the consultant to explain why none of the applicants' supplemental information was included in his findings. The consultant erroneously responded that he was legally prohibited from doing so by a so-called "process."

112. The consultant's reasoning, for which he offered no corroboration, and which was contrary to the express language of the RFQ/P, was that, once the "bids" were in and visible to all "bidders," it was inconsistent in the consultant's view to let the applicants modify their proposals at that point.

113. However, the certification requirement in the Illinois Gambling Act does not contemplate a process by which applicants will "bid" for a municipality's certification.

114. In fact, the IGB did not prescribe a process for the City's consideration of proposals, other than requiring the City to certify it has negotiated with a proposed applicant in good faith and reached an agreement with respect to certain criteria. 230 ILCS 10/7(e-5).

115. Potawatomi's \$12 million offer was not an attempt to modify its proposal or "sweeten its bid"; rather, it had provided supplemental information, based on the City's after-the-fact requirement that applicants provide a fixed monetary "bid" for the Fountain Square property.

116. Despite his protestations that he "could not" consider the Supplemental Letter in his own report, the consultant informed the aldermen that all applicants' supplemental information was contained in the aldermen's meeting packets and they were free to consider the information therein.

117. No one on the Casino Review Team, including the consultant, summarized any of the supplemental information for the corporate authority.

118. The consultant's explanation for why *he* was prohibited from "considering" the applicants' supplement materials, but the aldermen were not, was likewise faulty. The consultant claimed the supplemental materials could be used in subsequent negotiations with the City if the IGB chose one of the applicants to receive the license.

119. However, once an applicant has been certified by the City, its application to the IGB contains all of the information that will be considered and there is no further negotiation contemplated at the municipal level.

120. The IGB makes a final decision to approve a casino license based on the application process at the State level, and that decision is binding on the City.

121. None of the aldermen, the Mayor or the City's Corporation Counsel attempted to disabuse the consultant of his faulty assumption.

122. Johnson Consulting was hired by the City at its own discretion, and thus the City, through the requirements set forth in the RFQ/P, set the parameters for what information could be considered.

123. The RFQ/P specifically states that "the City may chose [*sic*], in its sole discretion, to request additional written information, conduct interviews, hold site visits, or any combination of these." Exhibit 1, p. 5. The City refused to engage the applicants on the casino location.

124. The City invited Potawatomi to provide the supplemental material pursuant to the requirements of the RFQ/P.

125. Ergo, the additional written information submitted by Potawatomi at the Assistant Corporation Counsel's direction became a part of its proposal to be considered in the certification process.

126. Despite criticism of the validity of the Johnson Report from at least two aldermen at the October 17, 2019 special meeting, the consultant stood by his report, noting they had used "simple mathematics" to come up with their ranking, and that no weighting of the data had been employed; in other words, ostensibly no single criterion was given more consideration than the others.

127. However, using "simple mathematics," *i.e.*, an average based on the scores assigned to the seven substantive subcategories by the consultant, without weighting, would place the ranking in the following order, even with the incorrect \$5.6 million purchase price for Potawatomi's proposal: (1) Rivers; (2) Potawatomi; (3) Full House; (4) North Point.

128. There was a roll call and a quorum at the October 17, 2019 special meeting; however, the City Council did not allow for “audience time” as the first order of business or allow any other opportunity for public comment, in violation of the City’s Code of Ordinances and the Open Meetings Act. City Code, §2.62(1); 5 ILCS 120/2.06.

129. The City refused to allow any public participation, including the ability to address the council or the speakers, at the special meeting.

130. When asked by an alderman if the City Council needed to allow for public comment, the Mayor said it was not necessary.

131. The City’s Corporation Counsel, who was present, did not correct the Mayor.

132. The City’s refusal to allow any member of the public to address the Council at the October 17, 2019 special meeting prohibited Potawatomi from disputing the assumptions and the faulty rankings in the Johnson Report and the consultant’s misstatements about the certification process, therefore allowing the misrepresentations to go uncorrected and unchallenged.

133. As a result, the Johnson Report, which was intended to provide the corporate authority with an impartial third party review to assist with its decision-making process and not to add confusion and misinformation, was presented to the aldermen with incorrect and misleading statements that led to a misinformed decision by the City as to which applicants to certify to the IGB.

134. In fact, at least one alderman at the meeting indicated that purchase price of the City-owned property, the one component of Potawatomi’s proposal which the Johnson Report most seriously misrepresented, was the most important criteria for determining whether to certify an applicant to the IGB.

135. However, the Illinois Gambling Act’s certification process does not contemplate a mechanism for the City to entertain and evaluate competing monetary “bids” from applicants seeking certification to the IGB.

136. Nonetheless, the City and its consultant essentially set up an auction for the Fountain Square property, using the City's "offer" to sell its own property for the location of the proposed casino in an improper attempt to compare applicant's "bids" as the primary criteria for whether the City would certify any applicant to the IGB.

137. The City's Corporation Counsel is appointed by the mayor for the purpose of conducting any and all legal matters pertaining to the City as shall be brought to his attention by the mayor and the City Council.

138. The City's Corporation Counsel was involved in many aspects of this process, including but not limited to: the RFQ/P, participating in the Casino Review Team, conducting applicant interviews, presenting at the public hearings, organizing supplemental information, and attending certain City Council meetings.

139. Corporation Counsel was present at the October 17, 2019 special meeting, but failed to advise the Mayor and the City Council when material errors occurred with respect to the Open Meetings Act, the Illinois Gambling Act, the RFQ/P requirements, and the City's obligation to treat each of the four similarly situated applicants equally.

140. Likewise, at the October 17, 2019 special meeting, the Mayor failed to follow procedures set forth in the Open Meetings Act, the Illinois Gambling Act, the RFQ/P requirements, and the requirement to negotiate with Potawatomi in good faith.

141. The corporate authority, Corporation Counsel and the consultant failed to correct the alderman that the RFQ/P did not emphasize purchase price over all other components, nor did the Gambling Act allow the City to do so.

142. Despite claiming that the "Project Team(s)" would enter into negotiations with the City, Potawatomi was never given the opportunity to negotiate with the City with respect to the purchase price of Fountain Square or any other aspect of its proposal.

**XI. The Certification Vote**

143. At the October 17, 2019 special meeting, the City Council voted 6-3 to approve resolutions certifying to the IGB two applicants who ranked lower than Potawatomi on six out of seven criteria: Full House and North Point.

144. The City Council voted 5-4 to approve a resolution certifying Rivers, which ranked just above or just below Potawatomi in each category.

145. The City Council voted by a score of 2-7 to deny the resolution for certification of Potawatomi's application to the IGB.

146. Out of the four candidates, all of whom were deemed qualified candidates by the consultant, Potawatomi was the only one that did not receive a favorable vote for certification.

147. The Illinois Gambling Act requires, after a public hearing on the matter, that the corporate authority must memorialize the details concerning the proposed casino in a resolution that must be adopted by a majority of the corporate authority before any certification is sent to the IGB. 230 ILCS 10/7.

148. The Mayor and nine aldermen constitute the corporate authority in the City; therefore, a majority vote requires at least six of ten members.

149. The Mayor, while present for the meeting, abstained from voting on any of the proposals for certification; each vote was conducted only by the nine aldermen, all of whom were present at the October 17, 2019 Special Meeting.

150. None of the certification resolutions were voted on by the corporate authority, as required by the Illinois Gambling Act.

151. The proposals for Full House, North Point, and Rivers were certified to the IGB on October 21, 2019, even though the vote on the resolution to certify them was not by the corporate authority.

152. After the special meeting, the Mayor reported to the press that the reason that Plaintiff's resolution was not approved was the fact it was ranked lowest of the four proposals by the Johnson Report.

## **XII. Motion for Reconsideration**

153. Immediately after the certification vote, on October 18, 2019, Potawatomi delivered a letter to the City and the Corporation Counsel laying out the factual errors in the Johnson Report, the erroneous oral statements made by the consultant at the Special Meeting and describing the violation of the Open Meetings Act ("October 18th Letter"). *See* Exhibit 6.

154. The October 18th Letter also attached a chart, showing that an accurate calculation of the objective numeric criteria in the Johnson Report, when "simple mathematics" was applied, results in Potawatomi being ranked in second place, slightly below Rivers and far above the Full House and North Point proposals.

155. With an accurate calculation, Potawatomi should have received a second-place ranking in the Johnson Report, even with the erroneous purchase price assumption of \$5.6 million. *See* Exhibit 6.

156. In the October 18th Letter, Potawatomi timely requested the City Council reconsider its vote denying the resolution to certify Potawatomi to the IGB at its upcoming regular City Council meeting on October 21, 2019. Exhibit 6.

157. The Mayor and Corporation Counsel did not respond to the October 18th Letter at that time, nor did they alter the Agenda for the October 21, 2019 City Council meeting.

158. The motion to reconsider the City's denial of Potawatomi's certification could only be brought by one of the nine aldermen who voted on the motion to certify Potawatomi's application.

159. Further, a member can only move to reconsider a City Council vote at the same meeting or the next succeeding meeting.



160. The next succeeding City Council meeting was to take place in four days, on October 21, 2019.

161. The Open Meetings Act requires that agendas for each regular meeting of a public body shall be posted at least 48 hours in advance of the holding of the meeting. 5 ILCS 120/2.02.

162. On October 18, 2019, Potawatomi reached out to certain aldermen to find support for their request that the City Council reconsider their vote not to certify its application, in order that the motion to reconsider could be timely placed on the agenda in advance of the October 21, 2019 City Council meeting.

163. By this time, there was no restriction on Potawatomi contacting City Council members, because the certification vote at the October 17, 2019 special meeting ended the formal RFQ/P process.

164. Representatives from Potawatomi obtained signatures from three aldermen to get the motion to reconsider on the agenda for the October 21, 2019 regular City Council meeting. *See* Request for Agenda Item, Motion to Reconsider, attached as **Exhibit 7**.

165. Of the three aldermen who signed the Request for Agenda Item, Motion to Reconsider, two voted against Potawatomi being certified to the IGB, *i.e.*, they were on the side that prevailed.

166. The Motion to Reconsider met the requirements to be placed on the Agenda for the October 21, 2019 City Council meeting.

167. The Open Meetings Act requires all items to be discussed or acted upon by the corporate authority to be posted on an agenda 48 hours prior to a meeting, or in this case, by Saturday, October 19, 2019.

168. The Agenda request was delivered to the City Clerk on Friday October 18, 2019 at 3:43 pm, the day after the City Council voted; however, without any cause, the City Clerk refused to

sign a receipt for the Agenda request and it was left on the counter. *See* Exhibit 7, lower right-hand corner, p. 1.

169. The City Clerk had no basis for refusing to place the Motion to Reconsider on the Agenda for the October 21, 2019 City Council meeting.

170. The Agenda request by three aldermen was not honored, and the motion to reconsider was not added to the Agenda for the City Council meeting on October 21, 2019 within the required deadline.

171. The Agenda posted for the public did not indicate that Potawatomi's Motion to Reconsider would be discussed or acted on by the corporate authority. *See* Agenda for October 21, 2019, attached as **Exhibit 8**.

172. Potawatomi showed up for the October 21, 2019 meeting, despite the City's failure to include the properly produced Motion to Reconsider on the Agenda, and at approximately 7:00 pm that night, Potawatomi learned its motion to reconsider might be taken up at the City Council meeting.

173. Prior to the vote on the motion to reconsideration, certain aldermen and the Mayor made comments about Potawatomi's proposal.

174. The Mayor incorrectly claimed that the City's appraisal had been provided to the bidders as part of the RFQ/P process when, in fact, the City had purposefully refused to provide the appraisal to the bidders.

175. One alderman reiterated that the purchase price for the Fountain Square property should be the primary consideration, despite the fact that the RFQ/P does not place more weight on any single criterion.

176. In fact, per the RFQ/P, an applicant could have submitted a proposal to build a casino on any number of properties, some of which were not owned by the City and which therefore would not have included a "purchase price" at all.

177. Regardless, neither the Mayor, the City's Corporation Counsel, nor anyone on the City Council corrected the alderman.

178. An alderman also commented that it was not appropriate to consider supplemental materials after the initial proposals were submitted, despite the fact the RFQ/P allowed the City to consider additional written information, and nothing in the Gambling Act prevented it. No one on the City Council corrected the alderman.

179. The Mayor incorrectly asserted that the process was conducted by the standards that the City put out and that they followed the "right process."

180. The City Council voted 5-4 in favor of reconsideration of a resolution certifying Potawatomi's proposal.

181. Therefore, the City Council authorized a vote on Potawatomi's request for certification to the IGB as if it had not been voted on at the October 17, 2019 Special Meeting.

182. However, the City Council voted 3-6 against certifying Potawatomi's proposal and sending it to the IGB. Once again, the Mayor did not participate in the vote.

183. The minutes of the October 21, 2019 City Council meeting indicate the vote to reconsider Potawatomi's casino proposal and vote to approve a Resolution certifying Potawatomi's proposal were discussed by the corporate authority and acted on by the City Council during the "Old Business" portion of the Agenda. *See* Meeting Minutes from October 21, 2019 City Council meeting, attached as **Exhibit 9**.

184. However, the Agenda for the October 21, 2019 City Council meeting did not have any items to either be discussed or acted upon. *See*, **Exhibit 8**.

**XIII. City Officials Failed to Perform Their Duties in a Manner to Promote the Public Trust and Preserve the Integrity of Gaming.**

185. Before and during the Spring 2019 Waukegan City Council elections, it was known among City officials and those in the gaming industry that the Illinois legislature was contemplating legislation that would authorize the operation of a casino in the City.

186. In the leadup to the City Council election campaigns in the spring of 2019, a principal of the North Point applicant was the dominant source of funding for a number of different City Council candidates.

187. Those campaign contributions were in amounts unprecedented in a Waukegan City Council election and dominated the sources of campaign revenue.

188. During the same election period, one or more principal(s) of North Point met with City Council candidates to discuss North Point's plans for developing a casino at the Fountain Square property.

189. Four of the candidates supported by the North Point principal won their elections. Those four candidates were amongst the six City Council members who would later vote to certify North Point during the October 17, 2019 special meeting.

190. Each of the four candidates supported by the North Point principal voted against certifying Potawatomi's casino proposal to the IGB at both the October 17, 2019 special meeting and the October 21, 2019 City Council meeting.

191. The certification of the North Point application, despite the fact that it objectively came in last based on the criteria in the RFQ/P, creates the impression that loyalty purchased with campaign contributions was a deciding factor for the certification of the North Point application and not the criteria announced in the RFQ/P.

192. The denial of Potawatomi's application, despite the fact that it objectively came in first or second place based on the criteria in the RFQ/P, creates the impression that the desire to eliminate

potential competition for North Point's bid to the IGB for casino certification, and not the criteria announced in the RFQ/P, was a deciding factor for the City's refusal to certify Potawatomi's proposal.

193. The Illinois Gambling Act prohibits host communities, such as Waukegan, from accepting benefits from casino applicants and taking official actions which create an appearance of impropriety. 230 ILCS 10/5.3.

194. By accepting campaign contributions from the principal of North Point and subsequently voting to certify its application while denying Potawatomi's application with no rational basis for doing so, the City Council failed to exercise its duties and responsibilities in such a manner as to promote and preserve public trust and confidence in the integrity and conduct of gaming.

### **XIII. Good-Faith Review**

195. The Illinois Gambling Act requires the corporate authority to conduct a good-faith review of all applications prior to voting on certification.

196. Potawatomi paid a \$25,000 application fee to the City in order to participate in a fair process for the review and certification of its proposal to the IGB.

197. As confirmed by the City's consultant, Potawatomi's proposal conformed with all requirements of the RFQ/P.

198. The City is required to certify to the IGB that it has participated in such good-faith negotiation and review.

199. Moreover, the Act specifically directs the City to hold a public hearing to discuss the particular issues the City is required to certify to the IGB with respect to each applicant. *Id.*

200. The Act then requires the City to memorialize the details of its review in a resolution or ordinance adopted by a majority of the corporate authority before it may submit its certification to the IGB. *Id.*

201. The location and operation of a new casino in the City is a matter of unique concern to the public health, safety, welfare and morals, and it is vital the City be required to adhere to statutes requiring transparency of government actions and ability of public to participate in the process.

202. Public meetings are required to provide an opportunity for the public to address public officials under the rules established by the public body. 5 ILCS 120/2.06(g).

203. The City's Code of Ordinances provides that the first order of business at each meeting of the City Council, if roll is called and a quorum found to be present, is "audience time," which is the time designated for the public to address public officials under the City's rules.

204. Section 2.06(g) of the Illinois Open Meetings Act provides, "[a]ny person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body." 5 ILCS 120/2.06(g).

205. Therefore, the City's public meetings, including special meetings, are required to contain an opportunity for the public to address public officials. 5 ILCS 120/2.06(g).

206. The City's October 17, 2019 special meeting did not contain any "audience time" or other opportunity for public comment, in violation of 5 ILCS 120/2.06(g).

207. Nevertheless, the City proceeded to vote on the resolutions approving certification of three of the casino applicants to the IGB, and denied certification of Potawatomi's application to the IGB at the October 17, 2019 special meeting.

208. The Johnson Report, which was released in October 2019, was not available at the time of the last meeting of City Council where the public, including Potawatomi, had an opportunity to make a public comment, which was the September 18, 2019 public hearing.

209. Thus, Potawatomi never had an opportunity to be heard by the corporate authority in order to correct the errors contained in the Johnson Report prior to the October 17, 2019 vote, and the corporate authority therefore used incorrect data from the consultant to evaluate the proposals.

210. The Johnson Report prepared by the City's consultant was demonstrably erroneous and misleading and Potawatomi was not given an opportunity to correct the errors because the City refused to allow public comment at the October 17, 2019 special meeting, in violation of the Open Meetings Act.

211. The City's RFQ/P did not stipulate that supplemental materials would not be considered. The City's RFQ/P did not identify the purchase price for its land would be the "most important" consideration for its decision whether to certify a casino license applicant to the IGB.

212. The City withheld from the applicants certain information it had about the alleged fair market value of its property, instead essentially auctioned certifications off to the highest "bidders" by inviting them to solicit open, uninformed "bids" for its property, which resulted in one bid being nearly 5x the alleged fair market value of the property.

213. After the proposals were submitted, the City's refusal to consider supplemental materials submitted by the applicants specifically harmed Potawatomi, after the City's consultant erroneously characterized Potawatomi's offer to negotiate in good faith based on the property's fair market value as a "bid" to purchase the property for "\$5.6 million."

214. The City's resolutions adopted at the October 17, 2019 special meeting purporting to certify the other three applicants to the IGB were not adopted within the purview of the Open Meetings Act public comment requirement and therefore should be deemed void by this Court.

215. The City's failure to follow the requirements of the Open Meetings Act as well as its own Code provisions regarding the order of business at City Council meetings, failure to permit public comment, unwarranted refusal to accept the motion to reconsider, and unwarranted refusal to add items to the agenda demonstrates its refusal to act in good faith towards Potawatomi.

216. The City's failure to follow the guidelines in its own RFQ/P for purposes of evaluating the proposals demonstrates the City's refusal to act in good faith towards Potawatomi.

217. In particular, the City's certification of other applicants who failed to follow the RFQ's guidelines, but refusal to certify Potawatomi for offering to pay within a reasonable range of fair market value for the City's property, demonstrates its refusal to act in good faith towards Potawatomi.

218. The City's engagement of a consultant that failed to follow the City's RFQ/P guidelines, and consideration of that consultant's flawed report for purposes of assessing the proposals despite being aware of the errors, demonstrates the City's refusal to act in good faith toward Potawatomi.

219. The City's failure to follow the guidelines of the Illinois Gambling Act with respect to the process of evaluating, voting for and certifying applicants to the IGB demonstrates the City's refusal to act in good faith toward Potawatomi.

220. Potawatomi has a tangible legal interest in participating in the IGB's open and competitive bidding process to be considered for a license to operate a casino in the City.

221. There is an actual controversy between Potawatomi and the City with respect to the validity of the October 17, 2019 and October 21, 2019 resolutions passed by the City.

222. IGB will not consider Potawatomi's application unless it receives a certification from the City as to that application, but it will consider the other three applications because it received the City's resolutions approving such certifications.

223. IGB may then decide to issue the single license to one of the other applicants, but Potawatomi will have been denied the right to participate in that process, despite its attempts to negotiate in good faith with the City as required by the statute. 230 ILCS 10/7(e-5).

**COUNT I  
EQUAL PROTECTION VIOLATION**

224. Potawatomi restates and realleges paragraphs 1-219 of the Facts Common to All Counts as paragraph 220 of this Count I.



225. Potawatomi, as a limited liability company, is a “person” pursuant to the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

226. The City subjected Potawatomi to conduct that occurred under color of state law.

227. The City is a “person” pursuant to 42 U.S.C. §1983.

228. The conduct complained of occurred under 230 ILCS 10/1 *et seq.*, *i.e.*, the Illinois Gambling Act.

229. The City’s conduct deprived Potawatomi of its equal protection rights guaranteed under the Fourteenth Amendment to the United States Constitution.

230. Potawatomi is similarly situated to its fellow applicants: Rivers, Full House and North Point.

231. Despite being similarly situated, the City certified only three of the four applicants, excluding Potawatomi.

232. In so doing, the City arbitrarily treated Potawatomi differently than the other applicants, in violation of 42 U.S.C. §1983 and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

233. Potawatomi had a right to the same consideration as similarly situated applicants, including Rivers, Full House and North Point.

234. There is no rational basis for the City to treat Potawatomi differently than the other applicants.

235. The City’s failure to treat Potawatomi the same as similarly situated applicants serves no legitimate government purpose.

236. The City’s equal protection violations that caused Potawatomi not to be treated the same as similarly situated applicants is not a loss without injury, as the award of a casino license is at stake.

WHEREFORE, Potawatomi requests this Court:

- a. find and declare that the City of Waukegan violated 42 U.S.C. §1983 and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 2 of the Illinois Constitution by treating Potawatomi differently than similarly situated persons, *i.e.*, the other applicants;
- b. find and declare the City of Waukegan's October 17, 2019 resolutions certifying proposals to the Illinois Gaming Board are void due to the City of Waukegan's Equal Protection violations;
- c. issue a mandatory injunction order directing the City to certify Potawatomi's application to the Illinois Gaming Board;
- d. award plaintiff compensatory and punitive damages in an amount to be proven at trial;
- e. award plaintiff its attorneys' fees and costs pursuant to 42 U.S.C. §1988(b); and
- f. any other relief this Court deems proper.

## COUNT II

### VIOLATION OF DUTY TO CERTIFY IN GOOD FAITH (230 ILCS 10/7.5(e-5))

237. Potawatomi restates and realleges paragraphs 220-232 of Count I as paragraph 233 of this Count II.

238. The Illinois Gambling Act is enacted for the benefit of the people of Illinois. 230 ILCS 10/2(a).

239. As an Illinois limited liability company, Potawatomi is a member of the class for whose benefit the Illinois Gambling Act was enacted.

240. The underlying legislative purpose of the Illinois Gambling Act is to assist in economic development, promote Illinois tourism, and increase state revenue, while promoting public confidence

and trust in the credibility and integrity of gambling operations and its regulatory process. 230 ILCS 10/2(a), (b).

241. The Illinois Gambling Act requires the corporate authority of the City to hold a public hearing to consider whether to certify an applicant to the IGB. 230 ILCS 10/7(e-5).

242. The City is required to use good faith in exercising its discretion to determine whether to certify an applicant to the IGB.

243. Potawatomi submitted its application in conformance with the City's RFQ/P in an attempt to negotiate with the City in good faith to receive a certification to the IGB.

244. The City did not negotiate with Potawatomi in good faith before determining not to certify Potawatomi to the IGB.

245. The City's decision to certify three of the four similarly situated applicants to the IGB while refusing to certify Potawatomi's application was not exercised in good faith.

246. Potawatomi has been damaged by the City's failure to certify its application in good faith in that it has been deprived of the opportunity to participate in the open and competitive bidding process to receive a casino license from the IGB.

247. Had the City exercised good faith in its consideration of Potawatomi's application, it would have certified Potawatomi's application to the IGB for its participation in the open and competitive bidding process with the other applicants.

248. The City's failure to exercise good faith in its consideration of Potawatomi's application does not promote public confidence and trust in the credibility and integrity of gambling operations and the regulatory process thereof.

249. Potawatomi's injury at the hands of the City is one the Act was designed to prevent.

250. The Act does not expressly provide for a private right of action for Potawatomi's injury at the hands of the City.

251. It is necessary to provide an adequate remedy for the City's violation of its duty to exercise good faith in exercising its discretion under the Act.

252. Therefore, it is appropriate for Potawatomi to maintain a cause of action impliedly created by the Act to redress the City's violation.

253. Potawatomi's right to participate in the open and competitive bidding process is a clearly ascertainable right in need of protection.

254. Potawatomi will be irreparably harmed if the IGB awards the casino license to another bidder without considering Potawatomi's application.

255. Potawatomi's damages as a result of the loss of its ability to participate in the open and competitive bidding process for a casino license from IGB cannot be quantified to a reasonable degree of certainty, and thus Potawatomi has no adequate remedy at law.

WHEREFORE, Potawatomi requests this Court:

- a. Find and declare the City's refusal to certify Potawatomi's application to the IGB was in violation of its duty to exercise good faith under the Illinois Gambling Act; and,
- b. Issue a mandatory injunction order directing the City to certify Potawatomi's application to the Illinois Gaming Board.

### **COUNT III – VIOLATION OF OPEN MEETINGS ACT**

256. Potawatomi restates and realleges paragraphs 233 - 251 of its Count II as paragraph 252 of this Count III.

257. Potawatomi's motion to reconsider was not added to the Agenda for the October 21, 2019 City Council meeting.

258. The Open Meetings Act requires that the public shall be given advance notice of and the right to attend all meetings at which any business of a public body is discussed or acted upon in any way. 5 ILCS 120/1.

259. There are exceptions to this policy, but only under limited circumstances that do not exist here.

260. At the October 21, 2019 City Council meeting, the City Council discussed and acted on the motion to reconsider.

261. The City Council discussed and acted on the motion to reconsider, despite not adding the motion to reconsider to the meeting agenda and giving notice to the public, including Potawatomi, that it would be discussed or acted upon.

262. The City's failure to include the motion to reconsider on the statutorily-required agenda prior to the October 21, 2019 City Council meeting violated the requirements of the Open Meetings Act.

WHEREFORE, Potawatomi asks that this Court:

- a. find and declare that the City of Waukegan violated the Open Meetings Act on October 19, 2019, by failing to post an Agenda for the October 21, 2019 City Council meeting indicating the corporate authority's intention to discuss and act upon the Motion to Reconsider submitted on behalf of Potawatomi;
- b. find and declare that the City of Waukegan violated the Open Meetings Act on October 21, 2019 by discussing and acting on the Motion to Reconsider despite failing to properly add it to the Agenda for that meeting;
- c. find and declare that the City Council's October 21, 2019 vote denying certification of Potawatomi's proposal is void;
- d. issue a mandatory injunction order directing the City of Waukegan to immediately certify Potawatomi's proposal to the Illinois Gaming Board; and,

e. any other relief this Court deems proper.

WAUKEGAN POTAWATOMI CASINO,  
LLC

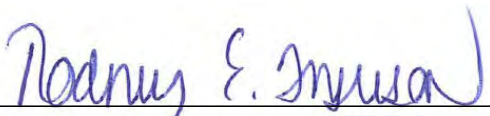
By:   
One of its attorneys

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**VERIFICATION**

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this First Amended Verified Complaint for Damages and Other Relief are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

**WAUKEGAN POTAWATOMI CASINO, LLC**

By:   
Name: Rodney E. Ferguson  
Its: Manager



# Request for Qualifications and Proposals

## Casino Development & Operator

### Waukegan, Illinois

Release Date: Wednesday, July 3, 2019

**Proposal Deadline: ~~Monday, July 22, 2019, 3:00 p.m. (Central)~~**

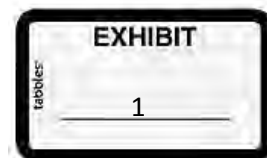
**UPDATED DEADLINE: MONDAY, AUGUST 5, 2019, 3:00 p.m. (Central)**

*There will not be a public opening of submittals.*

Proposals must be submitted as follows (nonconforming deliveries will not be accepted):

- One (1) unbound original with original signature and notary stamp on Non-Collusion Affidavit
- Ten (10) bound copies
- One (1) electronic copy on USB drive, labeled with Project Team name
- All pages on standard letter (8.5" x 11") or tabloid (11" x 17") paper
- Application fee enclosed
- Any confidential or proprietary information contained in the proposal must be identified as such.
- Clearly labeled in the lower left corner on the front of the package: "Casino Development Proposal"
- Submitted in a sealed package
- Submitted to:

Waukegan City Clerk  
Waukegan City Hall, first floor  
100 N. Martin Luther King, Jr. Avenue  
Waukegan, IL 60085





## **INTRODUCTION**

The City of Waukegan (the “City”) invites qualified Project Teams (the term “Project Team” should be interpreted as reflecting the entire development/operator group) to submit proposals through the issuance of this Request for Qualifications and Proposals (“RFQ/P”) for the development of a successful casino and associated amenities in accordance with the Illinois Gaming Act (the “Act”). The Act was recently amended to allow for a license to be issued to a Riverboat Casino within the corporate limits of the City of Waukegan. The Act further provides for only a 120-day window from the time of the Governor’s signature on the legislation (June 28, 2019) for developers to submit a full application to the Illinois Gaming Board after the City issues a letter of support and has an agreement with a Project Team. Given these requirements, the City seeks to maximize the value of the gaming license and assure long-term viability of the casino while moving quickly through the statutory vetting process.

Waukegan, located in Lake County in northeastern Illinois, sits at the shore of Lake Michigan, just south of the Wisconsin state line. Waukegan is centrally located between Chicago and Milwaukee, and has a population of nearly 90,000. A community diverse in character and opportunities, Waukegan is postured for growth.

The City holds several properties, including some it has identified as possible locations for a casino. One such site, commonly referred to as “the casino site,” is located within its Fountain Square development. This property is approximately 28 acres in total, and is in an area with retail and commercial development. This location is directly accessible to IL-43/Waukegan Road, and close to IL-120/Belvidere Road, US Hwy. 41, and I-94. The property’s PIN number is 07-36-104-001 (see Exhibit A).

The City of Waukegan also owns various other properties, which may be viable locations for a casino, within the downtown or Lake Michigan lakefront areas. These properties range in size, and many are contiguous with other City-owned parcels, which could be combined (see Exhibit B). The City is also amenable to the consideration of privately owned parcels, or to assisting the Project Team in necessary acquisitions of other parcels.

## **DEVELOPMENT OBJECTIVES**

The City is seeking a financially successful development that maximizes sales tax and gaming revenues to the City and that provides a significant number of quality jobs to its residents, as well as increasing the City’s EAV and bolstering its property tax base. The Project Team will be required to make substantial improvements to the selected site, which, at a minimum, shall include a casino, sports betting, and parking facilities, as well as other supporting infrastructure, and to operate and maintain the casino, site, and business operations.

## **SUBMITTAL REQUIREMENTS**

Pursuant to the requirements and timeline of the Act, the City of Waukegan, Illinois (the “City”) is issuing this Request for Qualification/Proposals soliciting responses from qualified Project Teams for the siting, licensure, and development of a Riverboat Casino within the Corporate Limits of the City of Waukegan.

Waukegan Casino Request for Qualifications and Proposals

The successful Project Team, with whom the City of Waukegan will negotiate specific terms for a casino development, will provide a thorough and detailed response to the components herein. There is no specific page limit, but Project Teams must adhere to the submittal guidelines on the cover of this RFP.

1. Property Specifications and Location

Identify the proposed location for the development, including whether located on City-owned or privately held property, and describe the plan to acquire the development location. Provide detail of property size and access requirements, and any other pertinent specifications. If purchase of City property is contemplated, an offer for the selected site(s) should be provided. Because of the 120 day limitation on local vetting described above, the Project Teams are cautioned to consider zoning and special use issues that may require public hearings and to investigate entitlements on specific parcels under consideration. Additional property research can be conducted using the Lake County online mapping system (<https://maps.lakecountyil.gov/maponline/>).

2. Description of Proposed Development

- A. Describe, in detail, the proposed casino development. Include the number and types of gaming positions, sports betting plan, the physical layout of the space, the parking plan, and a description of any included restaurant, hotel, convention, retail, entertainment, or other accessory or adjacent facilities. If available, include any site plan, elevations, renderings, floor plans, etc.
- B. Provide a phasing plan and timeline for all project components.
- C. Describe all sustainable development components incorporated into the development, including LEED standard to be met, integration of solar and green roof, energy efficiency, landscape and stormwater management, local food, sustainable waste and material management, water resources stewardship, etc.
- D. Describe the target audience and marketing approach.
- E. Describe the timeline for the development, including temporary operations.
- F. Describe any plans for community reinvestment, including (without limitation)
  - i. local hiring and job training initiatives,
  - ii. organized labor commitments,
  - iii. minority, woman, veteran, disabled person owned business commitments,
  - iv. buy-local commitments,
  - v. sponsorships, contributions, and event participation,
  - vi. foundation establishment or investment,
  - vii. other community-oriented plans.
- G. Explain and quantify the benefits for the City of Waukegan and its residents, including, but not limited to, the estimated economic impacts. Explain and quantify the benefits to Lake County and the Cities of North Chicago and Park City.

Waukegan Casino Request for Qualifications and Proposals

- H. Describe, in detail, any expectations or requests the proposal makes of the City.

3. Project Team and Experience

- A. Provide disclosures for the Project Team in accordance with 230 ILCS 10/5.1.
- B. Describe the role of each party managing the proposed casino operation.
- C. Describe the experience of the Project Team. Provide detail for each member of the team, as well as the experience as a team, including experience developing and operating casinos and other proposed operations. Explain why this proposal will result in long-term benefits to the City and constitute a financially successful overall development.

4. Financial Data

- A. Provide three (3) years of Annual Reports intended to give information about the activities and financial position of each member of the organization, such as audited balance sheet, income statement, disclosure of management fees, statement of cash flows, Form 10-K.
- B. Provide information and documentation on *existing projects and those underway in other locations*, including, at a minimum:
  - i. Cost of project
  - ii. Financing associated with project
  - iii. Disclosure of management fees
- C. Financial reports for other similar projects managed by the Project Team  
Financial reference from the principal lender(s) or investor(s), representing at least 51% of the interest, and associated with at least one existing project, that may speak to the financial responsibility and stability of each of the organizations submitting the proposal, based on direct and long-term working relationship with the organization and/or its principals.
- D. Provide information and documentation on financing for *this proposed Waukegan development*, including:
  - i. Expected cost of project
  - ii. Financing associated with the project
  - iii. Incentives, including desired levels and types of incentives that may be requested from the City, along with any rationale that demonstrates that any such incentives may be in the City's best interests, including associated EAV projections to support the request.
  - iv. Preliminary pro forma showing anticipated revenues generated
  - v. Disclosure of all management fees

5. Application Fee

A non-refundable application fee in the amount of \$25,000 is required as part of this submission. A certified check or money order, made payable to "City of Waukegan" and enclosed in the submittal package.

**PROPOSAL EVALUATION**

Proposals will be ranked by a City of Waukegan Review team based on how well the Project Team proposals meet the Development Objectives and Submittal Requirements described in this RFQ/P. Staff and consultants will evaluate economic, financial, and other submittal information. It is anticipated that a selection of finalists will be made, from or with whom the City may chose, in its sole discretion, to request additional written information, conduct interviews, hold site visits, or any combination of these. The review team’s recommendation for the top ranked Project Team(s) will be forwarded to the City Council for its independent review and action.

One or more Project Team(s) will be selected with whom the City will enter negotiations to become the chosen casino developer/operator. Time is of the essence in this effort, as this is an impactful and long-awaited project for the City of Waukegan.

**ADDITIONAL INFORMATION**

All questions should be addressed to [casino@waukeganil.gov](mailto:casino@waukeganil.gov).

Any questions and responses received before 5:00 p.m. on Thursday, ~~July 18~~ August 1 may be posted as addenda to the RFP. Questions received after that time may not receive a response.

All submittals must conform to the requirements detailed in this document. Any incomplete submittals may be rejected.

Any confidential or proprietary information contained in the proposal must be identified as such.

The cost of any survey of the Development Site will be a cost of the developer. Under no circumstances shall the City be liable for any of the costs of any party making a submission under this RFP, negotiating with the City or otherwise participating in the RFP process.

This RFP shall not create any legal obligations on the City to evaluate any responses that are submitted, or to enter into any contract or other agreement with any party who submits responses to this RFP, except on terms and conditions the City deems, in its sole and absolute discretion, to be satisfactory and desirable. The right is reserved by the City to reject or accept any and all submissions in whole or in part, and to accept proposals from more than one Project Team in whole or in part.

## **NOTICE**

### **OF PROHIBITION OF COMMUNICATION WITH, AND GIFTS OR GRATUITIES TO, THE CITY AND OTHERS**

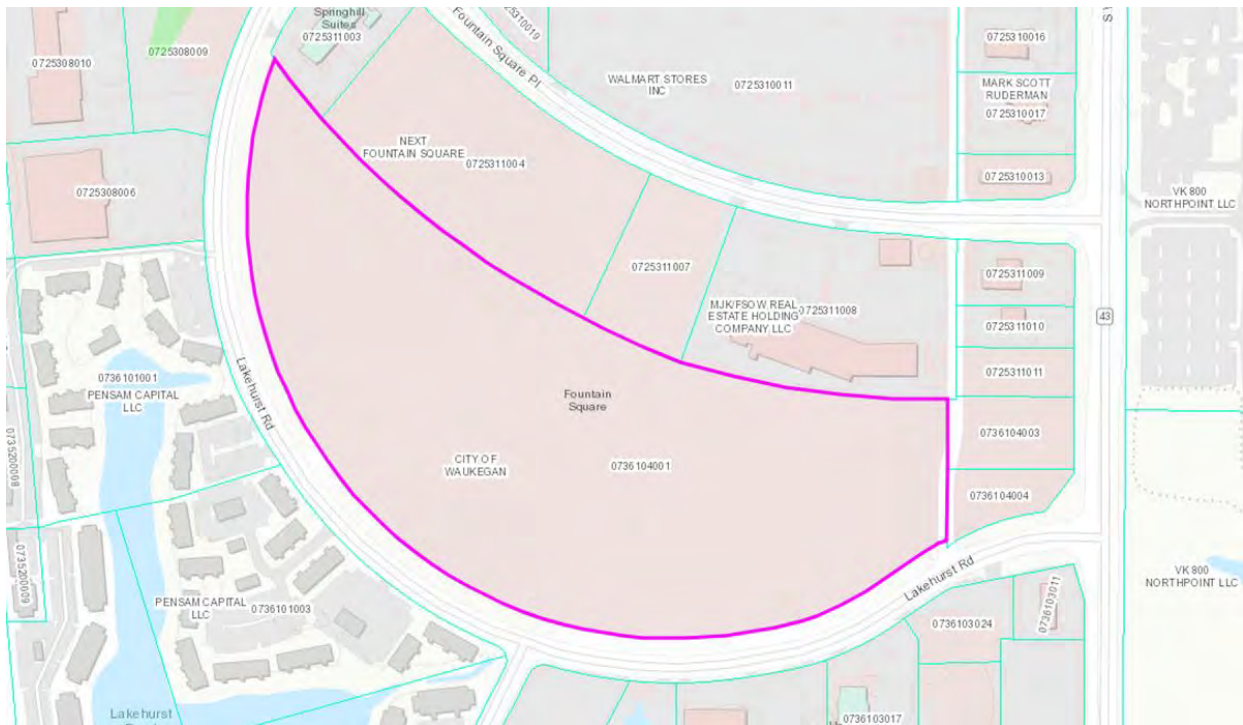
Commencing immediately upon the public release of this RFQ/P, and continuing until negotiations with the Project Team for the development are complete, if any, Project Teams shall not:

1. Hold any meetings, conferences, or discussions with any Waukegan City Council members, City Employees, or City Contractors involved in the RFP process, or any Lake County, City of North Chicago, or City of Park City representatives, except as expressly allowed by this RFP (all communications should be addressed to [casino@waukeganil.gov](mailto:casino@waukeganil.gov));
2. Communicate, in any manner, with the individuals listed in Paragraph 1 of this Section, unless authorized by the City of Waukegan. Project Teams and their representatives are not prohibited, however, from making oral statements or presentations in public to one or more representatives of the City during a public meeting. In addition, Project Teams may write to the City Council as a whole once the staff recommendations are made in anticipation of a public meeting.
3. In addition, from the date of the report to the City Council recommending the issuance of this RFP, to the date on which the City Council awards a contract, if any, a Project Teams must not directly or indirectly give, furnish, donate, or promise any money, compensation, gift, gratuity, or anything of value to the individuals listed in Paragraph 1 of this Section for the purpose of, or which has the effect of:
  - A. Securing or establishing an advantage over other Project Teams;
  - B. Securing or recommending the selection of the Project Team's Proposal; or
  - C. Securing or recommending the Contract's award to the Project Team.
  - D. Violations of Paragraphs 1 or Paragraph 2 of this Section, or both, will constitute grounds for rejection.
4. Pursuant to 230 ILCS 10/5.3(i), note that any and all contacts between Project Team members (or their agents) and any City official or employee must be reported to the Illinois Gaming Board.

Waukegan Casino Request for Qualifications and Proposals

**Exhibit A – Fountain Square Property**

PIN 07-36-104-001



Waukegan Casino Request for Qualifications and Proposals

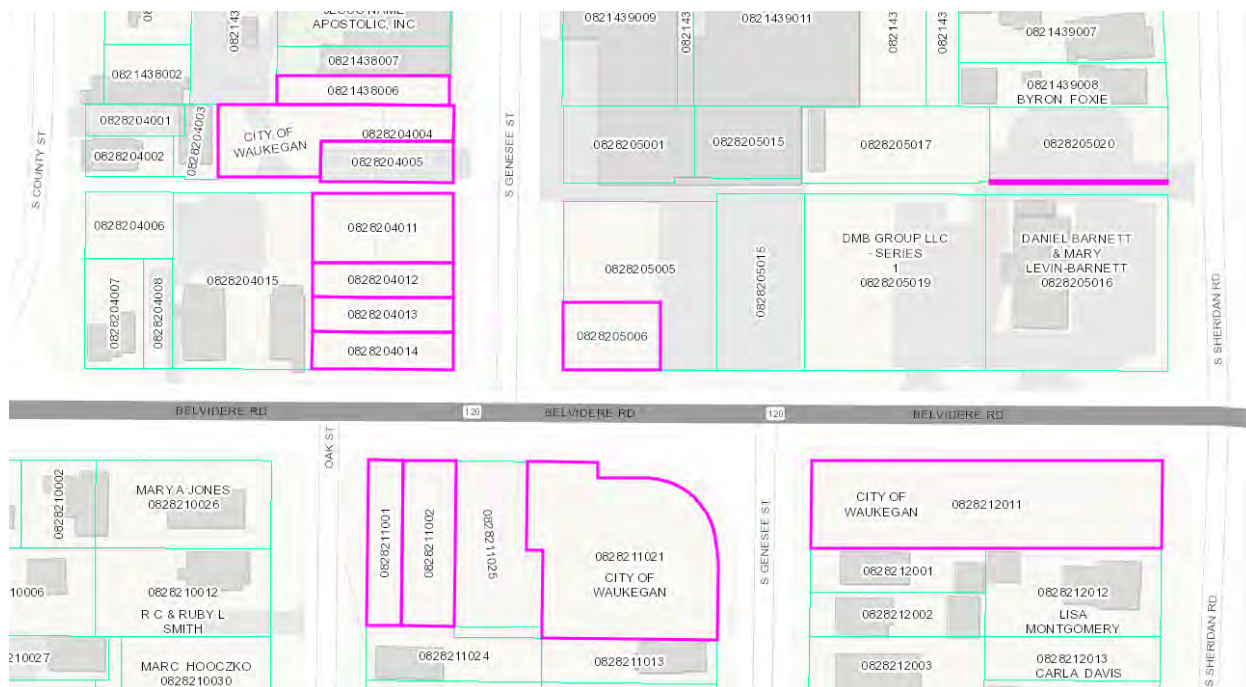
**Exhibit B – Downtown and lakefront properties**

PINs 08-21-426-011, 012, 013, 014, 015, 017, 018, 019



Waukegan Casino Request for Qualifications and Proposals

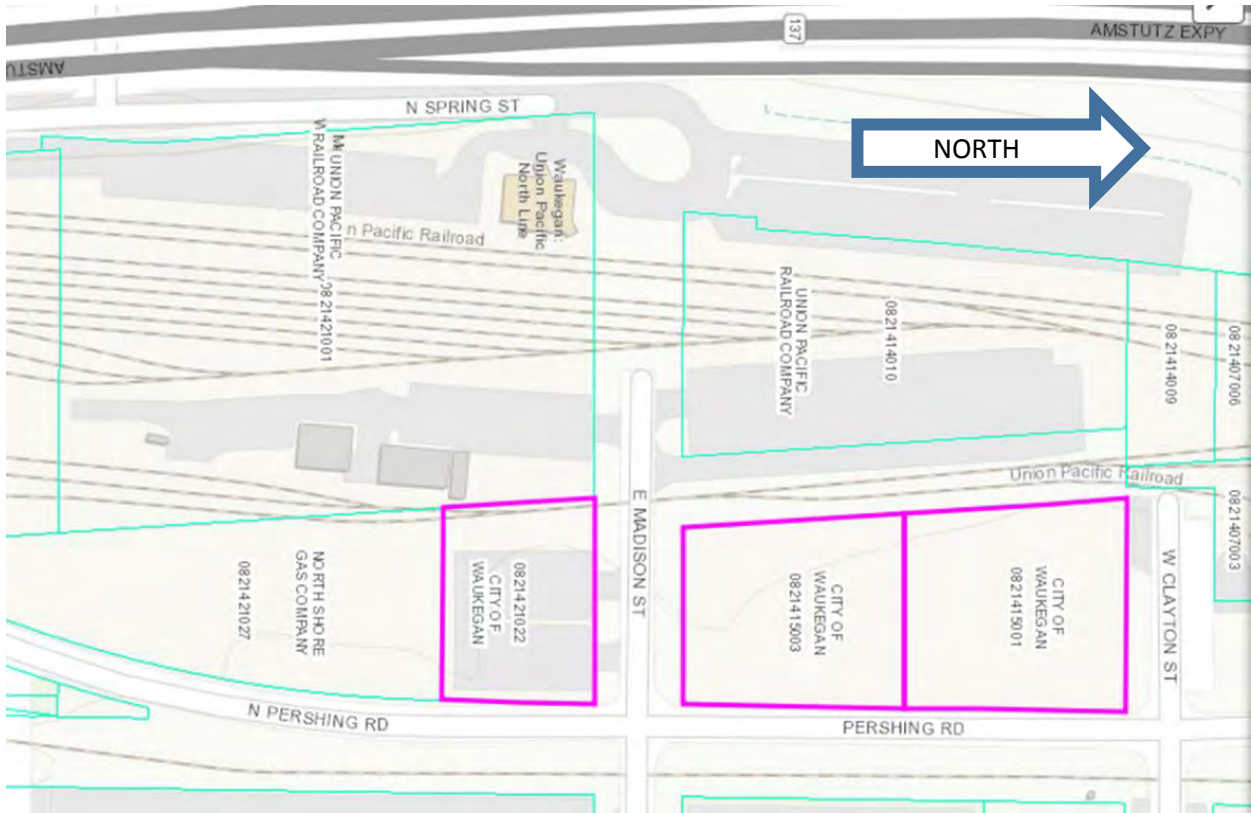
PINs 08-21-438-006, 08-28-204-004, 005, 011, 012, 013,014, 08-28-210-001, 002, 021, 08-28-212-011





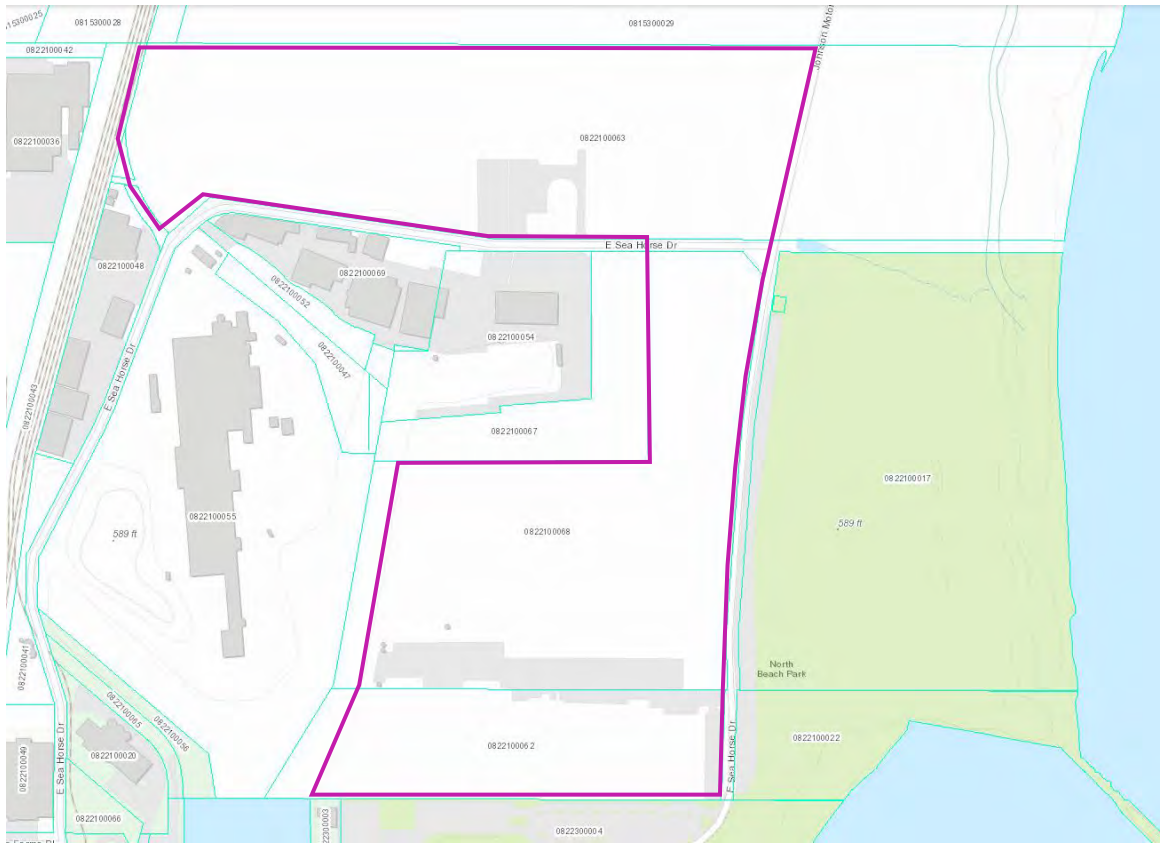
Waukegan Casino Request for Qualifications and Proposals

PINs 08-21-415-001, 002, 08-21-421-022



Waukegan Casino Request for Qualifications and Proposals

PINs 08-22-100-063 (not including dunes), 08-22-100-062, 068





The confidential information in the original Waukegan Proposal has been omitted in this copy. This copy may be distributed with the prior approval of Rodney Ferguson, CEO, Jeff Crawford, Attorney General, or Kevin Hanson, CFO



# WAUKEGAN POTAWATOMI CASINO

PROPOSAL BY  
POTAWATOMI HOTEL & CASINO



EXHIBIT  
2



1721 WEST CANAL STREET  
MILWAUKEE, WI 53233  
1-800-PAYSBIG • PAYSBIG.COM

August 5, 2019

Waukegan Casino Review Team  
Waukegan City Clerk  
Waukegan City Hall, First Floor  
100 N Martin Luther King Jr. Avenue  
Waukegan, Illinois 60085

Dear Waukegan Casino Review Team:

The Potawatomi Hotel & Casino ("PHC") will bring an exciting, high quality, full service casino to Waukegan – the Waukegan Potawatomi Casino. PHC possesses the financial and operational capability to deliver the Waukegan Potawatomi Casino the City has worked so hard to achieve for so many years. PHC, however, is not just an ordinary successful casino operator. PHC will partner with the City to make the Waukegan Potawatomi Casino an engine for economic development for the entire community. As you investigate the qualifications of each of the applicants, you will learn that PHC is different than the others, in a very good way. We are minority owned and we have built a highly skilled minority workforce. We are also a leader in environmentally sound economic revitalization. If you ask the elected, business and civic leaders who have worked shoulder to shoulder with Potawatomi, they will tell you that PHC is the partner Waukegan will want to welcome to this community.

The Potawatomi reestablished their presence in Milwaukee nearly 30 years ago where their relatives had been largely removed during the 19<sup>th</sup> Century. Having reclaimed its proud tradition of economic leadership in Milwaukee, PHC is now ready to embark on a similar mission in Waukegan – also in the heart of Potawatomi lands.

We hope that Waukegan is looking for a casino operator with the financial strength to develop a quality casino that will make the City of Waukegan proud and that will contribute over the long run to the improvement of the community and its citizens. If this is your objective, PHC is your choice.

POTAWATOMI HOTEL & CASINO

By   
Rodney E. Ferguson  
Chief Executive Officer

## TABLE OF CONTENTS

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Exhibit 1 – Potawatomi Hotel & Casino History

Exhibit 2 – Cunningham Group Architects – Casino Design Capability & Team Members

Exhibit 3 – Proposed Project Design Schedule (11 X 17)

Exhibit 4 – PHC Energy Efficiency, Renewable Generation, and Biodigester Power Point

Exhibit 5 - Project Team Disclosures (Confidential - FOIA Exemption)

Exhibit 6 – Financial Statements (Confidential - FOIA Exemption)

Exhibit 7 – Financial Statements (Confidential - FOIA Exemption)

Exhibit 8 – PNC Bank – Financial Capability Letter

Exhibit 9 - Non-Collusion Affidavit



**POTAWATOMI HOTEL & CASINO  
RESPONSE TO  
REQUEST FOR QUALIFICATIONS AND PROPOSALS,  
CASINO DEVELOPMENT AND OPERATOR,  
WAUKEGAN, ILLINOIS**

**PHC  
BACKGROUND**

The Potawatomi Hotel & Casino (“PHC”) submits this response to Request for Qualifications and Proposals, Casino Development Operator, Waukegan, Illinois (the “Proposal”) in support of its request for certification by the City of Waukegan (“City”) to the Illinois Gaming Board under 230 ILCS 10/7(e-5).

PHC is the operating name of the Forest County Potawatomi Community of Wisconsin, dba Potawatomi Bingo Casino, an enterprise of the Forest County Potawatomi Community of Wisconsin,<sup>1</sup> which operates the Potawatomi Hotel & Casino in Milwaukee.<sup>2</sup> PHC is a large full service casino, hotel, convention and performance center, and the premier casino in the Midwest.

PHC would welcome the opportunity to provide the Waukegan Casino Review Team, and other interested individuals, a tour of our property, providing the opportunity to inspect the public and back of the house operations. We would also like to show you the large bio digester built and operated by the Community which converts a huge volume of bio waste from sources in southeast Wisconsin and northeast Illinois into heat and power for our casino. This visit would allow you to see for yourselves how the abandoned brown fields of the Menominee Valley have been revitalized through the cooperation of the city, businesses and PHC.

PHC has achieved great success over the past 30 years, beginning in its humble beginning as a bingo hall operating in a butler building in a very unattractive, largely abandoned, industrial area. Our history is both inspiring and directly relevant to the choice the City of Waukegan is about to make. PHC struggled to achieve this success. It has achieved its success on its own, and since the mid-1990s, without an outside management company or developer. We have learned the casino, hospitality and development business firsthand.<sup>3</sup> Possibly more important, we have learned the value of partnering with the city government and with local civic and business organizations for the mutual benefit of all.

Our reputation for integrity and reliability is our brand. If Waukegan is looking for these characteristics in a partner, then we hope you will engage in a thorough due diligence of the business practices and reputation of PHC and of the other applicants. We have provided references of leaders in Milwaukee that know us well, and please, also seek out your own information sources.

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<sup>1</sup> Potawatomi Bingo changed its name to Potawatomi Bingo Casino (sometimes referred to as “Potawatomi Bingo and Casino”) in 1993. In summer 2014, Potawatomi Bingo Casino changed its name to Potawatomi Hotel & Casino.

<sup>2</sup> PHC will form Waukegan Potawatomi Casino, LLC under Illinois law to apply for and hold the Illinois Owners License issued by the Illinois Gaming Board and to develop and operate the Waukegan Potawatomi Casino. PHC operates the Milwaukee casino under the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq. The Waukegan Potawatomi Casino will be licensed by the Illinois Gaming Board and operated subject to the state and local laws of Illinois.

<sup>3</sup> See History of Potawatomi Hotel & Casino, PowerPoint slides depicting 30 years of growth and revitalization in the Menominee Valley. Exhibit 1.



Figure 1



PHC looks forward to working closely with the City of Waukegan. Some of you may only know Potawatomi for the buses which run daily from Waukegan and Gurnee to the Potawatomi Hotel & Casino in Milwaukee. We are that casino, but we are also much more than that.

Potawatomi has a shared history with Waukegan and PHC already conducts business in Illinois.<sup>4</sup> We know the Lake County and surrounding counties' gaming market. We are an experienced casino owner and operator. We are 100% minority owned and well able to fund and operate the Waukegan Potawatomi Casino. We are a good corporate citizen. We are committed to environmental protection and green energy production. Most importantly, we do not overpromise, and we keep our word.

**Potawatomi proposes to return home to develop and operate a successful casino in Waukegan**

Waukegan is one of the oldest communities in Illinois and Potawatomi is a part of that long history. Now, Potawatomi Hotel & Casino would like the opportunity to be a part of Waukegan's future.

The Potawatomi were living and engaged in commerce when the French and early settlers came to the Waukegan area. There were many Potawatomi villages in Lake County. The village named Little Fort was later changed to Waukegan, the Potawatomi word for Trading Post.

Figure 2



In the early 1800's, as pressure by non-Indian settlers for land increased, the United States sought to acquire more land from the Potawatomi. The 1833 Treaty of Chicago with the Potawatomi Nation ceded a vast territory to the United States covering virtually all of the western shore of Lake Michigan including Waukegan and Milwaukee. Many Potawatomi were removed from

<sup>4</sup> PHC paid over \$9 million to Illinois vendors during the last year.

their homeland to west of the Mississippi. Some of the Potawatomi opposed removal and fearing for their lives, fled north. As a result, several thousand Potawatomi sought refuge in Canada, and hundreds moved north along both shores of Lake Michigan to territory away from non-Indian settlement. A few hundred Potawatomi remained in southeast Wisconsin and southern Michigan. The Forest County Potawatomi Community descends from the Potawatomi Indians who refused to leave their homeland.

The Potawatomi regularly traveled on trails from Fort Dearborn (Chicago) to Green Bay. The Potawatomi Hotel & Casino is located a short distance from that trail in Milwaukee. Today, you know this trail and its branches by names like Sheridan Road, Green Bay Road and Belvidere Road. We propose to build a new trading post, the Waukegan Potawatomi Casino, near that trail on Belvidere Road at Fountain Square.

There are already established casino operators in Illinois. If you visit PHC, you will see we are several steps above the current competition and will deliver the casino that Waukegan needs to compete in the new competitive environment.

---

### **Property Specifications and Location (RFQ/P 1.0)**

The City owned parcel at Fountain Square is the clear, best choice for a casino in Waukegan. PHC will purchase the site, if selected and licensed by the Illinois Gaming Board.

PHC will purchase this site at its appraised value  $\pm 15\%$ . Figures 3 and 4 are aerial and street photographs of the Fountain Square site.

PHC has carefully evaluated the potential casino sites in Waukegan. PHC began its evaluation of potential Illinois gaming opportunities almost immediately following the passage of SB 690. PHC engaged Hospitality Gaming Solutions (“HGS”) to evaluate available casino sites in Waukegan and to conduct a full feasibility analysis of a Waukegan casino. The feasibility report was completed on July 19, 2019, shortly after the City issued the RFQ/P. HGS visited the available casino sites in Waukegan, as well as local VGT venues, Arlington Park, and the Rivers Casino. Based on this on the ground evaluation, PHC has determined that the Fountain Square location is superior to the other sites, and is the preferred site. The Fountain Square site has superior access and will require minimal site work. We understand the two waterfront sites are still undergoing contamination remediation and would require federal government approval. The Fountain Square site is an excellent location for casino development with ease of access to and from major automobile routes. The Fountain Square site has direct and uncomplicated access to Interstate 94, U.S. Route 41, and Illinois Route 120, as illustrated in Figure 3.

**Figure 3**  
**Fountain Square**  
**Site Aerial View**



The relatively flat topography of the site will aid in the ease of development. The hotel cluster of 729 guest rooms within one mile of the site will have the ability to enhance the property's ability to accommodate patrons locally and regionally.

The Fountain Square site is 28.6 acres and is an undeveloped parcel from the former Lakehurst Mall. The site will require minimal grading, if any, and utility lines are at the site. However, we have not verified the adequacy of utilities or the availability of fiber optics, nor have we had access to any recent traffic studies.

**Figure 4**  
**Fountain Square**  
**Site Street View**



## **ACCESSIBILITY**

Accessibility is critical to the success of any casino – especially one that is primarily serving a local convenience gaming market. Location and accessibility play a major role in shaping the size and nature of a casino's gaming market. Where and how gaming facilities are situated among major roadways and population centers sets the parameters for potential visitation levels, revenues, and fundamental viability. Casinos that are not easily accessible to their target gamer populations face a major challenge.

Key components contributing to a casino's overall accessibility include how central it is to a regional population and labor pool, ease of access to regional highways and public transit, and ease of access via an area's present and future infrastructure. These types of accessibility issues are crucial for all casinos but become even more important in local convenience gaming markets where a primary objective is to maximize frequency of visits by regional residents who may stay for shorter periods of time than in destination gaming locales.

The Fountain Square site has easy and uncomplicated access from the major arterials of Illinois: Route 120 (Belvidere Road), Highway 43 and Interstate 94, as illustrated in Figure 5.

**Figure 5**



**CUNINGHAM**  
 GROUP

## **VISIBILITY**

Excellent visibility from major roadways is a high priority for casino operators. Casino operators seek gaming locations that are highly visible from major highways and heavily traveled roads to encourage visitation from potential gamers. Good visibility can also make the casino easier to find for first-time or infrequent visitors who are not familiar with navigating the area. Casino designers commonly try to further boost a location's visibility with large signage that can be seen from long distances. While conventional casinos can draw attention from area roadways through their sheer bulk and size, the buildings often prove less of an attention-grabber than the bright and colorful branding signs accompanying them.

What casino patrons see as they approach and depart from the casino can also be very important. Gamers seek a safe and secure environment when they visit a casino and the aesthetics surrounding a site can influence their sense of security, as well as their feeling that they are going out for some fun and excitement. Scenic views can add to a visitor's enjoyment and help generate synergies with surrounding uses, but such sightlines are sometimes purposefully blocked or otherwise avoided by casino operators

who want gamers to focus their attention on the inside of the casino. Eye-grabbing signage is commonly used to increase a casino's visibility.

The Waukegan Potawatomi Casino would be visible from Route 120, Highway 43 and Interstate 94.

## **TOPOGRAPHY**

The topography or arrangement of the natural and artificial physical features of an area will influence the site selection process. In some cases, the natural elements of a potential site can serve as a competitive advantage. Conversely, topography can eliminate some of the potential sites because of physical barriers or high remediation costs to develop the site to make it suitable for casino development.

The 28.6-acre parcel at Fountain Square has been graded. In addition, the large footprint will allow the proposed property to have direct access lanes and will enable a developer to create direct and uncomplicated access to the proposed facility.

## **RELATIONSHIP TO AREA AMENITIES**

The area's immediate amenities can be an important consideration. Any existing area amenities should be complimentary in nature. Sites in relatively developed areas can serve the Waukegan Potawatomi Casino well, especially in the early years.

The Shaw Company redeveloped the former Lakehurst Mall into a retail/mixed use development, Fountain Square of Waukegan. The Shaw Company re-graded the entire 98 acres, reconfigured internal roadways and added new landscaping, monument and tenant signage, and two distinctive water features to establish a completely new identity for the site.

The development is anchored by a 204,000 square foot Wal-Mart Supercenter. Other national chains at Fountain Square include:

- Chipotle
- Chili's
- Fifth Third Bank
- Fashion Bug
- T-Mobile
- Springhill Suites Hotel by Marriott
- Chase Bank
- Payless Shoes
- Sally Beauty Supply
- Buffalo Wild Wings
- Bank of America
- L.A. Fitness
- Jimmy John's
- Murphy Oil
- Game Stop
- Dunkin' Donuts

**Lodging**

The Fountain Square area has a cluster of 2.5 to 3 star limited service lodging properties within one-half mile of the proposed site. Table 1 illustrates the properties and the number of rooms of the Fountain Square area hotels.

**Table 1**

<b>Hotels within One-Mile of the Proposed Waukegan Casino</b>	
<b>Property</b>	<b>Number of Rooms</b>
Holiday Inn Express & Suites Waukegan	96
Hampton Inn & Suites Waukegan	116
Candlewood Suites Waukegan	122
Springhill Suites Waukegan	120
Courtyard by Marriott Waukegan	149
Residence Inn Waukegan	<u>126</u>
<b>Total</b>	<u><b>729</b></u>

*Source: Hospitality and Gaming Solutions*

**SITE  
 REQUIREMENTS  
 AND  
 PROGRAMMING  
 NEEDS**

In looking at potential sites, it is important that they meet certain specific requirements such as size, accessibility, and parking. Other factors, such as the availability of adequate utilities including gas, water, and electricity, are important factors since casinos are large consumers of these services.

Casino operations generally have a preference, where possible, to place all gaming activity on one large floor. Casino operators also prefer to place gaming floors at ground level for quick and easy access by drive-up traffic and pedestrians. If the site faces space constraints, building can be done on multi-level gaming floors, but at greater costs and at the expense of several design objectives.

Casino operators prefer the single-floor approach from a design perspective since it maximizes flexibility for future gaming floor reconfiguration, is easier to service and provide security, and gives the designer greater control over the points of access that influence how visitors experience the gaming floor. Placing all gaming activity on one floor also allows designers to create a sense of multiple gaming environments under one roof. In addition, extra acreage should also be considered to accommodate future expansion of gaming and non-gaming activities.

**CONCLUSION**

The 28.6-acre Fountain Square site for the Waukegan Potawatomi Casino development is an excellent location for casino development with ease of access to and from major automobiles routes. The relatively flat topography of the site will aid in the ease of development. The cluster of 729 guest rooms within one mile of the site, will enhance the property's ability to accommodate patrons locally and regionally.

PHC is prepared to immediately begin investigation of any relevant conditions necessary to prepare a binding offer to purchase that would be contingent upon receipt of an owners gaming license from the Illinois Gaming Board and other reasonable due diligence. However, in order to conduct that investigation, we will need approval for local government officials to meet with representatives of PHC to provide the relevant information. PHC requests such authorization during the review process in order to expedite the City's decision making.

If for any reason, the City of Waukegan is not able to enter into a binding agreement for the sale of Fountain Square property, PHC will negotiate in good faith with the City to locate an alternative economically viable location with the right, in its sole discretion, to adjust any of the financial estimates in this proposal, or to determine in its sole discretion to withdraw the proposal.

---

## **Description of Proposed Casino (RFQ/P 2.A.)**

### **CASINO PROGRAMMING**

PHC will construct a 130,000 square foot casino which will feature 1,800 gaming devices and 50 table games. PHC anticipates customer trends and the slot selection strategy at PHC will gather as many data points as possible, (themes, denomination mix, max bet, machine obsolescence, etc.) and make an informed decision with above average expectations of revenue performance and reliability.

New machines are aggressively tracked and any machine that is not meeting expectations is changed as soon as possible, as the paramount strategy is increasing gaming machine performance. We envision that our slot floor will be well-balanced and ever changing and PHC currently offers gaming devices from twelve different manufacturers, including:

| Ainsworth | AGS | Aristocrat | Atronic | Bally | Everi | IGT |  
| Incredible Technologies | Inter-block USA | Konami | Novomatic | WMS |

Our mix of gaming devices will include progressives and participation games. PHC gaming management is constantly re-evaluating what's working and what's not.

Our preliminary table games mix of 50 table games is as follows:

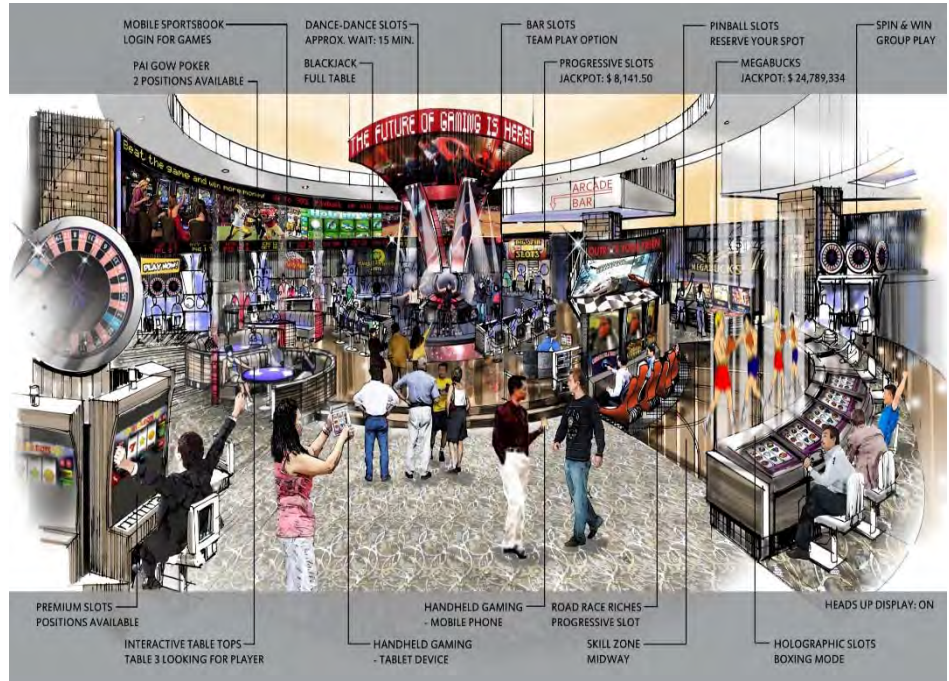
**Table 2**

<b>Estimated Table Game Mix Waukegan Potawatomi Casino</b>	
<b>Game</b>	<b>Number of Games</b>
Craps	4
Blackjack 21 Plus	16
Blackjack 21	5
Roulette	3
Three Card Poker	2
Spanish 21	1
Texas Hold'em	1
Ultimate Texas Hold'em	4
High Card Flush	1
Pai Gow Poker	1
Big 6	4
Mini-Baccarat	3
Baccarat	<u>5</u>
Total	<u>50</u>

Just as we are constantly reevaluating our slot floor, the same philosophy holds true with our table games. Our management is well-trained and the “can do” attitude among our dealers has led to a loyal customer base and reliable employees.

The Waukegan Potawatomi Casino will be approximately 130,000 square feet. The casino floor plate of the existing Illinois riverboat casinos in the greater Chicago area ranges from 29,850 to 50,000 square feet. The square footage proposed for the Waukegan Potawatomi Casino reflects what today’s gaming patrons desire and flexibility for the ever-changing gaming floor future. As the gaming industry continues to evolve, the floor plate will enable us to proactively and nimbly incorporate the changes without being physically constrained by bricks and mortar. The larger foot print and higher quality will attract a greater share of the gaming market.





**SPORTS BOOK**

Whether you are a Bears or a Packers fan, a Cubs or Sox fan, the Waukegan Potawatomi Casino will be where you will want to place your bet on the game and during the game. Our approach for the Sports Book at the Waukegan Potawatomi Casino is an intergrated concept within the Sports Bar & Grill. This approach yields wagering revenue, and also incremental food and beverage sales.



**FOOD AND BEVERAGE PROGRAMMING**

Many restaurants in casinos throughout the country are not particularly desirable. Many people believe that casinos only want to provide a serviceable food option to keep people from leaving instead of putting money into a slot machine. But Potawatomi has always had a higher dining standard than other casinos. We will bring that standard and that experience to the Waukegan Potawatomi Casino. A brief description of our food and beverage concepts follow.

## ASIAN CONCEPT



One such standout will be an Asian restaurant, fashioned after RuYi at PHC. The restaurant will serve a variety of Asian cuisines with varying degrees of Americanization. The restaurant will be designed to draw people to the casino to enjoy the food, and then stay to gamble.

Whether a traditional recipe or fusion, the dishes will be outstanding with friendly service.

RuYi symbolizes good fortune and prosperity, meaning “As you wish.” RuYi means good luck—but it also means great food. With a traditional Asian menu featuring dishes like the renowned Peking Roast Duck, Pad Thai, Bulgogi, Udon, General Tso's Chicken, Korean Spicy Wok Noodles and other house specialties, as well as high-quality sushi, sashimi and unique rolls, it's no wonder *RuYi has*



*garnered rave reviews.* For example, one of the most popular dishes at Ruyi in Milwaukee is the volcano chicken (\$15). It's a different preparation than most Thai restaurants: a thin chicken breast is breaded in crisp panko, fried, sliced into strips and then topped with a creamy, coconut-based, mild curry sauce. It's a grown-up chicken strip dish, and who doesn't love that? RuYi makes no apologies for it, and neither should you.

If there is a wait to be seated at RuYi, a vibrating pager alerts you when your table is ready, which works throughout the casino. Even if you're not gambling, you can watch a craps table or get a drink at several different bars. Or, stand nearby the host stand and count the number of to-go orders leaving

the restaurant. We anticipate, like most Chinese American spots, they will do a high volume of takeout. This is a restaurant that is designed to satisfy as many tastes as possible, and with a menu that spans the full range of Asian entrees and appetizers.

### THE BUFFET

You're going out to eat with friends. One person wants Mexican, another, Italian. One votes for Asian and the other desires good old American fried chicken. So, who gets to choose the cuisine? When you dine at The Buffet at the Waukegan Potawatomi Casino, everyone does! Fill your plate with high-quality carved meats, self-made tacos, custom-prepared pizzas, rotisserie chicken, wok-fried Asian noodles and so much more.



Our culinary team prepares the food right before your eyes at Mediterranean, Latin, Asian and American action stations; we also offer terrific salads and desserts.

Value-driven buffets are frequently featured in casinos to drive volume at the Buffet. The Waukegan Potawatomi Casino will be no different. We envision that there will be specialty nights at the Buffet throughout the week.



The Buffet's variety, food quality, and reputation have led to a strong local following. Our ultimate goal is to leave you feeling fully satisfied, with a better quality and variety of dishes than you're offered at other buffet restaurants.



**SPORTS BAR &  
GRILL**



The Sports Bar & Grill is bound to have an energetic atmosphere. Great food, great company, and a great seat to watch your favorite sporting events from around the world via satellite on high-definition TV screens visible from all areas of the room. Enjoy everything from football, baseball, and basketball to hockey and soccer on game days

**COFFEE AND  
SWEETS**

Need your morning caffeine jolt? Or, maybe an afternoon pick-me-up?

The coffee bar features a variety of locally roasted coffee blends, espressos, cappuccinos and signature beverages, plus hand-made pastries and baked goods made from scratch using the finest local ingredients.



**FOOD HALL**

The Waukegan Potawatomi Food Hall will feature 3 choices for people on the go. The final selection of the venues will be based on our market research and feedback from the City of Waukegan.

**Potawatomi Hotel  
Casino**

Our Milwaukee property features the Menomonee Valley Food Court with four venues.



One of the concepts we will consider for the Food Hall is the revolutionary concept --Spyce.





Spyce is a robotic-powered restaurant which prepares food in three minutes or less. Four MIT graduates wanted to make healthy meals more affordable, which inspired them to create the restaurant concept, Spyce. The four teamed up with Chef Daiel Boulud to create the menu for the restaurant with menu prices starting at \$7,50 The four, commonly referred to as the “Spyce

Boys” were inspired by their experiences as “hungry student athletes on a tight budget” The Spyce Boys are in the proces of creating a franchise option for the concept.



### **Steak House**

In our desire to appeal to all market segments, the Waukegan Potawatomi Casino will feature an upscale steak house. Dream Dance Steak at PHC is among the top featured restaurants in all of Milwaukee and has received many accolades throughout the years.

*Carol Deptolla, dining critic for the Milwaukee Journal Sentinel, has ranked Dream Dance Steak among the Top 30 Restaurants in Milwaukee from 2009 to 2018*

*Historically, Dream Dance Steak was recognized as one of the Distinguished Restaurants of North America from 2005 to 2012 and a recipient of the AAA Four Diamond Award from 2004 to 2017.*

### **Dream Dance Steak Milwaukee**





Potawatomi is constantly striving to improve the physical look and feel of their food and beverage outlets and to maintain a high-level of customer service.

### **Gift Shop**

The gift shop will be well-located to capture patrons entering and leaving the Casino. The 1,300 square foot gift shop will feature sundries, merchandise, snack foods and gift items.



The Gift Shop has to create an identity through the merchandise. The selection of merchandise should be focused on "Waukegan" and embrace the icons of the area.



### **Hotel**

Although the proposed development will not initially include a hotel component, it will induce additional demand for accommodations in the City of Waukegan. Through the years, PHC evolved from a Bingo Hall in the

early days into a \$1 Billion tourist destination attracting over 6 million people annually.

The four-star 381-room hotel opened in 2014. Prior to having on-site accommodations Potawatomi had and still has a strategic alliance with the local downtown Milwaukee hotels. Before the hotel opening, the casino relied solely on the local market to accommodate overnight guests. PHC still has alliances and utilizes additional hotel rooms in downtown Milwaukee for overflow casino patrons. Since the hotel opened, occupancy levels have exceeded 95% on an annual basis. PHC's success was the impetus for the new hotel tower which will officially open on August 8<sup>th</sup> of this year.

In Fountain Square, the 116-room Hampton Inn, which opened in October of 2018, has not been absorbed by the market and market occupancy has declined nearly 10 percentage points among the properties in the Fountain Square hotel market as shown in the table below.

**Table 3**

Historical Hotel Demand Waukegan Fountain Square Hotel Market			
Year	Occupancy Levels	Average Daily Room Rate	RevPar
2013	70.9%	\$102.33	\$72.54
2014	76.1%	\$105.03	\$79.92
2015	73.3%	\$112.85	\$82.67
2016	71.2%	\$112.96	\$80.46
2017	72.1%	\$114.79	\$82.80
2018	72.1%	\$117.37	\$84.58
2019 <sup>(1)</sup>	62.6%	\$109.71	\$68.67
2018 <sup>(1)</sup>	72.1%	\$109.41	\$76.70

<sup>(1)</sup> Year-to-date results through May

Source: Smith Travel Research

The Waukegan Potawatomi Casino will create strategic alliances with the existing local hotels to accommodate valuable gaming patrons seeking accommodations. The performance of the Fountain Square hotel market, according to the data in the *Smith Travel Research* report indicates excess capacity every day of the week.

In the short-term, we believe the Waukegan Potawatomi Casino will induce hotel demand in the Fountain Square hotel market, and enable the existing properties to recover recent 10% drop in hotel market occupancy. In the economic impact section, pp. 24-33, we quantify the impact on the local Fountain Square hotel market for the first three years of operation of the Waukegan Potawatomi Casino.

### **Parking**

The Waukegan Potawatomi Casino will feature a 1,500 space structured parking garage. In addition, there will be 475-525 spaces of surface parking to accommodate employees and overflow valet parking.



**Smoking Terrace**

In 2008, Illinois became one of the first states to prohibit smoking in commercial casinos. In an effort to accommodate all of our patrons, the Waukegan Potawatomi Casino will feature a smoking terrace that conforms to the Smoke-Free Illinois Act.

**Site Plan**

PHC has engaged Cunningham Group, a nationally acclaimed, full service architectural firm with vast experience as a quality casino designer, see Qualifications at Exhibit 2, to assist in the preparation of this proposal. We were not able to prepare a detailed site plan, casino design, or a rendering prior to the RFQ/P deadline. However, Cunningham Group is continuing to work on these tasks and, if PHC is invited for an interview, Cunningham Group's additional planning work product will be available for review. The City has recently provided additional information that will contribute to our design process. August 2, 2019 update – Addendum 3.<sup>5</sup> PHC appreciates that the City has agreed to make staff available if it enters into further discussion with an applicant, which we understand has not been allowed under the Notice of Prohibition of Communication, RFQ/P p.6.



<sup>5</sup> Available at website <https://www.waukeganil.gov/DocumentCenter/View/3535/August-02-2019-Update-Addendum-3?bidId=153>.



**CUNINGHAM**  
 G R O U P 08/05/2019

### **Timeline and phasing for project (RFQ/P 2.B.)**

The PHC timeline for the Waukegan Potawatomi Casino is straightforward. Carefully plan, build, and open the most attractive casino in Illinois with all deliberate speed to open on December 1, 2021. The Waukegan Potawatomi Casino will have a larger casino floor than any other casino currently operating in Illinois which will provide the most attractive and comfortable environment for our players. We plan to open with all amenities and food and beverage venues ready to serve and attract our customers. The Fountain Square site appears ready to go, which will allow an aggressive pre-construction and construction schedule. The aggressive but achievable pre-construction plan beginning on October 1, 2019 followed by an 18 month construction period is set out in Exhibit 3. Importantly, this proposal is not contingent on PHC securing outside investors which could cause substantial delay. We know that if we offer a great experience at this desirable location, we will draw and develop loyal customers away from the neighboring gaming venues.

PHC understands the City would prefer that the operator it selects agree to open a temporary facility. After careful consideration, we have decided not to propose a temporary facility as part of this proposal. Our own experience with setting up a temporary gaming facility has taught us that a temporary facility is not inexpensive, especially the electrical and fiber optic infrastructure, and can create a poor customer experience. Most of those costs are a throw away. In addition, the planning for traffic and other local impacts can take almost as long as planning for a full scale casino. The period available to generate revenue from a temporary facility will be short, and any delays on the front end, for instance for planning, permitting and licensing, will erode estimated revenue. Most important, however, a temporary facility does not provide a great customer experience. That mediocre experience can negate some of the initial buzz we will create around the opening of the new facility. That said, we are willing to analyze this again with the better information we would have as a result of discussing the details of a temporary facility with City staff. Based on those discussions, we could come to a different decision.

Finally, PHC is not proposing a hotel in this proposal. We have concluded that the best strategy for the Waukegan Potawatomi Casino is to develop partnerships with the hotel operators in the Fountain Square vicinity which will allow the casino to offer promotional or discounted rooms to players as a part of our players' club. We will also provide transportation to and from the hotels. This will increase demand for existing rooms in the local hotels which are currently operating well below full occupancy. This approach will generate increased room taxes just like stays in a new casino hotel. PHC knows well and believes in the benefits of a hotel attached to the casino. We have built two large hotel towers. An attached hotel is a valuable marketing tool for attracting players. PHC operated for many years without a hotel and knows when a hotel is justified as an amenity for the casino. Therefore, we will closely monitor the occupancy rates of hotels in the Waukegan market. We will use our players' club to drive additional demand for those existing hotel rooms. When that demand and the needs of the casino allow, we will be thrilled to announce a hotel tower at the Waukegan Potawatomi Casino.

We know that many existing businesses around a proposed new casino will be concerned that a casino will unfairly compete with their business. We sometimes hear this from other members of the hospitality industry. By increasing demand for local hotel rooms, we believe the Waukegan Potawatomi Casino will help build the hospitality market in Waukegan without cannibalizing the hotel market. The Waukegan Potawatomi Casino will be a good partner to the local business community.

### **Sustainable Development Components (RFQ/P 2.C.)**

PHC has demonstrated a commitment to reducing its environmental impact and preserving the air, water, and soil for future generations. PHC is committed to LEED standards and, together with the Community, has an impressive list of environmental accomplishments which have been recognized by awarding agencies as listed below. PHC has partnered with the Community to support the development of an Anaerobic Biodigester which collects waste products from southern Wisconsin and northern Illinois and converts the waste into heat and electricity. The Biodigester heat loop reduces the cost of heating and hot water for PHC. You may find it interesting that 38% of the feed stock consumed by the Biodigester comes from sources in Illinois. The Biodigester, as well as a large number of other energy efficiency projects implemented by PHC are featured in the PowerPoint slides attached as Exhibit 4. We are certain that the PowerPoint demonstrates PHC's unparalleled commitment to energy efficiency and protecting the environment. PHC proposes to bring the same commitment to the environment and energy efficiency to its construction and operation of the Waukegan Potawatomi Casino.

### **Energy Awards/ Memberships**

- a. 2019 Wisconsin Green Building Alliance  
Award of Merit  
Wgechda Renovation



- b. Council LEED certification for Wgechda Renovation under the LEED ID&C Commercial Interiors v3-LEED 2009 Rating System. *(Announced October 11, 2018)*
- c. EPA Green Power Partnership  
2016 Green Power Leadership Award for FCPC  
*(Announced October 17, 2016)*
- d. Central States Water Environmental Association, Inc.  
2015 Industrial Achievement Award  
FCPC Anaerobic Digester Project  
*(Announced March 13, 2015)*



- e. U.S. Green Building Council LEED gold certification for Potawatomi Hotel under the LEED for New Construction Rating System  
*(Announced April 21, 2015)*
- f. American Biogas Council  
2015 Biogas Industry Award Winner  
Merchants Biogas Project of the Year  
*(Announced October 21, 2015)*
- g. 2014 Wisconsin Green Building Alliance  
Innovation Award  
FCPC Renewable Generation LLC
- h. 2014 Waste Cap Resource Solutions  
Distinguished Commitment to Organics Division  
FCPC Renewable Generation LLC
- i. 2014 Association for Facilities Engineering (AFE)  
AFE "Project of the Year" Award  
FCPC Renewable Generation LLC
- j. EPA Green Power Partnership  
Green Power Leadership Club for Exemplary  
Green Power Procurement – Partner since 2011  
*(TBD to send in annual update to EPA)*  
Latest Submission: August 25, 2015



- k. U.S. Green Building Council LEED gold certification for Data Holdings LLC  
*(Announced June 24, 2014)*
- l. U.S. Green Building Council LEED gold certification for Bgemagen (Wunder Hall) for Building Design and Construction Core and Shell.  
*(Announced July 26, 2013)*

**Target audience and marketing approach (RFQ/P 2.D.)**

PHC has strong marketing experience including extensive use of paid media, direct mail, social media, web presence, and our very successful players loyalty program, Fire Keeper's Club. PHC also knows a great deal about the active casino players in Illinois. Many members of the Fire Keeper's Club are from Illinois. We will use this knowledge and experience to build excitement in the Waukegan Potawatomi Casino market during construction so that our players will be anxious to visit on opening day.

The most effective marketing comes from providing a great player experience. We know that potential casino customers in northern Illinois will have a choice of visiting a competing casino or a racino. However, once a player visits the Waukegan Potawatomi Casino, we will ensure that they will want to come back.

**The Waukegan Potawatomi Casino Marketing Plan**

PHC knows and has demonstrated that marketing campaigns play a vital role in the successful operation of a casino. The amount of profits and future income depends on the casino's traffic and popularity.

PHC's integrated marketing approach is customer focused and built on the pillars of social media, a guest relations department, customer service department, e-mail marketing campaigns, a proprietary customer relationship management system (CRM), and the extensive data base of the Fire Keeper's Club.

PHC's customer relationship management system is a multi-level business strategy, aimed at the analysis of customer needs. The introduction of such a system offers many management opportunities for casino operators. The advantages include:

- automation of customer relations;
- quick access to customer base and information about them;
- prompt customer service, an increase in customer satisfaction;
- control over sales process;
- personnel management.

The most important result of the application of CRM is the automation of marketing tools: the creation of intelligent mailing, efficient promotional campaigns, and the management of marketing campaigns.

Fire Keeper's player's club has been successful in attracting and retaining new customers. The main tool for increasing confidence of casino players is the launch of a lucrative and fair loyalty program aimed at building long-term relationships with customers.

PHC will bring our experience in developing local customers to the Waukegan Potawatomi Casino.

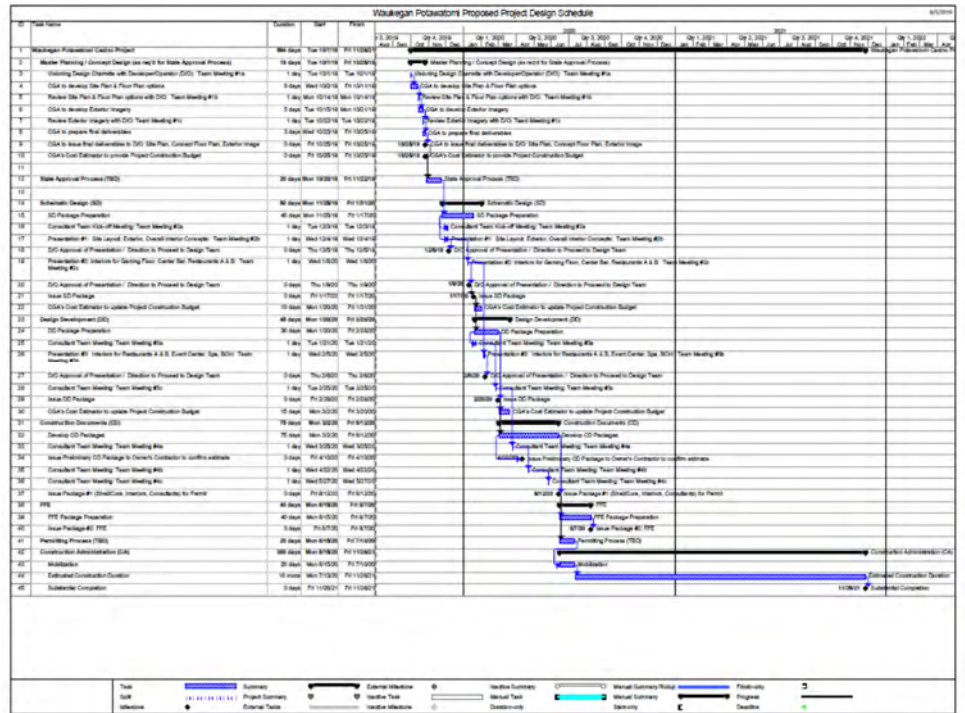
**Responsible Gaming**

Responsible Gaming is PHC's number one social priority and we are committed to making people aware of the risks and providing resources for those who need it. <https://www.paysbig.com/business/responsible-gaming>



## Timeline for Development (RFQ/P 2.E.)

[See attached Exhibit 3 for larger version of chart]



## Plans For Community Reinvestment (RFQ/P 2.F.)

PHC is driven by a sense of responsibility to strengthen the communities that have helped it prosper. This sense of responsibility is reflected in PHC's business principals of helping improve the communities they are part of and leading through action.

The example set by PHC in moving the entire community forward is not lost on local leadership or the news media. In a recent cover story titled "Potawatomi: Milwaukee's Finest Corporate Citizen," the Shepherd Express wrote "Whether it's through large donations to local charities or sponsoring events to promote Native American culture, Potawatomi embraces its place as a leading philanthropic entity in the city. As Milwaukee's profile grows on the national stage, Potawatomi want to be a part of the city's ascent."<sup>6</sup>

So, just as PHC has demonstrated in Milwaukee, PHC will make a long term commitment to community reinvestment in Waukegan.

PHC believes its record in Milwaukee speaks for what it can do in Waukegan. Some of the community reinvestment work it has accomplished in Milwaukee includes:

- The ability to recruit, train and employ area residents and minorities with 80% of PHC's employees being residents of the City of Milwaukee and more than 60% of PHC's employees are minorities.
- PHC has entered into Project Labor Agreements with the Milwaukee Building Trades for nearly \$500 million in construction work over the

<sup>6</sup> "Potawatomi: Milwaukee's Finest Corporate Citizen" *Shepherd Express*, April 2, 2019.

last decade to help deliver major construction work on time and on budget.

- PHC works with more than 60 local and minority owned businesses for the products and services it needs each year.
- PHC annually contributes nearly \$1.5 million in Milwaukee-area sponsorships and grants to over 60 local non-profit groups.
- PHC has been a major catalyst for the transformation of the industrial Menominee Valley into a clean and prosperous development area. Regarding their investment in the Valley, the Wisconsin Policy Forum reported in a 2014 study of the area's redevelopment, "The influence of the Forest County Potawatomi on these figures cannot be overstated as roughly \$536 million of the total investments have been made by that one entity (52%). Thus the Forest County Potawatomi have invested more in the Menomonee Valley than all other private and public entities combined."<sup>7</sup>

Civic, elected and business leaders in Milwaukee will confirm that PHC is a positive force for their community and PHC looks forward to the opportunity to have Waukegan do the same.

## References

PHC urges the City to contact the following references regarding PHC's community reinvestment activities:

### **Milwaukee Mayor Tom Barrett**

Potawatomi Hotel Casino has completed nearly \$500 million in construction projects during Mayor Barrett's term. The various capital projects have required zoning and other regulatory approvals by Mayor Barrett's Administration.

### **Milwaukee Alderman Bob Donovan**

Potawatomi Hotel Casino is located in Alderman Donovan's district. Potawatomi Hotel Casino has completed nearly \$500 million in construction projects during Alderman Donovan's term. The various capital projects have required zoning and other regulatory approvals by Alderman Donovan and the Milwaukee Common Council.

### **Willie Hines (former Milwaukee Common Council President)**

Willie Hines served on Milwaukee's Common Council from 1996 – 2014, including City Council President from 2004-14. During his tenure on the City Council, Potawatomi and the City of Milwaukee entered into a 1999 intergovernmental revenue sharing agreement that has resulted over \$95 million in revenue for the City of Milwaukee.

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<sup>7</sup> "Redevelopment in Milwaukee's Menomonee Valley: What Worked and Why?" *Wisconsin Policy Forum*, September 2014. <http://publicpolicyforum.org/sites/default/files/Valley%20report%20final.pdf>

**Milwaukee Metropolitan Association of Commerce President Tim Sheehy**

Metropolitan Milwaukee Association of Commerce is the region's business association. Potawatomi Hotel Casino is a member of MMAC.

**Menomonee Valley Partners Executive Director Corey Zetts**

Menomonee Valley Partners is the organization overseeing the public-private collaboration to redevelop the Menomonee Valley. Potawatomi Hotel Casino is located in the Menomonee Valley.

**Benefits for  
the City of  
Waukegan and  
its residents,  
and estimated  
economic  
impacts  
(RFQ/P 2.G.)**

PHC engaged HGS to evaluate the economic impact of the Waukegan Potawatomi Casino to be located at Fountain Square in Waukegan, Illinois. HGS has estimated the economic and fiscal benefits that will accrue to the regional area (as further defined in this section) as a result of the construction and operation of the Waukegan Potawatomi Casino. This analysis does not consider the potential reinvestment of profits from the Waukegan Potawatomi Casino in various contemplated local and community projects.

**METHODOLOGY**

An assessment of the economic benefits that occur as a result of the construction and on-going operations of a casino can be approached in several ways. Regional input-output models are widely used by economists as a tool to understand the flow of goods and services within a study area and measure the complex interactions among them. For this analysis, we utilized IMPLAN software and databases. IMPLAN, which stands for Impact Analysis for Planning, is a computer software package that allows the estimation of the multiplier effects of changes in final demand for one industry on all other industries within a defined economic area. Its proprietary methodology includes a matrix of production and distribution data among all counties in the U.S. As such, the advantages of this model are that it is sensitive to both location and type of spending and has the ability to provide indirect/induced spending, employment and earnings information by specific industry category while taking into account the leakages associated with the purchase of certain goods and services outside the economy under consideration.

**Economic Impact  
Calculation**

The total economic impact is a result of both direct spending, as well as calculated multiplier effects for indirect and induced impacts.

**Direct Spending**

Estimating direct spending is the first step in calculating economic impact. Direct spending represents the initial change in spending that occurs as a direct result of the construction and operation of a casino.

**Indirect/Induced  
Impacts**

The economic activity generated through the construction and operation of a casino affects more than just the property itself. In preparation for new spending in the economy, several other economic sectors are impacted and jobs are created. Indirect effects reflect the re-spending of the initial or direct expenditures or the business-to-business transactions required to satisfy the



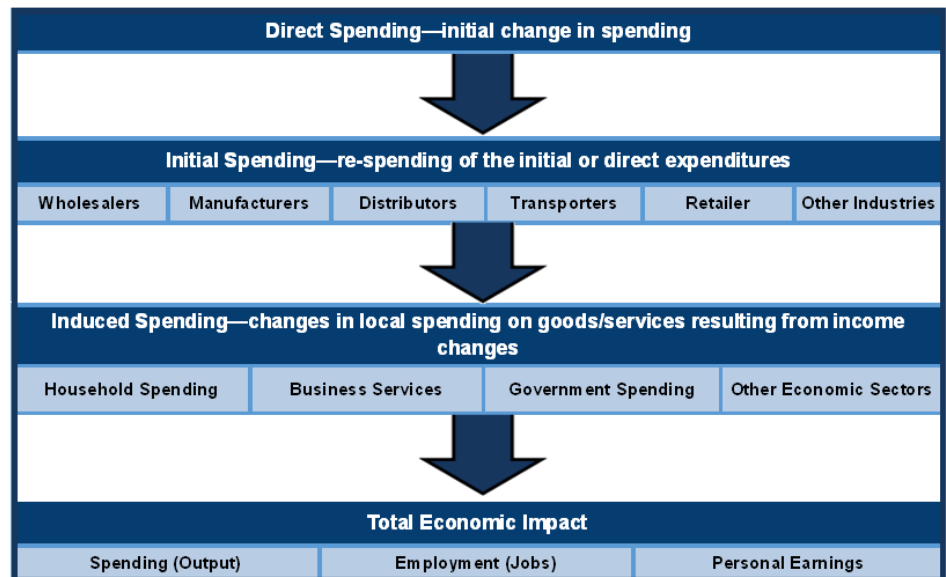
direct effect. Induced effects reflect changes in local spending on goods and services that result from income changes in the directly and indirectly affected industry sectors. The model generates estimates of these impacts through a series of relationships using local-level average wages, prices and transportation data, taking into account commute patterns and the relative interdependence of the economy on outside regions for goods and services.

The results of the analysis are discussed using various metrics, as follows:

- *Spending (output)* represents the total direct and indirect/induced spending effects generated by the casino. This calculation measures the total dollar change in spending (output), which occurs in the local economy for each dollar of output delivered to final demand.
- *Personal earnings (labor income)* represent the wages and salaries earned by employees of businesses associated with or impacted by the casino. In other words, the multiplier measures the total dollar change in earnings of households employed by the affected industries for each additional dollar of output delivered to final demand.
- *Employment (jobs)* represents the number of full and part-time jobs supported by the casino. The employment multiplier measures the total change in the number of jobs supported in the local economy for each additional \$1.0 million of output delivered to final demand.

Figure 6 illustrates the multiplier effects for calculating the total economic impact.

**Figure 6  
Economic Impact  
Multiplier Effect**



**Defined Study Area**

It is necessary to define an impacted region in order to calculate the economic impacts of development and operations of the Waukegan Potawatomi Casino. There is no rule of thumb for this definition, as impacts would likely extend throughout Lake and Cook Counties and even the state



as a whole. Impacts could be examined more finitely at the host city or county level. For purposes of this analysis and based upon our experience with other comparable venues and markets, our economic impact analysis is calculated based on the impacts to Lake and Cook Counties (the “Study Area”). These areas will likely serve as the source of the vast majority of the Waukegan Potawatomi Casino’s employees and vendors. The impacts presented in the following sections are measured in terms of the outputs for the Study Area as a whole (i.e. combined impacts across the aforementioned counties).

**PRE-OPENING/  
CONSTRUCTION  
IMPACT**

The first phase of the economic impact will be the construction phase. Construction employment and spending is only temporary, but it can have substantial impacts on the economy. We anticipate the construction phase will last for a period of approximately 18 months.

**Construction  
Budget**

Construction expenditures generally fall into several different categories. Construction and site work include the hard costs for the building and materials along with labor. Soft costs reflect architectural services, other professional services, financing costs, start-up expenses and other non-material expenses. Additionally Furnishing, Fixtures and Equipment (FF&E) are included, as are pre-opening and contingency budgets. FF&E expenses generally include non-leased gaming equipment, which typically would be a non-local purchase. Table 4 outlines the projected development cost for the casino, presented in 2019 dollars.

**Table 4**

<b>Estimated Construction Costs of the Waukegan Potawatomi Casino</b>	
Construction and Site Work	\$153,170,000
Soft Goods	\$25,600,000
FF&E	\$93,330,000
Subtotal	\$272,100,000
Pre-Opening & Contingency	\$31,210,000
Licensing	\$40,000,000
<b>Total</b>	<b>\$343,100,000</b>

*Source: Hospitality and Gaming Solutions*

In order to ensure an accurate analysis, investments in construction activities are anticipated to remain within the region at the same proportion as similar investments have historically in our gaming industry experience. Based on the cost breakdown by element, we estimate that \$260.5 million of the \$343.3 million will be spent regionally in the Study Area.

**Total Output**

Total output measures the value of goods and services that will go into the construction of the Waukegan Potawatomi Casino, along with the indirect and induced impacts in the economy of the Study Area. The direct impact from construction related activities and local procurement of FF&E is estimated to be \$206.1 million. The indirect outputs resulting from development is estimated to be \$50.2 million. The generation of direct and indirect employment increases household incomes in the region. As a result, there will be an increase in consumption for the Study Area. The

increase in consumption, or induced output, is estimated to be \$76.0 million. In aggregate, it is estimated that a total of approximately \$332.3 million in economic output would be generated within the Study Area during the construction phase of the Waukegan Potawatomi Casino. Table 5 provides a summary of these benefits, stated in 2019 dollars.

**Table 5**

<b>Output from Construction of the Waukegan Potawatomi Casino</b> (\$ in Millions, Stated in 2019 Dollars)			
<b>Direct</b>	<b>Indirect</b>	<b>Induced</b>	<b>Total</b>
\$206.1	\$50.2	\$76.0	\$332.3

Sources: IMPLAN and Hospitality and Gaming Solutions

**Job Creation**

The direct impact of the construction of the Waukegan Potawatomi Casino is estimated to generate 1,054 jobs. Additionally, 172 and 380 jobs are estimated to be generated through indirect and induced impacts, respectively. In total, the construction of the Waukegan Potawatomi Casino is estimated to create 1,606 jobs as summarized in Table 6. It is important to note that the construction phase of the Waukegan Potawatomi Casino is assumed to take place over an 18 month period, and thus the jobs created during this phase may or may not be sustained over the long term as that remains dependent upon a variety of factors such as future economic development within the region and associated employment demand.

**Table 6**

<b>Employment Impact from Construction of the Waukegan Potawatomi Casino</b> (# of Jobs)			
<b>Direct</b>	<b>Indirect</b>	<b>Induced</b>	<b>Total</b>
1,054	172	380	1,606

Sources: IMPLAN and Hospitality and Gaming Solutions

As a result of the construction expenditures associated with the Waukegan Potawatomi Casino, the jobs created during the construction will be in a variety of industries, naturally led by construction-related employment. Based on our analysis, it is estimated that wholesale trade business will be the second most impacted industry from a labor perspective, followed by food and beverage establishments, real estate businesses, and architectural, engineering and related services. Collectively, the aforementioned industries represent 71% of the total jobs estimated to be created.

**Labor Income**

As a result of the creation of the direct jobs associated with the construction of the Waukegan Potawatomi Casino, \$70.2 million in labor income is estimated to accrue in the Study Area. Labor income consists of all forms of employment income including wages and benefits. Indirect and induced labor incomes in other sectors within the Study Area are estimated to be approximately \$13.5 million and \$21.9 million, respectively, as a result of the construction. The total labor income attributable to the construction of the Waukegan Potawatomi Casino is estimated to be \$105.6 million as shown in Table 7.

**Table 7**

<b>Labor Income Impact from Construction of the Waukegan Potawatomi Casino</b> (\$ in Millions, Stated in 2019 Dollars)			
<b>Direct</b>	<b>Indirect</b>	<b>Induced</b>	<b>Total</b>
\$70.2	\$13.5	\$21.9	\$105.6

Sources: IMPLAN and Hospitality and Gaming Solutions

## **OPERATING IMPACT**

The ongoing annual economic impact of the Waukegan Potawatomi Casino utilizes the financial projections, in addition to a staffing and payroll model generated by HGS. Based on our gaming industry experience and the anticipated visitation levels, and casino sizing recommendations, and ancillary offerings, we have estimated 1,382 FTEs for the Waukegan Potawatomi Casino during a stabilized year of operation. It is important to note however, while our analysis of economic impacts is stated in 2019 dollars, we have incorporated expected changes to Illinois minimum wage levels into our payroll estimates for the Waukegan Potawatomi Casino.

## **Total Output**

Direct output measures the total spending by the Waukegan Potawatomi Casino. The net direct output from the operation of the Waukegan Potawatomi Casino is estimated to be \$236.4 million on an annual basis. The indirect output resulting from operation of the Waukegan Potawatomi Casino, which emanates primarily from economic activities of casino suppliers, has a ripple effect in the economy of the Study Area, which is estimated to be \$84.0 million on an annual basis. The induced spending, which reflects increased consumption attributable to the direct and indirect labor income, is estimated to result in \$72.1 million of output on an annual basis. Overall, it is estimated that approximately \$392.5 million in economic output would be generated in the Study Area annually once the Waukegan Potawatomi Casino is operational, stated in 2019 dollars, as shown in Table 8.

**Table 8**

<b>Annual Output from Operation of the Waukegan Potawatomi Casino</b> (\$ in Millions, Stated in 2019 Dollars)			
<b>Direct</b>	<b>Indirect</b>	<b>Induced</b>	<b>Total</b>
\$236.4	\$84.0	\$72.1	\$392.5

Sources: IMPLAN and Hospitality and Gaming Solutions

## **Job Creation**

Based on our ground-up staffing model, the Waukegan Potawatomi Casino will directly generate an estimated 1,382 FTEs in a stabilized year of operation. An additional 631 jobs are estimated to be generated through indirect impacts and 586 jobs through induced impacts. In total, the operation of the Waukegan Potawatomi Casino is estimated to generate 2,599 new jobs as shown in Table 9. We do not anticipate any substitution effect with respect to employment changes at other competitive casinos as a result of the addition of the Waukegan Potawatomi Casino to the market.

Table 9

<b>Employment Impact from Operation of the Waukegan Potawatomi Casino</b> (# of Jobs)			
<b>Direct</b>	<b>Indirect</b>	<b>Induced</b>	<b>Total</b>
1,382	631	586	2,599

Sources: IMPLAN and Hospitality and Gaming Solutions

Approximately, 1,217 jobs are estimated to be generated outside of the Waukegan Potawatomi Casino across numerous industries. Based on our analysis, this is led by food and beverage establishments, retail, and medical practitioners, who collectively account for roughly 40% of the total estimated new jobs.

**Labor Income**

As a direct result of the creation of the new jobs generated by the operation of the Waukegan Potawatomi Casino, \$71.6 million in annual labor income is estimated to accrue in the Study Area. As previously discussed, labor income consists of all forms of employment income including wages and benefits. Indirect and induced labor income in other sectors within the Study Area is estimated to be approximately \$39.5 million and \$29.7 million, respectively, as a result of operation of the Waukegan Potawatomi Casino. The total labor income attributable to the operations of the Waukegan Potawatomi Casino is estimated to be \$140.8 million as shown in Table 10.

Table 10

<b>Annual Labor Income Impact from Operation of the Waukegan Potawatomi Casino</b> (\$ in Millions, Stated in 2019 Dollars)			
<b>Direct</b>	<b>Indirect</b>	<b>Induced</b>	<b>Total</b>
\$71.6	\$39.5	\$29.7	\$140.8

Sources: IMPLAN and Hospitality and Gaming Solutions

**CONSTRUCTION AND JOB SUMMARY**

The construction and operation of the Waukegan Potawatomi Casino is estimated to create a significant impact to the Study Area, with total output during construction of \$332.3 million and \$393.5 million on an annual basis once operations commence, while generating an over 4,200 jobs across both phases as shown in Table 11.

Table 11

<b>Summary Economic Impact of Construction and Operation of the Waukegan Potawatomi Casino</b> (\$ in Millions, Stated in 2019 Dollars and # of Jobs)			
<b>Phase</b>	<b>Total Output</b>	<b>Labor Income</b>	<b>Jobs</b>
Construction	\$332.3	\$105.6	1,606
Operations (annually)	<u>\$393.5</u>	<u>\$140.8</u>	<u>2,599</u>
<b>Total</b>	<b><u>\$725.8</u></b>	<b><u>\$246.4</u></b>	<b><u>4,205</u></b>

Sources: IMPLAN and Hospitality and Gaming Solutions

**ADDITIONAL  
 BENEFITS TO THE  
 CITY OF  
 WAUKEGAN**

PHC in partnership with the City of Waukegan will bring additional benefits to the City of Waukegan. In this partnership, the casino has the potential to spur economic and tourism development and rejuvenate the local economy and attract new industries.

**Local Fountain  
 Square Hotels**

Although the proposed development will not initially include a hotel component, it will induce additional demand for accommodations in the City of Waukegan and specifically in the Fountain Square hotel market.

Within one mile of the Fountain Square site for the Waukegan Potawatomi Casino there are six chain-affiliated limited-service properties, all with a rating of 2.5 to 3 stars, totaling 729 rooms. Table 12 lists the properties and their number of rooms.

**Table 12**

Hotels within One-Mile of the Proposed Waukegan Casino	
Property	Number of Rooms
Holiday Inn Express & Suites Waukegan	96
Hampton Inn & Suites Waukegan	116
Candlewood Suites Waukegan	122
Springhill Suites Waukegan	120
Courtyard by Marriott Waukegan	149
Residence Inn Waukegan	126
Total	729

Source: Hospitality and Gaming Solutions

The historical performance for the Fountain Square Hotels in Waukegan is set forth in Table 13.

**Table 13**

Historical Hotel Demand Waukegan Fountain Square Hotel Market			
Year	Occupancy Levels	Average Daily Room Rate	RevPar
2013	70.9%	\$102.33	\$72.54
2014	76.1%	\$105.03	\$79.92
2015	73.3%	\$112.85	\$82.67
2016	71.2%	\$112.96	\$80.46
2017	72.1%	\$114.79	\$82.80
2018	72.1%	\$117.37	\$84.58
2019 <sup>(1)</sup>	62.6%	\$109.71	\$68.67
2018 <sup>(1)</sup>	72.1%	\$109.41	\$76.70

<sup>(1)</sup> Year-over-year results through May  
 Source: Smith Travel Research

The Waukegan Fountain Square hotel market has not absorbed the addition of the 116-room Hampton Inn, which opened in October of 2018. In addition, an application has been filed with the City of Waukegan for a new Towne Place Suites by Marriott. Prior to the opening of its hotel, PHC induced the demand for accommodations in the market that was accommodated by strategic partnerships with local hotels in the downtown Milwaukee hotel

market. In the short-term, the Waukegan Potawatomi Casino will execute the same strategy as in Milwaukee by building strategic alliances with the local Fountain Square hotel market. This will aid in bolstering occupancy levels of the existing hotels above their current performance levels.

An estimate of the additional induced occupied rooms in the Fountain Square hotel market as a result of the development of the Waukegan Potawatomi Casino for the first three years of operation are illustrated in Table 14.

**Table 14**

Projected Additional Occupied Rooms Due to the Waukegan Potawatomi Casino		
Year	Occupied Rooms	Room Revenue <sup>(1)</sup>
2022	23,400	\$2,547,000
2023	35,100	\$3,861,000
2024	46,800	\$5,148,000

<sup>(1)</sup>Stated in 2019 Dollars, and based on a non-inflated average daily room rate of \$110.

Source: Hospitality and Gaming Solutions

The transient hotel occupancy tax for the City of Waukegan is 12%, of which the City of Waukegan receives 6%. Based on our analysis, Table 15 illustrates the occupancy tax the City of Waukegan would collect for the additional room nights sold due to the Waukegan Potawatomi Casino for the first three years of operation.

**Table 15**

Projected Transient Hotel Occupancy Taxes Due to the Waukegan Potawatomi Casino	
Year	Hotel Tax Revenue
2022	\$154,400
2023	\$231,700
2024	\$308,000

<sup>(1)</sup>Reflects rounding to the nearest hundred.

Source: Hospitality and Gaming Solutions

### City of Waukegan Pro Rata Share of Property Taxes

PHC proposes to develop the Waukegan Potawatomi Casino at the 28.6 acre site in Fountain Square. The Fountain Square site is subject to the taxing authority of Lake County, but the parcel would be assessed by Worth Township. The City of Waukegan has an additional tax levy of 20%. According to the Assessor of Worth Township, the Waukegan Potawatomi Casino would be assessed at 33.3% of fair market value. Fair market value includes land and improvements.

As in most counties, Lake County utilizes the three approaches from which to select when appraising real estate for market value: income capitalization, cost, and sales comparison. The inherent strengths of each approach and the nature of the subject property must be evaluated to determine which will provide supportable estimates of market value. The appraiser then selects one or more of the appropriate approaches in arriving at a final value estimate.

The cost approach is most reliable for estimating the value of new properties with no income stream. After the Waukegan Potawatomi Casino has a year of operating results, the most applicable approach in deriving value for the Waukegan Potawatomi Casino will be the income approach. The income capitalization approach analyzes a property's ability to generate financial returns as an investment. The income capitalization approach is often selected as the preferred valuation method for operating properties.

For the purpose of this analysis, we have conservatively assumed a fair market value of \$200 million. The applicable millage rate is 12.461559%, which equates to nearly \$8.3 million in the first year of operation (stated in 2019 dollars). Real estate taxes are estimated to increase at 2% annually for the first three years of operation and are shown in Table 16.

**Table 16**

<b>Estimated Real Estate Taxes Waukegan Potawatomi Casino</b>		
<b>Year</b>	<b>Real Estate Taxes</b>	<b>City of Waukegan's Share</b>
2022	\$8,300,000	\$1,660,000
2023	\$8,466,000	\$1,693,200
2024	\$8,635,000	\$1,727,000

*Source: Hospitality and Gaming Solutions*

**Admission Fees**

The structure for admission fees to the State of Illinois are assessed by the number of admissions to the casino. The taxes from admissions are as follows:

- \$3 per admission up to 1,000,000 admissions
- \$4 per admission between 1,000,000 to 2,300,000 admissions
- \$5 per admission over 2,300,000 admissions

The calculation of admission fees assumes the estimated number of admissions at the Waukegan Potawatomi Casino is based on 1,790,000 people, with an allocation of \$1 per admission, for the first three years of operation, as calculated in Table 17.

**Table 17**

<b>Estimated Admission Fees Waukegan Potawatomi Casino</b>		
<b>Year</b>	<b>Total Admission Fees</b>	<b>City of Waukegan Share</b>
2022	\$6,618,000	\$1,790,000
2023	\$6,618,000	\$1,790,000
2024	\$6,618,000	\$1,790,000

*Sources: Hospitality and Gaming Solutions, Illinois Gaming Commission*



**Local Share of Gaming Taxes**

Senate Bill 690, 230 ILCS 10/13(b), provides that from the tax revenue from riverboat or casino gambling deposited in the State Gaming Fund, an amount equal to 5% of the adjusted gross receipts generated by a riverboat designated for Waukegan shall be divided and remitted monthly, subject to appropriation, as follows: 70% to Waukegan, 10% to Park City, 15% to North Chicago, and 5% to Lake County.

Based on our projections of gaming revenue, for the first three years of operation, the City of Waukegan could receive over \$22.3 million, North Chicago could receive over \$5.6 million, Park City could receive over \$3.7 million and Lake County could receive nearly \$1.9 million.

**Potential Additional Revenue**

Table 18 summarizes the potential additional revenue to the City of Waukegan.

**Table 18**

	The City of Waukegan Additional Revenue <sup>(1)</sup>		
	Year 1	Year 2	Year 3
Occupancy Taxes	\$154,400	\$231,700	\$308,900
Real Estate Taxes	\$1,660,000	\$1,693,000	\$1,727,000
Admission Fees	\$1,790,000	\$1,790,000	\$1,790,000
Local Share of Gaming Taxes <sup>(2)</sup>	<u>\$8,640,500</u>	<u>\$8,742,800</u>	<u>\$8,846,400</u>
<b>Total</b>	<b><u>\$12,224,900</u></b>	<b><u>\$12,457,500</u></b>	<b><u>\$12,672,300</u></b>

(1) Reflects rounding to the nearest hundred

(2) The local share may be refunded to the casino

Sources: The City of Waukegan Assessor's Office, Worth Township Assessor's Office, Lake County Assessor's Office and Hospitality and Gaming Solutions

**Expectations or Requests the Proposal Makes of the City (RFQ/P 2.H.)**

PHC has no special expectations or requests to make of the City. PHC will work in good faith with the City to develop a first class project which the City leadership and the entire community will be proud of. PHC will need to fully understand the local taxing and development requirements applicable to the project in order to accurately establish the capital cost budget. PHC will want to discuss with the City how the local share of the tax revenue deposited in the State Gaming Fund under 230 § 10/13(b) will be distributed.

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**Project Team  
Disclosures  
(RFQ/P 3.A.)**

Disclosures for the Project Team in accordance with 230 ILCS 10/5.1 are attached as Exhibit 5.

Attorney representing PHC on all matters before the Illinois Gaming Board:

Donna More  
Fox Rothschild LLP  
321 N. Clark Street  
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Chicago, IL 60654  
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(312) 517-9201 - fax  
dmore@foxrothschild.com

**Project Team  
Roles  
(RFQ/P 3.B.)**

**1. Rodney E. Ferguson - CEO & General Manager**

Primary Role – Oversee the project development, construction and operation. Specific operating duties will include the following:

Principal Duties and Responsibilities

- a. Responsible for the successful overall direction, administration and coordination of the property in accordance with company policies and procedures and objectives established by the Executive Council.
- b. Responsible for all senior executive decisions.
- c. Acts as the primary signer on all contracts, agreements, amendments, or financial decisions that impact the business.
- d. Consult with Executive Council on short and long-range business objectives.
- e. Creates, develops and implements an effective strategy of corporate organization, setting objectives for future growth and expansion.
- f. Ensures quality management operations in all areas of the organization.
- g. Work closely with, and provide direction to, all levels of management and professional staff.
- h. Regularly reviews and evaluates departmental performance, working with department heads to resolve unsatisfactory results or conditions.
- i. Reviews departmental reports, addressing potential conflicts and/or misinformation.
- j. Facilitates the flow of information throughout the property, and develops effective corporate procedures and controls, by organizing and presiding over regularly scheduled meetings.

- k. Held accountable, to the highest degree, for the accuracy and thoroughness of property records and reports.
- l. Maintains open lines of communication with all departments.
- m. Directly supervises the Executive Management members of the organization and indirectly supervises the activities of all Employees who work at the property.
- n. Carry out management responsibilities in accordance with the organization's policies and applicable laws. Responsibilities include but are not limited to interview, hire and train team members; plan, assign and direct work; appraise performance; reward and discipline team members; address complaints and resolve problems.
- o. Develop and guide a Tribal Career Development Program – A structured program that will prepare members of the Forest County Potawatomi Community for a career within gaming and the hospitality industry. Tribal Member Trainees learn from a blend of on-the-job technical training, specialized classroom training, seminars and workshops dedicated to management best practices, mentoring, and work experience.
- p. Establish, update and ensure full compliance with departmental Internal Controls, policies, procedures and regulations.
- q. Perform other duties as assigned.

## **2. Sheryl Schnering – Chief Financial Officer**

### Principal Duties and Responsibilities

- a. Develop, analyze and interpret statistical and accounting information in order to appraise operating results in terms of profitability, performance against budget and other matters bearing on PHC's fiscal stability and operating effectiveness and provide recommendations for corrective action.
- b. Monitor all activities on property to ensure that all applicable laws, rules, regulations, controls and policies are enforced.
- c. Develop and review Standard Operating Procedures and policies to ensure effective operation and adequate internal controls.
- d. Safeguard the financial assets of the casino using appropriate risk management techniques, accounting processing and recording of financial transactions for all casino and hotel business units.
- e. Ensure the timely and accurate processing and recording of financial transactions for all casino and hotel business units.
- f. Generate timely, accurate and credible comparative and analytical reports that provide insight into the success of operations relative to:  
a) the goals set by management and the tribal government, b) the results achieved in prior periods and c) the results achieved by similar

organizations within the casino and hotel industry and/or within the casino's and hotel's geographical area of operation.

- g. Prepare and submit regulatory reports on a timely basis, to include but not limited to those required by the National Indian Gaming Commission (NIGC), Indian Gaming Regulatory Act (IGRA), the Forest County Potawatomi Gaming Commission, the Federal and State Tax Commissions and other relevant laws, regulations and agencies.
- h. Obtain, coordinate and maintain relationships with outside financial service providers including but not limited to banks, auditors, insurance providers and investment firms.
- i. Carry out management responsibilities in accordance with the organization's policies and applicable laws. Responsibilities include but are not limited to interview, hire and train team members; plan, assign and direct work; appraise performance; reward and discipline team members; address complaints and resolve problems.
- j. Provide financial counsel and assistance to other members of the management team in budget or other financial matters. This includes but is not limited to assessment of new games and ventures, analysis of proposed expenditures, lease-buy decisions and compensation programs.
- k. Compile a comprehensive annual financial performance report including summary and detail information to be used in reporting to the Forest County Potawatomi Community General Tribal Council.
- l. Present financial information to team members, management and tribal members in a clear, understandable and appropriate fashion.
- m. Establish, update and ensure full compliance with departmental Internal Controls, policies, procedures and regulations.
- n. Perform other duties as assigned.

### **3. Tom Malloy – Assistant GM & Chief Marketing Officer**

#### Principal Duties and Responsibilities

- a. Together with the Executive Leadership Team, develop and implement a coherent growth strategy for the business, comprising an overarching Mission and Vision and key priorities.
- b. Create, develop and implement an effective strategy for growth and efficiency of operations in the assigned departments.
- c. Maintain an industry-leading brand position by developing innovative and ongoing marketing campaigns to increase revenue and profitability. Gain customer insights, understand customer wants, needs and problems; evaluate customer needs and competitive actions to identify opportunities.

- d. Carry out department responsibilities in accordance with the organization's policies and applicable laws. Responsibilities include but are not limited to interview, hire and train team members; plan, assign and direct work; appraise performance; reward and discipline team members; address complaints and resolve problems.
- e. Direct and participate to formulate and administer company policies and develop long-range and short-range goals for direct reports to attain company's objectives.
- f. Review and analyze activities, costs, operations and forecast data, to determine department progress toward stated goals and objectives.
- g. Assist in developing company budgets and provide strategic oversight for sub-department budget planning and accountability.
- h. Coordinate with the assigned department heads, to develop accurate operating budgets; ensures that departmental operations under his/her span of control are maintained within budgetary constraints.
- i. Establish and implement measures and analytics to determine marketing effectiveness and return on investment. Utilize market research, customer insight, and competitive intelligence to validate strength of programs.
- j. Review departmental reports, addressing potential conflicts and/or misinformation.
- k. Ensure a maximum level of customer service and satisfaction throughout the property is achieved and maintained.
- l. Facilitate the flow of information, and develop effective procedures and controls, by organizing and presiding over regularly scheduled meetings.
- m. Establish, update and ensure full compliance with departmental Internal Controls, policies, procedures and regulations.
- n. Other duties as assigned.

#### **4. Winslow Mexico – Assistant GM – Gaming**

##### Principal Duties and Responsibilities

- a. Create, develop and implement an effective strategy for growth and efficiency of operations in the assigned departments.
- b. Direct and participate in formulating and administering company policies and developing long-range and short-range goals and objectives for direct reports.
- c. Carry out management responsibilities in accordance with the organization's policies and applicable laws. Responsibilities include but are not limited to interview, hire and train team members; plan,

assign and direct work; appraise performance; reward and discipline team members; address complaints and resolve problems.

- d. Evaluate assigned departmental performance and work with department heads to take appropriate steps to resolve unsatisfactory results or conditions.
- e. Review and analyze activities, costs, operations and forecast data to determine department progress toward stated goals and objectives.
- f. Ensure the quality of management operations in the assigned departments.
- g. Assist in developing company budgets and provide strategic oversight for sub-department budget planning and accountability.
- h. Coordinate with the assigned department heads, to develop accurate operating budgets; ensure that departmental operations under his/her span of control are maintained within budgetary constraints.
- i. Review departmental reports and address potential conflicts and/or misinformation.
- j. Ensure a maximum level of customer service and satisfaction throughout the property is achieved and maintained.
- k. Facilitate the flow of information and develop effective procedures and controls, by organizing and presiding over regularly scheduled meetings.
- l. Establish, update and ensure full compliance with departmental Internal Controls, policies, procedures and regulations.
- m. Other duties as assigned.

## **5. David Brien – Facilities Director**

### Principal Duties and Responsibilities

- a. Responsible for the successful overall direction, administration, and coordination of the assigned departments of the property, including Facilities and Environmental Services, in accordance with company policies and procedures and objectives established by the General Manager.
- b. Establish and implement short and long-range facilities goals, objectives, strategic plans, policies, and operating procedures. Monitor and evaluate operational effectiveness and effect changes required for improvement.
- c. Serve as a point of consultation and advice to executive management on facilities planning and related matters; prepare and deliver presentations within the institution and to government and community officials, as appropriate.

- d. Maintain knowledge of environmental factors and regulations specific to the property.
- e. Develop strategic capital and operation expense budgets through strategic planning, facility assessment, and input from management.
- f. Remain current in industry trends and competitive markets.
- g. Responsible to create and execute programs which improve guest service, team building, team efficiency, and team member morale.
- h. Responsible for department budget planning and accountability.
- i. Carry out management responsibilities in accordance with the organization's policies and applicable laws. Responsibilities include but are not limited to interviewing, hiring, and training team members; scheduling and motivating team members; planning, assigning, and directing work; appraising performance; rewarding and disciplining team members; addressing complaints; and resolving problems.
- j. Establish, update, and ensure full compliance with departmental Internal Controls, policies, procedures, and regulations.
- k. Perform other duties as assigned.

### **Project Team Experience (RFQ/P 3.C.)**

#### **1. Rodney E. Ferguson - CEO & General Manager**

- Operations Experience
  - 30 plus years of experience in Gaming & Resorts, finance and public accounting with a variety of small and large businesses
  - More than 25 years' experience in the Gaming & Resort industry
  - 10 years' experience as CEO/COO/General Manager of full destination gaming resorts
  - 14 years' experience with Native American Gaming, reporting to Board of Directors and Councils
  - Ability to direct complex projects from concept to fully operational status - Lead in the transformation of a one-dimensional gaming operation into a full-service family entertainment casino and resort. This was accomplished through the merger and renovation of golf course, lakes, recreation area operations, as well the conversion of the previous gaming facility into a state-of-the-art bowling alley, laser tag, arcade and billiards facility.
  - Create strategic alliances with organizational leaders to effectively support key business initiatives
  - Build and retain high performance teams by hiring, developing, and motivating skilled professionals

- A results-oriented professional with leadership through motivation, training and “support by example”
- The combined public and private sector experience have cultivated a team leader with the ability to be adept at identifying problem areas and implementing corrective actions
- Organized, highly motivated, and detail-directed problem solver
- Strong background in strategic planning, personnel management, management policy, financial management, and operational controls
- Directed the re-engineering of several business operations, including selection and installation of fully integrated software systems, as well as identifying significant labor efficiency opportunities
- Developed business plans that offered vision, missions and core values to operations, allowing them to be successful and competitive in an ever-changing environment
- Dramatically improved operations of several companies through financial forecasting, planning and budgeting by developing financial models consisting of mathematical equations, logic and data
- Developed comprehensive Policies and Procedures manuals to enhance effectiveness of several systems of internal controls, so management could run their businesses more efficiently, based on industry, size and complexity of company and the regulatory environment in which they operated
- Planning, coordination, opening and integration of 3 full service hotels into gaming operations
- Provide timely and accurate financial reports and analyses that resulted in reduction of inefficiencies and profit leaks, as well as increased market share and profitability
- During recession/post-recessionary periods, successfully maintained Spirit Mountain Casino’s strong EBITDA margins with minimal declines in revenue, while preserving employee benefits and without layoffs
- During same recession/post-recessionary periods, successfully developed and opened Sports Bar and Night Club, as well as renovated approximately 60% of hotel guest rooms and 3 restaurants
- Software Systems: MS Office, Excel, Power Point, Great Plains, MAS 90, Infinium, Micros, InfoGenesis, Bally’s SDS, Casino Marketplace and Oasis 360



- Development Experience
  - Harrah's Marina Hotel & Casino, Atlantic City, NJ – Financial Reporting and Accounting Manager (1984)
    - Responsible for the development of the accounting and reporting system for Trump Plaza Hotel & Casino in connection with the opening of the property jointly owned by Harrah's Corp. and the Trump Organization
  - River City Casino, New Orleans, LA – Chief Financial Officer (1995)
    - Responsible for all financial related matters in connection with the development and opening of the River City Casino \$230 million project consisting of two (2) river boat casinos, a Bayou themed pavilion with two restaurants, and an administration building.
  - Trump Casino, Gary IN – Chief Financial Officer (1996)
    - Responsible for all financial related matters in connection with the development and opening of Trump Casino project consisting of a river boat casino and a pavilion with a buffet style restaurant.
  - Grand Victoria Casino & Resort, Rising Sun, IN – Chief Financial Officer (1999)
    - Responsible for all financial related matters in connection with the transition of a temporary facility to the development of a permanent casino and resort including a 200-room hotel, 18 hole golf course, a pavilion containing a buffet, coffee shop, entertainment theatre, bar and retail.
  - Isleta Casino & Resort, Albuquerque, NM – General Manager (2008)
    - Responsible for all aspects of the property, including operations and expansion of the casino with the development of a full service resort that included –
      - A two (2) lake campground containing 50 RV sites, a corporate pavilion, convenience store, outdoor amphitheater,
      - A family entertainment center that included a 24-lane bowling alley, billiards, laser tag, arcade, restaurant and meeting rooms, a 36 hole golf course, club house, restaurant and pro shop,
      - A 201-room hotel and convention center, 10,000 square foot spa, and indoor/outdoor pool.
  - Spirit Mountain Casino, Grand Ronde, OR – Chief Executive Officer (2012)
    - Responsible for all aspects of the property, including operations and expansion of the casino with the development of a Sport Bar, Night Club, as well as renovation of an existing 254-room hotel and 3 restaurants.
  - Potawatomi Hotel & Casino, Milwaukee, WI – Chief Executive Officer/General Manager (2019)
    - Responsible for all aspects of the property, including operations and expansion of the casino with the development of the initial 381-room tower (while serving as CFO in 2013) and the recent 180,000 square foot expansion that includes

a new 119-room tower, a 12,000 square foot ballroom, a 5,000 square foot Spa and new pastry and banquet kitchens.

## **2. Sheryl Schnering – Chief Financial Officer**

- Operations Experience
  - Coordinated the development of financial policies and procedures for newly constructed hotel including creation of new entity, construction and start-up accounting, general ledger set up, management and financial reporting, payroll processing, and banking relationships.
  - Served as interim CFO during search for new CFO.
  - Implemented a zero-based budget model that directly involves all casino departments.
  - Counseled non-financial managers on financial operations of casino and balancing a budget.
  - Restructured accounting department to improve operations and cross-training of staff.
  - Reduced auditor year-end adjustments by 100%.
  - Member of Senior Management team that developed first comprehensive strategic plan for the casino.

## **3. Tom Malloy – Assistant GM & Chief Marketing Officer**

- Operations Experience
  - Experienced, proven Gaming Executive with both Commercial and Tribal expertise
  - 5+ years of experience as Assistant General Manager & Chief Marketing Officer
  - 25+ years of Marketing experience combining Destination Casino Resorts, Local Casino Resorts, and National Advertising Agencies
  - 18+ years' experience in Casino Marketing Operations: Reinvestment Optimization, Players Club, Player Development, Promotions, Special Events, Entertainment, Charter Bus Programs, Advertising, Web Site, Database Marketing, Hotel and Convention Sales, Social Media, Branding, and Tribal Gaming
  - Public speaking responsibility including: Media Relations, Business Events, BOD Duties, Sponsorship Occasions, Team Member Events
  - Successful oversight of multi-property Marketing programs
  - Multiple years' experience in Highly Competitive Markets

#### 4. Winslow Mexico – Assistant GM – Gaming

- Operations Experience
  - Oversees the following areas within the gaming division - Slots, Table Games, Poker Room, Off Track Betting and Bingo
  - Strategic Planning and Goal Setting
  - Knowledge of Tribal MICS and IC's for Table Games Department
  - Hiring and Termination of Employees
  - Protect the Assets of the Casino/Tribe
  - Assist and Mentor Assistant Table Games Director, Shift Managers, Poker Manager, and Off Track Betting Manager

#### 5. David Brien – Facilities Director


- Operations Experience
  - Property & Facilities Director with over 30 years of progressive experience in facilities engineering with extensive experience in; Building Design, Construction Management, Property Management, Strategic Planning, Energy Management, Building Security, Business Continuity, Environmental Health and Safety, Budgeting, Sustainability Practices, Cost Reduction Practices, Lean Maintenance Procedures, Lease Negotiations, Disaster Recovery, and Energy Purchasing
  - David has been with Potawatomi Casino as the Director of Facilities for over 15 years. He has spent 3 years as the Director of Property Management at Fortis Health, in Milwaukee, Wisconsin and over 17 years with Brady Corporation as the Global Property and Facilities Manager
- Development Experience
  - Potawatomi Hotel & Casino Hotel Expansion (2019)  
Over saw and coordinated construction efforts for a second 19 – story hotel tower and interconnecting building for phase 2 hotel tower addition, the 19 story 119 room hotel addition consisting of; 59 high end suites, additional meeting rooms, banquet kitchen, pastry kitchen, ballroom and a full service salon / spa. . Worked with Gilbane / Greenfire Building Company (Construction Managers) Cunningham Group Architects (Architecture and Interior Design) FCPC Renewable Generation (Owner's Representative)
  - Potawatomi Hotel & Casino Hotel (2014)  
Over saw and coordinated construction efforts for a new 19 – story four star, LEED Gold hotel and connector building to the casino as phase 1 hotel and Parking structure that included; 381 hotel rooms and suites, lobby, lounge and bar, casual dining restaurant, fitness center, meeting rooms, connector building to casino and 1,200 stall parking garage addition. Worked with

Gilbane Building Company (Construction Managers)  
Cunningham Group Architects (Architecture and Interior Design)  
Greenfire Management Services (Owner's Representative)

- Potawatomi Bingo Casino Expansion (2008)  
Over saw and coordinated construction efforts that tripled the size of the casino, creating more than 530,000 square feet of entertainment space for 3,100 slot machines, 20 gaming tables and expanded restaurants. Additional new space included; reception and meeting rooms, a poker room, off-track betting room. An adjacent six-story parking structure with a vehicular bridge connection to a major Milwaukee thoroughfare and a pedestrian skywalk connected to the casino. Worked with Gruneau Project Development (Construction Managers) Hnedak Bobo Group (Architecture and Interior Design) Hurtado Consulting (Owner's Representative)
  
- Brady Corporation Manufacturing Building (1991)  
Over saw and coordinated construction efforts for a new green field construction project that included the purchase and development of a 40 acre green field site as well as the construction of a state of the art 150,000 square foot manufacturing and office facility. . Worked with Klug & Smith (General Contractors and Construction Manager) Heike Design Group (Architecture and Interior Design)

**Cunningham  
Group**

**uplifting** the human experience®



Potawatomi Hotel & Casino  
MILWAUKEE, WISCONSIN

Cunningham Group has earned an outstanding reputation for creating and delivering excellence in architecture, interior design, urban design and landscape architecture in the places where people live, learn, worship, work, heal, plan and play.

Since John Cunningham, FAIA founded the firm in 1968 we have focused on a working model of team architecture that is highly inclusive and incorporates extensive client, consultant, engineer and contractor participation. This philosophy has led to the design of award-winning projects and a solid reputation for collaboration. We have expanded services and markets to meet a growing demand from some of the largest and most respected clients throughout the world. With more than 360 employees we provide the resources of a large firm while our market group approach—focused on key market areas and client types—provides a specialized team of professionals for each client and project. From offices in Minneapolis, Los Angeles, Las Vegas, Denver, San Diego, Phoenix, Beijing and Doha, Cunningham Group is dedicated to delivering inspired and sustainable design solutions for our clients, communities and the planet.

PHC has retained the Cunningham Group to prepare the planning documents required to pursue this application. PHC retained the Cunningham Group for its just opened hotel tower. The Cunningham Group is available for this project. Their capability, experience with casino development and their team members are described in Exhibit 2.

---

**Financial Data**  
**(RFQ/P 4.0)**

Audited Financial Statements for fiscal years 2018 and 2017 are attached as Exhibit 6 and for 2017 and 2016 as Exhibit 7. Omitted supplemental schedules are noted. In addition, a summary of these statements are provided below.

**Three (3) years**  
**of Annual**  
**Reports**  
**(RFQ/P 4.A.)**

**CONFIDENTIAL AND PROPRIETARY**  
**INFORMATION OMITTED**



**CONFIDENTIAL AND PROPRIETARY  
INFORMATION OMITTED**

**CONFIDENTIAL AND PROPRIETARY  
INFORMATION IS OMITTED**

**Documentation  
on Other  
Projects  
(RFQ/P 4.B.)**

Term Loan Casino Expansion - Two-year casino expansion project which created an additional 500,000 square feet of gaming, dining and entertainment space, a six-story parking structure and a vehicular bridge. The project tripled the size of the casino after being completed in 2008.

Expansion Loan – Construction of a new 19-story, 381 room hotel connected to the casino completed in 2014. The project also included meeting space and a new restaurant and bar.

Hotel II Term Loan - Construction of a second 19-story hotel tower with 119 new rooms and suites, bringing the hotel's total number of rooms to 500. The 180,000-square-foot addition also features a spa and additional meeting space.



**Financial  
References  
(RFQ/P 4.C.)**

PNC Bank has financed (or led the financing) for all of the projects at PHC since 2004.

PNC Bank  
Russell H. Liebetrau, Jr.  
Senior Vice President / Manager  
Native American Gaming Group  
755 W. Big Beaver Road, Suite 2400  
Mail Stop: R1-YB94-24-1  
Troy, MI 48084  
(p) 248.729.8586  
(c) 248.703.2092  
(f) 248.729.8813  
[russell.liebetraujr@pnc.com](mailto:russell.liebetraujr@pnc.com)  
[russell.liebetrau@nationalcity.com](mailto:russell.liebetrau@nationalcity.com)

JP Morgan Chase Bank has provided the primary treasury function since 2008.

JP Morgan Chase Bank  
Adam Sheets, Executive Director  
Arizona/Nevada Middle Market & Native American  
Commercial Banking  
P.O. Box 71, AZ1-1178,  
Phoenix, AZ 85001  
Direct: 602 221 2394  
Mobile: 248 778 6344  
Fax: 602 221 1259  
[adam.sheets@chase.com](mailto:adam.sheets@chase.com)  
[chase.com/commercialbanking](http://chase.com/commercialbanking)

**Financing for  
the proposed  
Waukegan  
Potawatomi  
Casino  
(RFQ/P 4.D.)**

PHC plans to fund the construction and startup of the Waukegan Potawatomi Casino. PHC is capable of fully funding this project as shown by the PNC Bank Letter of Financial Capability attached as Exhibit 8. Waukegan Potawatomi Gaming, LLC will repay PHC for its investment with a reasonable rate of return. Waukegan Potawatomi Casino, LLC will be a 100% minority owned licensee, thus satisfying any requirement or preference considered by the Illinois Gaming Board. However, it may be beneficial for the project over all to include other or local investors. PHC is prepared to consider in good faith the participation of other investors.

**Pro Forma**

PHC engaged HGS to evaluate the market feasibility of the Waukegan Potawatomi Casino which recommended locating the casino at Fountain Square in Waukegan, Illinois. Our third-party independent estimates for annual gaming and ancillary revenues for the Waukegan Potawatomi Casino are illustrated below. The five-year financial projection for gaming revenue performance expenses and net operating revenue of the Waukegan Potawatomi Casino are expressed in calendar years, and starts with the first full-year of operation on January 1, 2022. Net operating income does not include interest or the repayment of the investment by PHC.

**CONFIDENTIAL AND PROPRIETARY  
INFORMATION OMITTED**

**Competitive  
Environment**

As a result of the gaming expansion in Senate Bill 690, the Waukegan Potawatomi Casino will be operating in a highly competitive environment. One of PHC's strengths has been year-over-year revenue growth for the past decade. A strategic casino partnership between the City of Waukegan and PHC will be a formidable force in a highly competitive gaming market.

---

**Application  
Fee  
(RFQ/P 5.0)**

A check for the non-refundable application fee in the amount of \$25,000 is enclosed in the submittal package.

**EXHIBIT 1**

**POTAWATOMI HOTEL & CASINO HISTORY**

# One Generation Ago

## Prosperity in Gaming and Environment

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Land taken into Trust on July 20, 1990

Canal Street looking west from the 16th Street viaduct, 1980s



# Milwaukee Trust Land Now

---

Canal Street looking west from the 16th Street viaduct, today



# How Did This Happen?

---

Canal Street looking west from the 16th Street viaduct



1980's



Today

# STATE GAMING COMPACTS

## 1992 COMPACT (200 SLOTS, 7 YEARS)

---



- March 7-1991- Potawatomi opens as a 45, 800-square foot building offering a 2,500-seat bingo hall, a parking lot that would hold 500 cars and approximately 300 team members.
- 1992- The first slot machines are added, following the signing of first state gaming compact.
- From 1992 -1998, FCPC received 30% of the net income from PBC.
- A casino management company received 40%.
- The Indian Community school of Milwaukee received 30%.

## STATE GAMING COMPACTS 1998 AMENDMENT ( 1000 SLOTS, 25 BLACKJACK TABLES, 5 YEARS)

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- October 2000- A three story, \$120 million, 250,000-square foot expansion is completed. The expansion provided space for 600 additional slot machines, table games, a new 1,400- seat bingo hall, restaurants and a 500-seat theater.

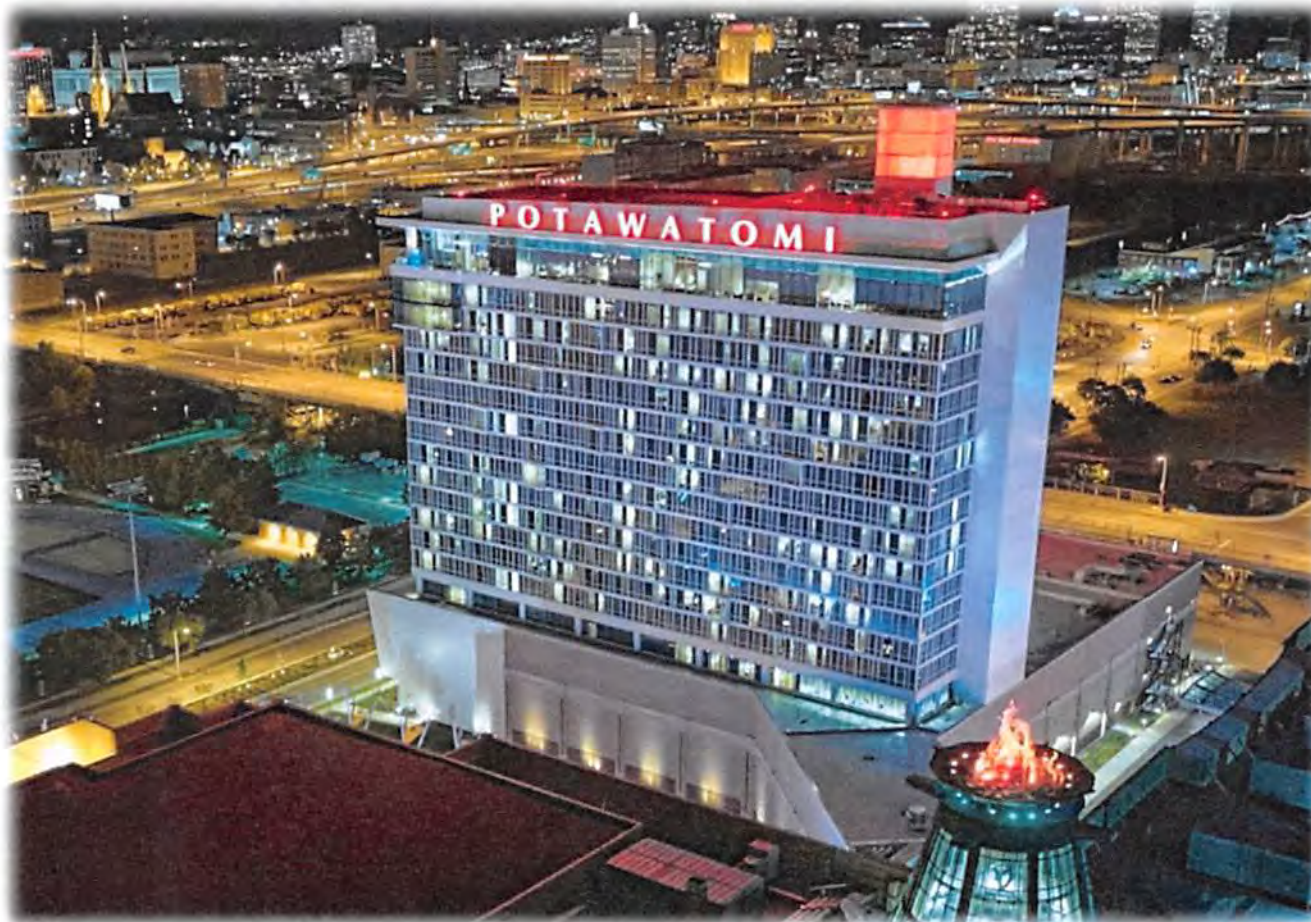


# Potawatomi Hotel & Casino **Today**

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One of Milwaukee's largest employers!

Slots • Table Games • Bingo • 7 Restaurants • 500 Seat Theater  
Meeting & Convention Space • 500 Room Hotel (soon!)



# Potawatomi Carter Casino Hotel **Today**

---

Largest employer in Carter!

Table Games • Slots • Bingo • 98 Room Hotel • Pool • 3 Food Outlets  
Meeting Space • Trail Access • RV & Camper Parking



# Tribal Operations

## Continue to Expand

---

- December 14, 2017 – Broke ground on 2nd Milwaukee hotel tower to add 119 guest hotel rooms. Estimated completion is June 2019. Will bring total to 500 rooms.
- November 23, 2018 – submitted another Compact amendment to the federal government.
- Capital Projects in Crandon.
- Continued improvements to Wgema Campus.

**EXHIBIT 2**

**CUNNINGHAM GROUP ARCHITECTS  
CASINO DESIGN CAPABILITY & TEAM MEMBERS**

# uplifting the human experience®



Potawatomi Hotel & Casino  
MILWAUKEE, WISCONSIN

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#3

Top Entertainment Design Firms, 2018

**ENR**  
Engineering News-Record

No.

11

Top Architecture Firms, 2018  
Giants 300

**BUILDING DESIGN  
+ CONSTRUCTION**

No.

25

Top 300 Architecture Firms, 2018

**ARCHITECTURAL  
RECORD**



Viejas Casino  
ALPINE, CALIFORNIA

## EXPERTS IN CASINO RESORT DESIGN

Cunningham Group understands how to design the most effective and profitable casino resort projects in emerging markets. Our history designing casino resorts dates back to 1991. We create unique designs that entertain patrons while functioning efficiently for clients and generating profits to meet their business goals. Whether new construction or renovation and remodeling projects, we understand the necessity of closely coordinating with the client to come to agreement on a plan that is achievable and in alignment with their budget.

We have worked with the premier leaders in gaming and hospitality, including Caesars Entertainment, MGM Resorts International, Las Vegas Sands Corporation, Hilton, Marriott, Radisson, and Westin. Our world-class portfolio—covering the spectrum from small, delicate spaces to complex, expansive projects—includes casinos, hotels, convention centers, restaurants, retail, master plans and support facilities for gaming and resort destinations throughout the U.S. and around the world. Our success in the industry helped us to be named among the top entertainment firms from an international field of talent.



Morimoto at MGM Grand  
LAS VEGAS, NEVADA



Harrah's Cherokee Casino Resort  
CHEROKEE, NORTH CAROLINA



Grand Casino Hinckley  
HINCKLEY, MINNESOTA



Potawatomi Hotel & Casino  
MILWAUKEE, WISCONSIN



Potawatomi Hotel & Casino  
MILWAUKEE, WISCONSIN

# Cunningham Group

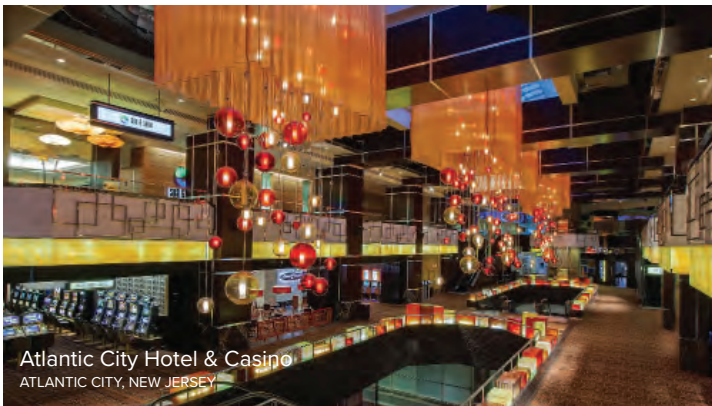
Representative Experience



Emerald Queen Casino  
TACOMA, WASHINGTON



Hotel Nia, Autograph Collection® by Marriott®  
MENLO PARK, CALIFORNIA



Atlantic City Hotel & Casino  
ATLANTIC CITY, NEW JERSEY



Harrah's Cherokee Casino Resort  
CHEROKEE, NORTH CAROLINA



Grand Casino Hinckley  
HINCKLEY, MINNESOTA



Rhythm City Casino Resort  
DAVENPORT, IOWA





Mystic Lake Casino  
PRIOR LAKE, MINNESOTA

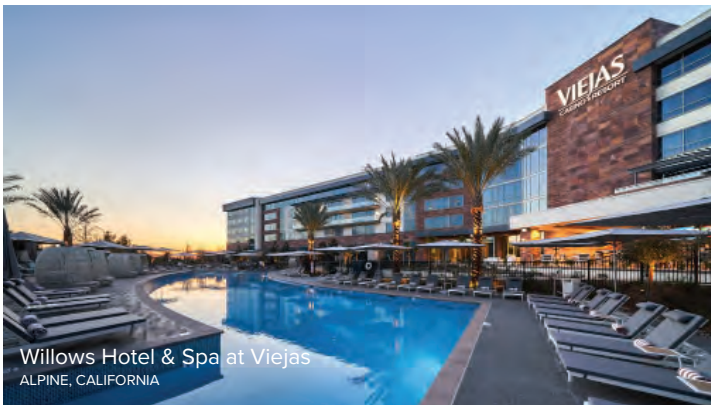


Emerald Queen Casino  
TACOMA, WASHINGTON

## DESIGNING CASINOS OF THE FUTURE

Cunningham Group is on the cutting edge of imaging 'casinos of the future'. Backed by a client-centered, collaborative approach we call Every Building Tells a Story®, which emphasizes one-of-a-kind solutions reflecting the vision of clients and the character of each property and site, our firm is challenging clients to embrace bricks and mortar changes that support the evolving nature of

gaming and its customer base while setting new standards for the future of entertainment. What qualifies us for this forward-thinking work is more than 27 years of gaming and hospitality experience that has garnered our clients award-winning and dynamic design solutions that add value and advance the art of entertainment design.



Willows Hotel & Spa at Viejas  
ALPINE, CALIFORNIA



Grand Casino Mille Lacs  
ONAMIA, MINNESOTA



Ojibwa Casino  
MARQUETTE, MICHIGAN



Wine Bar George at Disney Springs®  
LAKE BUENA VISTA, FLORIDA



Harrah's Cherokee Casino Resort  
CHEROKEE, NORTH CAROLINA



**John W. Culligan**, AIA, NCARB, LEED AP®

Principal

As a Cunningham Group principal, John has been responsible for all project phases from initial client contact through construction completion. His specific areas of involvement include programming, all design and construction document phases, building code and ADA compliance review, coordination of consultant efforts, contractor bid analysis, as well as overseeing construction administration tasks.

**Registration**

Licensed Architect in Minnesota (no. 23864), Idaho (no. AR-985261), Mississippi (no. 4191), Nevada (no. 5882), New Jersey (no. 21A101891800), Wisconsin (no. 11290-5), New Mexico (no. 5142), Louisiana (8529)

**Professional Affiliations**

Member, American Institute of Architects

Certificate Holder, National Council of Architectural Registration Boards

U.S. Green Building Council  
LEED® Accredited Professional

**Education**

Bachelor of Architecture,  
University of Minnesota

Bachelor of Arts, University of Minnesota

Bachelor of Environmental Design, University of Minnesota

John's 37 years of professional experience includes site master planning, programming, new building design and construction as well as major building additions, remodelings, renovations and site planning studies for large complex projects. His emphasis over his 22 years at the firm has been on gaming and entertainment venues and their associated hospitality and retail facilities, convention centers, and restaurants. John served as Principal in Charge and Project Manager for the award-winning new hotel tower at Potawatomi Hotel & Casino in Milwaukee. He also acted as the Minnesota team project manager for Cunningham Group's efforts on Project Delos for Walt Disney Imagineering.

**Select Project Experience**

- Potawatomi Hotel & Casino – New Hotel Tower (LEED® Gold), Milwaukee, Wisconsin
- Potawatomi Hotel & Casino – Hotel Tower Expansion, Milwaukee, Wisconsin
- Potawatomi Hotel & Casino – Parking Facilities, Milwaukee, Wisconsin
- Potawatomi Hotel & Casino – Dream Dance Restaurant Renovation, Milwaukee, Wisconsin
- Mystic Lake Casino Hotel, Prior Lake, Minnesota
  - Interior Renovation and Remodeling
  - Hotel Towers I, II and III Interior Remodeling
  - Bus Lobby Entrance Remodeling
  - Administrative Wing
  - Minnehaha Cafe Back of House Remodeling
  - Dakota Entrance Remodeling
  - Hotel Lobby Remodeling
  - Community Heritage Wall
- Little Six Casino at Mystic Lake Casino Entertainment Resort, Prior Lake, Minnesota
- Nez Perce Tribe Aht'wy Plaza Master Plan, Lewiston, Idaho
- Palace Casino Resort – Multiple Renovation Projects, Biloxi, Mississippi
- Atlantic City Hotel & Casino Comprehensive Renovation Project, Atlantic City, New Jersey
- Mohawk Mountain Casino Resort and Master Plan, Monticello, New York
- KidsQuest, Multiple Locations
- Grand Casino Biloxi Master Plan, Biloxi, Mississippi
- Grand Casino Biloxi Convention Center, Biloxi, Mississippi
- Grand Casino Gulfport Theater, Gulfport, Mississippi
- Grand Casino Gulfport Master Plan, Gulfport, Mississippi
- Grand Casino Gulfport Entertainment Center, Gulfport, Mississippi
- Grand Casino Tunica Event Center, Tunica, Mississippi
- St. Croix Casino and Hotel Master Plan, Turtle Lake, Wisconsin
- St. Croix Casino Hotel Pool Addition, Turtle Lake, Wisconsin



## Yong Koo Lee

Principal

Yong Koo has worked on numerous domestic and international projects as a lead project designer during his 25 years in architecture. This experience has given him the opportunity to expand his skills as an architectural designer and enhance his diversity of ideas from a multi-cultural viewpoint. Yong Koo's experience ranges from large, complex convention centers and academic buildings to hospitality, gaming, corporate, commercial, cultural, and religious projects.

### Education

Bachelor of Architecture,  
Minor Studio Arts, University of  
Minnesota

A member of Cunningham Group since 2004, Yong Koo is a lead designer for the Resort Hospitality studio and his design talent can be seen on projects such as the LEED® Gold, award-winning hotel tower at Potawatomi Hotel & Casino in Milwaukee and Rhythm City Casino Resort in Iowa. He is a passionate, creative designer with a unique ability to translate programmatic needs into architectural reality. His ability to work simultaneously at conceptual and detailed levels of concern makes him an extremely valuable member of project teams.

### Select Project Experience

- Potawatomi Hotel & Casino – New Hotel Tower (LEED® Gold), Milwaukee, Wisconsin
- Potawatomi Hotel & Casino – Hotel Tower Expansion, Milwaukee, Wisconsin
- Hotel Nia – Autograph Collection® by Marriott®, Menlo Park, California
- Emerald Queen Casino, Tacoma, Washington
- Harrah's Cherokee Casino Resort Expansion and Renovation, Cherokee, North Carolina
- Rhythm City Casino Resort (and Hotel), Davenport, Iowa
- Grand Casino Mille Lacs Renovation, Onamia, Minnesota
- Grand Casino Hinckley Renovation, Hinckley, Minnesota
- Little River Casino Resort Expansion and Renovation, Manistee, Michigan
- Shooting Star Casino, Bagley and Star Lake, Minnesota
- Palace Casino Resort Expansion and Renovation, Biloxi, Mississippi
- Mystic Lake Casino Interior Renovation and Remodeling, Prior Lake, Minnesota
- River Spirit Casino, Tulsa, Oklahoma
- Atlantic City Hotel & Casino Comprehensive Renovation Project, Atlantic City, New Jersey
- Mohawk Mountain Casino Resort, Monticello, New York
- Little River Casino Resort Expansion and Renovation, Manistee, Michigan
- Loong Gate Resort, Longmen Mountain, Hainan, People's Republic of China
- Mandy Plaza, Xian, People's Republic of China
- Pension Fund Hotels and Resorts, Choongju, Korea\*
- Klaus Von Clockenspiel Cafe at Everland Resort, Yongin, Republic of Korea
- Tongil Theme Park Master Plan, Seoul, Korea\*
- Epic Learning Center, Verona, Wisconsin
- Twin Cities Public Television (tpt) Renovation, Saint Paul, Minnesota
- Minneapolis Convention Center Expansion, Minneapolis, Minnesota\*
- Dubuque Convention Center and Master Plan, Dubuque, Iowa\*
- Mason City Convention Center Master Plan Study, Mason City, Iowa\*

*\* Project experience obtained prior to joining Cunningham Group.*



## **Randal Deopere, AIA**

Registered Architect

Randy has over 31 years of professional experience working on a variety of projects during his career including casinos, hotels, offices, convention centers, and post-secondary and elementary educational facilities. Randy has been responsible for detailing the construction documents and administration for several multi-million dollar projects. His experience on these major projects make him well suited for complex projects requiring careful coordination and adherence to tight schedules and budgets.

### **Registration**

Registered Architect in  
Wisconsin (no. 11957-5)

### **Professional Affiliations**

Member, American Institute of  
Architects

### **Education**

Associate of Arts and  
Sciences, Northwest Technical  
Institute

### **Select Project Experience**

- Potawatomi Hotel & Casino – New Hotel Tower (LEED® Gold), Milwaukee, Wisconsin
- Potawatomi Hotel & Casino – Hotel Tower Expansion, Milwaukee, Wisconsin
- Potawatomi Hotel & Casino – Dream Dance Restaurant Renovation, Milwaukee, Wisconsin
- Harrah's Cherokee Casino Resort – Expansion and Renovation, Cherokee, North Carolina
- Isleta Casino & Resort – Hotel/Convention Center, Albuquerque, New Mexico
- Radisson Hotel La Crosse – Interior Remodeling, La Crosse, Wisconsin
- Margaritaville Casino Resort (and Hotel), Bossier City, Louisiana
- Margaritaville Casino & Restaurant, Biloxi, Mississippi
- Running Aces Hotel Development, Columbus, Minnesota
- Mohawk Mountain Casino Resort and Master Plan, Monticello, New York
- Keweenaw Bay Indian Community Ojibwa Casino Expansion and Renovation, Marquette, Michigan
- White Earth Nation Shooting Star Casino, Star Lake, Minnesota
- River Spirit Casino, Tulsa, Oklahoma
- Palace Casino Resort Expansion and Renovation, Biloxi, Mississippi
- T-REX Cafe at The Legends at Village West, Kansas City, Kansas
- Millennium East Village, Santa Monica, California
- Confidential Mixed-Use Project, West Hollywood, California
- Twin Cities Public Television (tpt), Saint Paul, Minnesota
- Prestige Preschool Academy, Multiple Locations, Minnesota



**CUNINGHAM**  
G R O U P

**uplifting** the human experience®

**EXHIBIT 3**

**PROPOSED PROJECT DESIGN SCHEDULE**



Waukegan Potawatomi Proposed Project Design Schedule

8/5/2019

ID	Task Name	Duration	Start	Finish	2020												2021				2022																						
					3, 2019			Qtr 4, 2019			Qtr 1, 2020			Qtr 2, 2020			Qtr 3, 2020			Qtr 4, 2020			Qtr 1, 2021			Qtr 2, 2021			Qtr 3, 2021			Qtr 4, 2021			Qtr 1, 2022			Qtr 2, 2022			Qtr 3, 2022		
					Aug	Sep	Oct	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
1	<b>Waukegan Potawatomi Casino Project</b>	<b>564 days</b>	<b>Tue 10/1/19</b>	<b>Fri 11/26/21</b>	Waukegan Potawatomi Casino Project																																						
2	<b>Master Planning / Concept Design (as req'd for State Approval Process)</b>	<b>19 days</b>	<b>Tue 10/1/19</b>	<b>Fri 10/25/19</b>	Master Planning / Concept Design (as req'd for State Approval Process)																																						
3	Visioning Design Charrette with Developer/Operator (D/O): Team Meeting #1a	1 day	Tue 10/1/19	Tue 10/1/19	Visioning Design Charrette with Developer/Operator (D/O): Team Meeting #1a																																						
4	CGA to develop Site Plan & Floor Plan options	8 days	Wed 10/2/19	Fri 10/11/19	CGA to develop Site Plan & Floor Plan options																																						
5	Review Site Plan & Floor Plan options with D/O: Team Meeting #1b	1 day	Mon 10/14/19	Mon 10/14/19	Review Site Plan & Floor Plan options with D/O: Team Meeting #1b																																						
6	CGA to develop Exterior Imagery	5 days	Tue 10/15/19	Mon 10/21/19	CGA to develop Exterior Imagery																																						
7	Review Exterior Imagery with D/O: Team Meeting #1c	1 day	Tue 10/22/19	Tue 10/22/19	Review Exterior Imagery with D/O: Team Meeting #1c																																						
8	CGA to prepare final deliverables	3 days	Wed 10/23/19	Fri 10/25/19	CGA to prepare final deliverables																																						
9	CGA to issue final deliverables to D/O: Site Plan, Concept Floor Plan, Exterior Image	0 days	Fri 10/25/19	Fri 10/25/19	10/25/19 ◆ CGA to issue final deliverables to D/O: Site Plan, Concept Floor Plan, Exterior Image																																						
10	CGA's Cost Estimator to provide Project Construction Budget	0 days	Fri 10/25/19	Fri 10/25/19	10/25/19 ◆ CGA's Cost Estimator to provide Project Construction Budget																																						
11																																											
12	<b>State Approval Process (TBD)</b>	<b>20 days</b>	<b>Mon 10/28/19</b>	<b>Fri 11/22/19</b>	State Approval Process (TBD)																																						
13																																											
14	<b>Schematic Design (SD)</b>	<b>50 days</b>	<b>Mon 11/25/19</b>	<b>Fri 1/31/20</b>	Schematic Design (SD)																																						
15	SD Package Preparation	40 days	Mon 11/25/19	Fri 1/17/20	SD Package Preparation																																						
16	Consultant Team Kick-off Meeting: Team Meeting #2a	1 day	Tue 12/3/19	Tue 12/3/19	Consultant Team Kick-off Meeting: Team Meeting #2a																																						
17	Presentation #1: Site Layout, Exterior, Overall Interior Concepts: Team Meeting #2b	1 day	Wed 12/4/19	Wed 12/4/19	Presentation #1: Site Layout, Exterior, Overall Interior Concepts: Team Meeting #2b																																						
18	D/O Approval of Presentation / Direction to Proceed to Design Team	0 days	Thu 12/5/19	Thu 12/5/19	12/5/19 ◆ D/O Approval of Presentation / Direction to Proceed to Design Team																																						
19	Presentation #2: Interiors for Gaming Floor, Center Bar, Restaurants A & B: Team Meeting #2c	1 day	Wed 1/8/20	Wed 1/8/20	Presentation #2: Interiors for Gaming Floor, Center Bar, Restaurants A & B: Team Meeting #2c																																						
20	D/O Approval of Presentation / Direction to Proceed to Design Team	0 days	Thu 1/9/20	Thu 1/9/20	1/9/20 ◆ D/O Approval of Presentation / Direction to Proceed to Design Team																																						
21	Issue SD Package	0 days	Fri 1/17/20	Fri 1/17/20	1/17/20 ◆ Issue SD Package																																						
22	CGA's Cost Estimator to update Project Construction Budget	10 days	Mon 1/20/20	Fri 1/31/20	CGA's Cost Estimator to update Project Construction Budget																																						
23	<b>Design Development (DD)</b>	<b>45 days</b>	<b>Mon 1/20/20</b>	<b>Fri 3/20/20</b>	Design Development (DD)																																						
24	DD Package Preparation	30 days	Mon 1/20/20	Fri 2/28/20	DD Package Preparation																																						
25	Consultant Team Meeting: Team Meeting #3a	1 day	Tue 1/21/20	Tue 1/21/20	Consultant Team Meeting: Team Meeting #3a																																						
26	Presentation #3: Interiors for Restaurants A & B, Event Center, Spa, BOH: Team Meeting #3b	1 day	Wed 2/5/20	Wed 2/5/20	Presentation #3: Interiors for Restaurants A & B, Event Center, Spa, BOH: Team Meeting #3b																																						
27	D/O Approval of Presentation / Direction to Proceed to Design Team	0 days	Thu 2/6/20	Thu 2/6/20	2/6/20 ◆ D/O Approval of Presentation / Direction to Proceed to Design Team																																						
28	Consultant Team Meeting: Team Meeting #3c	1 day	Tue 2/25/20	Tue 2/25/20	Consultant Team Meeting: Team Meeting #3c																																						
29	Issue DD Package	0 days	Fri 2/28/20	Fri 2/28/20	2/28/20 ◆ Issue DD Package																																						
30	CGA's Cost Estimator to update Project Construction Budget	15 days	Mon 3/2/20	Fri 3/20/20	CGA's Cost Estimator to update Project Construction Budget																																						
31	<b>Construction Documents (CD)</b>	<b>75 days</b>	<b>Mon 3/2/20</b>	<b>Fri 6/12/20</b>	Construction Documents (CD)																																						
32	Develop CD Packages	75 days	Mon 3/2/20	Fri 6/12/20	Develop CD Packages																																						
33	Consultant Team Meeting: Team Meeting #4a	1 day	Wed 3/25/20	Wed 3/25/20	Consultant Team Meeting: Team Meeting #4a																																						
34	Issue Preliminary CD Package to Owner's Contractor to confirm estimate	0 days	Fri 4/10/20	Fri 4/10/20	4/10/20 ◆ Issue Preliminary CD Package to Owner's Contractor to confirm estimate																																						
35	Consultant Team Meeting: Team Meeting #4b	1 day	Wed 4/22/20	Wed 4/22/20	Consultant Team Meeting: Team Meeting #4b																																						
36	Consultant Team Meeting: Team Meeting #4c	1 day	Wed 5/27/20	Wed 5/27/20	Consultant Team Meeting: Team Meeting #4c																																						
37	Issue Package #1 (Shell/Core, Interiors, Consultants) for Permit	0 days	Fri 6/12/20	Fri 6/12/20	6/12/20 ◆ Issue Package #1 (Shell/Core, Interiors, Consultants) for Permit																																						
38	<b>FFE</b>	<b>40 days</b>	<b>Mon 6/15/20</b>	<b>Fri 8/7/20</b>	FFE																																						
39	FFE Package Preparation	40 days	Mon 6/15/20	Fri 8/7/20	FFE Package Preparation																																						
40	Issue Package #2: FFE	0 days	Fri 8/7/20	Fri 8/7/20	8/7/20 ◆ Issue Package #2: FFE																																						
41	<b>Permitting Process (TBD)</b>	<b>20 days</b>	<b>Mon 6/15/20</b>	<b>Fri 7/10/20</b>	Permitting Process (TBD)																																						
42	<b>Construction Administration (CA)</b>	<b>380 days</b>	<b>Mon 6/15/20</b>	<b>Fri 11/26/21</b>	Construction Administration (CA)																																						
43	Mobilization	20 days	Mon 6/15/20	Fri 7/10/20	Mobilization																																						
44	Estimated Construction Duration	18 mons	Mon 7/13/20	Fri 11/26/21	Estimated Construction Duration																																						
45	Substantial Completion	0 days	Fri 11/26/21	Fri 11/26/21	11/26/21 ◆ Substantial Completion																																						

Task		Project Summary		Inactive Milestone		Manual Summary Rollup		Progress	
Split		External Tasks		Inactive Summary		Manual Summary		Deadline	
Milestone		External Milestone		Manual Task		Start-only			
Summary		Inactive Task		Duration-only		Finish-only			

**EXHIBIT 4**

**PHC ENERGY EFFICIENCY, RENEWABLE  
GENERATION, AND BIODIGESTER POWER POINT**

# Forest County Potawatomi Community Executive Council



**Jeffrey A. Crawford**  
**Sara M. Drescher**

# Environmental Mission Statement

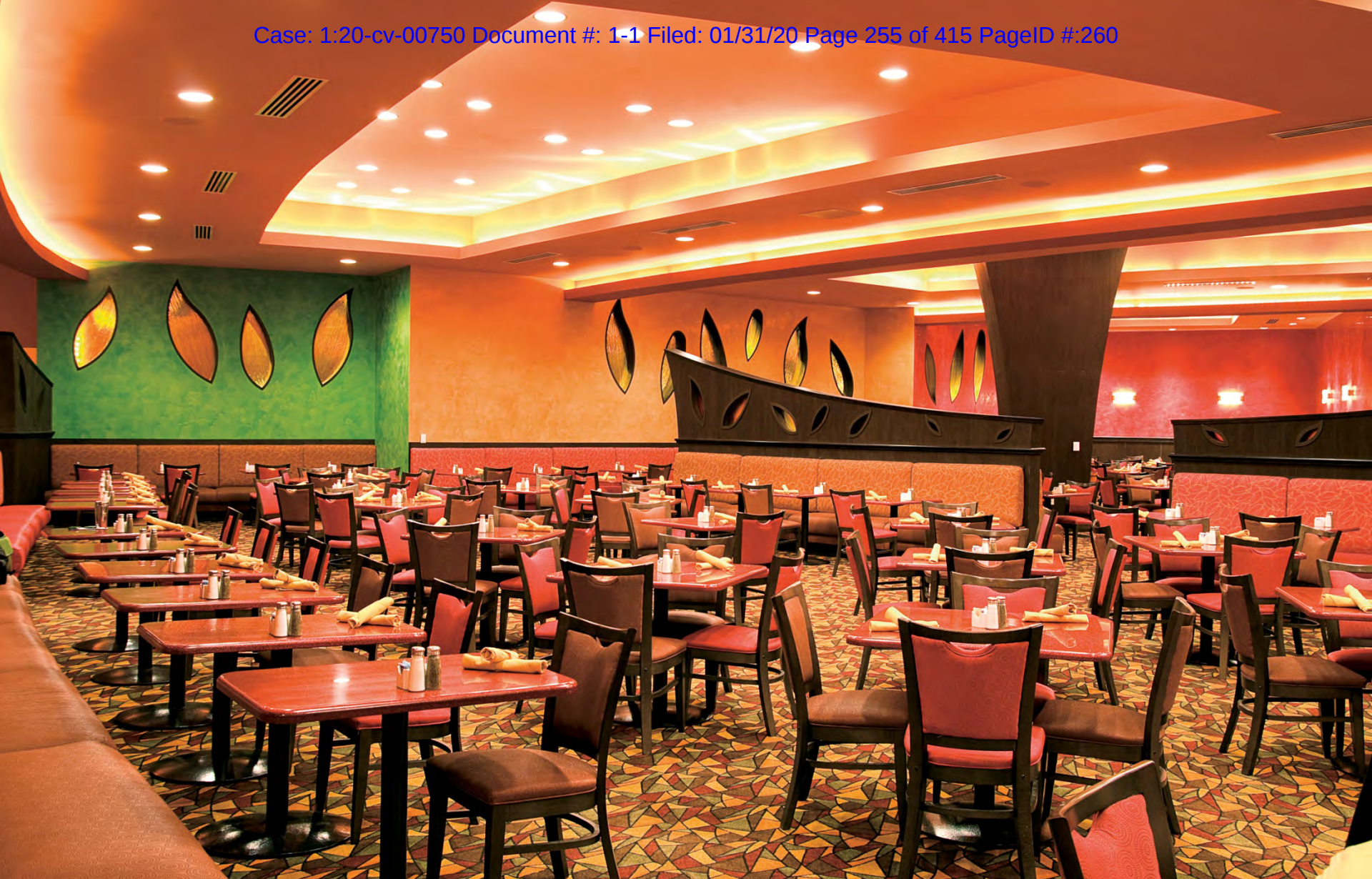
*The traditional values of the Forest county Potawatomi Community teach us to respect all living things, to take only what we need from Mother Earth, and to preserve the air, water, and soil for our children. Reflecting on these values, we take leadership in creating a sustainable and healthy world. We resolve to reduce our own environmental impacts and to take steps to remedy the impacts of others. We encourage others to do the same. We also seek legislative and policy changes that protect the environment for all people, including generations to come. (November 20, 2008).*

# **Energy Efficiency: Milwaukee Casino**

- **Lighting upgrades in parking structure from metal halide to LED – 2,368,618 kWh/year reduction in use equal to a \$213,175.62 savings.**
- **Cove lighting converted from incandescent to LED – 981,120 kWh/year reduction in use equal to a \$88,300.80 savings.**
- **Ten similar projects throughout facility – total annual reduction in use of 4,367,237 kWh or savings of \$393,051.33.**
- **Displacement ventilation.**
- **Fluorescent lights LED retrofit in back of house planned fiscal year 2018.**
- **Heat wheel technology on all major air handlers throughout the casino, UV cleaning systems, PCO filtrations.**
- **Direct Digital Control of air handling.**

# **Energy Efficiency: Milwaukee Casino**

- Boiler optimization program, Chiller optimization controls, boiler burner upgrades.
- Cooking oil from PBC kitchens is collected & recycled.
- Waste from the casino's grease traps are collected & feed to Biogas Digester.
- Formerly 28<sup>th</sup> largest electric user for WE Energies, now 55<sup>th</sup>.
- Formerly 13<sup>th</sup> largest user of natural gas, now 21<sup>st</sup>.
- Shaved \$1 million annually off energy costs through energy efficiency.
- The Biodigester Heat Loop saves the casino between \$1,200 and \$3,000 monthly from costs associated with heating and hot water.



**Over 4,000 linear feet of cove lighting converted from incandescent to LED lamps. More than 16,000 lamps changed resulting in an energy savings of 981,120 kWh/year, \$59,000/year.**

2,368,618

kWh/year



Saved



# Woodland Dreams

600 lamps changed from 40W incandescent to 8W cold cathode  
144 lamps changed from 20W incandescent to 8W cold cathode  
600 PAR lamps changed from 150W incandescent to 17W LED  
247,719 kWh/year saved, \$15,000/Year

## Chandeliers & PAR Lamps



## Wall sconces



# Corridor De-lamping

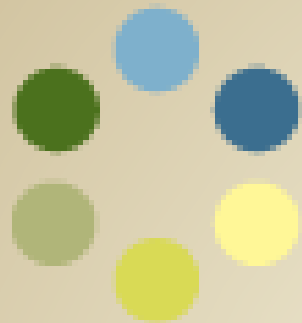
BOH light levels higher than necessary – able to remove one lamp from each fixture and maintain IES recommended light levels – simultaneously re-lamped with reduced wattage lamps (32W to 28W) – 368 fixtures reduced by 40W each = 128,947 kWh/year



128,947 kWh/year  
saved

# Lighting Energy Reduction Totals

<b>Parking Structure / Valet – LED upgrade</b>	<b>2,350,483 kWh/year</b>
<b>Cove Lighting LED upgrade</b>	<b>981,120 kWh/year</b>
<b>Surface Parking Lots – Induction upgrade</b>	<b>131,451 kWh/year</b>
<b>Corridor De-Lamping</b>	<b>128,947 kWh/year</b>
<b>Stairwell Occupancy Sensors</b>	<b>183,360 kWh/year</b>
<b>Woodland Dreams – Cold Cathode/LED upgrade</b>	<b>247,719 kWh/year</b>
<b>Can Lights – reduced wattage lamps</b>	<b>70,782 kWh/year</b>
<b>Poker Room – LED upgrade</b>	<b>29,434 kWh/year</b>
<b>Surveillance Monitor Room – LED upgrade</b>	<b>31,291 kWh/year</b>
<b>Solstice Room – LED upgrade</b>	<b>90,403 kWh/year</b>
<b>High Limits Slots – incandescent to CFL</b>	<b>31,956 kWh/year</b>
<b>Group Entrance – LED upgrade</b>	<b>14,235 kWh/year</b>
<b>Linear Fluorescent – reduced wattage lamps</b>	<b>49,056 kWh/year</b>
	<b>Total : 4,367,237 kWh/year \$262,000/year</b>



# focus on energy<sup>SM</sup>

---

Partnering with Wisconsin utilities

Focus on Energy assists with financing energy efficiency and renewable energy projects.

**We have received over \$1,042,000** in assistance for Potawatomi Hotel & Casino energy projects over the years.

# Displacement Ventilation



This displacement Ventilation Project, changes the way we deliver fresh air to the casino floor. The results are improved ventilation & smoke remediation as well as lower energy costs.

# BOILER BURNER UPGRADE



**118,311 therms per year savings.**

**Boiler draft fan VFD's - 144,832 kWh per year saved.**

**Turndown ratio 10:1.**



# Renewable Energy

In total the tribe has invested in and installed the 3<sup>rd</sup> Largest Solar Array in the State of Wisconsin. The largest of these installations is on top of the casino roof and provides electrical power to our parking structures.

This array is comprised of over 1,400 solar panels which are capable of producing 455 Kilo Watts of electrical power. With a projected annual energy savings of \$50,000.



# Grind 2 energy



- ▣ The system consists of a grinding station and a holding tank. Instead of tossing food scraps, our cooks dump organic matter into bins that make their way to the grinding station.
- ▣ The grinder converts it to slurry that is fed to a 5,000-gallon tank.
- ▣ The Grind2Energy system will prevent three & one half tons a week or 182 tons a year of organic waste from some of the casino kitchens from heading to the landfill.
- ▣ Every pound of organic matter that skips a trip to the landfill saves on hauling costs and reduces emissions linked to global warming.
- ▣ As food waste in a land fill decays it becomes a source of methane, a greenhouse gas with 21 times the global warming potential of carbon dioxide.



# **Energy Efficiency: Milwaukee Hotel**

- Hotel constructed to LEED standards.
- The hotel guest rooms are outfitted with a state-of-the-art “Telkonet” room control system that will set back room temperatures whenever the rooms are occupied.
- Water softener-Brine Reclaim.
- Low flow water fixtures throughout.
- Green cleaning, cleaning at Potawatomi Hotel & Casino is performed in a green manner.

## **FCPC Renewable Generation**

- **2.0 megawatt anaerobic biodigester and biogas cogeneration facility located near Potawatomi Bingo Casino in Milwaukee, WI.**
- **Operates on liquid (pumpable) food wastes.**
- **Generates revenue from a combination of tipping fees, heat sales, and electricity sold through a WE Energies Renewable Energy Tariff (local utility).**

# BIOGAS GENERATOR

**URNS LIQUID ORGANIC WASTE INTO ELECTRICITY AND HEAT ENERGY. 2,168,598 kWh potential electrical generation per year.**

**Waste heat recovery loop will supplement casino boiler system with an estimated 490,571 therms per year.**



# Diversion Statistics

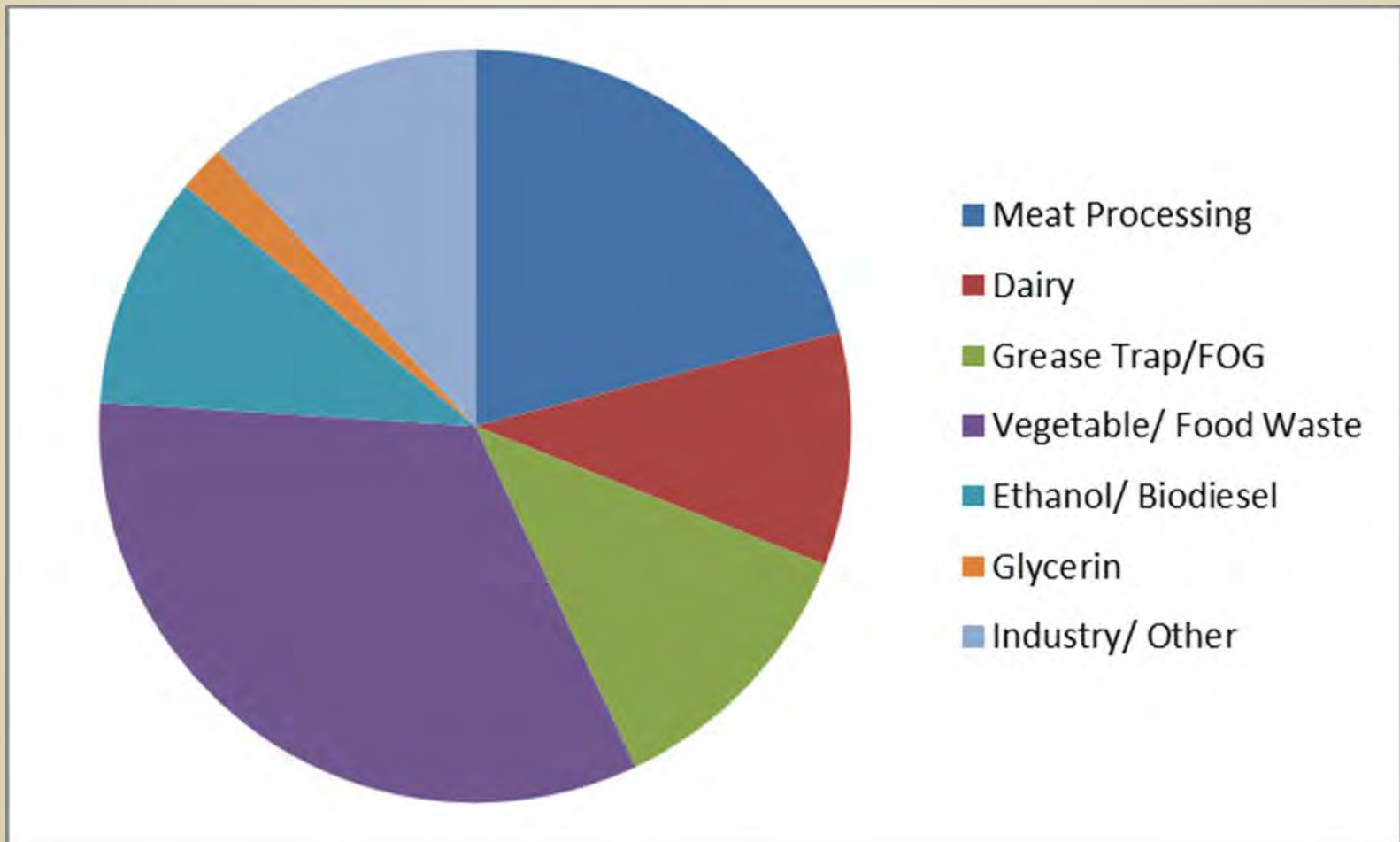
- 54 tons diverted thru May for year to date from PBC
- 8,963 metric tons CO<sub>2</sub> abated by plant first 9 months of the FY17



# Grind2Energy

Potawatomi Casino Cost Comparison:	Current (WM)	Grind2Energy	Savings
Pickups/Wk	6	1	
Food Ton/Wk	10-12 tons	10-12 tons	
\$/Ton "all in"	\$100	\$21	\$79/ton
Weekly Costs	\$1.1K	\$231	
G2E Equip (60 month payment)	-	\$800	
Monthly Costs	\$4.8K	\$1.8K	\$3.0K/month
Annual Costs	\$57.2	\$21.6	\$35.6/YR
<i>W/out Pmt</i>	\$57.2	\$12.0	\$45.2/YR

# Range of Feedstocks



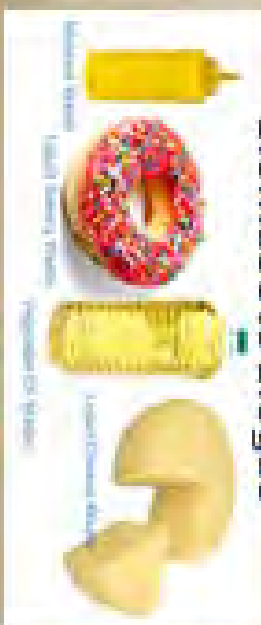
Absence of oxygen

# Anaerobic Digestion



- The Process of Anaerobic Digestion:**
- 1. Hydrolysis** - Enzymes produced by bacteria break down organic matter into soluble compounds.
  - 2. Acidogenesis (Fermentation)** - Fermentative bacteria convert dissolved organic matter and products of hydrolysis into short-chain organic acids.
  - 3. Acetogenesis** - Acetogenic bacteria convert fermented products into acetic acid.
  - 4. Methanogenesis** - Methanogenic bacteria produce methane gas from acetate and from CO<sub>2</sub> and H<sub>2</sub>.

## Biomass to Biogas

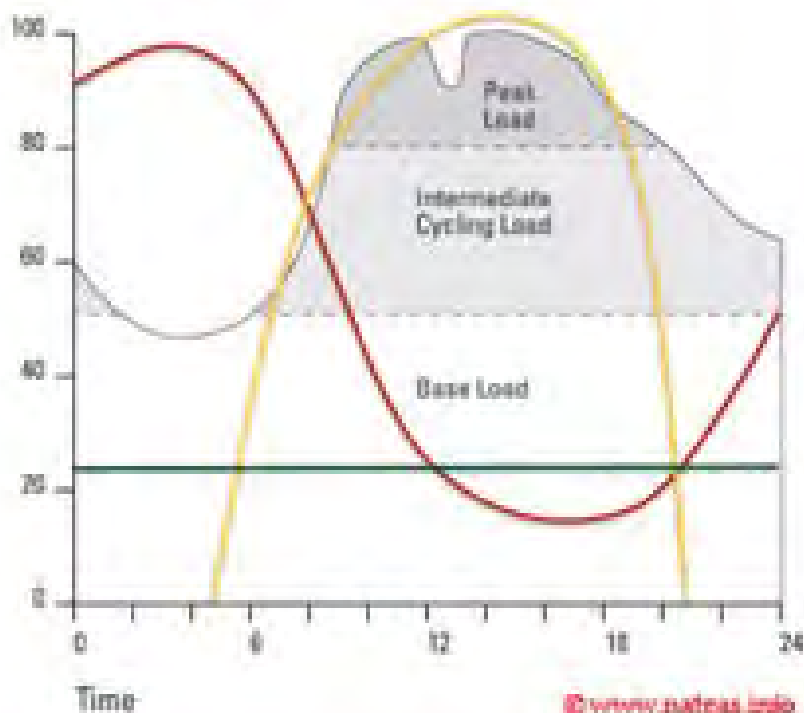


$\frac{1}{16}$  the diameter of a hair long

# Why Biogas?

## Value of Renewable Energy Generation

Typical day load curve  
(% of daily peak)



Representative generation profiles:

- Wind
- Solar
- Biomass

Source: <http://www.biogas.info/templ/generation.html>





### FEEDSTOCK HANDLING

2 UNLOADING BAYS



5 FEEDSTOCK TANKS  
30,000 gallons/tank



EQUALIZATION TANK  
160,000 gallons



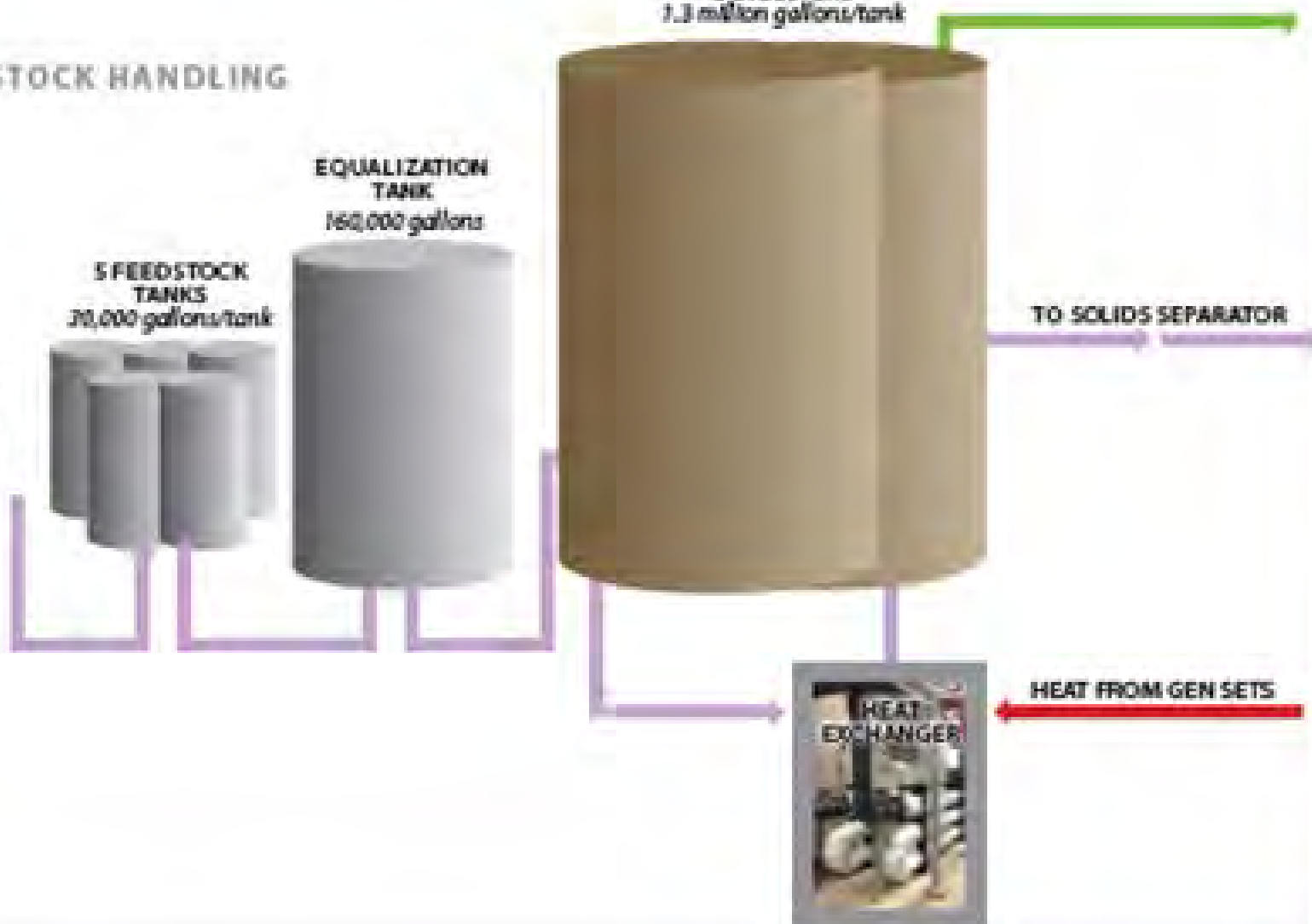
### DIGESTER

2 DIGESTERS  
1.3 million gallons/tank



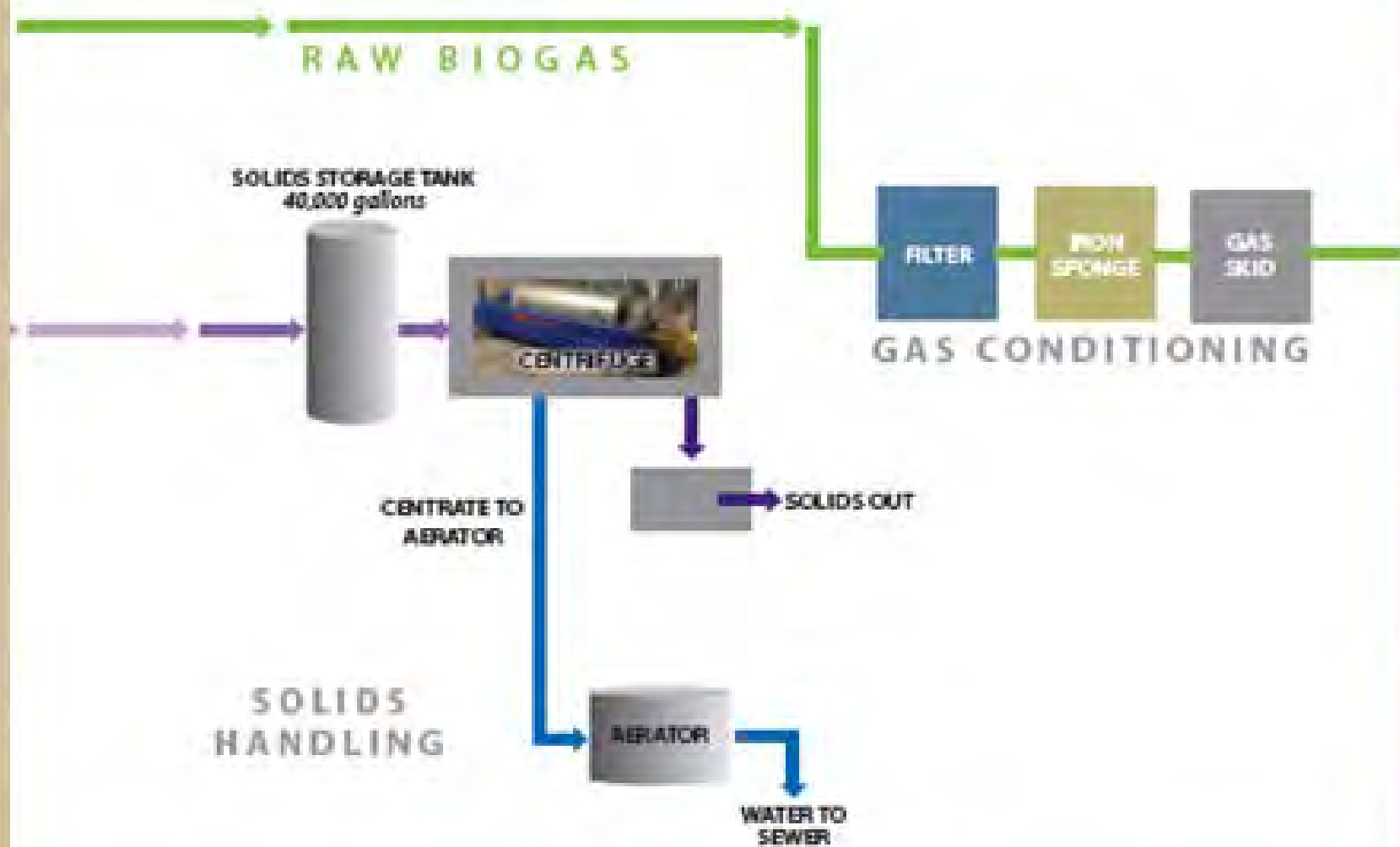
TO SOLIDS SEPARATOR

HEAT FROM GEN SETS



# Feedstock Delivery





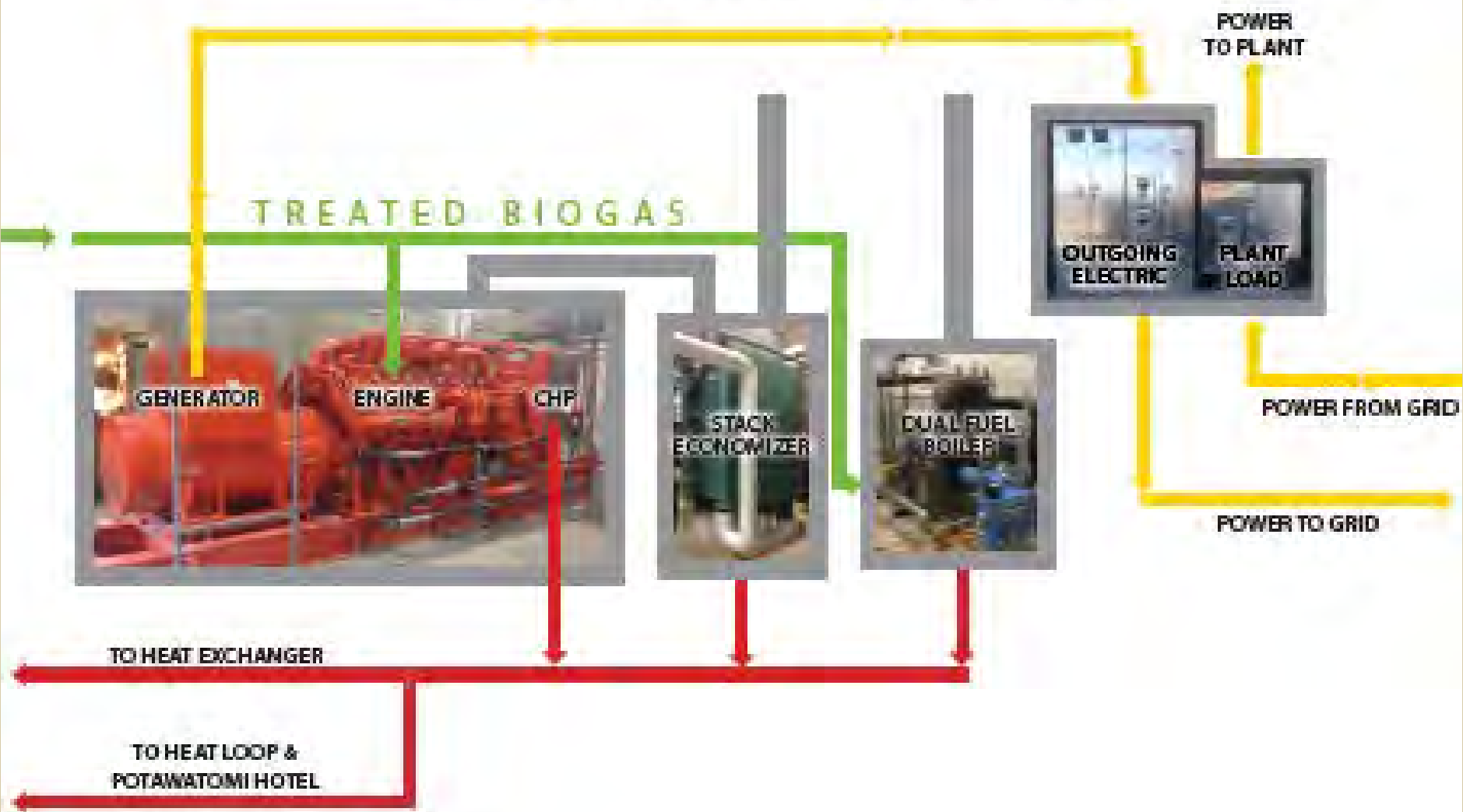
# Gas Conditioning



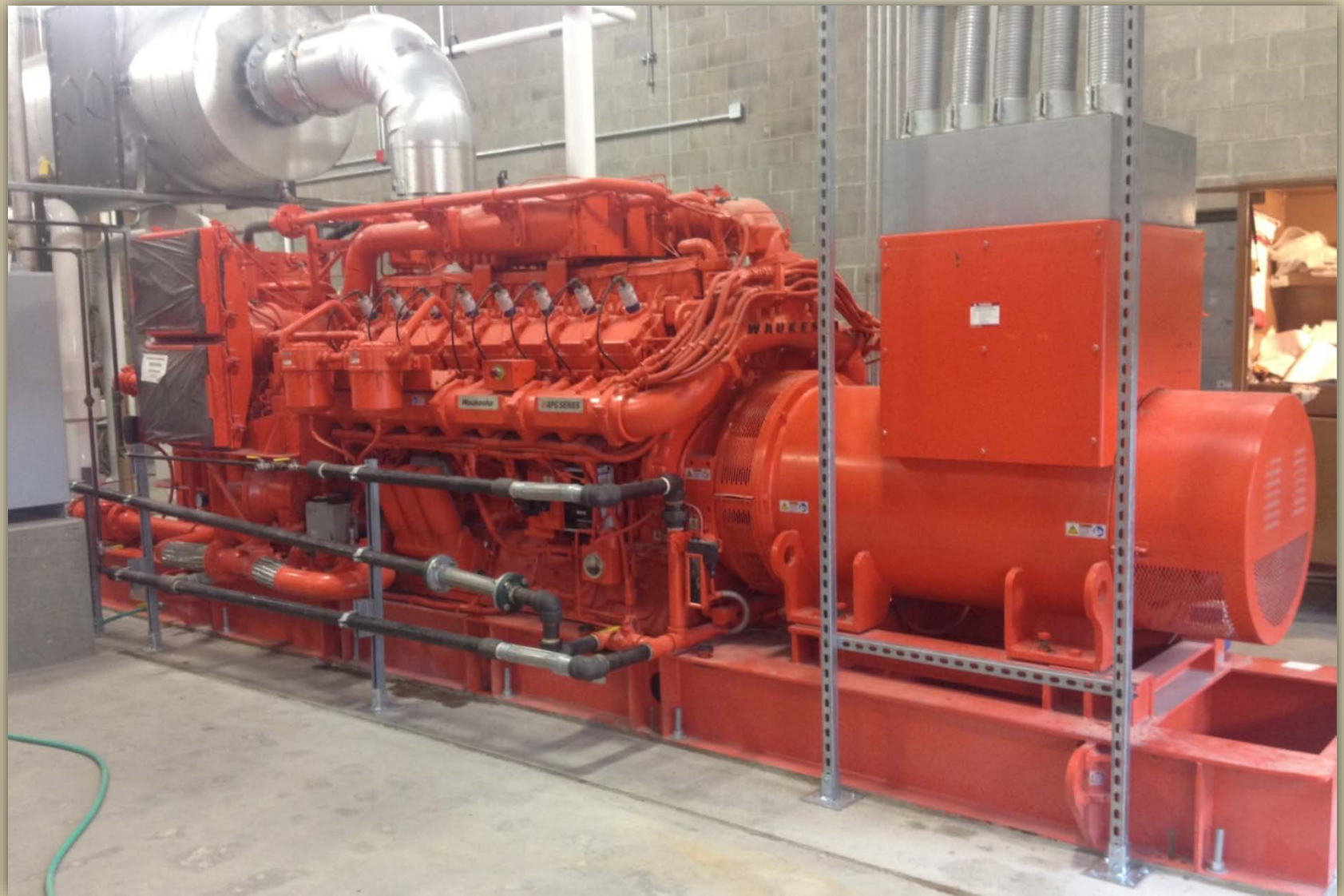
# Solids Processing



# ELECTRICITY/HEAT GENERATION



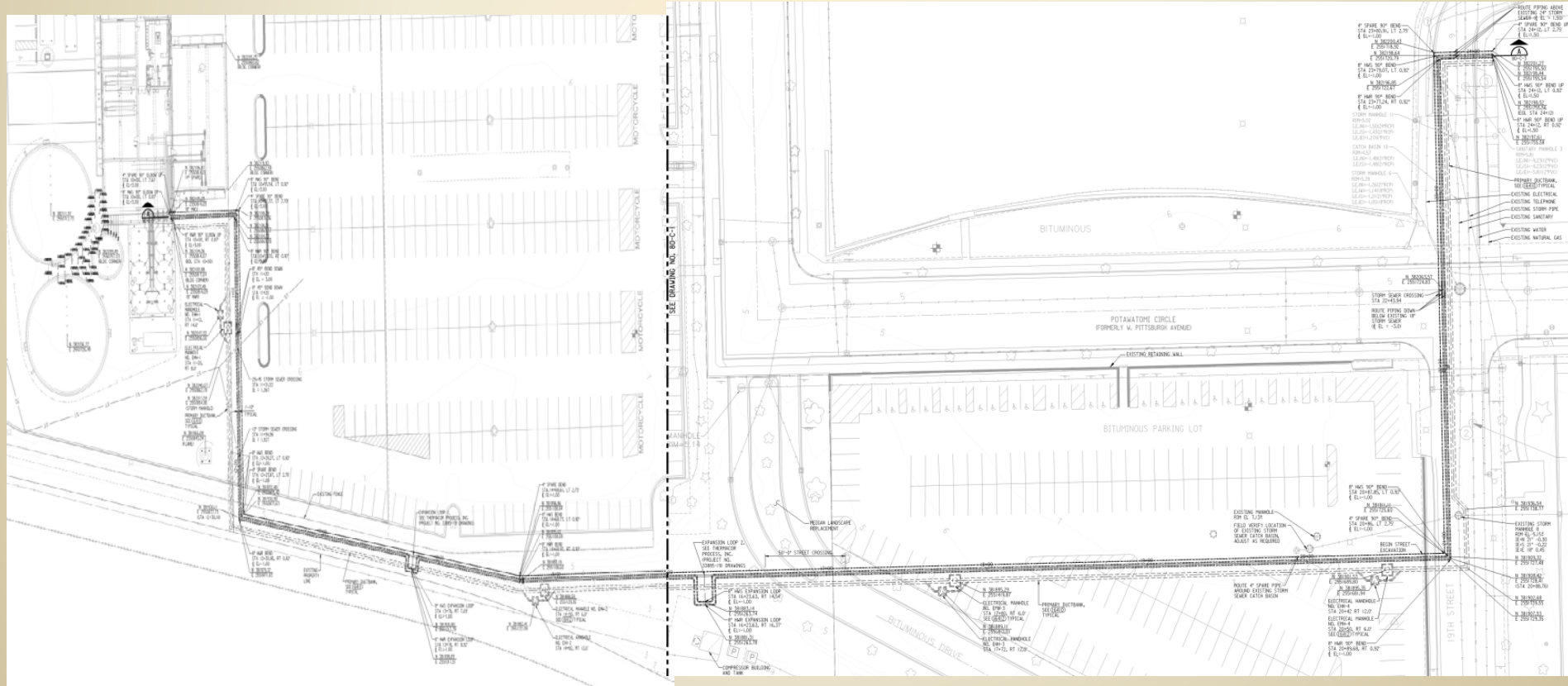
# Generator



# BIOGAS GENERATOR – Heat Loop

Heat loop was added as separate project to take excess heat from the Bio-Digester Plant and delivers it to the Hotel and Casino.

Enough heat is available to offset natural gas requirements for domestic water usage of the Hotel





**EXHIBIT 5**

**PROJECT TEAM DISCLOSURES**

**CONFIDENTIAL AND PROPRIETARY  
INFORMATION OMITTED**

**EXHIBIT 6**

**COMBINED FINANCIAL STATEMENTS  
AND INDEPENDENT AUDITOR'S REPORT**

**SEPTEMBER 30, 2018 AND 2017**

**CONFIDENTIAL AND PROPRIETARY  
INFORMATION OMITTED**

**EXHIBIT 7**

**COMBINED FINANCIAL STATEMENTS  
AND INDEPENDENT AUDITOR'S REPORT**

**SEPTEMBER 30, 2017 AND 2016**

**CONFIDENTIAL AND PROPRIETARY  
INFORMATION OMITTED**

**EXHIBIT 8**

**PNC BANK – FINANCIAL CAPABILITY LETTER**



July 30, 2019

City of Waukegan  
Review Team  
Request for Qualifications and Proposals  
Waukegan, IL

RE: Potawatomi Hotel Casino Application

Ladies/Gentlemen:

We PNC Bank, N.A. have been advised that our client, Forest County Potawatomi Community of Wisconsin, d/b/a Potawatomi Hotel Casino ("PHC") is submitting a response to the City of Waukegan, Request for Qualifications and Proposals, Casino Development and Operator. We understand that PHC is proposing a project budget of between [REDACTED]

We PNC Bank, N.A. confirm that, based on our knowledge of our client's financial status and capability that PHC has the financial capability to fully fund this project.

This is a letter of reference based on our knowledge of our client's financial status and capability and does not obligate our client, or this bank, beyond the scope and content of this letter.

PNC BANK, N.A.

By:

Printed Name:

Title:

A handwritten signature in blue ink that reads "Russell H. Liebetrau, Jr." with a horizontal line underneath.

Russell H. Liebetrau, Jr.

Senior Vice President

The PNC Financial Services Group

755 West Big Beaver Road Suite 2400 R1-YB94-24-1 Troy Michigan 48084

[www.pnc.com](http://www.pnc.com)

**EXHIBIT 9**

**NON-COLLUSION AFFIDAVIT**

NON-COLLUSION AFFIDAVIT

STATE OF WISCONSIN )  
 ) ss  
COUNTY OF MILWAUKEE )

This Non-Collusion Affidavit is made as of the 2nd day of August, 2019 by Rodney E. Ferguson (the "Undersigned"), being the Chief Executive Officer of Potawatomi Hotel & Casino (the "Project Team"), in connection with its submission to the City of Waukegan (the "City") pursuant to the Request for Qualifications/Proposals issued by the City of Waukegan. The Undersigned states that he has personal knowledge of the matters contained herein, and has been authorized by the Project Team to make the statements contained herein.

The Undersigned, being first duly sworn, deposes and says that he is the Chief Executive Officer of the Project Team; that the submission was not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation; that said submission is genuine and not collusive or a sham; that said Project Team has not directly or indirectly induced or solicited any other party to submit a false or sham response or bid in response to the RFQ/P, and has not directly or indirectly colluded, conspired, connived, or agreed with any party to put in a sham bid pursuant to the RFQ/P, or that anyone should refrain from bidding pursuant to the RFQ/P; that said Project Team has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix any element of such submission, or of that of any other Project Team, or to secure any advantage against the City or anyone interested in the RFQ/P or any agreement contemplated thereby; that all statements contained in the submission are true and not misleading; and, further, that said Project Team has not, directly or indirectly, submitted its proposal or any breakdown thereof, or the contents thereof or divulged information or data relative thereto, or paid and will not pay any fee in connection therewith to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any other individual except to such person or persons as have a partnership or other financial interest with the Project Team in its general business.

POTAWATOMI HOTEL & CASINO

By Rodney E. Ferguson  
Rodney E. Ferguson  
Chief Executive Officer

Subscribed and sworn to before me this 2 day of August, 2019.

(SEAL)



[Signature]  
Notary Public



## Wednesday, September 18, 2019 Public Hearing: Casino Proposals

**\*VENUE CHANGE: WAUKEGAN GENESEE THEATRE - 203 N Genesee St, Waukegan, IL 60085\***  
 The City of Waukegan will hold a public hearing on September 18th beginning at 4pm and ending at 8pm at the Genesee Theatre located at 203 N. Genesee St, Waukegan, IL 60085. The hearing will consist of public presentations by each of the prospective developers and operators. Following the presentations, the City's consultants will present a preliminary staff report. The public is invited to attend and will have an opportunity to comment on the proposals. Each Speaker will be limited to 3 minutes. Written comments, or extensions to verbal comments, will also be accepted until 5pm on October 4, 2019 and should be directed to [casino@waukeganil.gov](mailto:casino@waukeganil.gov). Hard copy written comments may also be mailed to, or dropped off at, the City Clerk's office on the first floor, City Hall, 100 N. Martin Luther King, Jr. Avenue, Waukegan, Illinois 60085. No final action or recommendation to the Illinois Gaming Board will be taken by the City Council at this September 18 meeting — the City Council's recommendations will be made at a future meeting.

### 1. Procedural Items

---

**Subject                      A. Call To Order**

Meeting                      Sep 18, 2019 - Public Hearing: Casino Proposals

Category                    1. Procedural Items

Type

**Subject                      B. Roll Call**

Meeting                      Sep 18, 2019 - Public Hearing: Casino Proposals

Category                    1. Procedural Items

Type

**Subject                      C. Opening Statement and Explanation of Procedures by Mayor**

Meeting                      Sep 18, 2019 - Public Hearing: Casino Proposals

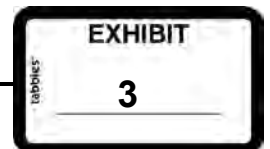
Category                    1. Procedural Items

Type

### 2. Public Hearing

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**Subject                      A. PUBLIC HEARING ON CASINO PROPOSAL**





Meeting Sep 18, 2019 - Public Hearing: Casino Proposals  
Category 2. Public Hearing  
Type Procedural

Each Proposal Team will present for no more than 30 Minutes in a random order. Following their presentations, the City's Consultants will present a preliminary report. The Public will then have the right to address the Council on the Presentations.

Note: Each audience member will be limited to 3 minutes.

**Additional comments may be entered into the record** by submitting a written comment before OCTOBER 4, 2019 at 5pm to casino@waukegan.il.gov OR by mailing or dropping off such written statement to the City Clerk's office

### **3. Closing**

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**Subject A. Adjournment at 8:00 PM**

Meeting Sep 18, 2019 - Public Hearing: Casino Proposals  
Category 3. Closing  
Type  
City of Progress



BRYAN R. WINTER  
*Partner*

9 North County Street  
Suite 200  
Waukegan, Illinois 60085

847.244.0770  
bwinter@fuquawinter.com

October 4, 2019

Waukegan Casino Review Team  
100 N. Martin Luther King Jr. Ave.  
Waukegan, IL 60085

With Hand Delivery to:

Attorney Robert Long  
Daniels Long & Pinsel LLC  
Corporation Counsel for City of Waukegan  
19 N. County Street  
Waukegan, IL 60085

RE: Waukegan Potawatomi Casino Letter Supplement

Dear Waukegan Casino Review Team,

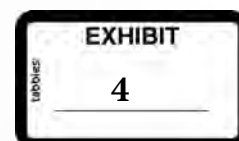
Enclosed are six printed copies of the Waukegan Potawatomi Casino Supplemental Submission. These documents are also being transmitted in digital form to Corporation and Assistant Corporation Counsel.

Yours truly,

FUQUA WINTER LTD.

By   
Bryan R. Winter

BRY/sa  
Enclosures





October 4, 2019

Waukegan Casino Review Team  
100 N. Martin Luther King Jr. Ave.  
Waukegan, IL 60085

With Hand Delivery to:

Attorney Robert Long  
Daniels Long & Pinsel LLC  
Corporation Counsel for City of Waukegan  
19 N. County Street  
Waukegan, IL 60085

**PROPRIETARY AND  
NEGOTIATION  
FOIA EXEMPTIONS  
CONFIDENTIAL**

RE: Waukegan Potawatomi Casino Letter Supplement

Dear Waukegan Casino Review Team:

The Potawatomi Hotel Casino (“PHC”) submits this Letter Supplement to the Waukegan Casino Review Team (“Review Team”) in support of its request for certification by the City of Waukegan (“City”) to the Illinois Gaming Board (“IGB”) under 230 ILCS § 10/7(e-5) for the Waukegan Potawatomi Casino. We have hand-delivered this Letter Supplement for distribution purposes as recommended by the Waukegan Assistant Corporation Counsel. This Letter Supplement addresses new information and issues that arose during and after the public hearing held on September 18, 2019 (“Public Hearing”).

1. Downtown Development Project.

Community partners do not harm each other, they look for opportunities to help each other. By not including a hotel or an entertainment venue in the PHC application the City benefits from a right sized casino that does not harm struggling Waukegan hotels or the downtown business district. To further build our partnership with Waukegan, Potawatomi proposes to enter into negotiations for a Downtown Development Agreement with the City. Potawatomi would like to do an economic development project which complements and nurtures the revival of downtown Waukegan. Potawatomi has identified sites in the downtown and the harbor areas which can be successfully redeveloped. One or more of these parcels is owned by the City, another is privately owned. We have already begun our due diligence on these sites. As we have not made a decision on which site we would like to develop and we do not have any of the properties under contract we will not disclose their locations until we have a chance to meet to discuss our proposal.

Potawatomi knows how to partner with governments and private interests to spur redevelopment. Our successful twenty year partnership with the City of Milwaukee is

Waukegan Casino Review Team

October 4, 2019

Page 2

documented in the attached Redevelopment in Milwaukee's Menomonee Valley: *What Worked and Why*, Public Policy Forum (2014), attached as Exhibit 1. This independent report identifies what they believe are important factors to spur redevelopment:

We find that several strategies utilized in the Menomonee Valley could be adapted and applied to other large-scale redevelopment efforts. Specifically, we urge public and private sector economic development leaders to consider the following lessons from the Valley's revival as they pursue redevelopment in other priority areas in the region:

- 1) Major redevelopment initiatives need to be accompanied by a robust set of planning and design activities that establish both a common vision for the initiative and a detailed roadmap to achieve that vision.
- 2) Strong intergovernmental cooperation and public-private partnerships will be essential for large-scale redevelopment efforts to succeed.
- 3) Funding must be pursued and creatively assembled from numerous sources to address the many barriers that impede brownfield redevelopment projects.
- 4) Given the key advantages involved with public or public-private ownership of re-developable brownfield properties, the City likely will need to assume considerable financial risk to advance major redevelopment projects.
- 5) Major redevelopment projects must be accompanied by aggressive marketing of the area's existing strengths and amenities.
- 6) Major redevelopment projects should be viewed as opportunities to address multiple community objectives.
- 7) Using redevelopment projects to create jobs for neighborhood residents may require greater emphasis on workforce development.

*Id.* at 3-5.

2. Letter from Hospitality and Gaming Solutions to the Review Team.

PHC engaged Hospitality and Gaming Services ("HGS") to comment on various financial projections discussed at the Public Hearing. John Repa, HGS, has prepared numerous studies of the Illinois gaming market over the past twenty years for many of the Illinois casinos. John Repa relied on that knowledge and he attended the Public Hearing, reviewed video, audio, and written transcripts of the Public Hearing, and conducted additional research and analysis, which is reflected in his letter report attached as Exhibit 2. The HGS report discusses key business and economic facts which differentiate the four remaining applicants including gross revenue,

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cannibalization of revenue, operating expenses, construction costs, financing and feasibility, and jobs and economic impact.

PHC would be happy to arrange for John Repa to meet with the Review Team or other City officials to explain and answer any questions regarding the contents of his letter report or the feasibility study he conducted for PHC.

3. Revised Offer for Fountain Square Parcel.

City consultant, C.H. Johnson, reported at the Public Hearing that PHC had offered to purchase the proposed Fountain Square casino site from the City for \$5.6 million. This was incorrect. The PHC proposal offered to negotiate a contract for sale of the property at fair market value  $\pm 15\%$ . PHC Application at 4. Earlier media reports indicated that the City had commissioned a new appraisal of the Fountain Square parcel. PHC made its offer assuming the City and PHC would negotiate in good faith to agree on terms for purchase of the land. It now appears the City may make a certification decision without negotiating or reaching an agreement with any applicant on the price of the land or any other elements of the proposals. As a result, PHC hereby supplements its application to correct the purchase price error reported at the hearing. PHC will enter into a contract for the sale of the Fountain Square casino site for \$12,000,000 with full payment when IGB issues an owner's license to Waukegan Potawatomi Casino, LLC. We presume the City will negotiate the terms of a contract for sale with any certified applicant and other elements of the casino proposal after it makes a certification decision, but before the IGB issues the owner's license for the Waukegan casino. 230 ILCS 10/7(e-5).

4. City of Waukegan v. Waukegan Gaming.

PHC has been monitoring the litigation filed in the Lake County Circuit Court by the City of Waukegan against Waukegan Gaming, LLC, in which the city seeks a declaratory judgment that Waukegan Gaming's rights under a 2004 Redevelopment Agreement have expired and that the agreement has no application to or effect on the City's RFQ/P and certification process under Senate Bill 690. If PHC is certified by the City under SB 690, PHC is willing to intervene in the litigation in support of the City's position. The particular assistance provided by PHC will be on terms mutually acceptable to the City and PHC.

Waukegan Gaming, LLC submitted a memorandum to the City Clerk dated August 5, 2019 which announced that it has agreed to become a member of CDI-RSG Waukegan, LLC ("CDI-RSG"), an RFQ/P applicant for certification by the City. The Waukegan Gaming, LLC memorandum also stated that the CDI-RSG response to RFQ/P, § 3A, identifies Waukegan Gaming, LLC as a member of the CDI-RSG. CDI-RSG has not acknowledged publicly that Waukegan Gaming, LLC is a member of its LLC. The City is painfully aware that Waukegan Gaming, LLC applied to the IGB for the 10<sup>th</sup> license to operate a casino in Lake County. The IGB selected Rivers Casino to operate a casino in Des Plaines and not Lake County in part because of William Cellini's interest in Waukegan Gaming, LLC. The IGB decision in favor of Des Plaines noted that Waukegan Gaming, LLC provided inaccurate information to the IGB. The IGB may not approve a license for CDI-RSG Waukegan if it concludes a key person with Waukegan

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Gaming, LLC has previously submitted false information to the IGB. 230 ILCS § 10/7(a)(3). The City should consider if Waukegan Gaming's proposed membership in the CDI-RSG application will affect IGB's choice for a Waukegan owner's license.

5. Background Due Diligence.

The IGB will conduct a comprehensive investigation of the background of each license applicant. As discussed in Item 4, above, the City suffered the consequence of this careful IGB background investigation which contributed to the loss of the contest for the 10<sup>th</sup> gaming license in 2009. The Review Team should endeavor to evaluate the extent to which the IGB may downgrade any of the applicants based on background considerations. The IGB may downgrade the North Point application based on the reported notorious political contributions made to candidates for the City Council by or on behalf of the North Point applicant. The IGB scrutiny will likely be heightened if the City certifies the North Point application despite the obvious objective evidence that it will not be the best performing casino for the City. The IGB could well conclude that the North Point applicant was certified because of the political contributions, not the merits of its application.

PHC recommended in its application that the City contact references listed in its application. The Review Team should conduct its own background due diligence for any applicant that may be certified. A review of references and the results of that review should be provided to the members of the City Council. PHC urges the Review Team to contact other independent references who are in a position to know the character and business practices of PHC as well as any other applicant under serious consideration. A failure to know your potential applicant puts the City in a vulnerable position. It now appears that the City will certify one or more applicants before it negotiates definitive agreements with any applicant. Thus, the City will not know whether an applicant will honor its promises when it is certifying an applicant. The City may negotiate definitive agreements with a certified applicant after the applicant is certified. Only in this negotiation process will the City learn whether or not an applicant is willing to be contractually bound to the terms of its promises. The very short time periods imposed by SB 690 suggests that the City should certify more than one applicant to protect against a single applicant renegeing on a promise after it is certified. Having multiple applicants certified will improve the City's bargaining position in reaching definitive agreements post certification. The IGB will likely give weight to the extent of an applicant's good faith negotiation after certification and before the IGB makes a selection under 230 ILCS § 10/7(e-5).

6. Competition and Cannibalization.

PHC is in a substantially better position than is Rivers to benefit from the expanded market opportunity from the Waukegan casino. Figure 1 in the HGS report, Exhibit 2, demonstrates the large new market opportunity for the Waukegan Potawatomi Casino to develop new customers in the heavily populated area south of Waukegan. PHC recognizes Waukegan Potawatomi as a growth opportunity for its brand and its business. Most of the heavily populated market to be served by the Waukegan casino is already in the primary market area of the Rivers Casino. This is not the case for Potawatomi. This fact, together with the substantial investment PHC will make

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in building and operating a first class Waukegan casino makes it the clear best choice to operate a Waukegan casino.

At the Public Hearing, the Rivers’ spokesperson argued that a lower tax rate at the Waukegan casino provided an economic motivation for Rivers to send its current customers to Waukegan. Rivers contended that the State tax rate was lower at Waukegan than at Des Plaines. In fact, the tax rates that Rivers will pay at a Waukegan casino are exactly the same as at the Des Plaines casino. 230 ILCS § 10/13(a-4) & (a-5). Rivers also stated at the Public Hearing, but in this case correctly, that the tax rate paid by PHC at its Milwaukee facility is substantially lower than the Illinois tax rates. This is correct, which is why PHC has such a strong financial statement and is able to invest substantial funds in a Waukegan casino which is necessary to create a spectacular casino experience that will attract customers away from Rivers and will generate more gaming revenue for the benefit of Potawatomi and the City.

7. Sioux City: Orpheum – Battery Park Comparison. Sioux City’s Orpheum Theatre saw a decline in ticket sales after Hard Rock Casino opened an outdoor amphitheater.

Alderman Moisio asked the North Point Casino representatives at the Public Hearing whether their proposal for Waukegan is similar to Hard Rock Casino’s development in Sioux City. Both the North Point proposal and Sioux City’s Hard Rock Casino feature an outdoor amphitheater. Both Sioux City and Waukegan have historic theatres which have received financial support from their respective cities - the Orpheum Theatre in Sioux City and Genesee Theatre in Waukegan. Responding to Alderman Moisio’s question, North Point claimed that the outdoor amphitheater in Sioux City did not compete with existing venues, including the Orpheum Theatre, but instead grew the market. Importantly, he did not say that the Orpheum Theatre was not harmed by the casino amphitheater. The facts are that the Hard Rock facility grew, but Sioux City’s historic Orpheum Theatre suffered. Apparently, to North Point, this is what market growth means.

In July of 2015, the Hard Rock Casino in Sioux City opened a new entertainment facility – the Battery Park outdoor concert venue. Despite North Point’s claims that Battery Park does not compete with or cannibalize sales from existing concert venues in Sioux City, the data shows that Sioux City’s Orpheum Theatre has struggled considerably in the years since Battery Park’s debut.

Percent of capacity: Orpheum Theatre	
2010 - July 2015	68%
2015 - Present	60%

According to Pollstar box office data, between 2010 and July of 2015, the Orpheum Theatre in downtown Sioux City sold roughly 68% of available tickets for shows, despite the economic downturn occurring nationally at the time. Since the opening of Battery Park, however, the Orpheum has seen a decline in attendance. They’ve sold only 60% of available tickets – an 8%

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drop. This decline is especially troubling considering that the national economy has rebounded since 2015.

Declining attendance at the Orpheum Theatre has been especially problematic for Sioux City, as it has subsidized the Orpheum Theatre through its struggles over the years. At one point in 2017, Sioux City's Event Facilities Department, which was managing the Orpheum, was receiving a \$1.7 million city subsidy while running a \$270,000 operating deficit. As a result, Sioux City began reexamining the Orpheum's operation. In January of 2018, the City turned to Spectra Venue Management to take over management of the Orpheum Theatre. *Sioux City panel recommends moving to new management firm for Orpheum*, Sioux City Journal, September 22, 2017. [https://siouxcityjournal.com/news/local/govt-and-politics/sioux-city-panel-recommends-moving-to-new-management-firm-for/article\\_6cb7374e-d6d2-5a25-9f6a-c72ee42f7ec9.html?utm\\_medium=social&utm\\_source=email&utm\\_campaign=user-share](https://siouxcityjournal.com/news/local/govt-and-politics/sioux-city-panel-recommends-moving-to-new-management-firm-for/article_6cb7374e-d6d2-5a25-9f6a-c72ee42f7ec9.html?utm_medium=social&utm_source=email&utm_campaign=user-share)

Despite the best efforts of the city and management team for the Orpheum Theatre, the opening of Hard Rock Casino's nearby Battery Park has had a noticeably negative effect on attendance at the Orpheum Theatre. Time will tell whether Spectra will be successful in building the Orpheum's audience base, but it is clear that increased competition from Battery Park presents a serious obstacle to overcome in achieving progress.

The Waukegan Potawatomi Casino will use its players club to drive customers to the Genesee Theater, not lure them away.

8. Noise from Entertainment Venue at Fountain Square.

The proposed North Point Casino amphitheater would harm Waukegan residents. The North Point Casino proposal includes a two acre outdoor amphitheater. In addition to harming the Genesee Theater as described in Item 7 above, this outdoor amphitheater would disrupt city residents within several miles of Fountain Square.

A close parallel to North Point's amphitheater proposal can be found in Sioux City, Iowa at the Hard Rock Hotel & Casino. The Hard Rock Hotel & Casino began hosting outdoor concerts and events in a large grassy space in 2014, known as 'The Backyard', before upgrading the facilities and renaming the venue 'Battery Park'. However, noise from the casino's open-air shows has been heard nearly 4 miles away from the venue and caused 40 noise complaints in one night.<sup>1</sup> Although Hard Rock officials took steps to reduce noise from concerts, Sioux City's police department continued to be plagued with complaints.<sup>2</sup> Sioux City's police chief went so far as to comment that as long as there are outdoors concerts, his office would continue to receive complaints.

Various complaints on outdoor events generating noise has led to significant policy differences among the Sioux City council members, as they've recently begun considering an ordinance that

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<sup>1</sup> *Hard Rock adjusts after concert noise complaints*, Sioux City Journal, August 29, 2014

<sup>2</sup> *Despite improvement, complaints made over Hard Rock loudness*, Sioux City Journal, July 13, 2015



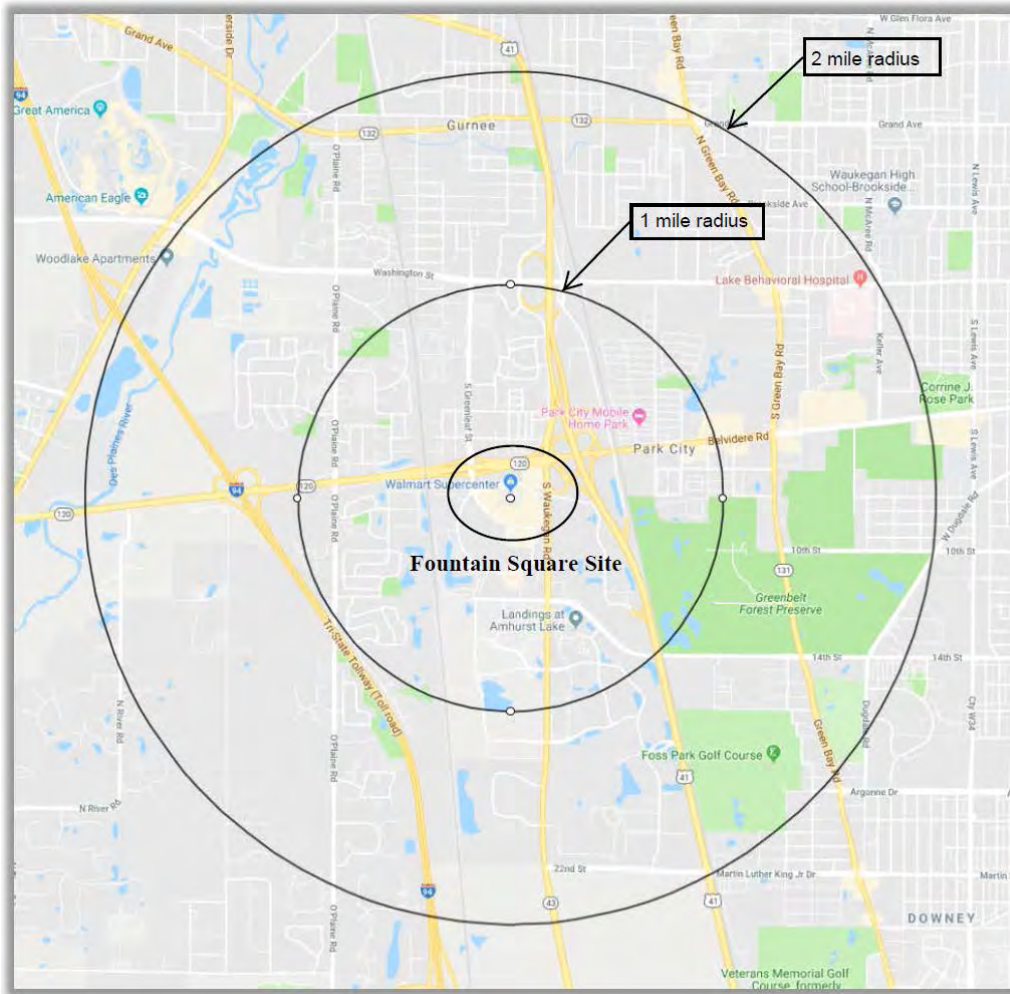
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would limit sound permits to an 11:00 p.m. cutoff.<sup>3</sup> While the council initially voted in favor of the measure, numerous downtown businesses spoke against it – leading to a delay in changes to the ordinance.<sup>4</sup> Sioux City is still considering how to resolve the issue, but is having difficulty weighing the concerns of city residents and businesses against the interests of outdoor event organizers and entertainment venues such as Battery Park.

**Figure 1**



As shown in Figure 1, an outdoor amphitheater at Fountain Square should be expected to trigger a similar debate in Waukegan. Within just a 1-mile radius of the proposed amphitheater are multiple neighborhoods and apartment buildings including Emhurst Lake Apartments, the Landings at Amhurst Lake, Colonial Park Apartments, Park Terrace Apartments, and the Park City Mobile Home Park. Expanding the noise zone to a more realistic two mile radius shows that an outdoor amphitheater would impact residents in neighborhoods in Gurnee, Park City, Waukegan

<sup>3</sup> *Sioux City Council advances ordinance limiting how late noisy events could go on; split decision on parking fee hikes*, Sioux City Journal, August 5, 2019

<sup>4</sup> *Discussion over noise ordinance changes delayed*, KMEG News, August 12, 2019

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and North Chicago including those living near Serenity Park, Arbor Park, Diversity and Kings Park.

9. Project Labor Agreement with Building Trades.

PHC advised Mr. Pete Olson, Lake County Building & Construction Trades Council, in a September 30, 2019 letter, attached as Exhibit 3, that, “If Potawatomi is chosen to develop the new casino in Waukegan, we commit to signing a Project Labor Agreement to ensure that union labor is used in the construction of our facility.”

10. The North Point Casino Proposal does not Qualify for Certification by the City.

The North Point Casino proposal submitted by Lakeside Casino, LLC does not satisfy the requirements of the City’s RFQ/P and the conditions for its certification established by SB 290. 230 ILCS § 10/7(e-5). Michael Bond’s cover letter states expressly that the proposal is conditional, “If we are the only proponent selected by the City.” The condition is then repeated in bold relief, “. . . **if we’re the City’s sole selection.**” North Point Application at 1. The North Point applicant does not want the IGB to compare the merits of its application to any of the other casino applications.

The North Point proposed temporary casino is also dependent on the condition that it be the sole selection. The North Point temporary casino proposal does not comply with the City’s RFQ/P. The RFQ/P, Items 1 and 2E require that an applicant identify whether [a] temporary site is located on City-owned or privately held property, describe the plan to acquire the development location, and provide detail of property size and access requirements. In addition, the RFQ/P states that, “Because of the 120 day limitation on local vetting, project teams are cautioned to consider zoning and special use issues that may require public hearings and to investigate entitlements on specific parcels under consideration.” The North Point temporary casino proposal satisfies none of these requirements. Despite this failure to satisfy the RFQ/P requirements, the North Point application asserts, “The plan is to be operational in such temporary facility within 4-6 months after a determination is made that North Point casino is the sole proponent for the City of Waukegan.” Application Section 2-35. At the same time, the application admits that, “we would need the City to rezone the temporary facility site in a timely manner to accommodate a temporary casino. Our primary choice for a temporary site is not within the Gateway District at this time, so we would ask for the City’s help accommodating a casino site.” *Id.* at Section 2-71.

A temporary facility simply cannot be operational in the time promised by North Point. The temporary facility would require City zoning approval and the IGB to grant North Point a gaming license for the temporary facility. The Waukegan Planning and Zoning Commission meets next on October 10, 2019 and the agenda does not include any requests for action by North Point or any other gaming use. The next meeting of the Commission is on November 14, 2019. It would take several months to obtain approval through the Planning and Zoning Commission, the Judiciary Committee, and finally the City Council. Our advisors inform us that the best case for a zoning action, even in a non-controversial case, is 90 to 120 days. In addition, our gaming licensing experts advise us that a gaming license will not be issued by the IGB in any less than six

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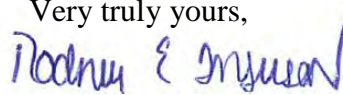
months. There is a huge disparity between the representations and promises in the North Point application and what will actually occur. Certainly, the City has not “agreed to” this planned temporary facility.

The City Council will not be able to timely certify to the IGB that North Point, “. . . [the applicant] and the corporate authority . . . have mutually agreed on the temporary location of the riverboat or casino” or “that the applicant and the corporate authority . . . have mutually agreed on any zoning, licensing, public health, or other issues that are within the jurisdiction of the municipality or county.” 230 ILCS § 10/7(e-5)(iii) & (v).

Conclusion

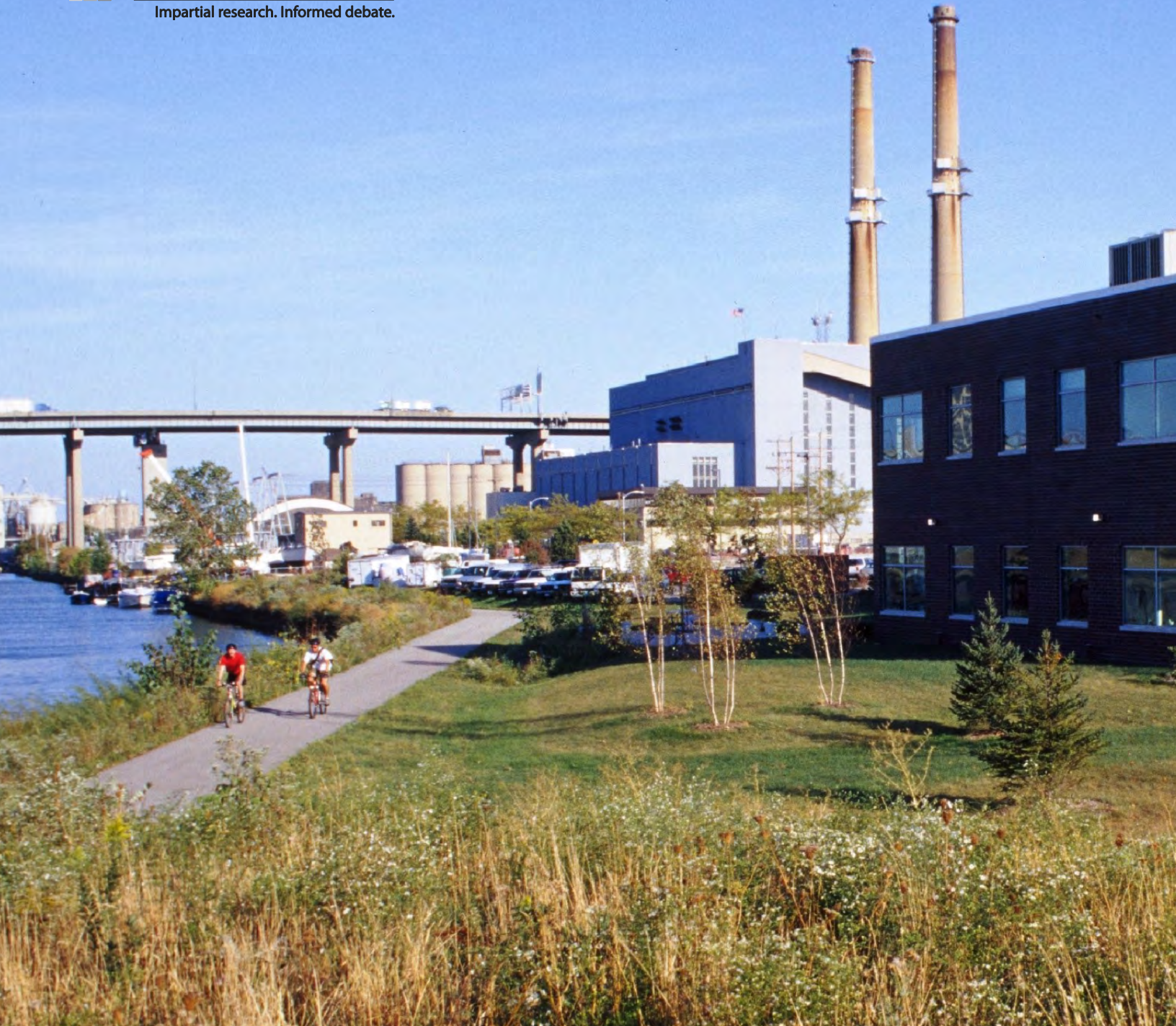
PHC stands ready to negotiate in good faith with the City regarding its request that the City certify its Waukegan Potawatomi Casino proposal to the IGB in time for PHC to submit an application to the IGB for an owner’s license before the statutory deadline.

Very truly yours,



Rodney Ferguson  
CEO/General Manager

**EXHIBIT 1**



# Redevelopment in Milwaukee's Menomonee Valley: *What Worked and Why?*

## ABOUT THE PUBLIC POLICY FORUM

Milwaukee-based Public Policy Forum – which was established in 1913 as a local government watchdog – is a nonpartisan, nonprofit organization dedicated to enhancing the effectiveness of government and the development of southeastern Wisconsin through objective research of regional public policy issues.

## PREFACE AND ACKNOWLEDGMENTS

This report was undertaken to provide citizens, policymakers, and business leaders in the Milwaukee area with a better understanding of the key factors that contributed to the Menomonee Valley's recent redevelopment. We hope that policymakers and community leaders will use the report's findings to inform discussions about economic development strategies that might be used to ensure the success of other major redevelopment projects in our region.

Report authors would like to thank the leadership and staff of the City of Milwaukee's Department of City Development (DCD) and the Redevelopment Authority of the City of Milwaukee (RACM) for patiently answering our questions and providing us with financial information about recent Menomonee Valley projects. We also would like to thank the many public and private sector individuals interviewed for this report for providing additional information and insight, and Eddee Daniel for providing many of the report's photos, including the cover photo.

Finally, we wish to thank Menomonee Valley Partners, Inc. for commissioning this research and for helping to fund it, as well as the Helen Bader Foundation for its grant to the Forum for economic and workforce development research, which also helped make this report possible.



# **Redevelopment in Milwaukee's Menomonee Valley: What Worked and Why?**

September 2014

**Joe Peterangelo, Senior Researcher**  
**Rob Henken, President**



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## Executive Summary

The revitalization of Milwaukee's Menomonee Valley as an industrial, recreational, and entertainment district has been lauded both locally and nationally as a successful and sustainable urban redevelopment project. In this report, the Public Policy Forum explores how the Valley's major improvements over the last 15 years were achieved, including an examination of the public policies, financial resources, and partnerships that were crucial to the redevelopment effort.

The purpose of this research effort is *not* to evaluate the success of Valley redevelopment. Indeed, we start with the premise that Valley redevelopment *has* been successful. Our objective, instead, is to identify and analyze the ingredients of success so that consideration can be given to replicating them elsewhere. Through analysis of Valley data and documents, and through an extensive series of interviews with public and private sector leaders, we are able to cite the major barriers that inhibited Valley redevelopment, and examine the policies, activities, and strategies that helped to overcome those barriers and facilitate private sector investments.

The report begins with a brief overview of the economic, environmental, and community improvements that have occurred in the Menomonee Valley since the late 1990s. We then explore the work that brought about those outcomes by examining five "success factors" deemed critical to the Valley's revitalization, and by presenting four major Valley projects as case studies.

We find that several strategies utilized in the Menomonee Valley could be adapted and applied to other large-scale redevelopment efforts. Specifically, we urge public and private sector economic development leaders to consider the following lessons from the Valley's revival as they pursue redevelopment in other priority areas in the region:

- 1) Major redevelopment initiatives need to be accompanied by a robust set of planning and design activities that establish both a common vision for the initiative and a detailed roadmap to achieve that vision.**

The Valley's extensive planning and visioning process engaged stakeholders, local design professionals, and the larger community to an unusually high degree. The plans and policies subsequently established were specific in nature, with tangible actions and guidelines that addressed key redevelopment barriers and emphasized economic, environmental, and social equity goals simultaneously. Having a detailed plan and being able to articulate a vision for the future is essential to generating support for major redevelopment projects from funders, political leaders, and the community as a whole.



**2) Strong intergovernmental cooperation and public-private partnerships will be essential for large-scale redevelopment efforts to succeed.**

While specific individuals and organizations stand out as essential to the Menomonee Valley's revitalization, the process of redeveloping the Valley has been exceptionally collaborative. Indeed, intergovernmental and public-private partnerships have been essential to most major Valley projects and to the success of the effort as a whole. Moreover, the Valley's story illustrates that rather than being led *only* by city government, major redevelopment efforts may stand the best chance for success if they are collaboratively led by multiple public and private sector stakeholders.

**3) Funding must be pursued and creatively assembled from numerous sources to address the many barriers that impede brownfield redevelopment projects.**

The City's willingness to invest heavily in infrastructure, environmental cleanup, and other pre-development work through tax increment financing (TIF) and other financial contributions, as well as the aggressive pursuit of funding by the City and Menomonee Valley Partners, Inc. (MVP) from numerous state, federal, and private sources, were critical to the Valley's redevelopment. In particular, early engagement of state and federal agencies in the project proved an effective strategy that helped the City and its partners to identify and pursue needed funding throughout the redevelopment process.

**4) Given the key advantages involved with public or public-private ownership of re-developable brownfield properties, the City likely will need to assume considerable financial risk to advance major redevelopment projects.**

The success of several major Valley projects was attributed largely to the ability of the City or MVP – as property owners – to expeditiously and effectively assemble project funding and address cleanup and infrastructure issues to make sites “shovel ready.” Since it likely will be much more challenging to assemble, prepare, and market land in priority redevelopment areas that are privately owned, the City may need to continue to assume property ownership risk in other parts of the city to meet redevelopment goals. In addition, State leaders may need to provide funding assistance – as they did for the Valley – to help project leaders acquire properties and assist in pre-development work.

**5) Major redevelopment projects must be accompanied by aggressive marketing of the area's existing strengths and amenities.**

Leaders of the Menomonee Valley redevelopment effort capitalized on the unique strengths of the area, which were evident to them but required comprehensive visioning and effective public relations to convey to others. The Valley experience illustrates the need to take advantage of locational strengths in redevelopment work, which may include transportation infrastructure, existing industry clusters, available business resources, workforce proximity, neighborhood



amenities, and other factors. Lessons can be learned not only from the manner in which Valley redevelopment leaders identified those strengths, but also from the creative strategies they employed to make them known in the broader community.

**6) Major redevelopment projects should be viewed as opportunities to address multiple community objectives.**

One of the most striking components of the Valley's recent revitalization is the varied range of improvements it has produced. The "triple bottom line" approach to sustainable development not only achieved several economic development objectives, but also enhanced the natural environment and generated quality-of-life amenities that benefit the broader community. In light of this success, City leaders should seek other opportunities to achieve multiple goals through individual redevelopment projects. While job creation and growth in tax base may be the foremost priorities, opportunities to link those goals with simultaneous improvements in flood control, multi-modal transportation infrastructure, environmental health conditions, and recreational amenities for nearby residents also should be sought.

**7) Using redevelopment projects to create jobs for neighborhood residents may require greater emphasis on workforce development.**

Valley redevelopment leaders emphasized the need to foster development that would provide employment opportunities for the local workforce. While that objective was achieved somewhat, the recent decision by Cargill, Inc. to close its meatpacking facility in the Valley means that Palermo's and the Potawatomi Hotel and Casino are the only Valley businesses that employ large numbers of residents of nearby neighborhoods. For future redevelopment efforts that share a similar goal, greater emphasis may need to be placed on workforce training of area residents and on specific recruitment of businesses that have a need for workers with the types of skill sets possessed by those residents.

Like all urban business districts, the Menomonee Valley is a dynamic place and its redevelopment is never complete. Indeed, the City of Milwaukee currently is working on an updated land use plan to guide future redevelopment in the Valley – an effort that may have gained further urgency with the Cargill decision. At the same time, efforts are progressing to redevelop other industrial areas in Milwaukee, including the 30<sup>th</sup> Street Industrial Corridor and the Inner Harbor. We hope that by promoting a greater understanding of the critical elements of the Valley's last 15 years of redevelopment, we can help guide current and future planning in the Valley and inform policy and practice for similar efforts in Milwaukee and beyond.



## Introduction

Over the past 15 years, Milwaukee's Menomonee Valley has undergone a remarkable renaissance, transformed from a blighted and largely abandoned industrial corridor into an increasingly vibrant center of industry, entertainment, and recreation. Where vacant and dilapidated buildings once stood – visible from the state's busiest stretch of freeway – new businesses have sprouted and new infrastructure has been developed to improve connections between the Valley and the surrounding community. Meanwhile, a new park, state trail, and Urban Ecology Center branch have created enhanced natural and recreational opportunities for area residents. While still a work in progress, the Menomonee Valley has become a national model of sustainable urban redevelopment.

Much has been written about what has been accomplished in the Menomonee Valley. In this report, we seek to identify *how* those accomplishments were achieved. What were the key public policies that drove change in the Menomonee Valley? How were financial resources and public-private collaborations secured that were needed to foster redevelopment? It is our hope that by promoting a greater understanding of the critical elements of the Menomonee Valley's first phase of redevelopment, we can help guide future planning in the Valley and inform policy and practice for similar efforts in Milwaukee and beyond.

The key research questions guiding our analysis include the following:

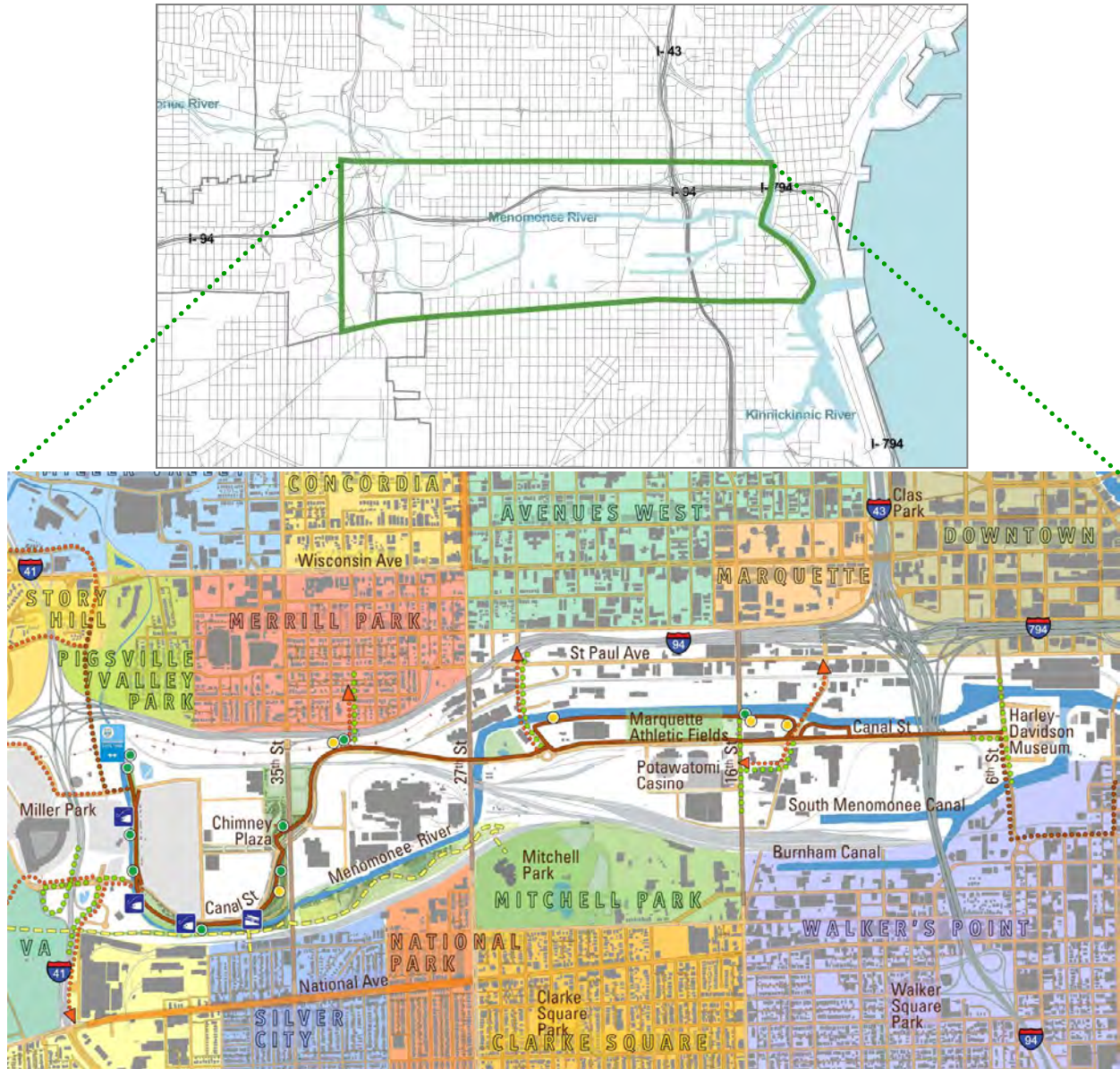
- *What were/are the greatest barriers to redeveloping the Menomonee Valley, and how have those barriers been overcome?*
- *What role did individual organizations and partnerships play in accomplishing Valley goals? For example, what was the role of the City of Milwaukee versus that of Menomonee Valley Partners, Inc. (MVP), a nonprofit organization formed to foster Valley redevelopment?*
- *Which particular policies, activities, and financial tools have proven most effective in encouraging private sector investment?*
- *Was the Valley's recent success the product of its unique location and good fortune, or are there important lessons learned that should be applied to continued work in the Valley and to other major redevelopment efforts in Milwaukee?*

We sought to answer these questions through two stages of research. First, we conducted archival research, gathering and reviewing numerous documents pertaining to the Menomonee Valley redevelopment efforts to date. Those resources include planning documents and development guidelines; grant data and related documents; previous reports and market studies; articles in academic journals and in the local and national news media; and data provided directly from organizations active in the Menomonee Valley.



Through a series of key stakeholder interviews, we then vetted the findings from our archival research and gathered valuable on-the-ground perspectives. The individuals we interviewed include representatives of city, state, and federal government agencies, Valley businesses, and community organizations that have played significant roles in Valley redevelopment.

**Figure 1: Milwaukee's Menomonee Valley**<sup>1</sup>



The purpose of this report is not to evaluate or quantify the success of the Menomonee Valley redevelopment. Indeed, our research begins with the premise that Valley redevelopment *has* been

<sup>1</sup> The solid green line on the first map above represents the boundaries of the study area used by the City of Milwaukee for the 1998 plan for the Menomonee Valley. The second map, which displays the neighborhoods in the area, was provided by Landscapes of Place, LLC.



successful, as reflected by the fact that it is frequently held up both locally and nationally as a model to be replicated elsewhere.<sup>2</sup> Our purpose, rather, is to shed light on the ingredients that produced this success and contemplate whether and how they might be applied to other major redevelopment efforts in Milwaukee and elsewhere.

The report begins with a brief overview of the accomplishments that have occurred in the Menomonee Valley since the late 1990s. Those accomplishments are organized into economic, environmental, and social metrics. We then explore the work that brought about those outcomes, identifying the core activities and strategies undergirding the redevelopment effort and presenting several specific Valley projects as case studies.

The City of Milwaukee currently is in the process of developing an updated land use plan that will guide future redevelopment in the Menomonee Valley. Simultaneously, efforts are underway to redevelop other industrial areas in Milwaukee, including the 30<sup>th</sup> Street Industrial Corridor and the Inner Harbor. We hope that this report can inform those efforts and similar Milwaukee redevelopment projects in the future.

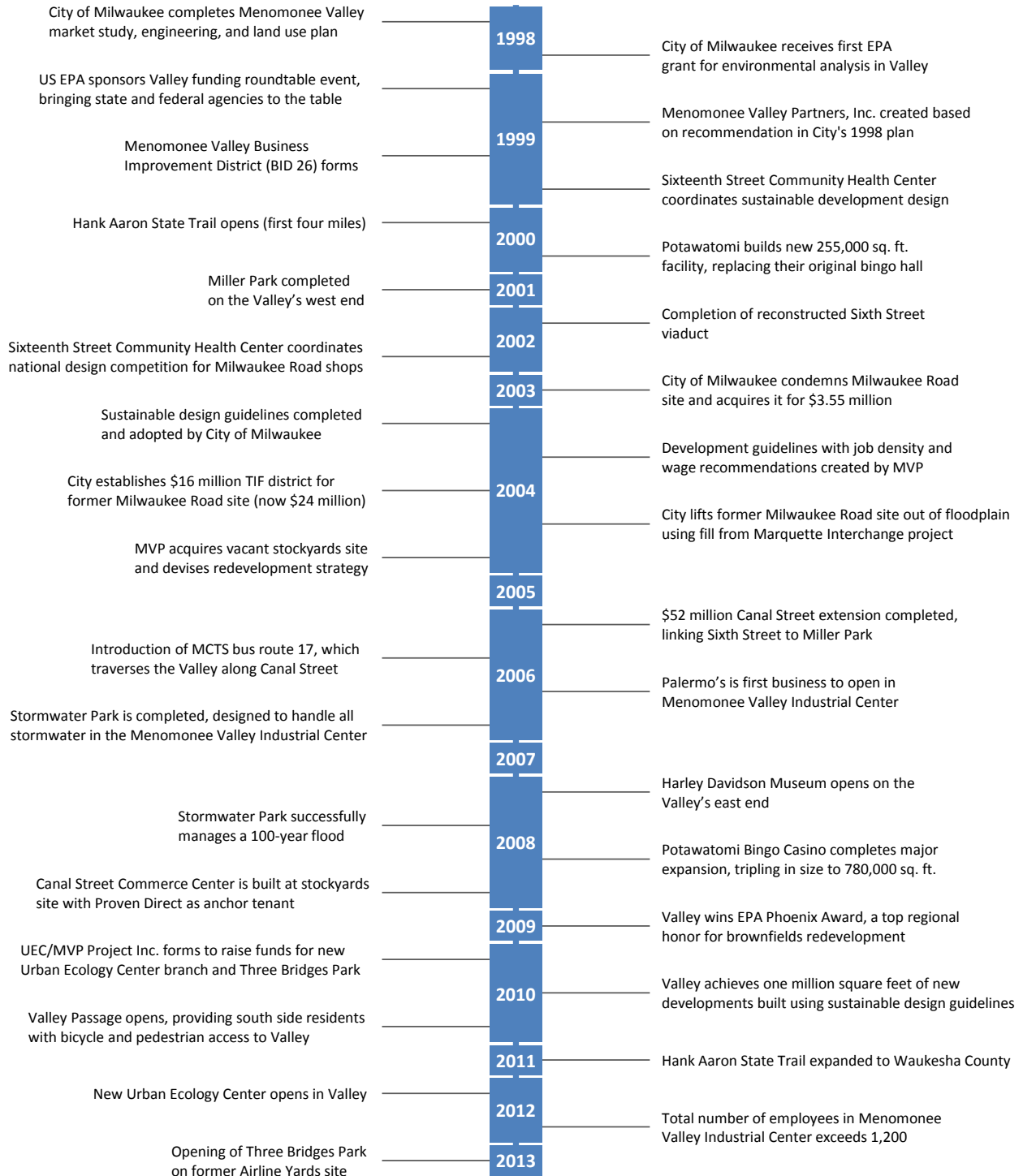
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<sup>2</sup> For example, the U.S. Environmental Protection Agency recognized the Valley as one of the best brownfield redevelopment projects in the country in 2009. *Milwaukee Business Journal*. “Menomonee Valley wins top brownfields honor.” November 3, 2009. <http://www.bizjournals.com/milwaukee/stories/2009/11/02/daily41.html>



## Valley Timeline

Numerous events have taken place and significant milestones reached in the Menomonee Valley throughout the course of its recent revitalization. The timeline below lists many of those developments and the dates when they occurred, and can be used as a helpful reference in navigating this report.



## Key Outcomes to Date

Though redevelopment of the Menomonee Valley is not complete, the efforts undertaken thus far are considered successful from multiple perspectives. The Valley is best known for its recent economic turnaround, but its environmental improvements and community development also are noteworthy. In fact, since the late 1990s, the “triple bottom line” definition of sustainable development – balancing the needs of the economy, the environment, and the community – has been a frequently cited mantra guiding Valley redevelopment efforts.

## Economic Development

Originally the home of wild rice fields and a river transportation system inland from Lake Michigan, the Menomonee Valley rose to prominence in the late 1800s as an industrial hub for tanneries, metal shops, stockyards, and other industries, which were supported by an extensive rail transportation network.<sup>3</sup> At its peak in the 1920s, the Valley housed more than 50,000 jobs.<sup>4</sup> Despite that initial success, however, the Valley later suffered from several decades of job movement overseas and disinvestment. By the beginning of the 21<sup>st</sup> century, the number of jobs in the area had dwindled to less than 14,000,<sup>5</sup> and prospects of a significant turnaround seemed improbable.

While it is unlikely that the concentration of economic activity in the Menomonee Valley ever will return to its 1920s peak, economic data document the significant surge of economic growth that has taken place in the Valley in recent years. Between 2002 and 2011 (the most recent year for which jobs data are available at the Census tract level), an estimated 3,244 net new jobs were added to the Valley (from 13,853 to 17,097), as compared to a net gain of 872 jobs in the City of Milwaukee as a whole (**Figure 2**).<sup>6</sup> Thus, without the job growth in the Valley, the City of Milwaukee would have *lost* jobs during that timeframe. Notably, the expansion of Potawatomi Bingo Casino in 2008 added roughly 1,000 of the new jobs to the Valley.<sup>7</sup>

In some portions of the Valley, new development has been characterized by a maximization of available space. Indeed, the *job density* of new development in those areas of the Valley has surpassed an established goal of 1.5 jobs per 1,000 square feet of buildable land, which was based on the city’s

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<sup>3</sup> Gurda, John. “The Menomonee Valley: A Historical Overview.”

[http://www.renewthevalley.org/media/mediatile\\_attachments/04/4-gurdavalleyhistory.pdf](http://www.renewthevalley.org/media/mediatile_attachments/04/4-gurdavalleyhistory.pdf)

<sup>4</sup> De Sousa, Christopher. “Milwaukee’s Menomonee Valley: A Sustainable Re-Industrialization Best Practice.” University of Illinois at Chicago, Institute for Environmental Science and Policy. 2012.

<http://www.uic.edu/orgs/brownfields/research-results/documents/MenomoneeValley.pdf>

Menomonee Valley Benchmarking Initiative. “State of the Valley Report: Ten Years Benchmarking Change in the Valley.” 2013. <http://www.renewthevalley.org/documents/157-menomonee-valley-benchmarking-initiative-report>

<sup>5</sup> Ibid.

<sup>6</sup> Ibid. Data extracted from the U.S. Census Bureau’s On the Map tool, which uses Longitudinal Employer-Household Dynamics (LEHD) data.

<sup>7</sup> Menomonee Valley Partners, Inc.

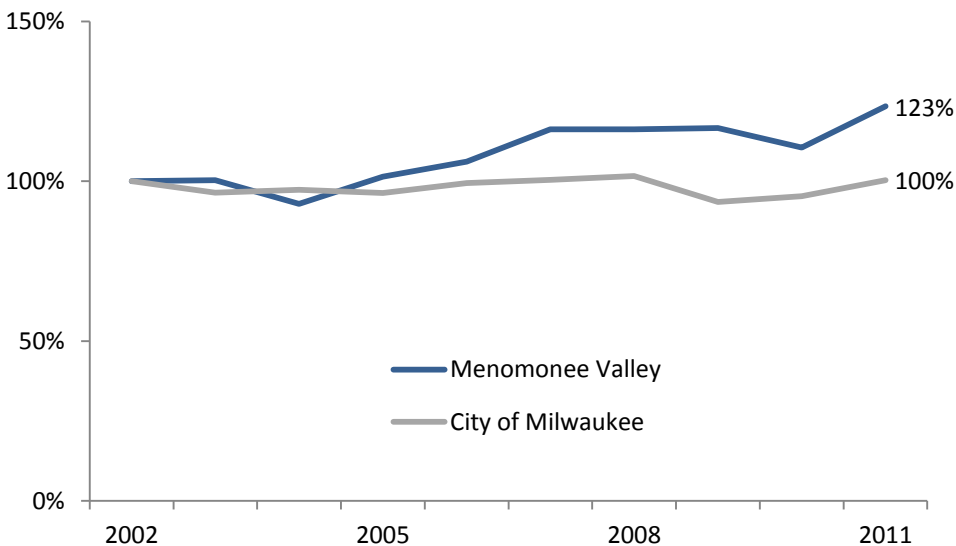




average job density for land sales to manufacturers at the time.<sup>8</sup> Depending on the percentage of buildable land on a given site, that goal worked out to roughly 16-22 jobs per acre. In the Menomonee Valley Industrial Center (MVIC) on the Valley's west end, where the job density goal was 22 jobs per acre, approximately 1,480 jobs will be located on 57 acres once current and planned projects are completed, resulting in a density of 26 jobs per acre.<sup>9</sup>

**Figure 2: Job growth in the Menomonee Valley and the City of Milwaukee, 2002-2011**

*Note: Data are indexed to compare relative growth over time. Values in 2002 are set to 100%.*



Additional examples of economic growth include the following:

- Since 1999, 49 companies have moved to the Valley or expanded within the Valley.<sup>10</sup>
- Between 2002 and 2012, taxable property values in the Menomonee Valley business improvement district (BID) increased by an inflation-adjusted 94.4% to a total of \$154 million.<sup>11</sup> By comparison, the total assessed value of all commercial and manufacturing property in the City of Milwaukee increased by 9.5% during that timeframe (**Figure 3**).<sup>12</sup>

<sup>8</sup> Menomonee Valley Partners, Inc. "Development Objectives for the Menomonee Valley Stockyards." 2004. [http://www.renewthevalley.org/media/mediafile\\_attachments/00/300-mvpdevelopmentobjectives.pdf](http://www.renewthevalley.org/media/mediafile_attachments/00/300-mvpdevelopmentobjectives.pdf)

<sup>9</sup> Public Policy Forum analysis of MVP data. Planned projects include Rishi Tea, whose facility currently is being constructed, and Solaris, for which the land sale recently closed.

<sup>10</sup> Menomonee Valley Partners, Inc.

<sup>11</sup> Public Policy Forum analysis of City of Milwaukee BID 26 and City Assessor's Office data. BID 26 covers a majority of the Menomonee Valley land area.

<http://city.milwaukee.gov/ImageLibrary/User/dmalqu/PDF/2012ASSMTandTAXESBOOKLET.pdf>

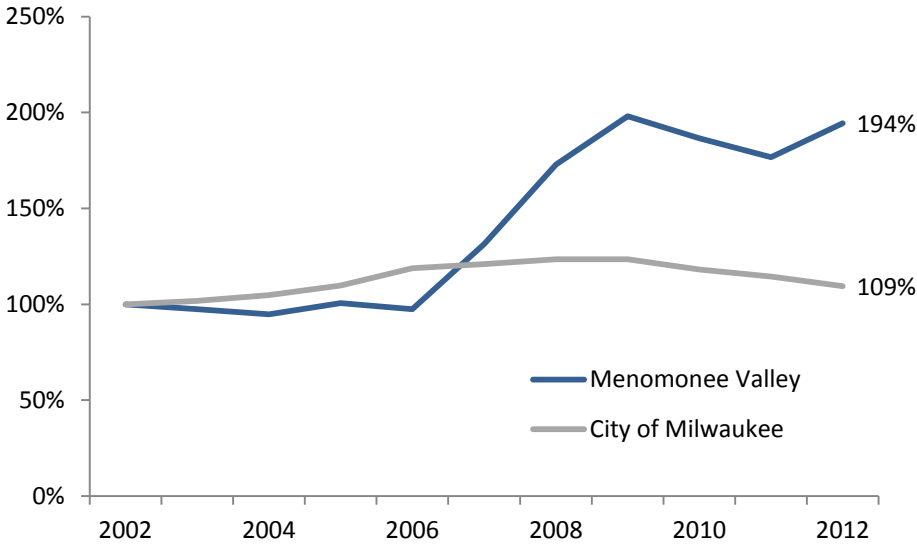
<sup>12</sup> Public Policy Forum analysis of Department of Revenue data.



- The percentage of Valley workers who earn at least \$3,333 per month (\$40,000 per year) increased from 31.2% in 2002 to 47.7% in 2011.<sup>13</sup>
- Visits to Valley entertainment venues and tourist attractions have more than tripled in the past two decades, from 2.8 million visits in 1994 to more than nine million annual visits today.<sup>14</sup>

**Figure 3: Growth of total assessed value of commercial and manufacturing property, 2002-2012**

Note: Data are indexed to compare relative growth over time. Values in 2002 are set to 100%.



The Valley’s economic revival not only has benefited the City of Milwaukee, but also has meshed with efforts to promote job growth in industries that are *economic drivers* for the region. Sectors that are export-driven or otherwise bring in revenue from outside the community, such as manufacturing, are considered such drivers because they create new sources of regional income. The Valley now competes favorably with the region’s other business districts in attracting businesses, as evidenced by the MVIC nearly filling up within 10 years. With an increase in manufacturing, tourism, and other services that produce income from outside of Milwaukee, the Valley has strengthened its position as a hub of income-generating activities.

The Valley’s economic growth also is distinctive in that its industrial occupants sit side-by-side with major tourist destinations, as well as natural and recreational amenities. Valley leaders believe this distinction offers a competitive advantage over suburban business parks, which tend to be exclusively used for industrial or office uses. According to former city planning director Peter Park, “*the intention in*

<sup>13</sup> Menomonee Valley Benchmarking Initiative. 2013. Data extracted from the U.S. Census Bureau’s LEHD Origin-Destination Employment Statistics (LODES).

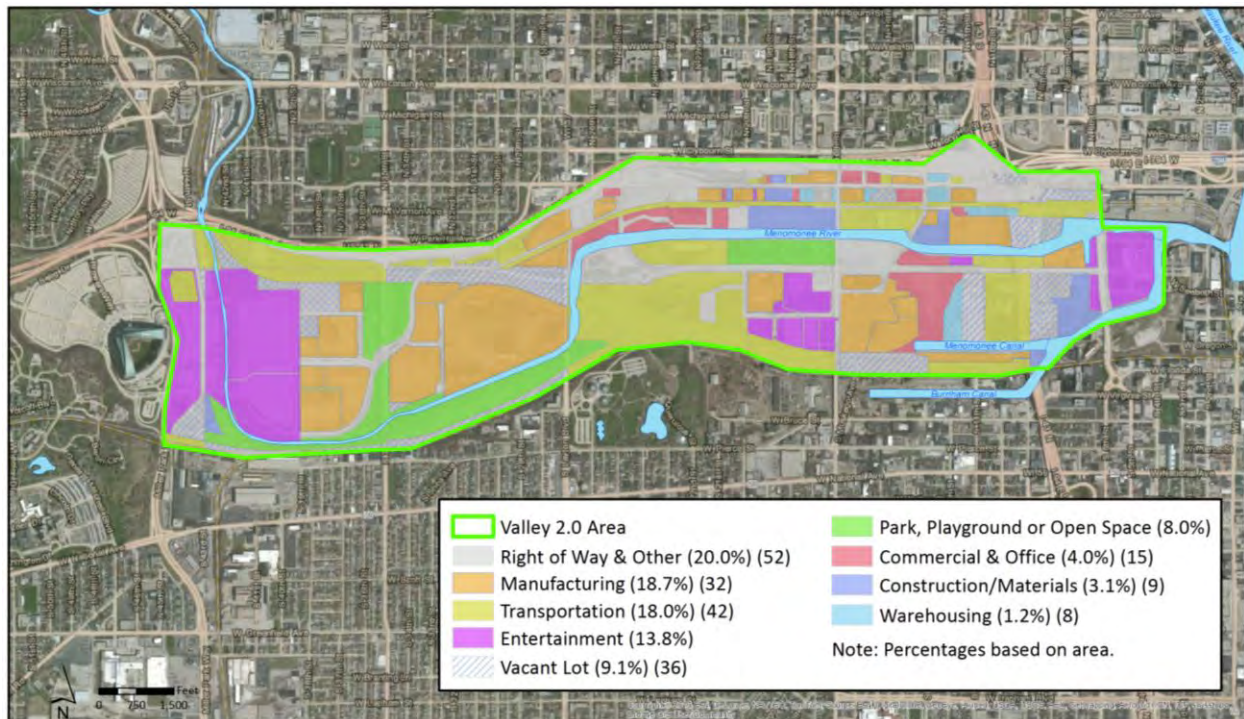
<sup>14</sup> Data provided by the organizations or available on their websites. Attendance at Miller Park has averaged 2.85 million for the last five years, Potawatomi now has approximately six million visitors per year, and the Harley Davidson Museum attracts around 350,000 visitors per year. By comparison, in 1994 the Milwaukee Brewers attracted 1.3 million fans to County Stadium and Potawatomi Bingo had 1.5 million visitors.



*the Valley was to create a place where more than one thing was happening, which is what an urban environment is all about.”*

Recent Valley redevelopment has enhanced the diversity of land uses and activities in the area. Based on mapping and analysis conducted by URS Corporation, which is displayed in **Figure 4**, approximately 19% of the land in the Menomonee Valley currently is being used for manufacturing, while 14% is being used for entertainment and 8% for recreation and open space. With the active railroad in the Valley, an additional 18% is being used for transportation-related infrastructure and operations. (Zoning prevents housing in most of the Valley; the intention is for economic development in the Valley to support housing redevelopment in surrounding neighborhoods.) Several key stakeholders interviewed for this report pointed to the Valley’s diversity as a key part of what makes the area unique and vibrant, though it is also a source of ongoing tension with regard to the future direction of Valley redevelopment.

**Figure 4: Current land use in the Menomonee Valley<sup>15</sup>**



One frequently cited economic development objective that has been challenging to achieve is that of using the redevelopment effort to create jobs for residents of surrounding neighborhoods, which suffer from high rates of unemployment. Only a few Valley businesses employ large numbers of workers from those neighborhoods. With the recent loss of Cargill’s slaughterhouse in the Valley, the need to further

<sup>15</sup> This map was created by URS Corporation, the consultant in charge of the market study for the City of Milwaukee’s Menomonee Valley 2.0 plan. The area included in the Valley 2.0 plan is notably smaller than that included in the 1998 Valley plan.

this objective now may be an even greater priority.<sup>16</sup> Some would argue, however, that adding high-paying jobs to the Valley is beneficial regardless of who fills them, because the added wealth that comes with those jobs creates demand for services in other parts of the city and region, including the adjacent neighborhoods.

## Environmental Improvements

Much of the national focus on the Valley's redevelopment efforts stems from its successful reuse of polluted or contaminated properties, which often are referred to as "brownfields." In 1999, when concerted efforts to redevelop the Menomonee Valley were launched, most of the vacant and underutilized parcels of land in the area were considered brownfields due to past industrial uses. Since that time, nearly 300 acres of brownfields have been remediated and redeveloped for business and recreational uses.<sup>17</sup> (The work is not finished, however, as at least 75-100 acres of undeveloped or underdeveloped land remain in the Valley, all of which likely have brownfield issues that will need to be addressed.)

As redevelopment has occurred, considerable efforts have been undertaken to replace detrimental environmental practices of the past with more sustainable practices. According to Menomonee Valley Partners, more than one million square feet of sustainably designed buildings have been built on former brownfield sites in the Menomonee Valley over the past 10 years, including several buildings that have been recognized by the U.S. Green Building Council as LEED certified buildings.<sup>18</sup> All stormwater from the new Menomonee Valley Industrial Center is now managed by Stormwater Park, an innovative amenity constructed in 2006 that successfully handled a 100-year flood in 2008. In addition, at the Reed Street Yards site on the Valley's southeastern edge, "green infrastructure" features have been installed to manage the site's stormwater and wastewater sustainably, including bio-swales, rain gardens, and a grey water recapture system.<sup>19</sup>

Additional efforts have added open space, restored the natural environment, and raised environmental awareness in the area. For example, the Urban Ecology Center's new facility in the Menomonee Valley, which is a showcase of green building practices, provides environmental education for thousands of children each year in the newly created Three Bridges Park. All together, more than 60 acres of new

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<sup>16</sup> Mendez, Edgar. "South Side residents hit hard by closing of Menomonee Valley Cargill facility." *Milwaukee Neighborhood News Service*. August 1, 2014. <http://www.milwaukeeens.org/2014/08/01/south-side-residents-hit-hard-by-closing-of-menomonee-valley-cargill-facility/?pcat=211>

<sup>17</sup> Data provided by Menomonee Valley Partners, Inc.

<sup>18</sup> The U.S Green Building Council's Leadership in Energy and Environmental Design (LEED) program is the nation's most prominent certification system for sustainably designed buildings.

<sup>19</sup> Reid, Dave. "Transforming Reed Street Yards." *Urban Milwaukee*. April 18, 2014.

<http://urbanmilwaukee.com/2014/04/18/friday-photos-transforming-reed-street-yards/>



parks and trails have been added to the Valley since 1999,<sup>20</sup> and native plants have been re-introduced throughout Three Bridges Park and around many Valley businesses, totaling 45 acres to date.<sup>21</sup>

Finally, while it is beyond the scope of this report to analyze in depth the efforts that have been undertaken to restore the Menomonee River, those efforts have occurred alongside the Valley redevelopment effort. River restoration efforts have involved several public and nonprofit organizations, including the Milwaukee Metropolitan Sewerage District (MMSD), the Wisconsin Department of Natural Resources (DNR), Milwaukee Riverkeeper, and other environmental organizations. In addition to producing environmental and recreational benefits, those efforts have helped to make the Valley more attractive to businesses.

## **Community Integration and Engagement**

Over the past 10 years, physical infrastructure improvements have led to increased connectivity between the Menomonee Valley and adjacent neighborhoods, including downtown Milwaukee and the south side neighborhoods of Silver City, Clarke Square, and Walker's Point. Since 2004, four new roads providing automobile access to the Valley floor have been created, including the reconstructed Sixth Street viaduct and improved Canal Street, which now extends from Sixth Street to Miller Parkway.<sup>22</sup>

Several major bicycle and pedestrian amenities and a new bus route have been introduced recently as well, creating additional opportunities for residents to access the Valley for work and play. The Hank Aaron State Trail, which first opened in 2000, now traverses the entire Menomonee Valley and extends for a total of 12 miles out to Waukesha County. Two new bridges along a recent extension of the Hank Aaron State Trail provide new connections for Clarke Square and Silver City residents to access the Valley. Also, while previously the only way to access the Valley by public transit was via stairways from the 16<sup>th</sup>, 27<sup>th</sup>, and 35<sup>th</sup> Street viaducts, south side residents now can access the Valley floor by transit via Milwaukee County Transit System (MCTS) route 17, which travels along Canal Street.<sup>23</sup>

With Interstate 94 to the north of the Valley, pedestrian and bicycle access remains a challenge from north side neighborhoods such as Avenues West (though one new connection at N. 32<sup>nd</sup> Street offers a point of connection from the Merrill Park neighborhood). Overall, however, the Valley's connectivity with surrounding neighborhoods has improved significantly.

The ongoing development of the Hank Aaron State Trail and the opening of the Menomonee Valley branch of the Urban Ecology Center in 2012 have infused the area with additional recreational activity.

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<sup>20</sup> Menomonee Valley Partners, Inc. <http://www.renewthevalley.org/documents/4-welcome-to-the-menomonee-valley-partners>

<sup>21</sup> Ibid.

<sup>22</sup> Menomonee Valley Benchmarking Initiative. 2013.

<sup>23</sup> Milwaukee County Transit System: <http://www.ridemcts.com/routes-schedules/routes/17#Weekday>



Over 20,000 people participated in the Urban Ecology Center's programs in the Valley in its first year.<sup>24</sup> The Urban Ecology Center also conducts park use surveys to estimate how many people use Three Bridges Park and the Hank Aaron State Trail nearby. The organization estimates that during the 2012-2013 fiscal year, in addition to those who participated in Urban Ecology Center programming, 45,372 adults and 8,126 children used the parks and trail. The Friends of the Hank Aaron State Trail also hosts an annual 5k Run/Walk event on the trail that attracted 1,744 participants in 2013.<sup>25</sup>

With regard to community engagement, it is clear that more people contribute to Valley improvements than ever before. Milwaukee area residents and employees of Valley businesses invest thousands of hours of their collective time each year into making the Valley a cleaner and more vibrant place. For example, MVP, Friends of the Hank Aaron State Trail, and the Urban Ecology Center – three organizations that were not present in the Valley 15 years ago – each attract hundreds of volunteers every year for environmental cleanup and restoration work.

The opening event for Three Bridges Park in 2013 illustrates the extensive change in perception that has taken place in the Menomonee Valley. After 777 name suggestions were submitted for the new park, more than 1,000 people showed up for the park opening.<sup>26</sup> The event drew a wide-ranging group of participants, including representatives from neighborhood groups, Valley and National Avenue businesses, community organizations, area schools, environmental organizations, the Milwaukee Police Department, bicycle clubs and organizations, and more.

A summary of performance metrics that speak to the success of Valley redevelopment efforts is shown in **Figure 5**.

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<sup>24</sup> According to the Urban Ecology Center, their programs served 9,832 adults and 10,774 children during the 2012-2013 fiscal year, for a total of 20,606 individuals.

<sup>25</sup> Figure provided by Friends of the Hank Aaron State Trail.

<sup>26</sup> Menomonee Valley Partners, Inc.



**Figure 5: Summary of recent Menomonee Valley redevelopment accomplishments<sup>27</sup>**

<b>Economic Development</b>	
Businesses moving to or expanding within Valley, 1999-2014	49 businesses
Net change in jobs located in the Valley, 2002-2011	+3,244 jobs
Job density in Menomonee Valley Industrial Center, 2014	26 jobs/acre (goal was 22)
Change in taxable property values in Valley BID, 2002-2012	+94.4%
Valley workers earning at least \$40,000 per year, 2011	47.7% (31.2% in 2002)
Visits to Valley entertainment venues, 2012 (estimated)	9,200,000 (2,800,000 in 1994)
<b>Environmental Improvements</b>	
Acres of brownfields remediated and redeveloped in Valley, 1999-2014	300 acres
Acres of brownfields that remain undeveloped in Valley (estimated)	75-100+ acres
Square footage of sustainably designed buildings constructed, 2004-2014	Over 1 million sq. ft.
Number of LEED-certified buildings constructed, 2004-2014	3 buildings
Acres of new parks and trails developed, 1999-2014	60 acres
Acres of native plants installed, 1999-2014	47 acres
<b>Community Integration &amp; Development</b>	
New pedestrian/bicycle connections into Valley	4 new connections
New automobile connections into Valley	4 new connections
New sidewalks added to Valley	10.8 miles
Change in transit ridership on MCTS bus routes in Valley, 2001-2011	Up 30%
Traffic counts on Canal Street at 16 <sup>th</sup> St., 2001-2012 (Wisconsin DOT counts)	Up 39%
Parks and trails users (Urban Ecology Center estimate)	50,000+ per year
Participation in Urban Ecology Center programs	20,000+ in first year
Volunteers with MVP, Urban Ecology Center, Friends of the Hank Aaron State Trail	Over 1,000 per year
Volunteer hours: MVP, Urban Ecology Center, Friends of the Hank Aaron State Trail	Over 9,000 per year

<sup>27</sup> All figures not cited previously were taken from the Menomonee Valley Benchmarking Initiative's 2013 "State of the Valley" report.



## Success Factors

Our analysis of the outcomes and accomplishments cited in the previous section yielded five major factors that we deem most crucial to the Menomonee Valley's redevelopment success:

- 1) Extensive *planning and visioning* that engaged the community and built consensus around key objectives.
- 2) Strong *leadership and collaboration* among organizations and individuals working to bring the vision for the area to life.
- 3) Access to and creative *utilization of available funding* in order to address key barriers to redevelopment.
- 4) Effective *project management* that capitalized on the Valley's existing strengths and on infrastructure-related opportunities.
- 5) A unique *location and good timing* that facilitated redevelopment and allowed the Valley's mix of businesses and natural amenities to come together and thrive.

In this section, we describe and analyze those factors and how they played a prominent role in the Valley's recent revival.





## Planning and Visioning

Numerous individuals interviewed for this report noted the vital role of planning and community engagement in the Menomonee Valley's revival. A strong vision for the area with wide-ranging support from those affected was critical to fostering collaboration among the Valley's many stakeholders and to attracting financial support for Valley projects.

### **1998 Valley plan**

While several key documents shaped the recent wave of redevelopment in the Menomonee Valley, the City of Milwaukee's 1998 *"Market Study, Engineering, and Land Use Plan for the Menomonee Valley"* was the foundational blueprint.<sup>28</sup> The plan – which was co-sponsored by MMSD and the Menomonee Valley Business Association – presented information about the existing conditions and future redevelopment potential of Valley land and recommended specific actions needed to promote redevelopment.

According to the City's former planning director, Peter Park, the 1998 Valley plan changed the City's approach to planning in two important ways. First, the City diligently followed the plan and used it to evaluate and implement actual redevelopment projects as they originated, which had not always been the case with previous plans. Second, a much greater emphasis was placed on stakeholder engagement activities than in previous planning efforts. Interviews, workshops, and surveys were conducted with area residents and Valley businesses, giving them numerous opportunities to participate in shaping the plan.

A key goal of the plan was to clarify the role of government in Menomonee Valley redevelopment efforts. City leaders described that role as creating the conditions needed to facilitate high-quality private sector investments by establishing and enforcing regulations, building and improving infrastructure, and supporting partnerships between public and private sector entities.

The notion of "partnership" was reflected by two of the plan's eight "action agenda" recommendations, the first of which called for creation of a nonprofit organization to implement the plan and lead Valley redevelopment activities alongside the City. City leaders embraced that notion, acknowledging that the challenges of redeveloping the area were beyond the capacity of city government and its resources alone. Soon after the plan's creation, Menomonee Valley Partners, Inc. (MVP) was formed as a 501(c)(3)

*"In the Valley, a lot of time was spent on planning, because they wanted to 'get it right.' They created an ambitious vision for the Valley and built support for that vision with the community. That is the way to make change happen."*

*-Leo Ries, LISC Milwaukee*

<sup>28</sup> City of Milwaukee. *Market Study, Engineering, and Land Use Plan for the Menomonee Valley*. October, 1998. <http://city.milwaukee.gov/ImageLibrary/Groups/cityDCD/planning/plans/valley/plan/MRVplan.pdf>



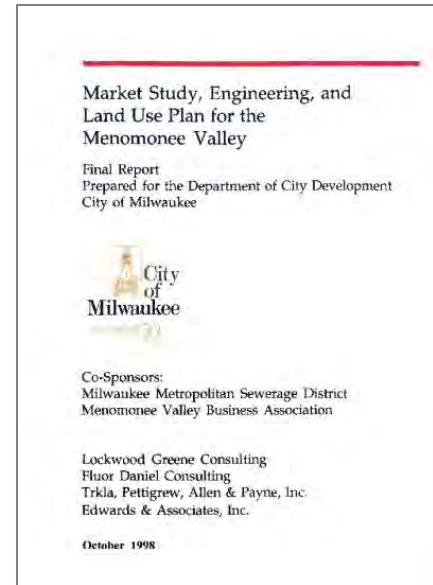
organization to fill that role, with early support provided in part by grant funds the City had received from the EPA.<sup>29</sup>

Another important goal of the plan was to establish clarity about the nature of environmental contamination in the Valley. At the time, the common perception was that the entire Valley was heavily polluted due to decades of industrial use. The high cost associated with remediating contaminated parcels was identified as a significant barrier to redevelopment. Two plan recommendations called for extensive environmental testing to be undertaken on Valley parcels and for public funding to be made available to pay for environmental cleanup.

Following the plan's adoption, the City of Milwaukee aggressively pursued federal and state grants and established several tax increment financing (TIF) districts in the Valley to pay for environmental testing, cleanup, and other site improvements.<sup>30</sup> Two early grants from the EPA totaling \$350,000 allowed for environmental testing to be conducted in the area, including a study by the U.S. Geological Survey that showed that groundwater contamination was less of an issue than land contamination.<sup>31</sup> Knowing that cross-contamination among properties via groundwater was not a significant risk boosted confidence among stakeholders in the Valley's redevelopment potential, as environmental issues could be addressed on a parcel-by-parcel basis.

Two other plan recommendations proposed land use and zoning modifications to promote more environmentally sustainable and visually appealing land uses. Much of the Valley was covered by a single zoning code (A-125 Industrial District) at the time, which allowed for heavy manufacturing and other land uses that produced air, groundwater, and noise pollution. The City followed up on the plan's recommendations by establishing more restrictive zoning regulations for many Valley parcels.

Other recommendations addressed the established need to develop new infrastructure, green space, and other amenities to improve vehicular and pedestrian access to and through the Valley and to improve the area's physical appearance. At the time, access to the Valley was extremely limited. Canal Street, for example, only extended west as far as 25<sup>th</sup> Street. Bicycle and pedestrian access was equally inadequate. The City and State were considering proposals to extend Canal Street west to Miller Park and to reconstruct the Sixth Street viaduct such that it would be lowered to connect with Canal Street. The plan supported both of those proposals and made the case that improved connections were



<sup>29</sup> De Sousa, Christopher. 2012.

<sup>30</sup> A description of tax increment financing is provided on page 31 of this report.

<sup>31</sup> U.S. Geological Survey. "Simulation of Ground-Water Flow, Surface-Water Flow, and a Deep Sewer Tunnel System in the Menomonee Valley, Milwaukee, Wisconsin." 2004.

[http://pubs.usgs.gov/sir/2004/5031/pdf/2004-5031\\_Menomonee.pdf](http://pubs.usgs.gov/sir/2004/5031/pdf/2004-5031_Menomonee.pdf)

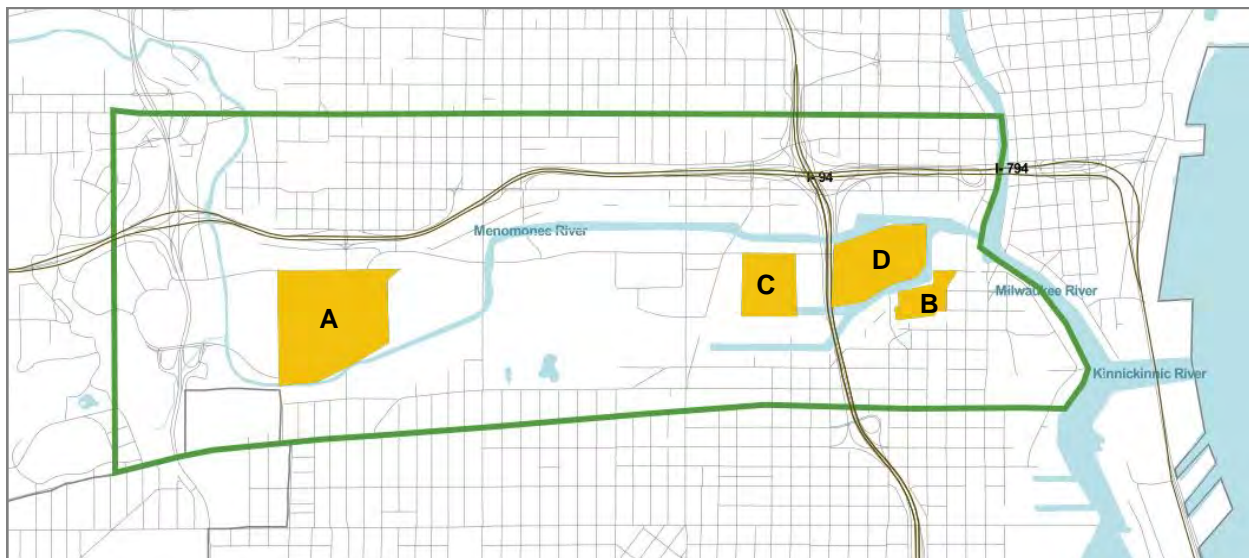


essential to making the redevelopment of the area viable. The City followed up on that recommendation as well by paying for a large share of the cost of resurfacing and extending Canal Street and by developing and improving internal streets in order to make available parcels accessible.

In addition to the recommendations included in the “action agenda,” the plan supported the continued presence and expansion of manufacturing in the Valley, which provided clarity to businesses with regard to the City’s intentions for the area. The market study included in the plan identified manufacturing as the highest and best use for the Valley, demonstrating the existing strength of manufacturing in the area and the continued importance of manufacturing in the Milwaukee region. Stakeholder feedback confirmed that the public and businesses already located in the Valley preferred that the area maintain its focus on manufacturing.<sup>32</sup> The plan also noted that the export-oriented nature of manufacturing would provide the greatest economic benefit to the City among potential land uses.

The City’s plan identified four “priority redevelopment areas,” which are displayed in **Figure 6**. Priority areas were selected based on their potential to catalyze redevelopment throughout the Valley. As described below, those areas currently are at various stages of redevelopment. The development that has occurred in the priority areas demonstrates the progress that has been made in the Valley since the plan was completed. Still, it is important to note that two of the four areas continue to have large vacancies, and that a second set of priority areas is emerging through the City’s current effort to update the Valley plan.<sup>33</sup>

**Figure 6: Priority development areas identified in the City’s 1998 plan for the Menomonee Valley**



<sup>32</sup> De Sousa, Christopher. 2012.

<sup>33</sup> Information about “Menomonee Valley 2.0,” the City of Milwaukee’s current project that will update the land use and marketing plan for the Menomonee Valley, can be found at <http://www.planthevalley.org/>.

- A) The largest of the plan's four priority areas was the 140-acre site of the **former railroad shops of the Milwaukee Road** on the Valley's west end. That site was an early priority because it was the largest and most visible brownfield in the area and because the abandoned buildings on the site had raised significant health and safety concerns for many years. Previously owned by CMC Heartland Partners – the company that was created to own certain assets of the Milwaukee Road after it filed for bankruptcy – the site was condemned and acquired by the Redevelopment Authority of the City of Milwaukee (RACM) in 2003. RACM and MVP then led efforts to redevelop the site into the Menomonee Valley Industrial Center and Stormwater Park, which is nearly complete. The process of redeveloping this site is described in detail in the "Project Management" section of this report.
- B) The priority area where the least progress has been made to date is **Reed Street Yards**, a privately owned, 17-acre site east of Sixth Street in the southeastern corner of the Menomonee Valley. With the recent development of the Global Water Center in an adjacent building, and new infrastructure currently being constructed by the City, momentum is building to redevelop Reed Street Yards into a business park with a water technology focus. In fact, General Capital Management Group is planning to begin construction on the first new building in Reed Street Yards in fall 2014.<sup>34</sup>
- C) A portion of the **properties along Canal Street just east of Emmer Lane**, known as the former Milwaukee Stockyards, was purchased by MVP and redeveloped for commercial and light industrial use. The complex redevelopment of that site, which now is known as the Canal Street Commerce Center, also is highlighted as a case study in the "Project Management" section of this report. Cargill – the former owner of the Milwaukee Stockyards – continues to own a small parcel of land along Emmer Lane.
- D) The **properties near Sixth and Canal Streets** – another highly visible location – also have been partially redeveloped, highlighted by the Harley Davidson Museum. The City had previously owned much of the site where the museum now stands, and Morton Salt also had an operation there. MVP purchased Morton Salt's parcel with the support of a state grant, which paved the way for the redevelopment of the entire parcel. Lakefront Brewery recently considered the possibility of developing a second brewery on a nine-acre parcel also located in this area, but cost estimates to build and equip the brewery and to finance the proposal were higher than expected and those plans were dropped.<sup>35</sup> Significant environmental and geotechnical issues stand in the way of redeveloping the remaining vacant land in this area. The geotechnical issues result from the fact that the Valley was originally a marsh and contains soft soils that are not

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<sup>34</sup> Daykin, Tom. "Water business park expects first building in 2014." *Milwaukee Journal Sentinel*. February 6, 2014. <http://www.jsonline.com/blogs/business/243750561.html>

<sup>35</sup> Daykin, Tom. "Lakefront drops plan for Menomonee Valley brewery." August 7, 2014. *Milwaukee Journal Sentinel*. <http://www.jsonline.com/blogs/business/270222991.html>



stable enough for development. Due to the challenges of redeveloping these properties and their significance as a gateway to the Valley, this area remains a priority.

Prior to the 1998 plan, the City had created several plans for the Menomonee Valley that had never been put into action. In contrast, each of the 1998 plan's eight major "action agenda" recommendations have been addressed by the City and its partners in a significant way since the plan was adopted, and major progress has been made toward redeveloping each of the four priority areas identified in the plan. In fact, the current effort to update the Menomonee Valley plan was precipitated by the perception that much of what was envisioned in the 1998 plan now has been realized.

### ***Additional planning efforts***

While the 1998 plan proposed solutions to significant redevelopment barriers and identified priority areas within the Valley, it provided relatively little detail regarding what a revitalized Valley could look like. Several community leaders felt that additional vision and energy was needed to fill in those details and move the effort forward. With the 1998 plan as a foundation, community organizations stepped in to facilitate additional activities and studies that further developed and enhanced the collective vision for the area.

One of the earliest of those efforts was a report produced for the newly formed Menomonee Valley Partners by the Center on Wisconsin Strategy (COWS). The 2000 report, entitled "*At the Center of it All*," reinforced the City's proposal that the former Milwaukee Road site on the Valley's west end should be redeveloped into an eco-industrial park and suggested that efforts be made to attract businesses in industries that were economic drivers for the region.<sup>36</sup> It also specified that the new business park should provide family-supporting wages to workers and emphasized the potential for the site to provide much-needed jobs to residents of adjacent neighborhoods.

A driving force behind the Menomonee Valley visioning process following the 1998 plan was the Sixteenth Street Community Health Center, a nonprofit health care and social service provider on Milwaukee's south side. Between 1999 and 2003, Sixteenth Street played a lead role in coordinating a sustainable development design charrette and a national design competition that many describe as hugely influential in shaping the Menomonee Valley Industrial Center and other parts of the Valley.<sup>37</sup> Sixteenth Street collaborated with MVP and the City on these projects, which one key stakeholder described as helpful in creating buy-in from civic leaders and public officials.

In 1999, Sixteenth Street received a \$200,000 Sustainable Development Challenge Grant from the EPA to conduct a design charrette aimed at generating ideas for the Valley's future.<sup>38</sup> The event brought

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<sup>36</sup> Center on Wisconsin Strategy. *At the Center of it all: The High-Road Strategy for Milwaukee's Menomonee Valley*. June 2000. [http://www.cows.org/\\_data/documents/966.pdf](http://www.cows.org/_data/documents/966.pdf)

<sup>37</sup> A design charrette brings together multiple designers to draft a solution to a design problem.

<sup>38</sup> MVP funding database.



together over 140 leading design professionals from the Milwaukee area and a wide variety of other experts and stakeholders to discuss and design a sustainable future for the Valley.<sup>39</sup> Their work provided visual ideas of how individual parcels could be transformed and generated energy around the prospect of revitalizing the area as a whole.

The 2000 report that resulted from the event – “*A Vision for Smart Growth*” – added support to previous recommendations that the former Milwaukee Road site become an eco-industrial park featuring high-quality manufacturing jobs that would be accessible to area residents. The report also set a much stronger vision for environmental improvement and green building than previously had been established. An emphasis on sustainable development that balances the needs of the economy, the environment, and the community – which became a central theme of the Valley’s redevelopment efforts – was fortified through the design charrette.



Sixteenth Street also coordinated the process of developing a detailed plan for the site of the former Milwaukee Road shops and Airline Yard sites on the Valley’s west end, which further strengthened the vision for that area and its emphasis on sustainability. In 2002, Sixteenth Street worked with the City of Milwaukee, MVP, and other organizations to coordinate a national design competition for that site. The competition was facilitated by Larry Witzling, a professor in UW-Milwaukee’s School of Architecture and Urban Planning, who had a great deal of credibility in the region and experience leading national design competitions. It was supported by a \$50,000 grant from the National Endowment for the Arts (NEA) and by contributions from the City, the Wisconsin DNR, and many private sector contributors.<sup>40</sup> An expert jury with members selected by the NEA judged the proposed designs.

The design competition brought national talent in landscape architecture to the table to design the new Menomonee Valley Industrial Center and Stormwater Park. From 24 initial proposals, the jury



<sup>39</sup> Sixteenth Street Community Health Center and PDI, Inc. *A Vision for Smart Growth*. 2000.

[http://renewthevalley.org/media/mediafile\\_attachments/05/135-charettebook.pdf](http://renewthevalley.org/media/mediafile_attachments/05/135-charettebook.pdf)

<sup>40</sup> Gould, Whitney. “Plans for Menomonee Valley are Far and Wide.” *Milwaukee Journal Sentinel*. 3/24/02  
[http://articles.chicagotribune.com/2002-03-24/business/0203240327\\_1\\_wisconsin-department-landscape-coalition](http://articles.chicagotribune.com/2002-03-24/business/0203240327_1_wisconsin-department-landscape-coalition)



chose four finalists whose detailed designs for the area were presented in the 2003 report, *“Menomonee River Valley National Design Competition: Natural Landscapes for Living Communities.”*<sup>41</sup> The winning design from Denver-based Wenk Associates envisioned an industrial park interlaced with green spaces. Wenk’s designs also included plans for what would become Stormwater Park and Three Bridges Park.

The Wenk design was realized almost exactly as proposed. An important feature of the national design competition was that it offered the winning design team the right to negotiate a contract with the City of Milwaukee to build their design, and Wenk Associates was given that opportunity. In 2003, the Milwaukee Common Council approved a proposal to have Wenk create a detailed design and engineering plan for the Valley’s west end based on their proposal. The detailed design they created ultimately was implemented.

### ***Development guidelines***

Another important component of Valley planning was the creation of development guidelines and objectives, which established standards for development in the Valley with regard to job density, wages, and site and building design. At the time, there was tension over the wisdom and practicality of establishing such standards in an area that was having trouble attracting businesses, but they appear to have been effective in encouraging high-quality, sustainable development.

In 2004, the City, Sixteenth Street, and MVP worked together to create *“Sustainable Development Guidelines for the Menomonee River Valley,”* with technical support provided by a broad group of local architecture and engineering firms, developers, and nonprofit organizations, and funding support from several public and private sector sources.<sup>42</sup> The guidelines were developed based on national standards, which were modified to create realistic and achievable criteria for the Valley. The goal was for businesses to be able to pay back incremental costs associated with their buildings’ sustainability features relatively quickly.

The sustainable development standards included in the guidelines related to site design; building design and energy use; materials and resources; construction and demolition; indoor environmental quality; and operations and maintenance. The guidelines modified underlying zoning by specifically prohibiting land uses that negatively affect the environment. In this way, the City followed up on a major recommendation of the 1998 plan.

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<sup>41</sup> Sixteenth Street Community Health Center. *Menomonee River Valley National Design Competition: Natural Landscapes for Living Communities*. 2003. [http://renewthevalley.org/media/mediafile\\_attachments/02/142-nationaldesigncompetition.pdf](http://renewthevalley.org/media/mediafile_attachments/02/142-nationaldesigncompetition.pdf)

<sup>42</sup> City of Milwaukee, Department of City Development: <http://city.milwaukee.gov/ImageLibrary/Groups/cityDCD/planning/plans/valley/pdfs/MenomoneeValleySustainableGuid.pdf>



The sustainable development guidelines originally were adopted by the City for the Menomonee Valley Industrial Center site on the Valley's west end, but since have become standard for much of the Valley's redevelopment.<sup>43</sup> They were utilized by MVP, for example, for two properties it acquired at different periods of time – the sites where the Harley Davidson Museum and Canal Street Commerce Center now stand. Later, the City also applied the guidelines to the east end of the Valley as part of a Development Incentive Zone (DIZ).<sup>44</sup> Thus, the standards have been applied to much of the land in the four priority areas identified in the 1998 plan.

According to MVP leaders, it was difficult to convince some of the first businesses that moved to the Valley to follow the sustainable design guidelines. Once they did so successfully, however, business-to-business connections helped encourage other businesses to incorporate sustainability features. The Valley also started to attract businesses for which sustainability was a core principle; compliance with the standards was a non-issue for those businesses.

The City and MVP did not offer subsidies to businesses that followed the sustainable design standards, though incentives available through Wisconsin's Focus on Energy program were helpful in encouraging companies to implement features that would improve energy efficiency. We Energies worked with prospective businesses to connect them with those opportunities. In addition, construction companies became familiar with the guidelines over time, which made meeting the guidelines easier to accomplish for later projects.

Also in 2004, MVP led an effort to create "*Development Objectives for the Menomonee Valley Stockyards' Redevelopment*," which included job density and wage guidelines for that property.<sup>45</sup> According to key stakeholders, while the *sustainable design guidelines* had been created to promote environmental sustainability, the *development objectives* were meant to address all three elements of sustainable development simultaneously by fostering compact, job-intensive development that provided living wages for Valley workers.

The development objectives called for a job density standard of 1.5 jobs per 1,000 square feet of buildable land for the former Milwaukee Stockyards site, which had been acquired by MVP. The standard was based on "the average job density of Northwest Land Bank sales to manufacturers as reported by the City of Milwaukee Department of City Development in 2000."<sup>46</sup> Based on the amount of buildable land available on the site, the standard added up to 16.4 jobs per acre for the project. The

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<sup>43</sup> Redevelopment Authority of the City of Milwaukee (RACM). March 2006.

<http://city.milwaukee.gov/ImageLibrary/Groups/cityDCD/planning/plans/valley/pdfs/MVDevelopmentGuidelines.pdf>

<sup>44</sup> A DIZ is a development tool used by cities to encourage high quality developments by modifying zoning, lot, and density requirements for a designated zone. Developments that meet the DIZ standards are able to receive expedited permits for their projects.

<http://city.milwaukee.gov/ImageLibrary/Groups/cityDCD/build/pdfs/devincen.pdf>

<sup>45</sup> Menomonee Valley Partners, Inc. 2004.

<sup>46</sup> Ibid.





objectives also established an average wage target of \$11.83 per hour for the site based on research demonstrating that it was the minimum wage needed to support an average Milwaukee household. It was recommended that prospective employers who failed to meet those standards be required to have a plan in place to meet them in the near future.

As with the sustainable design guidelines, the development objectives have been used extensively in the Valley since their creation. Originally created for the former Stockyards site, the objectives later were applied to RACM-owned properties in the Menomonee Valley Industrial Center as a requirement of land sales and have been used for many other Valley redevelopment projects.

### **Summary**

Key stakeholders point to the importance of planning and consensus building to the Menomonee Valley's transformation. Beginning with the 1998 plan, significant time and resources were committed to planning-related activities in the Valley, which produced several important documents and designs that have guided Valley redevelopment over the past 15 years. Those guiding documents pointed the way to overcoming major barriers to redevelopment, including access, environmental, and geotechnical challenges. They also established strong sustainable development standards for Valley projects.

Throughout the process of developing a vision for Valley renewal, government agencies, businesses, design professionals, community organizations, and citizens were brought together to establish a common vision and set of objectives for the area, a course of action many describe as critical to creating the community buy-in and financial support needed to drive change. The fact that the plans and guidelines produced for the Menomonee Valley have been largely applied and implemented speaks both to the strong content of the plans and to the success of the community engagement process that contributed to their development.

### **Leadership and Collaboration**

Another theme raised consistently in key stakeholder interviews was the value of effective leadership and collaboration in implementing the vision that had been created for the Valley. It was essential to have the right individuals in leadership roles and the right mix of organizations engaged as partners to make projects work and keep the overall effort moving forward. It was also important to manage conflicting interests and avoid the kind of turf battles that have dragged down large-scale redevelopment projects elsewhere. Though not a painless process, those objectives were largely met in

*"The quality of people involved in the Menomonee Valley redevelopment — from the city, the state, and the private sector — has been outstanding. Really, off the charts. Without those individuals and their ability to work together, the Valley wouldn't be what it is today."*

*— Jim Van der Kloot, U.S. EPA*



the Valley.

Particularly striking was the fact that several distinct organizations played leadership roles in different capacities and at different points in time. As demonstrated in the previous section of this report, for example, several entities took the lead throughout the planning process in the late 1990s and early 2000s. The City of Milwaukee, Sixteenth Street, and MVP each facilitated efforts that built on one another's work and combined to produce a detailed vision for the area.

Redevelopment projects in the Valley have involved numerous organizations representing all levels of government, the Forest County Potawatomi, area businesses, and community organizations.<sup>47</sup> While it is beyond the scope of this report to identify each of those organizations and their roles, we describe here the respective roles of a few of the major players. Later in this report, we highlight several Valley projects as case studies that show how these partners and many others contributed to the area's revival.

### ***Sixteenth Street Community Health Center***

Many key stakeholders recognized Sixteenth Street as a vital leader who focused community attention on the Valley and infused the redevelopment effort with an emphasis on sustainability and quality of life issues. Rather than seeking redevelopment in any way possible, Sixteenth Street leaders promoted sustainable development that took into account the varied needs of the surrounding community. Those leaders emphasized the need to attract businesses that would provide jobs that were accessible to central city residents, to make infrastructure improvements that could stitch the Valley together with its adjacent neighborhoods, and to restore and protect the natural environment for the long-term health of the community.

Through the sustainable development design charrette and the national design competition, Sixteenth Street brought energy to the Valley redevelopment effort and helped to develop community buy-in. At the time, MVP was just becoming established and Sixteenth Street already was a well-known and respected community organization with experience in brownfields redevelopment projects on Milwaukee's south side.

Sixteenth Street played a leadership role in the Valley in other important ways as well. For example, the organization's former director of environmental health, Peter McAvoy, served as the vice president of MVP's board of directors for several years and worked closely with the City to implement the Valley plan. Sixteenth Street also has been actively involved in the Menomonee Valley Benchmarking Initiative, an effort to track metrics related to the economic, environmental, and social health of the Valley, which began in 2003 and continues today.<sup>48</sup>

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<sup>47</sup> The Forest County Potawatomi operate the Potawatomi Hotel and Casino in the Menomonee Valley.

<sup>48</sup> Menomonee Valley Benchmarking Initiative. <http://epic.cuir.uwm.edu/mvbi/>



## **City of Milwaukee**

The City's early and ongoing leadership in the Valley is viewed by many as fundamental to the area's revival. City leaders are credited for their diligence in implementing the 1998 Valley plan by following up on each of the plan's major recommendations and by leading efforts to address key barriers to redevelopment, including access challenges, unstable soil conditions, frequent flooding, and environmental contamination. Indeed, without the City's investments in infrastructure, environmental cleanup, and site preparation, it is unlikely that much redevelopment would have occurred.

The City has dedicated significant staffing resources to Valley planning and pre-development work. After work on the 1998 plan was completed, for example, DCD hired a staff person, Brian Reilly, whose work was focused exclusively on the Valley for seven years. At the same time, RACM – and its Assistant Executive Director, Dave Misky – was intensively involved in environmental assessment and cleanup work in the area, and the City's Department of Public Works (DPW) managed several infrastructure projects, including the extension of Canal Street, a project that was largely financed by the City.

As previously mentioned, RACM also took ownership of several key properties, including the largest brownfield in the area – the Milwaukee Road site – and made the improvements needed to prepare those sites for private sector redevelopment. In that regard, the City played the role of the “developer of last resort” in many parts of the Valley, as characterized by Brian Reilly.

The City also is credited with ensuring that the former Milwaukee Road site maintained a focus on manufacturing, as opposed to retail or other lower-wage land uses. In 2001, for example, DCD commissioner Julie Penman objected to a proposal before the City's Board of Zoning Appeals to allow the owner of the former Milwaukee Road site to develop an indoor go-kart facility on the site.<sup>49</sup> The commissioner's opposition was based on the proposal's incongruity with the 1998 Valley plan, and she argued the importance of preserving the limited industrial land located within the city that was suitable for manufacturing. Most of the land that has been redeveloped on that site is being used for manufacturing today.<sup>50</sup>

The City also has been praised for promoting a collaborative approach to Valley redevelopment that is believed to have facilitated successful outcomes. In addition to its support of MVP and its ongoing

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Menomonee Valley Partners, Inc. <http://www.renewthevalley.org/documents/157-menomonee-valley-benchmarking-initiative-report>

<sup>49</sup> Memo to the City of Milwaukee's Board of Zoning Appeals. February 8, 2001.

<sup>50</sup> While the City rejected several proposals for non-manufacturing uses in the Valley, one prominent exception was a proposed development by BuySeasons Inc., a costume distribution company. The project had the support of Mayor Tom Barrett and Commissioner of City Development Rocky Marcoux, but faced vocal opposition from other elected officials because the company was a distributor rather than a manufacturer. BuySeasons ultimately decided to develop its distribution center in New Berlin rather than in the Menomonee Valley. Source: Romell, Rick. “Milwaukee's industrial legacy played against BuySeasons' move.” *Milwaukee Journal Sentinel*. April 20, 2013. <http://www.jsonline.com/business/a-time-to-build-milwaukees-industrial-legacy-played-against-buyseasons-move-203926461.html>



involvement in the partnership, the City promoted collaboration by bringing state and federal agencies to the table early on in the redevelopment effort. In 1999, the City and the EPA organized a daylong roundtable event that brought representatives of numerous state and federal agencies to Milwaukee to discuss the Valley plan and to explore opportunities to tap into available funding for Valley projects. Several key stakeholders identified that event as one of the most important activities in the Valley's revival story, because it engaged state and federal agencies from the beginning as important partners.

Key stakeholders described DCD and RACM leaders who have played active roles in the Menomonee Valley as hands-on, creative, and tenacious in their efforts to turn the area around. According to a representative of the EPA, for example, the City of Milwaukee's staff stands out nationally in its level of engagement in brownfields redevelopment work. Recognition was given both to City staff who brought energy and creativity to the planning process and to those who have worked more recently on Valley redevelopment projects.

City staff continue to be active in the Valley, but with the rise of MVP and with other priorities stretching the City's resources, staffing has spread out to focus on other geographic areas.

### ***Menomonee Valley Partners***

While the City of Milwaukee and Sixteenth Street played lead roles in setting the stage for redevelopment in the Valley, the

## **Menomonee Valley Partners, Inc. organizational overview**

MVP was established in 1999 with the mission of "revitalizing the Menomonee Valley for the benefit of the entire Milwaukee community." In the beginning, the organization was primarily volunteer-led, but over time, it has grown to have a staff of five and an annual budget of over \$750,000. MVP is overseen by a 21-member board of directors that includes representatives of businesses, government agencies, and community organizations.

MVP is led by its executive director, Laura Bray, who has been with the organization for 10 years and associate director, Corey Zetts, who has been on staff for nine years. Additional staff positions include a business resources manager, a fund development manager, and a communications coordinator.

The organization's active committees include a management committee, finance committee, nominating and governance committee, and strategic planning committee. MVP also has recently reestablished a committee that is focused on the organization's pre-development efforts. Other committees exist on an ad hoc basis, but are not currently active.

In the early years, annual contributions from four organizations were the primary source of financial support for MVP's operations. Those organizations are the Helen Bader Foundation, Forest County Potawatomi Foundation, the Menomonee Valley BID, and We Energies. Since that time, MVP has diversified its revenue sources and today is supported by 20-30 local foundations and corporations annually. The Menomonee Valley BID continues to represent a significant source of support; in fact, a majority of the funding that the Menomonee Valley BID levies from its member businesses supports MVP operations. In return, MVP provides staffing for the BID.

Source: Menomonee Valley Partners:  
<http://www.renewthevalley.org/about>



leadership of Menomonee Valley Partners, Inc. (MVP) was identified by many key stakeholders as one of the essential factors contributing to the success of the redevelopment process itself.<sup>51</sup> They credit the public-private partnership structure of MVP and the organization's continuity and persistence as crucial to keeping the Valley's many stakeholders coordinated and working together toward achieving common goals. As former city planning director Peter Park put it, *"We can make plans all day long, but ultimately there needs to be an entity outside of city government that persists – that advocates for the plan and focuses on implementation."*

MVP provides a range of services for prospective and existing Valley businesses. For example, the organization takes a leadership role in recruiting businesses to the Valley, often serving as the first point of contact for developers and businesses interested in the area. In fact, rather than working with an individual broker to market the Menomonee Valley Industrial Center site, the City contracted with MVP, which worked with many brokers to promote redevelopment. MVP also assists prospective new businesses or those looking to expand within the Valley to work through development challenges and access available grants and tax credits. The organization links businesses with one another to foster partnerships through its Business to Business Connector program, and works with existing Valley businesses on district improvement projects through its work in staffing the Menomonee Valley BID.<sup>52</sup> MVP also assists Valley businesses with their workforce development needs, though some key stakeholders noted that the organization could consider expanding its role in that regard.

Perhaps the most important role MVP plays in the Valley is that of convener and independent intermediary between public and private sector entities. MVP facilitates communication and collaboration among Valley stakeholders and builds consensus around Valley goals. As a nonpartisan organization, MVP has been able to avoid political obstacles and "work both sides of the aisle," according to key stakeholders. Business leaders interviewed for this report also noted that having an intermediary like MVP has been attractive for businesses considering the area, as the organization is perceived by many as not benefitting directly from development that occurs.

In addition to its business recruitment and consensus-building activities, MVP has stepped in to take a leadership role in other ways. Like the City, for example, MVP has been an occasional Valley landowner, purchasing properties that were difficult to redevelop or potentially subject to an undesirable use, performing pre-development work, and selling them to businesses whose development projects met established design, job density, and wage standards.

A unique characteristic of public-private partnerships like MVP is that they have greater ability than local governments to solicit philanthropic donations for use on specific projects. When it was unclear who

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<sup>51</sup> On September 17, 2014, MVP Executive Director Laura Bray was named the incoming CEO of BIOforward, Inc., a biotech trade association working to advance Wisconsin's position as a leading life science community. On the same day, Corey Zetts was named MVP's Acting Executive Director by its Board of Directors.

<sup>52</sup> Menomonee Valley Partners, Inc. [http://www.renewthevalley.org/media/mediafile\\_attachments/03/123-ourprograms.pdf](http://www.renewthevalley.org/media/mediafile_attachments/03/123-ourprograms.pdf)



would pay for the development and maintenance of Three Bridges Park, for example, MVP took a leadership role in fundraising alongside the Urban Ecology Center. Together, the two entities have raised more than \$23 million for the development of Three Bridges Park and for a new Urban Ecology Center facility in the Valley, which is described in detail later in this report.

Key stakeholders cite the credibility of the individuals who have served on MVP's board of directors as contributing significantly to the organization's effectiveness. For example, Don Schuenke, a former CEO of Northwestern Mutual Life Insurance Company, was the first president of MVP's board of directors, and his early leadership was frequently cited as crucial to MVP's early development. Having a well-known and respected board president with strong connections to business and civic leaders gave MVP legitimacy from the beginning. In addition, the organization's board always has included partners of the law firm of Foley and Lardner LLP, including Mick Hatch and Bruce Keyes, who have brought real estate expertise to the table. Several key stakeholders pointed to their involvement as extremely valuable to making development deals work.

Indeed, ensuring that its board includes members with diverse and specific skill sets has been a priority for MVP. In 2004, MVP formalized guidelines to ensure that the board included a mix of Valley stakeholders with broad skills, temperaments, and connections. Currently, MVP's policy is to have between six and eight board members who are representatives of Valley businesses, five members who are representatives of community organizations, four representatives of city, state, and county governments, and between three and five "at large" members.<sup>53</sup> The organization's policy also calls for board members to bring desired skills to the table, specifying that they must have expertise in economic development and finance; business recruitment; transportation; entrepreneurship; workforce development; and/or fundraising.

The effectiveness and stability of MVP's current and former staff members also is widely viewed as important to the Valley's recent success. Many key stakeholders credited the organization with hiring staff members who not only have the skills and backgrounds needed to be effective, but who also are enthusiastic about their work. MVP's lead staff was characterized as persistent yet patient and realistic – qualities many viewed as essential to leaders of public-private intermediaries.

### ***State of Wisconsin***

Several state agencies have played major roles in Valley projects over the past 15 years, both as funders and as project partners. The Wisconsin DNR, for example, has provided oversight and approval for all brownfields cleanup projects and led the ongoing development and maintenance of the Hank Aaron State Trail. The Wisconsin DOT collaborated with the City in the Canal Street extension project and worked with several partners to develop Three Bridges Park. Those departments – as well as the Department of Commerce, Wisconsin Housing and Economic Development Authority (WHEDA), and Wisconsin Economic Development Corporation (WEDC)—also provided funding for Valley projects.

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<sup>53</sup> Menomonee Valley Partners, Inc. "Guide to Board Structure and Composition." July 11, 2006.



Many key stakeholders described DNR and DOT staff members involved in the Valley as important partners who were helpful in moving projects forward. As with MVP, the continuity of many of those lead staff members also is viewed as vital to the success of many Valley projects, as they understood the overarching vision for the Valley and became increasingly knowledgeable about the area over time, which facilitated project development efforts.

DNR staff members, for example, are viewed as having helped to move Valley projects through necessary brownfields cleanup approval processes in a collaborative and timely fashion. The positive impact of the DNR's increased "flexibility, cooperation, and willingness to negotiate" in recent years in working through brownfields cleanup approval processes also was a key finding of national research on Wisconsin's brownfields redevelopment efforts.<sup>54</sup>

### ***Valley Businesses***

Businesses in the Valley also have been important partners in the area's revival. According to City leaders, Valley businesses have relatively strong connections with one another and many have been willing to become actively involved and contribute to the area's improvement.

The Menomonee Valley Business Association (MVBA) has existed for many years, providing business-to-business networking opportunities. Valley business leaders interviewed for this report noted how much they value the MVBA as an entity that offers opportunities for participating businesses to share ideas and resources and to know what is happening in the area. The MVBA was a co-sponsor of the 1998 Valley plan, which reflected their support for creating a consensus plan for the Valley's future.

In 1999, Valley businesses formed a business improvement district (BID), which levies an additional property assessment on commercial and industrial properties located within the district boundaries, based on assessed property values, and invests those funds in Valley improvement projects. Several key stakeholders cited the leadership of one small business owner in the Valley as essential to building support for the BID among Valley businesses, many of whom were opposed to the idea initially. A majority of the BID's revenues are used to support MVP's operations, as MVP manages most of the BID's projects. In 2010, the BID adopted the MVBA as one of its committees, and it continues to operate networking events for area businesses today.

Individual Valley businesses have taken leadership roles in Valley redevelopment efforts and/or contributed to specific community improvement projects. For example, the company with the longest history in the Valley, Falk/Rexnord, gifted a piece of its property to the City to allow for the installation of one of the bridges in Three Bridges Park. Several business leaders serve on the MVP board and its committees, and many businesses have worked with MVP to form stewardship groups ("Stew Crews"), which do volunteer cleanup, restoration, and beautification work in the Valley.

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<sup>54</sup> Resources for the Future. "Brownfields Redevelopment in Wisconsin: A Survey of the Field." December 2003. <http://www.cpeo.org/pubs/RFF-DP-03-54.pdf>



## **Summary**

One of the factors most frequently cited by key stakeholders as essential to the Menomonee Valley's turnaround was strong leadership and collaboration among numerous public and private sector organizations. Success in the Valley started with a few passionate leaders at Sixteenth Street Community Health Center and the City of Milwaukee, who used planning and community engagement efforts to build excitement for a new vision that emphasized sustainable development. From there, MVP stepped into a leadership role alongside the City, helping to foster collaboration among Valley stakeholders and partners, which many see as instrumental to the Valley's turnaround.

The City is credited with establishing a strong foundation for Valley redevelopment. After developing the 1998 Valley plan, the City led efforts to address key barriers to Valley redevelopment by using eminent domain to acquire the largest brownfield site in the area, investing in infrastructure and pre-development work, and engaging state and federal funding agencies as project partners. The City also showed commitment to its plan by "holding the line" to maintain the Valley's emphasis on manufacturing.

Alongside the City, MVP's leadership in filling the Valley with job-intensive businesses in economic driver industries – and with new recreational amenities – exemplifies the role a public-private partnership can play in development work. While governments have competing priorities throughout a city, and city administrations come and go, an intermediary like MVP can provide unique focus and dedication to a specific geographic area. As nonpartisan, neutral brokers, such intermediaries also have the potential to manage complex political dynamics. The Valley case study illustrates that with the involvement of individuals and organizations with the right mix of skills and connections, public-private partnerships are capable of fostering significant improvements.

Overall, the push to revitalize the Menomonee Valley as a sustainable urban business district exemplifies the importance of having committed leaders from all levels of government and the private sector in lead roles. It also demonstrates the importance of strong partnerships among numerous government agencies, businesses, and community organizations in initiating and completing major development projects, which is further illustrated in the "Project Management" section of this report.

## **Utilization of Funding**

Progress in the Menomonee Valley obviously has depended upon the availability and acquisition of a great deal of funding from both public and private sources. In addition to the infrastructure investments that were needed, most Valley parcels had significant environmental and geotechnical challenges that were costly to address. Those added costs often created financial "gaps" that had to be filled in order to make land attractive to developers. For example, it is very expensive to remove contaminated soil and





backfill sites with clean soil. Likewise, it is costly to drive deep piles in places where they are required in order to create stable conditions for development.

The City of Milwaukee, State of Wisconsin, MVP, and other partners have contributed in various ways to secure funding from multiple sources to move projects forward. As previously mentioned, several key stakeholders described a funding roundtable event organized by the City and the EPA in 1999 as critical to engaging state and federal agencies early on in the Valley redevelopment effort.

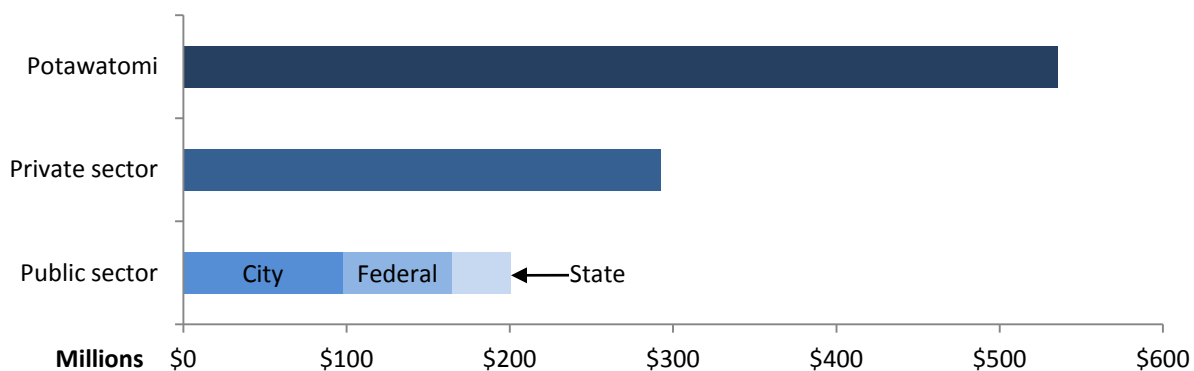
According to Julie Penman, the City’s commissioner of development at the time, the City presented its Valley plan in the morning, which created excitement around the vision for turning the area around. In the afternoon, City staff met with the participating agencies to discuss their grant programs, which helped the City to understand available opportunities and move forward to pursue funding. Examples of how those partners contributed to specific Valley projects are included in the next section of this report.

*“The potential for a revitalized Menomonee Valley to produce multiple significant benefits for the community was huge, which made it an ideal project to support for many funders.”*

*–Ruben Anthony, Jr., Wisconsin Department of Transportation (former)*

The City and other lead organizations have been able to attract a substantial amount of public funding from numerous sources for Valley projects. Those investments have been followed by much greater investments made by private sector organizations and the Forest County Potawatomi. In fact, as shown in **Figure 7**, public sector entities have contributed at least \$200 million in funding for Valley projects since 1998, which has facilitated at least \$828 million of investments by private sector organizations and the Forest County Potawatomi, for an overall investment of more than \$1 billion.

**Figure 7: Total investments in Menomonee Valley projects, 1998-present** <sup>55</sup>



<sup>55</sup> Menomonee Valley Partners, Inc. MVP’s internal funding database is a comprehensive list of investments made in the Valley since 1998. Additional data included for City of Milwaukee TIF districts and for the UEC/MVP’s From the Ground Up campaign.



The influence of the Forest County Potawatomi on these figures cannot be overstated, as roughly \$536 million of the total investments have been made by that one entity (52%).<sup>56</sup> Thus, the Forest County Potawatomi have invested more in the Menomonee Valley than all other private and public sector entities combined. The vast majority of those investments went to expanding the Potawatomi Hotel and Casino and other Potawatomi facilities, but contributions also were made to MVP's operations and to several Valley projects. Notably, while the Potawatomi's casino is tax-exempt, all of its other properties are taxed, including its hotel, parking structure, and business administration building. The tribe also has revenue sharing agreements with the City, County, and State.

It is also worth noting that the cost of constructing Miller Park, which was completed on the Valley's west end in 2001 and paid for primarily by a regional sales tax, is *not* included in these figures. That investment was roughly \$400 million.<sup>57</sup>

The largest single source of funding for pre-development work in the Menomonee Valley has been a set of six tax increment financing (TIF) districts established by the City of Milwaukee, which are shown in **Figure 8**. (See text box on the following page for a detailed description of TIF.) Proceeds from those TIF districts allowed the City to finance efforts to clean up land, prepare it for development, and install infrastructure and utilities. In fact, most of the Valley land that has been redeveloped over the last 15 years has benefited from TIF investments, including the Menomonee Valley Industrial Center and the Harley Davidson Museum.

**Figure 8: City of Milwaukee TIF districts located within the Menomonee Valley, 2004-present**



**Note:** TIF districts are labeled above by District Number. See Table 1 or 2 on the following pages for the names of the TIF districts shown here and for additional information about each district.

<sup>56</sup> This figure primarily reflects investments in the Potawatomi Casino and Hotel facilities, but also includes contributions made by the Forest County Potawatomi to MVP and to other Valley projects.

<sup>57</sup> *Milwaukee Journal Sentinel*. "Miller Park: Economic promises got it built. Has it paid?" April 4, 2008.

<http://www.jsonline.com/sports/brewers/29508084.html>



## What is TIF?

Tax incremental financing is an economic development tool used by local governments to redevelop “blighted” properties. Its basic function is to help generate equity for real estate ventures by leveraging future property tax revenues.

A TIF district is drawn around the site of the proposed development, the assessed base value of the property within the district is frozen, and an estimate of the development’s impact on the future assessed value is determined. Based on the projected growth in assessed value within the district, the increased tax revenue attributable to that growth is determined. Those future property tax revenues are then used as up-front equity for the project.

Typically, a municipality will issue general obligation bonds at the beginning of the project and use the funds raised for public infrastructure improvements and/or developer incentives. All new property tax revenue (based on the TIF district’s increased value, or “increment”) is then used to pay off the initial bonds, and the TIF district is retired after the investment is repaid. At that time, all property tax revenues from the district return to the general tax rolls.

Source: Public Policy Forum. <http://publicpolicyforum.org/sites/default/files/2009TIFBrief.pdf>

**Table 1** shows that between 2004 and 2009, the City authorized total expenditures of approximately \$47 million for six Valley TIF districts. (Authorized expenditures for each district are determined based on feasibility studies that define the scope of work, estimate costs, and project the length of time it will take to generate property tax revenues to pay off project-related debt.) During the same timeframe, the City authorized \$154 million in total TIF expenditures citywide. At 30.5% of the total, this demonstrates the extent to which the Valley was prioritized among the City’s economic development efforts.

Based on Wisconsin law, TIF districts can exist for a maximum of 27 years. The City’s six TIF districts in the Valley are all projected to be paid back within that timeframe, as shown in **Table 2**.<sup>58</sup> One district, however – established for the Amtrak Intermodal Station (#60) – has not met expectations and will require substantial donations from other, more successful TIF districts elsewhere in the city to be paid back on time. Among the other Valley TIF districts, three (Harley Davidson Museum, City Lights, and Reed Street Yards) are on track to be paid off several years earlier than required. Another district – Falk/Rexnord (#63) – is a “developer financed” district, meaning that Falk/Rexnord paid for the project and assumed the financial risk that the increment would be sufficient for those investments to be paid back.

The first and largest Valley TIF district – the Menomonee Valley Industrial Center district (#53) – currently is projected to be paid back in the last year of its legal life. That district was amended twice to

<sup>58</sup> The “City Lights” TIF district covers an area along the Menomonee River between N. 25<sup>th</sup> and N. 17<sup>th</sup> Streets. The development that has occurred within that district to date includes a major historic rehabilitation project that now is home to Zimmerman Architectural Studios, Inc.



provide additional funding to cover the substantial costs of making the site “shovel ready,” which ultimately were determined to be more expensive than originally estimated. Despite those amendments, the district still is expected to be paid back on time. City leaders also note that the total property value of the district has consistently surpassed original estimates.

**Table 1: TIF districts created by City of Milwaukee, 2004-2009<sup>59</sup>**

District Number	Name	Year Created	Authorized Expenditures	Valley?
75	Reed Street Yards	2009	\$6,217,770	X
74	N. 35th & Capitol Drive (Century City)	2009	\$15,600,000	
73	City Lights	2009	\$2,038,000	X
72	Bishop's Creek	2009	\$1,585,000	
71	Mitchell Street	2008	\$3,116,600	
70	735 N. Water St.	2007	\$3,253,992	
68	Fifth Ward/First Place	2007	\$4,402,966	
67	The Brewery Project	2007	\$29,002,272	
66	Metcalfe Park Homes	2007	\$1,475,000	
65	North 20th/West Brown Streets	2006	\$3,250,000	
64	Direct Supply	2006	\$13,350,000	
63	Falk/Rexnord	2006	\$2,500,000	X
62	DRS Power & Technology	2006	\$1,700,000	
61	Chase Commerce Center	2005	\$500,000	
60	Amtrak Intermodal Passenger Station	2005	\$6,250,000	X
59	Bronzeville	2005	\$3,288,500	
58	20th/Walnut	2005	\$2,230,046	
57	Harley Davidson Museum	2005	\$5,965,000	X
56	Erie/Jefferson Riverwalk	2004	\$21,593,059	
54	Stadium Business Park	2004	\$2,810,000	
53	Menomonee Valley Industrial Center	2004	\$24,000,000	X
<b>Total Authorized Expenditures</b>			<b>\$154,128,205</b>	
Valley Authorized Expenditures			\$46,970,770	
Valley as % of total			30.5%	

**Table 2: Menomonee Valley TIF districts <sup>60</sup>**

District Number	Name	2014 Revenue Increment	Remaining cost after 2014 <sup>61</sup>	Projected Payoff (levy year)	Maximum Legal Life
75	Reed Street Yards	\$665,923	\$5,134,077	2033	2036
73	City Lights	\$141,473	\$2,221,756	2029	2036
63	Falk/Rexnord	\$100,047	\$1,822,365	2025	2026
60	Amtrak Intermodal Station	\$171,815	\$8,544,975	2017	2032
57	Harley Davidson Museum	\$646,547	\$4,096,311	2020	2031
53	Menomonee Valley Industrial Center	\$1,706,087	\$26,401,503	2029	2030

<sup>59</sup> City of Milwaukee. <http://city.milwaukee.gov/MilwaukeeTIDprojectsummaries.htm#.U8AN7fldWS0>

<sup>60</sup> Data provided by the City of Milwaukee at the request of the Public Policy Forum.

<sup>61</sup> Notably, the remaining cost of districts 53 and 60 are higher than the original authorized expenditures for those districts. That is due to interest accrued on the bonds that were issued by the City to support those projects.

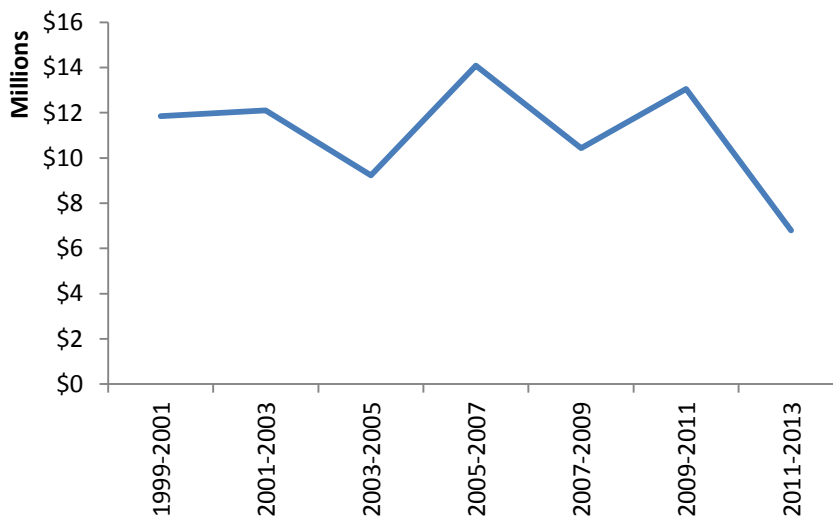


State and federal brownfields grants also were among the most important funding sources used to jumpstart redevelopment in the Valley. Brownfield assessment and cleanup grants from the EPA, HUD, Wisconsin Department of Commerce, and Wisconsin DNR, which totaled at least \$5.7 million during that period, were critical to understanding the environmental conditions of Valley parcels and to preparing land for redevelopment.<sup>62</sup>

Key stakeholders raised concerns that because state brownfields grants are more difficult to access now than they were during the early-to-mid 2000s, efforts to complete the Valley's redevelopment and engage in major redevelopment efforts elsewhere in Milwaukee could be hampered. The Wisconsin Department of Commerce awarded more than \$14 million in grants through the State's largest brownfields program during each biennium up until 2009, but less than \$7 million was awarded from that program (now run by the Wisconsin Economic Development Corporation – WEDC) during the 2011-2013 biennium (**Figure 9**). According to key stakeholders, increased competition also has contributed to greater difficulty in acquiring grants.

Concerns also were raised that the maximum value of state brownfield grant awards has been reduced in recent years. The City of Milwaukee received state grants of as high as \$1 million for individual brownfields projects in the Valley, but WEDC has established an administrative policy that caps its brownfields grants at \$500,000.<sup>63</sup>

**Figure 9: Total value of grants awarded per biennium through Wisconsin's Brownfield Program<sup>64</sup>**



While access to state brownfields grants may pose a future challenge, federal funding for brownfields programs has remained stable and in some cases expanded in recent years, and RACM has been

<sup>62</sup> Public Policy Forum analysis of MVP funding database.

<sup>63</sup> Wisconsin Legislative Fiscal Bureau. [http://legis.wisconsin.gov/lfb/publications/Informational-Papers/Documents/2013/93\\_WEDC.pdf](http://legis.wisconsin.gov/lfb/publications/Informational-Papers/Documents/2013/93_WEDC.pdf)

<sup>64</sup> PPF analysis of data provided by the Wisconsin Economic Development Corporation.



extremely successful in accessing those funds. Based on our conversations with key stakeholders, in fact, it appears that Milwaukee has earned a high degree of trust with the EPA with regard to brownfields redevelopment efforts through the process of redeveloping the Valley, which may help the City in seeking support for additional projects. According to an EPA representative, however, federal funding for brownfields has become more institutionalized and its use has become more restricted. In addition, federal brownfields cleanup grants require that the City owns the land, which may limit their usefulness in some cases.

Other forms of flexible funding from the state and federal governments also were crucial to Valley projects. Federal earmarks, which were secured by Senator Herb Kohl and Representative Gwen Moore and funneled through HUD to the City and MVP, totaled at least \$5.6 million between 2001 and 2008.<sup>65</sup> With the recent push by the U.S. Congress to eliminate federal earmarks, however, that funding source may be limited today.

The Wisconsin Department of Commerce contributed flexible funding for “pre-development” work on Valley parcels as well. In the 2001-2002 Wisconsin State Budget, MVP and the Milwaukee Economic Development Corporation (MEDC) – a close partner of the City of Milwaukee – each received grants of \$750,000 for Valley redevelopment projects.<sup>66</sup> According to MVP leaders, that funding allowed them to acquire several parcels over time, perform environmental assessments, and recruit businesses. As funds were paid back through the sale of each parcel, they could be recycled into the next project. The pre-development funding provided by the State of Wisconsin was instrumental to several major catalytic projects in the Valley, including the Harley Davidson Museum, Canal Street Commerce Center, and the Urban Ecology Center’s new Menomonee Valley facility. The grant was a unique, one-time opportunity, however, which may not be replicated in the future.

With reduced access to some forms of state and federal funding, the City of Milwaukee and its partners will have to find other means of financing pre-development work for remaining Valley parcels and for similar projects elsewhere in Milwaukee, such as Century City on the city’s north side.<sup>67</sup> TIF undoubtedly will be one important tool, and indeed, a \$15.6 million TIF district already was established for the Century City project in 2009, as shown in **Table 1**.

When contemplating the efficacy of using TIF, cities also should consider the full range of benefits the investment can generate. For example, industrial properties typically generate lower sales values and lower incremental growth in property taxes than retail properties, but often produce greater economic growth for the city and feature jobs with comparatively higher wages. These factors should not be

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<sup>65</sup> Public Policy Forum analysis of MVP funding database.

<sup>66</sup> Wisconsin Legislative Fiscal Bureau. “Comparative Summary of Budget Provisions (Enacted as 2001 Act 16) -- Volume I.” December, 2001. <http://legis.wisconsin.gov/lfb/publications/Prior-Budgets/Pages/Prior%20Budgets.aspx>

<sup>67</sup> Century City is the name of the 84-acre site the City of Milwaukee is working to develop where A.O. Smith was formerly located, near the intersection of N. 35<sup>th</sup> Street and Capitol Drive.



dismissed in TIF district planning, which can focus too heavily on the growth in property taxes to pay off TIF-related debt.

Nevertheless, TIF must be used carefully. The Valley was a truly blighted area with significant issues that needed to be addressed to make land marketable, which is precisely the type of project for which the tool was created. In addition, even if TIF does prove to be a viable source of redevelopment funding, the Valley's experience shows that other funding sources will be needed as well.

A unique opportunity that may aid the City in accessing additional federal dollars is Milwaukee's recent designation by the U.S. Department of Commerce as one of 12 "Investing in Manufacturing Communities Partnership" (IMCP) cities.<sup>68</sup> The new program gives IMCP-designated cities priority when applying for funding from several federal programs administered by 11 different agencies.

### **Summary**

Public sector investments of roughly \$200 million in infrastructure, environmental cleanup, utility installation, and site preparation in the Valley over the last 15 years have leveraged private investments of more than four times that amount from the Forest County Potawatomi and private sector entities. The City of Milwaukee's contributions, which included investments in Canal Street and the establishment of six TIF districts in the Valley, account for almost half of the total public sector investments, while the combined contributions of state and federal government sources make up the remainder.

Several important state and federal funding sources – including state brownfields grants and federal earmarks – appear to be less available now than in the past, which may put pressure on the City to increase its use of TIF and/or to find other creative means of financing similar projects on brownfield sites with significant barriers to redevelopment. According to key stakeholders, the flexible grant funding provided by the State of Wisconsin to MVP and MEDC for pre-development work in the Valley was one effective financing tool that facilitated redevelopment. The State may wish to consider whether similar targeted pre-development investments may be an effective strategy for large-scale brownfields redevelopment projects in Wisconsin moving forward.

In many instances, creative and collaborative strategies were utilized to secure funding for Valley redevelopment projects. For example, the funding roundtable organized by the City and the EPA following the completion of the 1998 Valley plan was a unique event that connected City leaders with numerous state and federal programs. Having many partners working together on individual Valley projects allowed project leaders to combine resources and coordinate efforts to pursue state and federal financial support, as illustrated in the following section of this report. Key stakeholders also noted that the holistic approach to redevelopment that was taken in the Valley, which included goals

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<sup>68</sup> *BizTimes Milwaukee*. "Feds name Milwaukee area one of 12 'manufacturing communities.'" May 29, 2014. <http://www.biztimes.com/article/20140529/ENEWSLETTERS02/140529791>



ranging from economic development to ecological restoration to quality of life improvements, allowed the City and its partners to tap into funding from many different sources.

## Project Management

The revitalization of the Menomonee Valley is the product of numerous overlapping projects that each added momentum to the overall effort. While it is beyond the scope of this report to analyze every major project that has occurred in the Valley over the past 15 years, we examine several projects here to understand how specific aspects of project management – including policies, partnerships, and financial resources – contributed to their completion and the Valley’s overall success.

*“The Valley’s redevelopment involved a series of very complex and interconnected projects, which often required us to juggle multiple priorities. We worked on individual projects with an eye to the whole.”*

*Julie Penman, former  
Commissioner of City Development*

### *Canal Street extension*

The extension of Canal Street from Sixth Street to Miller Park is widely viewed as one of the projects that made the greatest impact in spurring Valley redevelopment. The project came on the heels of the \$49.7 million Sixth Street viaduct reconstruction project, which was completed in 2002. That project lowered Sixth Street to connect with the Valley floor at Canal Street, thus improving accessibility to the Valley’s east end.<sup>69</sup> Shortly thereafter, in 2006, the \$52 million Canal Street project produced even greater accessibility, creating an extended thoroughfare that traverses the heart of the entire Valley from east to west.

### *Project background*

Canal Street previously only extended from Sixth Street to 25<sup>th</sup> Street, providing access to a limited area. The Sixth Street viaduct stretched over the Valley, and though it included a spiral exit for Canal Street, it was awkward to utilize and by the mid-1990s it was dilapidated and badly in need of repairs. One could access Canal Street from 13<sup>th</sup> Street or 25<sup>th</sup> Street as well, but those were small city streets and required travel past heavily blighted areas along the way, such as a junkyard formerly located on 25<sup>th</sup> Street. In addition, CP Rail had active railroad lines running down the center of Canal Street, making travel by car confusing and uncomfortable.

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<sup>69</sup> Mader, Becca. “Sixth Street Viaduct is model of new bridge technology.” *Milwaukee Business Journal*. March 24, 2002. <http://www.bizjournals.com/milwaukee/stories/2002/03/25/focus1.html?page=all>





The Canal Street extension project involved rerouting the rail lines, resurfacing the existing street, and extending it out to Miller Park. It also included extending the Hank Aaron State Trail for bicycle and pedestrian use, developing a new traffic roundabout at the intersection of 25<sup>th</sup> and Canal Streets, and creating a bio-retention facility for stormwater management near the new roundabout.<sup>70</sup>

#### *Leadership and collaboration*

The City of Milwaukee, Wisconsin DOT, Wisconsin DNR, and the Milwaukee Metropolitan Sewerage District (MMSD) were the major partners in the Canal Street extension project, providing funding support as well as project leadership. The City paid for engineering, design, construction, and utility work, totaling approximately \$36.5 million. The DOT contributed \$15 million for the project, despite the fact that Canal Street is not a state road. According to former DOT deputy secretary Ruben Anthony, who was active in the Valley project, the agency saw it as an opportunity to serve multiple purposes, because an extended Canal Street could open up the Valley for redevelopment, while also serving as a mitigation strategy for the Marquette Interchange reconstruction project, which would be launched soon after.<sup>71</sup> For the duration of that project as well as ongoing repaving and reconstruction of the east-west corridor, Canal Street would offer drivers an alternate route.

The DNR collaborated with the DOT and City to extend the Hank Aaron State Trail along the entire stretch of the new Canal Street, with the support of a mix of state and federal funds. The Hank Aaron State Trail was seen as a way to bring multi-modal transportation options to the Valley, while simultaneously providing recreational opportunities for the community along the Menomonee River corridor.

The Forest County Potawatomi, who had completed a significant expansion of their casino on Canal Street in 2000, also were a strong supporter of the Canal Street extension project.<sup>72</sup> The Potawatomi paid for a \$250,000 study commissioned by MVP that examined expansion options for Canal Street and completed preliminary engineering for the project. In addition, a significant portion of the State's contributions to the Canal Street extension came from its share of Potawatomi gaming revenue. At the time, the Forest County Potawatomi had a compact with the State of Wisconsin through which they shared more than \$6 million of gaming revenue with the State each year. According to a Potawatomi representative, the tribe advocated for a portion of those funds to be used for the Canal Street project, which ultimately was done.

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<sup>70</sup> *BizTimes Milwaukee*. "Canal Street extension to open on Friday." March 28, 2006. <http://www.biztimes.com/article/20060328/ENEWSLETTERS02/303289993/>

<sup>71</sup> Menomonee Valley Partners, Inc. Internal funding database.

<sup>72</sup> Quigley, Kelly. "Casino says valley needs Canal Street expansion." *Milwaukee Business Journal*. November 5, 2000. <http://www.bizjournals.com/milwaukee/stories/2000/11/06/story3.html?page=all>



**Images 1 and 2: Canal Street looking west from the 16<sup>th</sup> Street viaduct, 1980s (left) and today (right)**



The project also involved private sector partners, as the City had to work with CP Rail to remove and reroute rail lines. At the time, only two customers still used the rail line that ran down Canal Street. The City negotiated with CP Rail to adapt the connections to those customers, which allowed them to remove the tracks in the street. According to a CP Rail representative, those negotiations were amicable, which may have facilitated agreements between the two entities on other Valley projects that followed.

#### *Stormwater management*

One goal of the project that proved difficult to achieve fully was regional stormwater management. The idea had been to use stormwater infrastructure as a facilitator for redevelopment. According to key stakeholders, that proved too difficult to do for the entire Valley by way of the Canal Street extension project, largely because there were so many different landowners with whom to negotiate. Ultimately, shared stormwater management only was achieved by creating the bioretention facility near 25<sup>th</sup> and Canal Streets, which serves a relatively small area. Later, shared stormwater management was achieved in two other Valley parcels that were owned by the City and MVP through separate redevelopment projects. Those areas are the Menomonee Valley Industrial Center and the Canal Street Commerce Center, both of which are highlighted below. MMSD was instrumental in creating all of these facilities.

#### *Takeaway*

The City and State investments in the Canal Street extension project were crucial to opening up access to the Menomonee Valley, which facilitated the area's redevelopment. With the contributions of many public sector partners, this project exemplifies the type of intergovernmental cooperation that has been common in the Valley's revitalization story. It also illustrates the importance of strategically timing infrastructure projects to leverage unique funding opportunities, and it shows that holistic thinking can allow one project to make significant improvements to an area's economic, environmental, and social conditions concurrently.



### ***Menomonee Valley Industrial Center (MVIC)***

As previously described, the 60-acre MVIC on the Valley's west end was the largest priority redevelopment area identified in the 1998 Valley plan. Today, it is the most prominent example of the economic growth that has occurred in the area since the plan was adopted. What was formerly a heavily blighted area is now home to eight businesses – primarily manufacturers – that collectively employ an estimated 1,323 workers.<sup>73</sup> The industrial center already is over 90% occupied, and two other businesses are in advanced stages of developing projects that will bring approximately 160 more jobs to the area and fill much of the remaining land there.<sup>74</sup> According to DCD's director of finance and administration, the sales price per acre has averaged around \$114,000 at the MVIC site, which exceeds original estimates and is comparable to suburban greenfield sites. Furthermore, a park has been developed on the site that manages all of the stormwater from the MVIC and provides open space for recreation.

### *Project background*

Several years of legal wrangling over the conditions at what was then the site of the Milwaukee Road shops led to the City's largest-ever property condemnation.<sup>75</sup> That move allowed RACM to acquire the MVIC property for \$3.55 million in 2003.<sup>76</sup> When RACM acquired the property, it had numerous challenges that needed to be resolved, including poor access, lack of infrastructure, frequent flooding, unstable soil conditions, derelict buildings, and soil contamination.

### *Leadership and collaboration*

Many partners contributed to the MVIC's development process in various ways, including various City departments and affiliates, MVP, MMSD, and the City's political leadership. Early on, the City and MVP both were influential in bringing about the condemnation of the Milwaukee Road shops site. At the time, the Milwaukee Road was in bankruptcy, having reached that point in part because of nearby Chicago's powerful position as a national rail hub. The company that acquired the Milwaukee Road after it filed for bankruptcy – CMC Heartland Partners – sold the land that was needed for rail operations to Soo Line/CP Rail and kept the remaining land and structures, allowing it to deteriorate for many years. City leaders felt there was little promise that CMC ever would redevelop the site.

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<sup>73</sup> Menomonee Valley Partners, Inc.

<sup>74</sup> Daykin, Tom. "Rishi Tea plans September move to new building." *Milwaukee Journal Sentinel*. July 17, 2014.

<http://www.jsonline.com/blogs/business/267344941.html>

Jannene, Jeramey. "Jobs, Jobs, Jobs Coming to Milwaukee." *Urban Milwaukee*. May 2, 2014.

<http://urbanmilwaukee.com/2014/05/02/friday-photos-jobs-jobs-jobs-coming-to-milwaukee/>

<sup>75</sup> Millard, Pete. "Menomonee Valley: Cleaning up the backyard." *Milwaukee Business Journal*. April 11, 2004.

<http://www.bizjournals.com/milwaukee/stories/2004/04/12/focus1.html>

<sup>76</sup> A change in state policy that had occurred previously made condemnations and redevelopments of brownfield properties like the MVIC easier for cities to accomplish. Wisconsin's Land Recycling Law, which passed in 1993, removed the risk of liability from cities wishing to redevelop brownfields.



To catalyze the condemnation process, DCD and MVP organized a press conference that featured MVP's board president and the City aldermen who represented the area. In the background, the decaying Milwaukee Road site was visible, while prominent political and civic leaders stood in the foreground calling for change. According to key stakeholders, having that image on the front page of the newspaper, with public and private sector leaders standing up for the City's plan to condemn the site, led to a significant increase in public support for the effort.

Once the site was condemned and acquired by RACM, the City's Department of Public Works (DPW) worked alongside RACM to clean up the site and install new infrastructure and utilities. Key stakeholders also pointed to the collaborative work of MMSD as important in developing Stormwater Park, noting that MMSD is at the forefront nationally in its use of progressive "green infrastructure" to manage stormwater. As the site began to take shape, the City contracted with MVP to lead marketing efforts for the property.

**Image 3: Milwaukee Road shops, 1990s**



**Image 4: Menomonee Valley Industrial Center and Stormwater Park– 2010<sup>77</sup>**



<sup>77</sup> Additional development has occurred in the MVIC since this photo was taken, including the construction of a new LEED-certified building for JF Ahern and a new facility for Rishi Tea, both located on the largest vacant lot visible in this photo.

### *Plan implementation*

The MVIC is remarkably congruent with the vision that had been established for the area through the 1998 Valley plan and Wenk Associates' detailed site plan, the latter of which emerged from the national design competition held in 2002. In serving as the developer of the MVIC, RACM also was able to utilize the design and development guidelines that had been created for the Valley. Most of the development that has occurred in the MVIC over the last 10 years has followed the sustainable design guidelines created for the Valley, including several buildings that have become LEED certified through the U.S. Green Building Council. Similarly, the job density and wage guidelines developed by MVP were utilized by RACM in sales agreements for MVIC parcels.

RACM's ownership of the land also facilitated the creation of Stormwater Park, a shared stormwater management system for the entire MVIC that was included in the Wenk plan for the site. Stormwater Park, which was constructed beneath the 35<sup>th</sup> Street viaduct, is a key feature of the industrial center, as it allows businesses to maximize their building footprints without having to acquire and preserve open space on their individual sites for stormwater to be absorbed. The development of Stormwater Park thereby resulted in a higher density business park.

### *Funding*

Numerous funding sources were pooled together to finance the development of the MVIC, as shown in **Table 3**. A TIF district established by the City for the MVIC site, with total authorized expenditures of \$24 million, was the largest single source of financial support.<sup>78</sup> The TIF funds paid for building demolition, environmental remediation, site preparation, and the development of new internal roads and utilities. Federal and state funds, including brownfields grants and several federal earmarks, contributed a combined 34% of total project revenue. Two of the largest of those contributions were a \$1.95 million HUD grant through its Brownfields Economic Development Initiative and a \$1 million brownfields grant through the Wisconsin Department of Commerce.

In some cases, funding support for the project was increased by having different project partners pursue funding from different sources. For example, MVP was able to access several federal earmarks directly and invest those into the project, which allowed the City to use its TIF funds in other ways.

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<sup>78</sup> The TIF district established for this project originally was authorized to spend up to \$16.2 million, but it was later amended to have total authorized expenditures of \$24 million.



**Table 3: Funding sources used for Menomonee Valley Industrial Center pre-development work**<sup>79</sup>

	Source	Federal	City	State	Total
1	Wisconsin Dept. of Commerce -- MEDC			\$807,200	\$807,200
2	Wisconsin Dept. of Commerce -- Brownfields			\$1,000,000	\$1,000,000
3	DNR -- Greenspace			\$200,000	\$200,000
4	DNR -- Sustainable Urban Development Zone			\$397,018	\$397,018
5	U.S. Economic Development Administration	\$874,000			\$874,000
6	EPA -- BFRLF sub-grant	\$200,000			\$200,000
7	EPA - Cleanup grant	\$228,000			\$228,000
8	HUD -- BEDI grant	\$1,950,000			\$1,950,000
9	HUD -- Earmark 1	\$1,197,000			\$1,197,000
10	HUD -- Earmark 2	\$670,613			\$670,613
11	HUD -- Earmark 3 (Neighborhood Initiative)	\$1,000,000			\$1,000,000
12	City of Milwaukee TIF district		\$24,000,000		\$24,000,000
13	Milwaukee Metropolitan Sewerage District		\$60,061		\$60,061
14	Wisconsin Coastal Management Program 1			\$111,330	\$111,330
16	Wisconsin Coastal Management Program 2			\$101,890	\$101,890
17	DOT -- Incoming soil receipt fees			\$1,561,571	\$1,561,571
18	DOT -- Stadium access road cleaning			\$672,985	\$672,985
19	DOT -- Management of incoming soil			\$348,257	\$348,257
20	MVP -- HUD earmark -- 2004	\$198,000			\$198,000
21	MVP -- HUD earmark -- 2005	\$248,000			\$248,000
22	MVP -- HUD earmark -- 2006	\$198,000			\$198,000
23	Wisconsin Dept. of Commerce -- Valley grant			\$365,000	\$365,000
<b>Total</b>		<b>\$6,763,613</b>	<b>\$24,060,061</b>	<b>\$5,565,251</b>	<b>\$36,388,925</b>

The list of funding sources shown in **Table 3** includes those that the City or MVP utilized for the development of the MVIC. Additional funding sources were accessed by businesses in order to make their individual development deals work. Federal New Markets Tax Credits, which support business and real estate investments in low-income communities, are one of the key funding sources that businesses utilized. According to RACM officials, for example, Palermo's Pizza leveraged New Markets Tax Credits it received from MEDC for both initial construction and expansion projects, which helped the company to secure more favorable terms on loans. Palermo's, which opened its doors in the MVIC in 2006, was the first company to move into the industrial center.

#### *Intergovernmental cooperation*

Unique partnerships were established during the MVIC's pre-development process. One prime example was an agreement between the Wisconsin DOT and RACM to move clean soil from the Marquette Interchange project – which was being removed to make way for the new infrastructure – to the MVIC site, where it was used to create stable conditions for development.

Because of the MVIC site's unstable soil, RACM had to "surcharge" the site in order to fill and stabilize it. Surcharging involves heaping soil on top of land and allowing it to press down on the soil below until the land is stable enough that buildings can be developed without the need to drive deep piles.

<sup>79</sup> Financial summary provided by RACM.



Since the site was in a floodplain, the added fill also needed to be sufficient to raise the entire site up several feet. According to RACM officials, the City used a total of 800,000 cubic yards from the Marquette Interchange project on the MVIC site and later for Three Bridges Park.

In a classic “win-win” situation, the DOT provided RACM with two vacant Valley properties valued at approximately \$1.9 million in exchange for taking the fill, which RACM otherwise would have had to purchase. At the same time, the DOT saved money it would have spent to have the soil sent to a landfill. As noted by former DCD staff member Brian Reilly, whose work focused on Valley redevelopment, “*The lesson is to look beyond your project footprint to find these types of partnerships.*”

### *Takeaway*

The process of developing the largest piece of underutilized land in the Menomonee Valley into the Menomonee Valley Industrial Center illustrates the important role that land control played in those efforts. RACM owned the site, which allowed it to apply the plans and guidelines that had been established for the area with regard to infrastructure, land use, site and building design, job density, and wages. It may prove more difficult to achieve the same level of compliance with those guidelines in other parts of the Valley that remain to be redeveloped and are privately owned.

As was the case for the Canal Street project, the development of the MVIC shows how collaboration played a significant role in project success. In addition to the high degree of intergovernmental cooperation that was evident in this project, public-private partnerships also played a major role, as MVP worked closely with RACM and other government agencies to implement the plan for the area. MVP helped to coordinate the efforts of the many project partners throughout the redevelopment process, while also taking a leadership role in business recruitment and business support services. The collaborative approach taken to developing the MVIC also allowed the project to attract diverse funding support from many city, state, and federal sources.

For areas with great redevelopment potential, the lesson may be that a clear plan and strong collaboration are key ingredients needed to secure the funding support needed for projects to succeed.

### ***Canal Street Commerce Center***

The development of the Canal Street Commerce Center – a \$15 million project that resulted in a multi-tenant building for light industrial users – is a prime example of how public-private partnerships were leveraged in the Valley to spur business growth. Unlike the MVIC, which was developed on City-owned land, a private developer built the Canal Street Commerce Center with the assistance of MVP. The project was completed in 2008 on the site of the former Milwaukee Stockyards, which had been owned by Cargill. That 13-acre site also had been identified in the 1998 Valley plan as a priority redevelopment area.



**Image 5 and 6: Milwaukee Stockyards, 2005 (left); Canal Street Commerce Center, 2007 (right)**



### *Project background*

The impetus for the Canal Street Commerce Center project was the need for the project’s developers to accommodate a growing business located in one of their suburban properties. That business – Proven Direct (now First Edge) – provides on-demand marketing, document output services, and photo book publishing, which involves frequent trips to the region’s main post office in downtown Milwaukee. The company was looking both to expand and to be located near downtown for ease of access to the post office. Proven Direct’s average wage at the time was \$19 per hour, but the company offered a range of employment types, from low skilled to professional positions.

MVP initiated efforts to redevelop the former Stockyards site, purchasing the property in 2005. After the property acquisition, MVP contracted for Phase 1 and Phase 2 environmental site assessments, which the Wisconsin DNR requires for brownfields projects to ensure that they are safe for redevelopment. MVP also secured “case closure” from the DNR, which means the site was approved for development, provided certain conditions were met in the development process to prevent human contact with contaminated soil. The property was sold to the developer in 2006.

During the same period, MVP created development guidelines for the project that were aimed at promoting higher job densities and family-supporting wages, which were utilized in the land sale agreement. As described previously, those development guidelines have been used extensively in the Valley ever since.

MVP and the Wisconsin DNR worked closely with the developer of the Canal Street Commerce Center to facilitate the project. According to the developer, MVP’s familiarity with the City’s policies and with potential funding sources helped considerably. Also, the DNR staff person involved in the project already had worked on several other Valley projects and understood how to facilitate necessary state approval processes.



Proven Direct was committed to taking one-third of the space in the Canal Street Commerce Center immediately. The rest of the project was essentially speculative development, which was controversial at the time. Neither MVP nor the City knew how long it would take to fill the remainder of the space or what type of businesses the new owner would be able to attract. The center filled quickly, however, with primarily light industrial users. It is now completely full with six businesses that employ 195 individuals, including several small international companies.<sup>80</sup> The job density of the project is roughly 19.5 jobs per acre, which is slightly above the project goal of 16.4 jobs per acre.

### *Site challenges*

Redeveloping the former Stockyards site involved costly work to address many site challenges, which created a financial “gap” that made the project difficult to realize. According to the developer, preliminary testing found that groundwater was only three feet below the surface, which made the soil on the site very unstable. In order to construct a building that could handle industrial users in such conditions, a very firm foundation was needed. Environmental contamination also was an issue, but fortunately, the contamination did not affect the groundwater, so it could be more easily addressed. In addition, because of the site's history as a marsh and former use as a stockyard, there also was concern that methane could be trapped underground.

In order to make the site capable of holding a building, the developers ultimately needed to drive 226 piles and create a solid base upon those piles with steel beams and concrete. About \$3.5 million was invested in that foundation before building construction began.

To address environmental contamination, the entire site had to be covered with a “contact barrier” to eliminate risk of exposure to contaminated soil. The building and parking lot served as a contact barrier for part of the site, and the remainder had to be covered with a thick layer of clean fill and soil before plantings could be made.

With regard to concerns over the potential presence of methane, testing showed it was not a significant issue on the site. To be on the safe side, however, the developer installed an “active system” for methane extraction, which pumps air through the ground to remove any methane that may be trapped below.

### *Funding*

MVP purchased the former Stockyards site with the use of the flexible pre-development funds it had received from the Wisconsin Department of Commerce in 2001 and 2002. It was their second use of those funds, which previously had been used for the Harley Davidson Museum project.

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<sup>80</sup> Ziegler Bence Development



For the developer, a primary source of funding was federal New Markets Tax Credits. Those credits are distributed to organizations designated as Community Development Entities, including the Milwaukee Economic Development Corporation (MEDC), a close partner of the City of Milwaukee. Those entities are then able to sell the tax credits to private investors who make investments in low-income communities.<sup>81</sup> Through the assistance of New Markets Tax Credits, the developer of the Canal Street Commerce Center was able to receive loans with favorable terms from both U.S. Bank and MEDC.

Other important funding sources for the project were brownfields grants from the Wisconsin Department of Commerce and DNR, which helped to cover the costs of bringing in clean fill and soil to cover the undeveloped portion of the site. MVP also contributed a \$277,000 grant to the developer.<sup>82</sup>

### *Takeaway*

The Canal Street Commerce Center project exemplifies the distinct challenges that likely will affect efforts to redevelop much of the remaining vacant land in the Valley. Unlike the 140-acre site where the MVIC, Stormwater Park, and Three Bridges Park now stand – which was owned by RACM – much of the land in the Central Valley has many different owners and vacant land is more dispersed, thus requiring redevelopment to occur parcel by parcel. It is more likely that private developers will need to take the lead for redevelopment projects in the Central Valley, as occurred in the case of the Commerce Center, but significant financial gaps resulting from geotechnical and environmental barriers to development may need to be filled with public funding in order to make projects viable.

MVP's pre-development funding from the Wisconsin Department of Commerce played a key role in making this and other projects a success. As previously suggested, the State may wish to explore whether and how to make similar flexible pre-development funds available to other development intermediaries as a means of facilitating additional large-scale brownfields redevelopment projects in Milwaukee and throughout the state.

### ***Valley Passage and Three Bridges Park***

The Valley Passage and Three Bridges Park projects on the Valley's southwestern edge serve as prime examples of the improved connectivity and enhanced recreational opportunities that have been generated in the Valley in recent years. Valley Passage, which was completed in 2010, opened up a new bicycle and pedestrian connection between the Valley and the Silver City neighborhood to the south. A focus of the project was to provide an opportunity for south side residents to walk or bike to Valley jobs. In 2012, a new branch of the Urban Ecology Center opened next door to Valley Passage, offering

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<sup>81</sup> Low-income communities are defined as census tracts with a poverty rate of 20% or higher or where median family income is less than 80 percent of the area's median income. Source: New Markets Tax Credit Coalition. <http://nmtccoalition.org/fact-sheet/>

<sup>82</sup> Menomonee Valley Partners, Inc.



environmental education programming to the surrounding community. The 2013 opening of Three Bridges Park, which extends from Valley Passage on the west to Mitchell Park on the east and includes an extension of the Hank Aaron State Trail, completed the project.

#### *Project background*

The concept of creating a park on the long and narrow 24-acre parcel of land formerly known as Airline Yards was included in the 1998 Valley plan and refined through the national design competition in 2002. The site, which stretches along the southern banks of the Menomonee River and is hemmed in on the south by rail lines, was considered too constricted to be feasible for other types of development. The vision was not only to create a new park, but also to use the development to reconnect the Valley with adjacent neighborhoods and to activate the space with educational and recreational activities.

RACM took ownership of the Airline Yards parcel as part of its acquisition of the 140-acre Milwaukee Road shops site. At the time, the Airline Yards site was essentially a landfill, having been used as a dumping ground for asbestos-containing materials from buildings that had been demolished on the former Milwaukee Road site and other sites nearby.

#### **Image 7 and 8: Three Bridges Park site, before (left) and after (right) park development**



#### *Leadership and collaboration*

As with other projects highlighted in this report, an extremely high level of collaboration between several public and private sector partners was instrumental in the creation of Valley Passage and Three Bridges Park. While RACM owned the land, several other public agencies and nonprofit organizations played major roles in the project's development.

The Wisconsin DOT was a major partner, managing the design and construction of the park and bridges. The DOT also facilitated the process of developing a "project charter," which laid out how the partners would contribute to the project, make decisions, and communicate with one another. The charter



emerged from a two-day workshop facilitated by a DOT staff person. According to one workshop participant, *“Everyone went into the process of developing the charter feeling frustrated and came out really feeling like a team. What we put on paper was helpful, but the process was the most important part.”*

As owner and manager of the Hank Aaron State Trail, the DNR also was a primary partner on multiple aspects of the project. The DNR coordinated connections with the trail and signed off on the environmental safety of the site. To secure such approval for use as a park, project partners had to cover the entire site with a contact barrier, which was created largely with clean fill provided by the DOT from the Marquette Interchange project (such fill similarly was used on the MVIC site). The fill also was used to form hills that give Three Bridges Park its shape, designed to mimic the Kettle Moraine.

Additional public agencies involved in the project include the City’s DPW, the Wisconsin Department of Administration (DOA), and the Miller Park Stadium District. The DPW now owns the bridges and maintains trail lighting and retaining walls in the area.<sup>83</sup> The DOA and Miller Park Stadium District were involved in creating an emergency access road into the site.

Nonprofit organizations also played major roles in developing Valley Passage and Three Bridges Park. MVP took an early leadership role in fundraising efforts. Rather than expanding its own mission to provide environmental programming in Three Bridges Park, MVP collaborated with the Urban Ecology Center, another local nonprofit with expertise in that area. The Urban Ecology Center has two other branches in Milwaukee parks, where they provide environmental education, land stewardship, and many other programs and services.<sup>84</sup> Together, the two organizations created a third entity called UEC/MVP Project Inc. and launched “From the Ground Up,” a fundraising campaign that is now close to reaching its goal of raising \$25 million for the project.<sup>85</sup>

Several key stakeholders noted that this “joint venture” between MVP and the Urban Ecology Center was both highly unusual and very effective. It gave local foundations, businesses, and citizens a clear and simple way to support the project as a whole. Rather than thinking about which organization or which piece of the project to support, they could donate to one joint organization. It also made funding distribution to the two organizations simple. Each quarter, each organization submits disbursement requests and the UEC/MVP Project Inc. board approves distributions.

The campaign’s breakdown of how the \$25 million goal will be used further illustrates the project’s key features.<sup>86</sup>

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<sup>83</sup> De Sousa, Christopher. 2012.

<sup>84</sup> Urban Ecology Center: <http://urbanecologycenter.org/>

<sup>85</sup> Menomonee Valley Partners, Inc. <http://www.renewthevalley.org/documents/18-menomonee-valley-from-the-ground-up>

<sup>86</sup> UEC/MVP Project Inc. <http://www.menomoneevalley-fromthegroundup.org/a-unique-partnership.html>



- \$8.29 million for three bicycle and pedestrian bridges connecting the park with the Valley and with the neighborhoods to the south
- \$5.34 million for a new Urban Ecology Center facility and five years of programming there
- \$4.25 million for environmental cleanup, site grading, and river improvements on the park site
- \$3.13 million for land restoration and park construction
- \$2.49 million for a six-mile addition to the Hank Aaron State Trail
- \$1.5 million to establish an endowment for the park to support its long-term maintenance

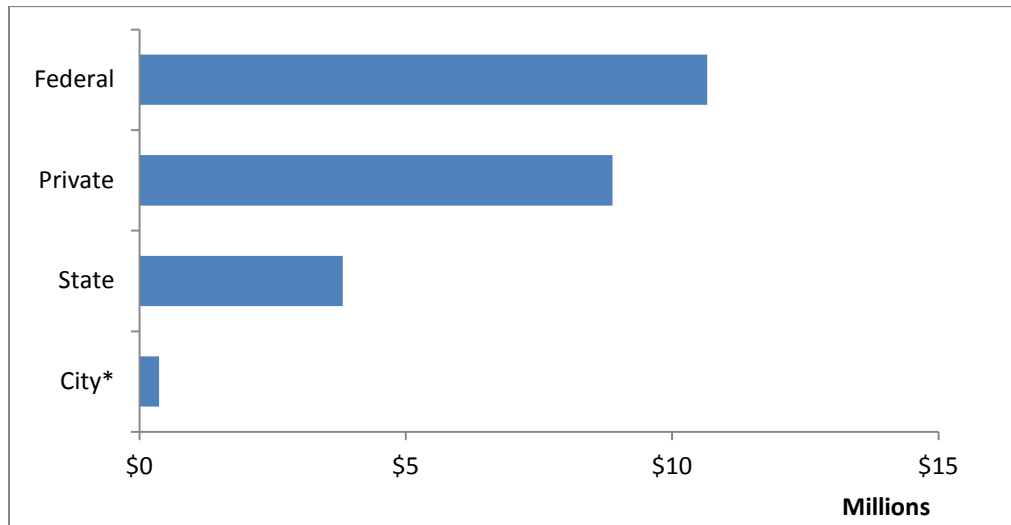
Additional nonprofit organizations assisted with the Valley Passage and Three Bridges Park projects in other ways. For example, Layton Boulevard West Neighbors (LBWN), Journey House, and other neighborhood organizations gathered community input for the projects. LBWN also helped to coordinate pre-development meetings with the past owner of the Valley Passage parcel and acted as a “straw buyer” to facilitate the UEC/MVP’s acquisition of the Urban Ecology Center building. In addition, the Wisconsin Bicycle Federation moved its offices near the new Urban Ecology Center and Valley Passage in 2012, which has helped to create a small hub of green organizations and businesses in the area.

To complete the Valley Passage project, the City and State had to work with CP Rail, which still owned land and several rail lines in the area, including one active line. The railroad also owned a tunnel where Valley Passage now stands. Ultimately, the City paid CP Rail to “stub” one of its tracks, which reduced the number of tracks crossing the Valley Passage area to one. CP Rail also had to approve another bridge in Three Bridges Park, which crosses over five sets of its tracks to connect with Mitchell Park. It appears that the relationship the City and CP Rail had developed through other projects may have aided their efforts on this project.

### *Funding*

The UEC/MVP partnership has brought in funding from many private sector sources, including local foundations, businesses, and private citizens. While the campaign did not receive public funding directly, public sector contributions were included toward the \$25 million goal. Overall, the projects have raised a total of \$23.4 million to date, including \$14.7 million in public funding primarily from the federal and state governments (**Figure 10**).



**Figure 10: Funding sources for Valley Passage and Three Bridges Park<sup>87</sup>**

\* The City also donated the land for this project and invested heavily in adjacent projects.

The U.S. DOT provided the bulk of the federal funds for the projects through a series of 11 grants, a majority of which came from the Congestion Mitigation and Air Quality Improvement (CMAQ) program in support of the Hank Aaron State Trail extension. The CMAQ program is designed to support surface transportation projects that reduce congestion and improve air quality in places that do not meet federal air quality standards, including Milwaukee. In addition, \$1.4 million in federal stimulus funds from the American Recovery and Reinvestment Act (ARRA) helped to finance Valley Passage.

Federal funds require a 20% local match, which were largely provided through \$3.8 million in state funding from the Wisconsin DNR's Knowles-Nelson Stewardship Program. The Stewardship program supports land preservation efforts for purposes of protecting wildlife habitat, improving water quality, and developing outdoor recreation opportunities.<sup>88</sup>

At the time, there was debate among project partners as to who could receive and manage the Stewardship funds. Typically, the City would have led park construction and managed project funding, but the Stewardship program stipulates that funding cannot be used for land that has been taken through eminent domain *by the entity that did the taking*. Thus, RACM, the landowner, could not accept or utilize these funds for the construction of the park. Private organizations, such as MVP, cannot receive Stewardship funds either. Consequently, MVP approached other public entities to find a partner willing to manage the funds and construction of the park. The DOT, which had been involved in the Valley from the beginning, accepted that role.

<sup>87</sup> PPF analysis of data provided by Menomonee Valley Partners, Inc. It should be noted that while the City's financial contributions to this project were relatively small, the City invested heavily in the adjacent and connected Menomonee Valley Industrial Center project.

<sup>88</sup> Wisconsin Department of Natural Resources: <http://dnr.wi.gov/topic/stewardship/>



### *Takeaway*

The Valley Passage and Three Bridges Park projects exemplify how intergovernmental cooperation and public-private partnerships were leveraged in the Valley to create public improvements that extended beyond the realm of economic development, where they are more common. Improved connectivity, additional public space, and new opportunities for recreation and environmental education were created only through the combined efforts of many public and private sector partners. Given that the team charter created by the project's major partners played a key role in guiding that collaboration, this may be an effective strategy that could be used for other projects.

The unique way in which this project was funded also may be an example to follow for other projects with multiple lead organizations. The establishment of a joint organization created a unified fundraising effort that could market the project and its many goals in a clear and cohesive manner.

### **Location and Timing**

There is little question that the Menomonee Valley's recent revival is linked not only to the effectiveness of the individuals and organizations involved and the strategies they developed, but also to its unique location and fortuitous timing. Centrally located near downtown Milwaukee and along the busiest stretch of interstate highway in Wisconsin, the Menomonee Valley is an attractive location for many businesses that produce and transport goods and for those that provide services for a regional client base. At the same time, zoning, road, and rail infrastructure – as well as the Valley's natural bluffs – provide businesses with protection from competing and potentially conflicting land uses, including housing.

***"Timing played a big role. The City was moving ahead with its plan for the Valley's west end, the 6<sup>th</sup> Street viaduct project was in the works, Miller Park was being completed, MVP and the BID were forming. All of those things created momentum."***

***Jeff Crawford, Forest County  
Potawatomi***

In addition, the Valley provides relatively easy access to a large workforce from surrounding neighborhoods and the Milwaukee region as a whole. The neighborhoods immediately adjacent to the Valley are some of the most densely populated residential neighborhoods in the state, thanks largely to the Valley's historic position as a major job center.<sup>89</sup> Valley businesses also can draw their workforce from the larger Milwaukee region because of their close proximity to major highways.

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<sup>89</sup> Gurda, John. "The Menomonee Valley: A Historical Overview."  
[http://www.renewthevalley.org/media/mediafile\\_attachments/04/4-gurdavalleyhistory.pdf](http://www.renewthevalley.org/media/mediafile_attachments/04/4-gurdavalleyhistory.pdf)



The redevelopment effort also benefited greatly from a confluence of outside events that were occurring at the very time the Valley plan was taking shape. Those included the reconstruction of the Sixth Street viaduct and the development of major cultural and entertainment attractions in the area. Miller Park was completed in 2001 and Potawatomi Bingo and Casino completed major expansions in 2000 and 2008, becoming the largest gaming facility in the state. Marquette University developed its athletic facilities on Canal Street in 1991, bringing students to the area. These projects added greater visibility to the Valley and made the area more attractive to many businesses.

As redevelopment progressed in the Valley, its highly visible location made the improvements clearly apparent to business leaders and the broader community who used the interstate highways and/or visited Valley entertainment destinations. This “constant reminder of progress” provided by the Valley’s high degree of visibility likely added to the positive momentum in the area.

The Menomonee River – the Valley’s central feature – adds yet another unique amenity to the area. In addition to cycling, walking, and running on the Hank Aaron State Trail, which was developed adjacent to the river throughout much of the Valley, river restoration efforts have allowed fishing and kayaking to become common activities in the Valley today. These recreational assets are not common features in business districts and add vibrancy to the area.

While many elements of the Valley’s redevelopment effort may be replicable elsewhere, the area’s unique locational attributes and the ability to time redevelopment initiatives with major infrastructure enhancements and cultural and entertainment projects are big pieces of the puzzle that cannot be reproduced. Nevertheless, the ways in which public and private sector leaders capitalized on the existing strengths of the Valley and took advantage of development and infrastructure-related opportunities provide insights for how similar strategies may be employed elsewhere.





## Policy Observations

The Menomonee Valley's story still is being written, but its revitalization over the last 15 years has been heralded both locally and nationally as a model of sustainable development to be studied and replicated elsewhere. Our analysis has identified numerous policies, partnerships, and unique strategies that have been influential factors in the Valley's success. While some amount of that success also may be attributable to the Valley's unique location and the synchronicity of multiple infrastructure and entertainment-related development projects in the area, several strategies utilized in the Valley should be considered for adaptation and application to other large-scale redevelopment efforts in Milwaukee and beyond.

Specifically, we would urge public and private sector economic development leaders in southeast Wisconsin to consider the following lessons from the Menomonee Valley's revival as they seek to generate redevelopment in other challenged areas in the region:

**1) Major redevelopment initiatives need to be accompanied by a robust set of planning and design activities that establish both a common vision for the initiative and a detailed roadmap to achieve that vision.**

Several aspects of the Valley's planning and visioning process were unique but could be applied elsewhere. For example, the process in the Valley engaged stakeholders, local design professionals, and the larger community to an unusually high degree, and community organizations played a major role in many influential planning and visioning activities. In addition, the plans and policies subsequently established were specific in nature, with tangible actions and guidelines that addressed key redevelopment barriers and emphasized economic, environmental, and social equity goals simultaneously. Overall, the planning and visioning process was one of the most comprehensive efforts ever undertaken for a priority redevelopment area of Milwaukee.

According to the key stakeholders interviewed for this report, having a detailed plan for the Valley and being able to articulate a vision for the area generated needed support from funders, political leaders, and the community as a whole. The commitment of the City and other Valley leaders to seeing the plan implemented also played an important role in the Valley's success.

**2) Strong intergovernmental cooperation and public-private partnerships will be essential for large-scale redevelopment efforts to succeed.**

While specific individuals and organizations stand out as essential to the Menomonee Valley's revitalization, the process of redeveloping the Valley has been exceptionally collaborative. In fact, many key stakeholders affirmed that the most important lesson from the Valley's success is the importance of intergovernmental and public-private cooperation in redevelopment work.



In particular, the Valley's success illustrates that rather than being led *only* by city government, major redevelopment efforts may stand the best chance for success if they are collaboratively led by multiple public and private sector stakeholders. To their credit, City leaders supported the creation of a public-private intermediary in the Valley, which was structured to involve influential leaders from Valley businesses, community organizations, and other governments in addition to the City itself. The ability of this intermediary to eliminate government "turf battles" and control tension between public and private interests was instrumental to the timely and successful completion of many of the Valley's key projects and to the broader revitalization it has achieved.

**3) Funding must be pursued and creatively assembled from numerous sources to address the many barriers that impede brownfield redevelopment projects.**

In the 1990s, the potential to redevelop the Menomonee Valley was hampered by many challenges that originally were deemed cost prohibitive, including poor access, limited infrastructure, unstable soil conditions, environmental contamination, frequent flooding, and blighted buildings. Those challenges were met by the City's willingness to invest heavily in Valley infrastructure, environmental cleanup, and other pre-development work through TIF and other financial contributions, as well as the City's and MVP's pursuit of funding from several different sources to supplement the City's own contributions, including numerous state and federal grants.

The effort by the City and MVP to engage state and federal agencies as partners early in the redevelopment process was a particularly effective strategy. While TIF and other City resources likely will need to play a prominent role in other major Milwaukee redevelopment projects, it is unlikely that those sources will be able to do the job alone. In the Valley, because of the personal connections made by City and private leaders, local representatives of state and federal agencies not only identified funding opportunities within their own purview, but also actively assisted the City and MVP to identify and pursue funding opportunities in other state and federal departments.

The Valley experience also demonstrates the need to combine government grant-seeking activities with private fund development strategies, and to do so as a team effort involving diverse project partners. For the Valley Passage and Three Bridges Park projects, for example, City and State partners secured funding from state and federal sources for the new bridges and trail extension. Meanwhile the UEC/MVP joint fundraising organization raised flexible private funds from local foundations, businesses, and citizens to pay for other components, including the new Urban Ecology Center facility and five years of programming there.

With diminished availability of certain state and federal funding sources that were utilized for past Valley projects, including federal earmarks and state brownfields grants, this type of creativity and collaboration may be even more necessary for future efforts to redevelop additional land in the Valley and in other priority areas in Milwaukee.



**4) Given the key advantages involved with public or public-private ownership of re-developable brownfield properties, the City likely will need to assume considerable financial risk to advance major redevelopment projects.**

The success of several of the major redevelopment projects within the larger Valley revitalization effort was attributed largely to the ability of the City or MVP – as property owners – to expeditiously and effectively assemble project funding and address cleanup and infrastructure issues to make sites “shovel ready.” In instances where a private entity owns the property where major redevelopment is desired – or where multiple private owners control a dispersed set of properties in a priority area – the challenges involved with assembling, preparing, and marketing sites for redevelopment likely will be much greater.

Consequently, while City government does not relish the role of buying and owning highly challenged properties because of the financial risk it entails, it may need to do so aggressively (particularly through the use of RACM) in areas where redevelopment is a top priority. The City has recognized that reality with regard to Century City and may need to continue to assume property ownership risk in other parts of the city to meet redevelopment goals. The City also may need to be more assertive in exercising its power of eminent domain in some cases. In addition, State leaders may need to step up with funding assistance – as they did for the Valley – should public-private intermediaries in other parts of Milwaukee seek the wherewithal to acquire properties and assist in pre-development work.

**5) Major redevelopment projects must be accompanied by aggressive marketing of the area’s existing strengths and amenities.**

Leaders of the Menomonee Valley redevelopment effort capitalized on the unique strengths of the area, which were evident to them but required comprehensive visioning and effective public relations to convey to others. While access to the Valley in the 1990s was poor, these leaders saw the potential to take advantage of the area’s proximity to the interstate highway system. Despite the loss of many businesses in the area, they recognized that a cluster of manufacturers remained. The Menomonee River was receiving renewed attention as well, including the plan to develop the Hank Aaron State Trail along its path. Valley redevelopment leaders capitalized on these advantages by reinforcing the area’s manufacturing focus and supporting the restoration and enhancement of its natural features and recreational amenities.

Indeed, the Valley experience illustrates the need to take advantage of locational strengths, which may include transportation infrastructure, existing industry clusters, available business resources, workforce proximity, neighborhood amenities, and other factors. While this point may seem elementary, lessons can be learned not only from the manner in which Valley redevelopment leaders identified those strengths, but also from the creative strategies they employed to make them known in the broader community.



**6) Major redevelopment projects should be viewed as opportunities to address multiple community objectives.**

The Menomonee Valley redevelopment effort was designed to address the many challenges that previously existed in the Valley and its surrounding community. While there is still progress to be made, one of the most striking components of the Valley's recent revitalization is the varied range of improvements it has produced.

Indeed, the "triple bottom line" approach to sustainable development not only achieved several economic development objectives, but also enhanced the natural environment and generated quality-of-life amenities that benefit the broader community. This approach also allowed Valley leaders to diversify their financial support, as shown by their success in attracting funding from government agencies, businesses, local foundations, and private citizens.

In light of this success, City leaders should seek other opportunities to achieve multiple goals through individual redevelopment projects. While job creation and growth in tax base may be the foremost priorities associated with any such project, opportunities to link those goals with simultaneous improvements in flood control, multi-modal transportation infrastructure, environmental health conditions, and recreational amenities for nearby residents also should receive attention, and opportunities to assemble funding from diverse sources to support such improvements should be sought.

**7) Using redevelopment projects to create jobs for neighborhood residents may require greater emphasis on workforce development.**

While the above suggestions emanate from positive lessons learned from the Valley revitalization effort, one of the Valley's lingering challenges also offers some cautionary advice. Both public and private sector leaders of the Valley redevelopment effort emphasized the need to foster development that would generate economic growth while also providing employment opportunities for the local workforce. While that objective was achieved somewhat, the recent decision by Cargill, Inc. to close its slaughterhouse in the Valley means that Palermo's and the Potawatomi Hotel and Casino are the only employers in the Valley that employ large numbers of residents of nearby neighborhoods.

For future redevelopment efforts that share a similar goal, greater emphasis may need to be placed on workforce training of area residents and on specific recruitment of businesses that have a need for workers with the types of skill sets possessed by those residents. In the 30<sup>th</sup> Street Industrial Corridor, City and State leaders appear to have recognized that need, as evidenced by their efforts to create an advanced manufacturing training center at the Century City site. Additional workforce development efforts likely will be needed for other major redevelopment projects as well.



**EXHIBIT 2**



October 4, 2019

Waukegan Casino Review Team  
100 N. Martin Luther King Jr. Ave.  
Waukegan, IL 60085

Dear Waukegan Casino Review Team:

Following the public hearing conducted on September 18, 2019, Hospitality and Gaming Solutions (“HGS”) has had the opportunity to evaluate information publicly provided for the first time by other applicants.

### Revenue

In C.H. Johnson’s presentation at the Waukegan public hearing, he projected gross revenue for each applicant<sup>1</sup> in the fifth year of operation as shown in Table 1.

**Table 1**

<b>Applicant Revenue- 5<sup>th</sup> Year of Operation Proposed Waukegan Casino</b>	
<b>Gaming Applicant</b>	<b>Gross Revenue</b>
Full House Resorts	\$173 million
Lakeside Development (North Point Casino)	\$190 million
Rivers Casino Waukegan	\$282 million
Waukegan Potawatomi Casino	\$284 million

Sources: Waukegan Casino Applicants

As shown in Table 1, Rivers Casino Waukegan and Waukegan Potawatomi Casino are the two proposals with the highest projected revenue. Both are existing regional operators with established Player’s Club databases that will optimize gaming revenue for the host city, North Chicago and Park City. HGS prepared a full feasibility study of the Waukegan Potawatomi Casino utilizing a customized gaming gravity model that estimates where a population will gamble based on the travel distance and the size and quality of competing facilities. One of the gravity model’s strengths is its malleability; the model can simultaneously incorporate many different variables such as population, geographic location, income, propensity to gamble, and frequency of gaming trips, and measure the impact of new competitors. The Potawatomi

<sup>1</sup> HGS has not discussed the WDA application, which was withdrawn by the applicant.

Waukegan Casino Review Team  
October 4, 2019  
Page 2



projections incorporated actual data from the Player's Club data base and are highly reliable; the projections of other applicants utilize many hypothetical assumptions which are not accurate.

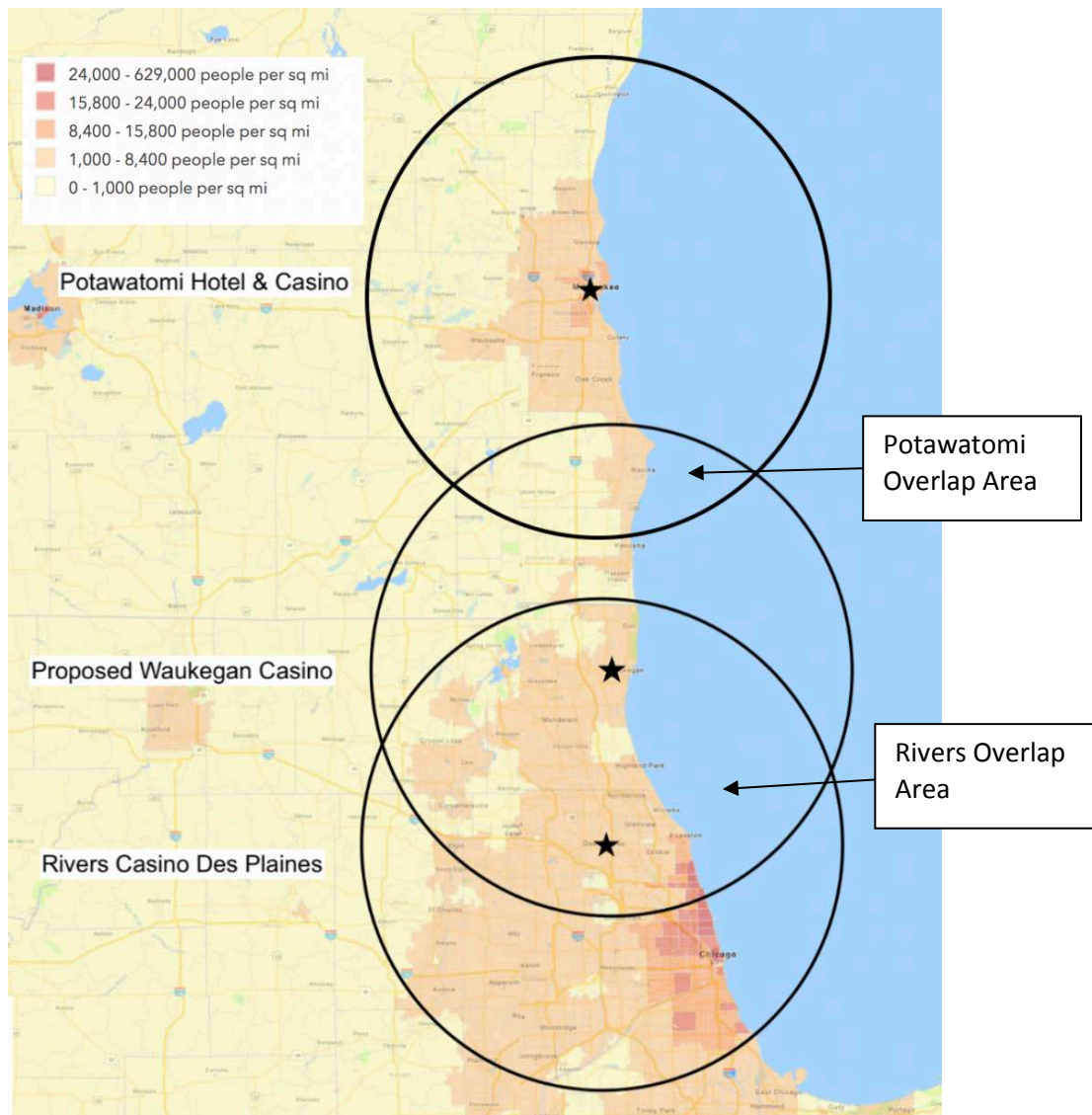
Rivers Casino projections, in particular, are questionable. Rivers Casino released proposed gaming revenue estimates at the public hearing, but Rivers has not unredacted from its original application the basis or methodology for the projections presented. The Waukegan Potawatomi Casino revenue projections are dependent on the number of positions, size of the casino floor, quality of the casino finishes, capacity of the parking structure, and the level of promotional expense. The fact that both applicants project similar revenue does not mean the Rivers Casino estimates are accurate. The Rivers Casino proposal may project revenue similar to the Waukegan Potawatomi Casino, but with at least 265 fewer gaming positions, a smaller gaming floor, and a lower level of investment. Rivers reported at the Public Hearing that it would construct a 180,000 square foot casino. Rivers has not disclosed the casino floor size they propose. PHC will build a 210,000 square foot casino with 110,000 to 130,000 square feet of casino floor. In our opinion, Rivers' projected \$282 million in revenue is not possible without more gaming positions and the greater level of investment in the property and the level of promotional expenses as proposed for the Waukegan Potawatomi Casino.

This would not be the first time Rivers overestimated revenue. The original projections for the Rivers Casino, Des Plaines submitted to the Illinois Gaming Board were significantly overestimated at \$500 million annually versus the achieved level ranging from \$416 million to \$441 million annually.

### **Cannibalization of Revenue**

The Waukegan Potawatomi Casino is not a defensive project; it will not unduly cannibalize revenue from the Potawatomi Hotel Casino in Milwaukee. The vast majority of revenue generated at the Waukegan Potawatomi Casino will be generated within 30-35 miles of the casino. Most of these players will come from the densely populated areas south of Waukegan. In Milwaukee, over 70% of the revenue is generated by Milwaukee County residents. Figure 1 shows 30 mile concentric rings around the Waukegan Potawatomi Casino, Potawatomi Hotel Casino in Milwaukee and the Rivers Casino in Des Plaines. The Waukegan Potawatomi Casino provides the opportunity to substantially expand the Potawatomi player base.

**Figure 1**



Comparing the market overlap areas of Potawatomi and Rivers is instructive. As shown on Figure 1, the Waukegan Potawatomi Casino will primarily compete for players within the heart of the Rivers Casino market area, which is less than 30 miles away from the Waukegan Potawatomi Casino. The Potawatomi overlap area is much smaller and not densely populated.

At the Public Hearing on September 18, 2019, Neil Bluhm stated, “we will promote Waukegan over our Des Plaines location to make our numbers more promising.” Rivers has conflicting interests in Illinois which include Des Plaines and the Arlington Racecourse. Rivers also has other interests including proposed expansions in New York and Pennsylvania. On the other





hand, Potawatomi is strategically focused entirely on the greater Chicago area. Potawatomi is committed to a long-term strategic partnership with the City of Waukegan.

### **Operating Expenses**

The Waukegan Potawatomi Casino pro-forma includes an above market allocation for promotional expenses. Promotional allowances consist of various expenses associated with the issuance of complimentary cash, goods, and services provided to gaming patrons. The primary factor impacting the issuance of promotional allowances is typically the level of play by gaming patrons. Specific promotional allowances include: complimentary food, hotel rooms and coupon redemption programs. This higher than normal level of promotional expenses is necessary to produce the higher projected revenue.

Waukegan Potawatomi Casino will use its promotional expense budget for players' club members to stay at local hotels and will drive more demand to local hotels than is customary for Rivers. At a Des Plaines City Council Meeting on September 13, 2013, Bill Kenna, Rivers Casino General Manager, stated "Rivers has paid adjacent hotels for patrons to stay a total of 1,600 nights, so far this year." *Des Plaines Casino to share expansion plans with City*, Chicago Tribune (Sept. 13, 2013). This equates to 200 room nights a month. By comparison, within the Waukegan Potawatomi Casino application (page 33), the number of purchased monthly room nights ranges from 1,950 nights in the first year increasing over time to 3,900 room nights in the third year of operation, creating additional benefits to Fountain Square hotels and the Genesee Theatre. The induced demand for a greater number of hotel rooms will also generate increased occupancy taxes for the City of Waukegan.

Promotional allowances in the Waukegan Potawatomi Casino are forecasted to be 10% of gaming revenue throughout the projection period. This amount is significantly higher than what existing Illinois casinos are currently allocating for promotional allowances. Waukegan area casino players interviewed during recent PHC focus groups indicated their decision process regarding which casino to visit is heavily influenced by coupons received via direct mail, the amount of free play received, number and frequency of promotional gifts and complimentary hotel rooms to extend their overall casino gaming experience. Potawatomi received high praise from these players for offering free play of greater value/frequency, and direct mail coupons of higher value/frequency compared to area competitors particularly Rivers Casino Des Plaines. It is necessary to invest more in your patrons in a highly competitive gaming market, to achieve higher gaming revenue projections. A proposal projecting high revenue but without the needed promotional expenses to generate the revenue will disappoint the City.

North Point is not a casino operator and therefore will purchase management through a management agreement with Warner Gaming. The necessity of paying a substantial management fee further reduces the financial viability of the North Point proposal. As a publicly traded company, Full House will also pay a management fee to its parent company.



## Construction Cost

To the extent information is available, Table 2 illustrates the estimated construction costs submitted by each applicant.

**Table 2**

Estimated Construction Cost Proposed Waukegan Casino	
Applicant	Construction Cost
Full House Resorts	\$315 million to \$375 million
Lakeside Development (North Point Casino)	\$420 million
Rivers Casino Waukegan	Not Disclosed
Waukegan Potawatomi Casino	\$345.6 million

Sources: Waukegan Casino Applicants

The two multi-phased developments (Full House Resorts and Lakeside Development) are the developments with the lowest projected amount of gaming revenue. The influx in gaming positions (stemming from both new and expanded casinos and VGT's) are contributing factors that will make the greater Chicago area a highly competitive gaming market. The combination of increased competition, a high gaming tax structure, and minimum wage levels increasing to \$15 per hour, will affect operating margins for all of the operators. As a result, the additional project components in the multi-phased developments (hotel, entertainment venues, etc.) are not likely to ever be financially feasible.

In addition, multi-phased developments result in construction disruption which would adversely impact revenue and expenses.

## Financing

All of the applicants in their presentations and applications claim that they are capable of securing financing. With projects ranging in cost from \$315 million to \$420 million for construction plus initial state fees of approximately \$50 million, it begs the question: At what interest rate? The combination of projected revenue, project cost, fees and taxes, promises made and the cost of capital all need to be weighed in determining whether or not each applicant has submitted a feasible proposal to the City of Waukegan. Full House Resorts and the North Point proposal face substantial challenges.



### **Full House Resorts**

According to Chad Beynon, a Gaming Analyst of Macquarie Securities, “Full House is in a tough position, in our view,” Beynon said. (*September 12, 2019, Macquarie Securities, research note*). The company’s leverage is five times its cash flow and the stock price is down 4% year-to-date, “which leaves investors worried about potential dilution.” Beynon said the concern for Full House is the Indiana Rising Star property. The property has seen cash flow decline from \$10 million in 2012 to \$2.8 million in 2018.

### **Lakeside Development (North Point Casino)**

The North Point Casino is the applicant with the highest projected construction costs, yet this applicant is projecting gaming revenues of only \$190 million in the fifth year of operation. This multi-phased development lists Clairvest, as a strategic business lender for the North Point Casino. Clairvest is a private equity management firm. The required return for private equity firms of this type is substantially higher than traditional bank lenders, especially for an evergreen project in a competitive and untested market by a firm with no business history. At current rates, the North Point project may be required to pay a rate of 9% to 12% with a five to seven year term. PHC will fund the project internally based on the credit worthiness of its Milwaukee casino. The cost of construction, projected revenue, management fees, high cost of financing, State fees and expenses, and other promises made to the City of Waukegan makes the financial viability of the North Point proposal questionable. It would be very risky for the City to bank on this project actually opening, let alone thriving.

### **Promises Kept and Transparency**

The City of Waukegan is seeking a strategic partner. Potawatomi has a proven track record of honoring all its commitments made to the City and County of Milwaukee as well as to the Wisconsin business community. What you see is what you get—which is not the case for the other applicants.

Before Rivers Casino opened, the ownership of Rivers Casino Des Plaines planned a casino, “which would be complemented by a new hotel, shops, restaurants and an entertainment venue.” Nearly a decade later, none of the subsequent proposed phases have been built. Rivers announced at the public hearing that it plans to build a hotel in Pittsburgh, but it has not kept its promise to Des Plaines.

Rivers Casino also successfully appealed its property tax payments in 2011 and 2012. According to Cook County assessment records, the assessed value of the Rivers Casino property has been reduced by \$4 million in 2012 and \$1.5 million in 2011, diminishing the economic benefit the City of Des Plaines expected to receive from the Rivers Casino.

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In addition, Rivers Casino negotiated an Agreement with the City of Des Plaines, after receiving its Illinois Gaming License, which requires the City of Des Plaines to relinquish \$10 million a year for 30 years of its host community tax income to satisfy payments owed by Rivers to the State of Illinois for its gaming license. Rivers Casino also included provisions in the agreement which require Des Plaines to pay 40% of its remaining casino tax revenue to 10 south suburban communities. Local officials said they accepted those terms with the promise that Rivers would be the 10th and final casino in the State. Senate Bill 690 provides for the development of five additional casinos throughout the State. Those casinos, along with a Chicago casino, are expected to reduce the Rivers Casino revenue, which will result in the City of Des Plaines receiving even less revenue. For the last several years, the City's revenue has stagnated at approximately \$9 million. See the annual audited reports for the City of Des Plaines.

### **Jobs and Economic Impact**

Finally, based on the information publicly released by each applicant the Waukegan Potawatomi Casino will provide the most jobs as an on-going operation with 1,382, employees. C.H. Johnson reported that Rivers would employ only 1,092; Full House only 820; and North Point only 685 individuals. HGS also prepared an Implan economic impact analysis which shows the number of direct, indirect and induced jobs for the Waukegan Potawatomi Casino totals nearly 2,600; which is greater than 1,000 more jobs than any of the other three applicants. The net direct economic output from the operation of the Waukegan Potawatomi Casino is estimated to be \$236.4 million on an annual basis, which is the highest among all the applicants.

If you have any questions, please contact me directly at (612) 251-1343.

Very truly yours,

**HOSPITALITY AND GAMING SOLUTIONS**

A handwritten signature in black ink, appearing to read 'John J. Repa', followed by a long horizontal line extending to the right.

John J. Repa  
President

**EXHIBIT 3**



1721 WEST CANAL STREET  
MILWAUKEE, WI 53233  
1-800-PAYSBIG • PAYSBIG.COM

September 30, 2019

Mr. Pete Olson  
Lake County Building & Construction Trades Council  
31855 North U.S. Highway 12  
Volo, Illinois 60073

Mr. Olson,

Thank you for taking the time to meet with me on Thursday, September 19. We appreciated the opportunity to provide more details on our Waukegan Potawatomi Casino proposal and discuss how we can partner with the Lake County Building Trades.

As you are already aware, Potawatomi Hotel & Casino has had strong relationships with the Milwaukee Building Trades for many years. All of our recent major expansion projects were completed with union labor through signed Project Labor Agreements. This includes:

- 2008: \$240 million casino expansion which added 500,000 square feet of entertainment space.
- 2014: \$150 million, 381-room hotel tower
- 2019: \$80 million, additional 119-room hotel tower

Our proposed Waukegan Potawatomi Casino would be no different. We have had great experiences and successes working with the local building trades. If Potawatomi is chosen to develop the new casino in Waukegan we commit to signing a Project Labor Agreement to ensure that union labor is used in the construction of our facility.

Thank you again for taking time to meet. If you have any questions, please don't hesitate to contact me at 414-847-7733.

We look forward to working with you in the near future.

Sincerely,

A handwritten signature in black ink that reads "Rodney E. Ferguson".

13508

Rodney E. Ferguson  
CEO & General Manager  
Potawatomi Hotel & Casino



# CASINO DEVELOPER AND OPERATOR SOLICITATION – WAUKEGAN, IL ADVISORY SERVICES REPORT

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SUBMITTED TO  
City of Waukegan

SUBMITTED BY  
Johnson Consulting

DATE  
October 2019





## INTRODUCTION

Johnson Consulting was retained by the City of Waukegan (the "City") to provide an independent review and evaluation of proposals received in response to the City's Request for Qualifications and Proposals (RFQ/P) Casino Development and Operator. It is intended that the City will enter into an agreement with one or more selected developer(s) and issue a letter of support to the Illinois Gaming Board (IGB) by October 25, 2019, in accordance with the requirements of the Illinois Gaming Act.

Five (5) proposals were received by the City from (listed in alphabetical order):

1. CDI-RSG Waukegan, LLC. (CDI-RSG)
2. Full House Resorts, Inc. (Full House)
3. Lakeside Casino, LLC dba North Point Casino. (North Point)
4. Potawatomi Hotel and Casino. (PHC)
5. *Waukegan Development Association LLC. (WDA-CGG)* - On September 25, 2019 WDA-CGG provided written notice to the City of withdrawal of their proposal.

It is hoped that the IGB will chose the operator that will optimize returns to all parties. From the City of Waukegan's perspective, the hope is that the IGB will advance the team that will offer the City the best project that will have the greatest impact for its residents. The selected bidder should have financial capacity and should also be the one that will ultimately create a project that is more than just a casino but rather an entertainment destination within the City of Waukegan.

This memorandum report presents our summary-level analysis and ranking of proposals #1 through #4 as received by the City, based upon the information presented in those proposal.

## OBJECTIVES AND EVALUATION CRITERIA

As stated in the City's RFQ/P, the City is seeking "a financially successful development that maximizes sales tax and gaming revenues to the City and that provides a significant number of quality jobs to its residents, as well as increasing the City's EAV and bolstering its property tax base." The proposed development must include, at a minimum, a casino, sports betting, and parking, along with other necessary supporting infrastructure.

The RFQ/P required that submittals provide the following information:

1. Property Specifications and Location.
2. Description of Proposed Development – including phasing plan and timeline; sustainable development components; target audience and marketing approach; plans for community reinvestment; benefits to the City and its residents; and requests of the City.





3. Project Team and Experience.
4. Financial Data – including annual reports; existing project performance; and cost estimates and operating projections for proposed project.
5. Application Fee.

Our evaluation considers items #1 through 4, as listed above.

## PROCESS AND METHODOLOGY

As independent advisor to the City, Johnson Consulting has provided the following services:

1. Reviewed and summarized all proposals received by the City.
2. Facilitated developer interviews on September 11 and 12, 2019 with all 5 bidders.
3. Participated in a public hearing on September 18, 2019, which included presentations by all 5 bidders, as well as a summary-level report by Johnson Consulting.
4. Reviewed public comments received in writing by the City through October 2, 2019.
5. Prepared a memorandum report providing an independent, third party evaluation of the proposals, reflecting our local and industry knowledge.
6. Presented our findings and recommendations at a special City Council meeting on October 17, 2019.

It is noted that pursuant to our engagement with the City, our scope of services does not include the preparation of independent projections for, nor a market or feasibility assessment of, a new casino project in Waukegan. Our analyses are based on the information provided by the respective bidders and provides our assessment of the viability of their financial projections based upon our industry experience.

## ABOUT US

Johnson Consulting, Inc. is a corporation founded in 1996 in Chicago, IL. Since inception, Johnson Consulting has conducted hundreds of engagements in the U.S. and abroad, including casino, event and entertainment facility, and mixed-use development projects that incorporate a mix of commercial, retail, hotel and specialized uses. Our professionals have worked in real estate and hospitality planning for over 30 years. The majority of our work is focused on market analysis, financial analysis, development consulting, operational reviews, economic and fiscal impact analysis, and developer and operator solicitation.

Johnson Consulting is uniquely qualified to for this assignment based upon factors that include:

- A. Experience in similar engagements that have resulted in casinos and other entertainment facilities supportive of host community's strategic goals and objectives.



- B. Reputation as objective and trusted economic and financing advisor, among investors, underwriters, and developers.
- C. Proven clear and transparent processes that engage leadership, stakeholders, prospective developers and communities.
- D. Proven collaborative processes that utilize appropriate market data, precise analytics and industry knowledge so that our clients can make the most informed decisions.
- E. Substantial prior work for and in the City of Waukegan.

Johnson Consulting's advisory services practice is committed to providing guidance and recommendations that are specific to each of our client's unique needs through a collaborative and tailored approach. At the same time, we rely upon the lessons learned from our experience advising municipalities and private developers on the best ways to realize their desired outcomes. As advisors to community leaders, we understand that success is not defined solely by financial performance but also "return on vision". Therefore, our process always entails a significant amount of engagement and interaction with community leadership and community members to ensure that our recommendations respond to the unique needs and desires of the host community, and positively contribute to economic development.

## EVALUATION OF PROPOSALS

The Appendix to this memorandum report provides a summary of responses to each of the evaluation criteria identified above, based upon the submittal requirements of the RFQ/P, and described below.

### 1. PROPERTY SPECIFICATION AND LOCATION

Each of the remaining 4 proposals identifies the 28-acre, City-owned Fountain Square site as the location for the proposed casino project. While there is considerable variation in the proposed purchase price for the site, the highest bidders include structured annual payments and donations (North Point) or a desire for a long-term lease agreement (Full House). Figure 2 provides a comparison of the proposed purchase price for the Fountain Square site. The amounts shown are as proposed in each submittal, but will be subject to negotiation.



Figure 1



Figure 2 summarizes our commentary on the responses received in relation to Evaluation Criteria #1 Property Specifications and Location.

Figure 2

Waukegan Casino RFQ/P Comparison of Property Specifications and Location				
	CDI-RSG	Full House	North Point	PHC
<b>Commentary</b>	Mid-ranked purchase price.	Highest purchase price; Desire for long-term lease with option to purchase site.	2nd highest purchase price comprised of upfront payments plus structured, annual payments and donations to City-approved projects.	Lowest purchase price.

Source: Respective proposals, Johnson Consulting



**2. DESCRIPTION OF PROPOSED DEVELOPMENT**

Key components of the proposals are summarized as follows:

- A. **PROPOSED DEVELOPMENT:** Each of the 4 proposals present a unique vision for the development of a casino on the Fountain Square site. Figure 3 provides a comparison of the proposals based upon the number and types of gaming positions. As shown, the number of gaming devices range from 1,100 (CDI-RSG) to 1,800 (PHC) and the number of gaming tables range from 48 (North Point) to 60 (both CDI-RSG and Full House). All proposers indicated that they are willing to pay the per position privilege fee for the maximum allowable 2,000 gaming positions.

**Figure 3**



Source: Developer Proposals, Johnson Consulting

All proposals include sports betting facilities, along with various restaurants and bars. Only one proposal includes onsite accommodation in the initial phase of development (Full House – 20 luxury villas), while all proposals indicate potential for a hotel in subsequent phases of development.

As it relates to non-gaming amenities, all 4 proposed developments include a variety of dining options. Indoor event space is proposed by Full House (1,500-person Entertainment Center) and PHC (10,000 SF of meeting space), and North Point includes an outdoor amphitheater.



In all 4 of the proposals, parking is provided predominantly in surface lots, although each proposal does include a parking deck in Phase 1 of the development program. It is our opinion that the ratio of parking spaces is in line with the relative scale of each proposed development.

At this preliminary stage, detailed site planning has not been undertaken by any of the proposers. This will be important to ensure appropriate site orientation to minimize impact on adjoining residential areas, access, circulation, and other site planning considerations.

- B. **PHASING PLAN:** The timelines and phasing approaches of each proposer were similar, with each indicating a willingness and ability to commence construction immediately upon receipt of the license.
- C. **SUSTAINABLE DEVELOPMENT COMPONENTS:** All proposers commit to incorporating sustainable development components.
- D. **TARGET AUDIENCE AND MARKETING APPROACH:** All proposers indicate that they have database of potential patrons to market to. The 2 proposers with existing regional operations (CDI-RSG and PHC) indicated some shifting, but no significant cannibalization, of demand.
- E. **TIMELINE:** As it relates to temporary operations, as specifically referenced in the RFP, 2 proposers outlined plans for a temporary casino onsite (Full House and North Point), 1 proposer indicated that they would be willing to discuss temporary operations if desired by the City and/ or pay the City an agreed upon amount annually in lieu of temporary operations, equal to the tax revenues that would be earned by the temporary casino (CDI-RSG), while the remaining bidder did not propose temporary operations (PHC).
- F. **COMMUNITY REINVESTMENT:** All proposers expressed a commitment to local hiring; organized labor; minority, woman, veteran, and disabled-person owned businesses; buy-local, sponsorships, contributions and event participations; foundation establishment or investment; and other community-oriented plans.
- G. **ECONOMIC BENEFITS:** 3 of the 4 proposers included an estimate of total economic impact of ongoing operations at the respective proposed projects, ranging from \$232.9 million per annum (CDI-RSG) to \$392.5 million per annum (PHC). Full House did not provide an estimate of the total economic output generated by the project.

As it relates to ongoing employment, Figure 4 provides a comparison of the proposals based upon anticipated job creation. As shown, the annual on-site jobs (at the casino project) range from 685 (North Point) to 1,382 (PHC), and total jobs, including those that are created elsewhere in the economy, range from 1,180 (North Point) to 2,599 (PHC).



Figure 4

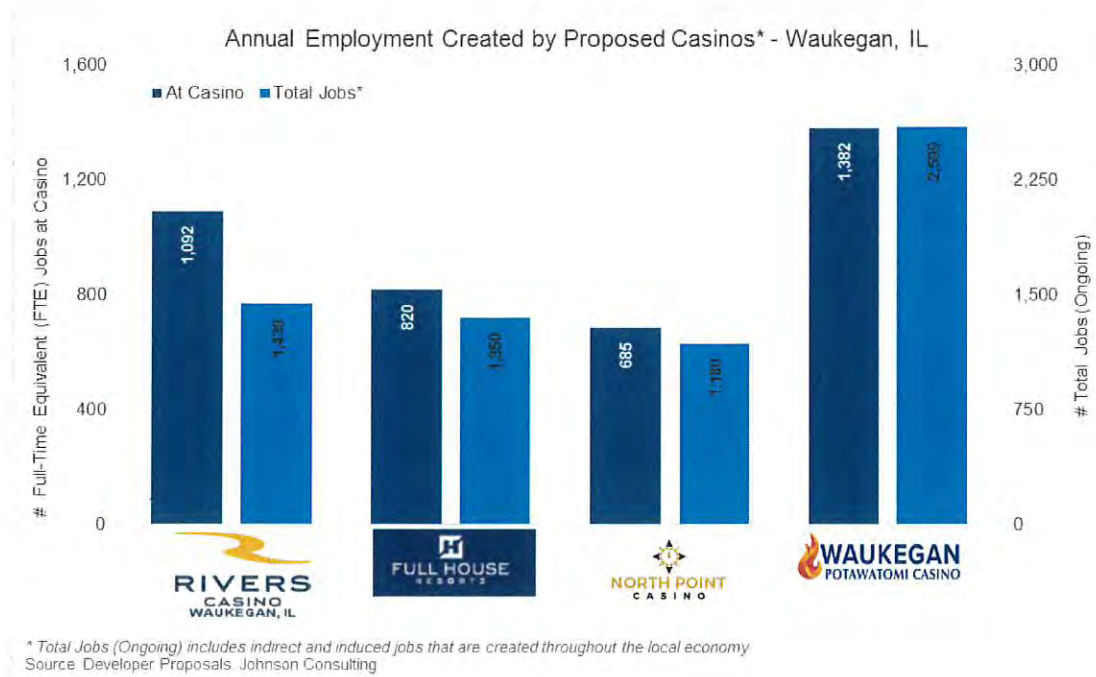


Figure 5 shows the estimated fiscal impact of each of the proposed projects, including gaming and admissions taxes collected by the City of Waukegan and based upon estimates provided by the respective proposers. As shown, annual gaming and admissions taxes range from \$4.4 million (North Point, although it is noted that this figure does not include admissions taxes) to \$9.5 million CDI-RDG).



Figure 5

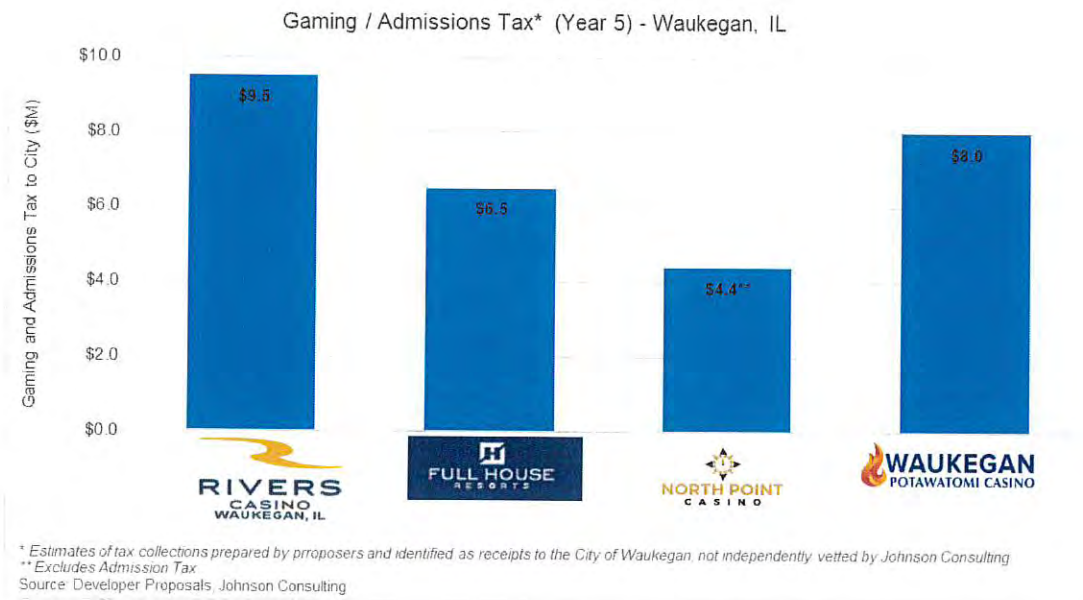


Figure 6 summarizes our commentary on the responses received in relation to Evaluation Criteria #2 Description of Proposed Development.



Figure 6

<b>Waukegan Casino RFQ/P Comparison of Proposed Development</b>				
	<b>CDI-RSG</b>	<b>Full House</b>	<b>North Point</b>	<b>PHC</b>
<b>Commentary</b>	Market-driven concept, with reasonable schedule and phasing.	Market-driven concept, with reasonable schedule and phasing.	Market-driven concept, with reasonable schedule and phasing.	Market-driven concept, with reasonable schedule and phasing.
	Open to temporary casino or payments to City in lieu of temporary operations.	Proposal includes temporary casino.	Proposal includes temporary casino.	Proposal does not include temporary casino.
	Detailed plan for sustainable development components.	Detailed plan for sustainable development components.	Detailed plan for sustainable development components.	Detailed plan for sustainable development components based on existing operations at Milwaukee property.
	Primary Target Market defined as residents in northern Cook County, Lake and McHenry Counties, and southeast Wisconsin up into the Milwaukee area; will leverage database from Des Moines property; anticipate cannibalization will be minimal.	Target Market includes local, day trip market, and Chicago/ southeast WI.	Primary Target Market defined as a 30-mile radius, including 2.3 million adults; will market casino as destination.	Integrated marketing approach leveraging existing customer database; anticipate that cannibalization will be minimal.
	Waukegan First local hiring and vendor program.	Commitment to local workforce hiring and relationships.	Black Chamber of Commerce partnership.	Will replicate Milwaukee hiring policies.
	Highest estimated fiscal impact to City of Waukegan.	Second lowest estimated fiscal impact to City of Waukegan.	Lowest estimated fiscal impact to City of Waukegan (excluding Admission taxes).	Second highest estimated fiscal impact to City of Waukegan.

Source: Respective proposals, Johnson Consulting

### 3. PROJECT TEAM EXPERIENCE

All project teams identified in the proposals have extensive experience nationally as developers and operators of casinos. Two proposers operate existing regional casinos in Des Plaines, IL (CDI-RSG) and Milwaukee, WI (PHC). It is our assessment that all teams include seasoned professionals with skills and resources necessary to deliver a high-quality project to the Waukegan market. Figure 7 summarizes our commentary on the responses received in relation to Evaluation Criteria #3 Project Team and Experience.





Figure 7

Waukegan Casino RFQ/P Comparison of Project Team and Experience				
	CDI-RSG	Full House	North Point	PHC
<b>Commentary</b>	Extensive experience; Operates regional facility - Des Plaines, IL; Project Team includes silent partner currently engaged in litigation with City.	Extensive experience.	Extensive experience.	Extensive experience; Operates regional facility - Milwaukee, WI.

Source: Respective proposals, Johnson Consulting

4. FINANCIAL DATA

Figure 9 show the estimated project cost as presented by each proposer. As shown, the project costs (including all hard and soft costs) range between \$275.3 million (Full House) and \$416.0 million (CDI-RSG).

Figure 8



Source: Developer Proposals, Johnson Consulting



Each of the proposals includes projected revenues from gaming devices and from table games. Figure 9 provides a comparison of these revenues, highlighting that gross device gaming revenues range between \$103.8 million (North Point) and \$213.3 million (PHC), while gross table gaming revenues range between \$21.0 million (North Point) and \$49.8 million (CDI-RSG) in a stabilized year of operation (assumed to be Year 5).

Figure 9

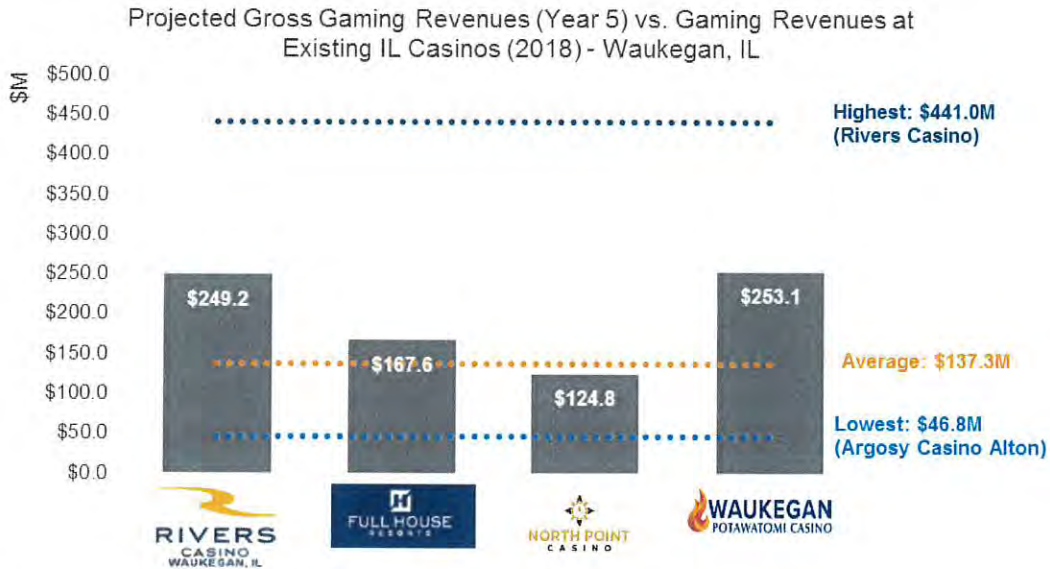


Source: Developer Proposals, Johnson Consulting

Figure 10 shows the total projected revenues from gaming devices and from table games, as presented by each proposer, relative to the average revenue reported by existing Illinois casinos (based upon data published in the Illinois Gaming Board’s 2018 Annual Report). As shown, the revenue projections presented in 2 of the proposals (Full House and North Point) fall generally in line with, or slightly below, the Illinois average (\$137.3 million), while the projections presented in the other 2 proposals (CDI-RSG and PHC) are significantly higher than the average but still fall well below reported revenues at the Rivers Casino in Des Plaines (\$441.0 million), which is the newest casino in the market and reported the highest revenues in 2018.



Figure 10

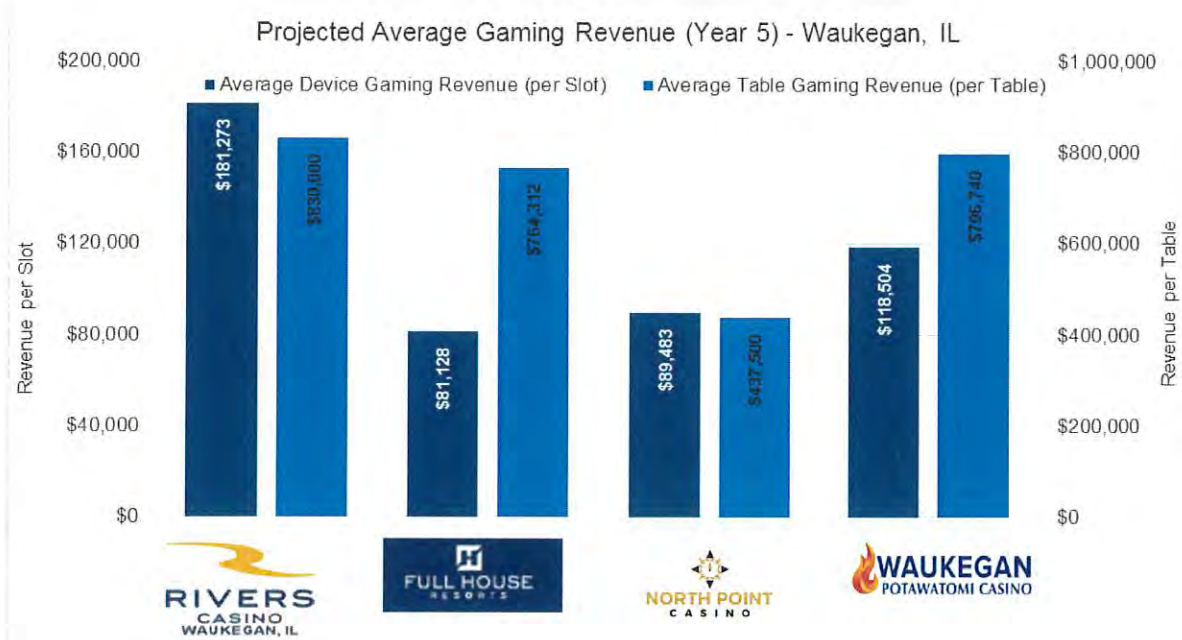


Source: Developer Proposals, Illinois Gaming Board 2018 Annual Report, Johnson Consulting

Figure 11 provides a breakdown of revenues per gaming position (slots) and per table (for table games), based upon projections presented in each proposal, highlighting that average device gaming revenues range between \$81,128 per position (Full House) and \$181,273 per position (CDI-RSG), while average table gaming revenues range between \$437,500 per table (North Point) and \$830,000 per table (CDI-RSG), in a stabilized year of operation (assumed to be Year 5).



Figure 11



Source: Developer Proposals, Johnson Consulting

Figure 12 shows the average projected revenues from gaming devices, as presented by each proposer, relative to the average revenue from gaming devices reported by existing Illinois casinos. As shown, the revenue projections presented in 3 of the proposals (Full House, North Point and PHC) fall generally in line with, or below, the Illinois average (\$107,103), while the projections presented in the other proposal (CDI-RSG) are higher than the average but still fall well below reported gaming device revenues at the Rivers Casino in Des Plaines (\$294,890), which is operated by that proposer.



Figure 12

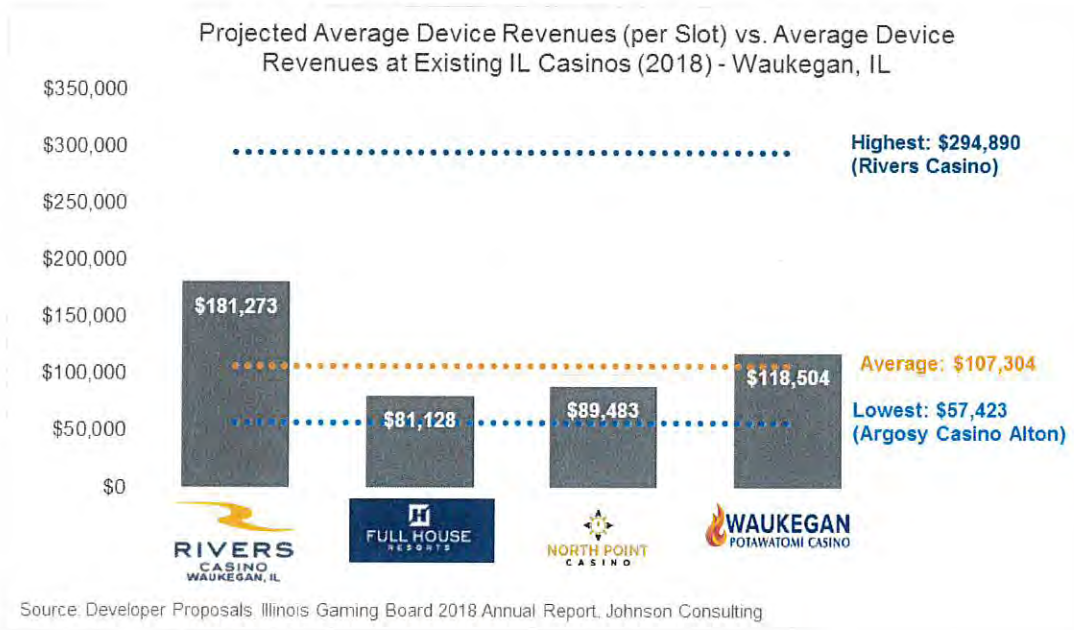


Figure 13 shows the average projected revenues from table games, as presented by each proposer, relative to the average revenue from table games reported by existing Illinois casinos. As shown, the revenue projections presented in all of the proposals fall generally in line with, or below, the Illinois average (\$783,178) and all are well below table gaming revenues at the Rivers Casino in Des Plaines (\$2.7 million), which reported the highest table gaming revenues in the market in 2018.



Figure 13

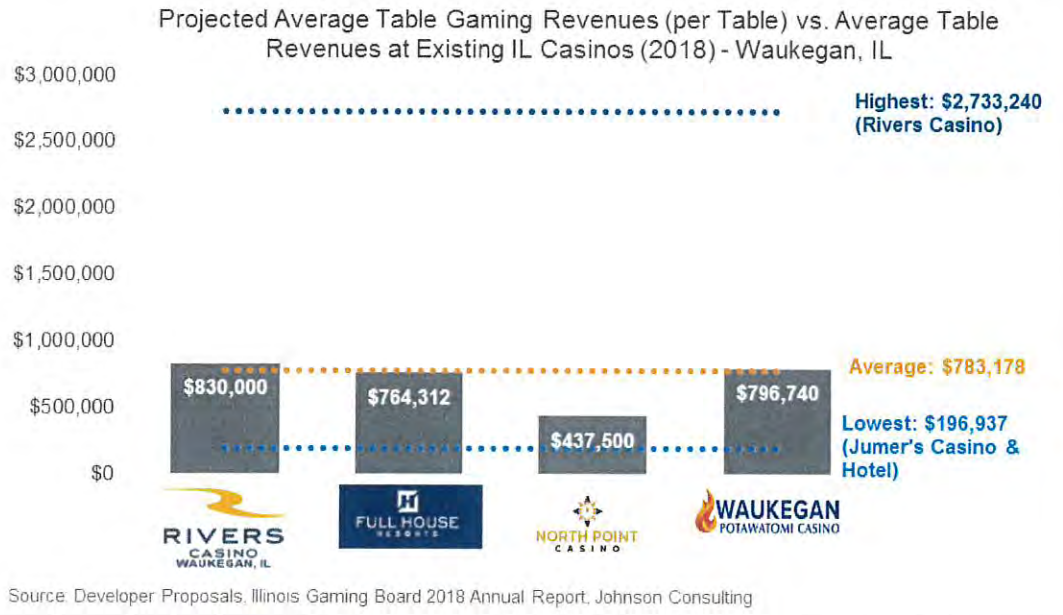


Figure 14 summarizes our commentary on the responses received in relation to Evaluation Criteria #4 Financial Data.



Figure 14

Waukegan Casino RFQ/P Comparison of Financial Data				
	CDI-RSG	Full House	North Point	PHC
<b>Commentary</b>	Reported combined assets of \$2.84B (the majority of which are financial assets) in 2017.	Reported \$182.3M of assets in 2017.	Reported \$834.9M of assets in 2017.	Reported \$392.4M of assets in 2017.
	Of the proposed \$416.0M project cost, CDI-RSG plans to borrow two-thirds (or approx. \$183.0M) from commercial banks, with remaining one-third (or approx. \$91M) as equity.	Of the proposed \$275.3 Million cost, Full House will finance the project through existing cash, debt securities, and a public equity offering.	North Point plans to fund the proposed \$302.2 Million cost as follows: \$90.1M equity, \$132.4M debt financing, \$79.7M funded by casino cash flow.	Of the proposed \$343.3 Million cost, PHC plans to fund the construction and startup of the project, to be repaid by Waukegan Potawatomi Gaming, LLC.
	Bank references from Wells Fargo and JP Morgan Chase Bank.	Bank references came from Credit Suisse Securities (USA) LLC.	Bank references came from Wells Fargo and Canadian Imperial Bank of Commerce (CIBC).	Bank references came from PNC Bank.
	Highest project cost (\$416.0M).	Lowest project cost (\$275.3M).	Second lowest project cost (\$302.2M).	Second highest project cost (\$343.3M).
	Second highest gross gaming device revenue (\$199.4M); Highest gross table gaming revenue (\$49.8M); Projections are aggressive but not unrealistic particularly given performance of Des Plaines property.	Second lowest gross gaming device revenue (\$121.7M); Second highest gross table gaming revenue (\$45.9M); Projections are considered to be conservative.	; Projections are considered to be conservative. Lowest gross gaming device revenue (\$103.8M); Lowest gross table gaming revenue (\$21.0M).	Highest gross gaming device revenue (\$213.3M); Second lowest gross table gaming revenue (\$39.8M); Projections are aggressive but not unrealistic given knowledge and experience in local market.

Source: Respective proposals, Johnson Consulting



## ASSESSMENT

Figure 15 provides Johnson Consulting's independent mathematical ranking of the proposals based upon the 4 categories of information required by the RFQ/P – 1). Property Specifications and Location; 2). Description of Proposed Development; 3). Project Team and Experience; and 4). Financial Data. No weighting or commentary about qualitative or other factors has been considered.

**Figure 15**

Waukegan Casino RFQ/P Score Matrix (Ranking*)				
Evaluation Criteria	CDI-RSG Waukegan, LLC	Full House Resorts, Inc.	Lakeside Casino, LLC dba North Point Casino	Potawatomi Hotel & Casino
<b>#1</b> Property Specification and Locations	3	1	2	3
<b>#2</b> Description of Proposed Development	3	1	1	3
<b>#3</b> Project Team and Experience	1	1	2	2
<b>#4</b> Financial Data	1	3	2	2
<b>Overall Ranking</b>	<b>2.0</b>	<b>1.5</b>	<b>1.8</b>	<b>2.5</b>

\* 1 = Highest Ranking

Source: Respective proposals, Johnson Consulting





**FOREST COUNTY POTAWATOMI COMMUNITY**

*Legal Department*

- |                     |                   |                   |
|---------------------|-------------------|-------------------|
| Jeffrey A. Crawford | Michael B. Wacker | Scott J. Thomsen  |
| Jo Swamp            | Kimberly M. Vele  | William P. Dockry |
| Aaron Loomis        | Sara M. Drescher  | Martina R. Gast   |
| Douglas W. Huck     | Danielle Wu       |                   |

October 18, 2019

Dear Mayor Cunningham and Members of the City Council:

Our Waukegan Potawatomi Casino (WPC) team attended the Council meeting last night when the Council voted to certify three of the four applicants. Unfortunately, WPC was not certified for reasons that are not apparent to us and to some of the Council Members. That said, we believe the City Council can address the substantive and procedural issues raised by the conduct of the meeting by reconsidering the matter on Monday, October 21. We believe the City Council’s vote should be reconsidered for the following reasons:

**The City Council Meeting Violated the Open Meetings Act**

At the meeting last night, a member of the public asked if public comment was going to be permitted. The Mayor answered that public comment would not be allowed. This was a clear violation of the Open Meetings Act. Section 2.06(g) of the Act (5 ILCS 120/2.06 (g)) states: “Any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body.” Per Section 6, the “provisions of this Act constitute minimum requirements for home rule units.” It is recognized by municipal law experts that a court may invalidate an action taken at an illegal meeting. This possibility can be averted if the City Council reconsiders its actions on Monday night.

**Factual Errors in the C.H. Johnson Report to the City Council Materially Harmed WPC**

The C.H. Johnson report submitted to the Council repeated the error Mr. Johnson made at the public hearing on September 18. In both instances, he reported that WPC offered \$5.6 million for the Fountain Square site. This material and inaccurate statement was corrected in writing to the Waukegan Corporation Counsel and most recently in our Letter Supplement. Johnson failed to correct the error in his report to the Council on October 17. This error, among others, was the basis for the low score he assigned to WPC.

**Oral Statements by C.H. Johnson to the City Council were Factually Wrong and Materially Harmed WPC**

- C.H. Johnson told the Council that the Illinois Gaming Board would “rank” the certified proposals, and the City would then have an opportunity to negotiate with the applicants. This was false and misleading. In accordance with the Riverboat Gambling Act (“RGA”) as amended, Section 7E(5) states that the certification provided to the IGB will have detailed all details concerning the proposed casino. There is no more negotiation contemplated. The IGB shall not alter or change any agreement between the applicant and the municipality. These items will be determined prior to submission of an application and that is

{00190926.2}

3136 W. Kilbourn Ave. ■ Milwaukee, WI 53208 ■ 414-837-3200 TEL ■ 414-342-0741 FAX  
P.O. Box 340 ■ Crandon, WI 54520 ■ 715-478-7258 TEL ■ 715-478-7266 FAX



October 18, 2019

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the purpose of the Resolution and Certification. The IGB will not share its analysis with the host community. IGB will not “rank” applicants and then send the ranking back to the host community to renegotiate terms. IGB will just issue a final selection decision based on the information submitted with the application. The IGB decision will be binding on the City.

- C.H. Johnson told the Council that he was legally prohibited from considering any supplemental information or analysis submitted by the applicants. This is incorrect. The WPC Letter Supplement included: a further explanation of our proposed Downtown Development Project; a correction of Johnson’s error in the offer price for the land; an offer of \$12 million for the land; significant critique of the financial analysis of the other applications; and rebuttal of information on the impact on the Genesee Theater and of noise pollution triggered by the outdoor amphitheater proposed by North Point. This was critical information the expert ignored.
- Corporation Counsel Long was present and witnessed each of these significant errors during the meeting. He knew each of these was incorrect, yet he remained silent. As a result, the Council based its decision on materially incorrect information.
- As mentioned above, the meeting was conducted without providing an opportunity for public comments or for the applicants to correct the errors made by C. H. Johnson. The Corporation Counsel failed to advise the Council that it was required to offer the applicants and the public an opportunity to speak.

**The C.H. Johnson Report to the City Council was Misleading and Confusing and Materially Harmed WPC**

The C.H. Johnson report was inaccurate and misleading. Several Council members expressed serious concern over the process and the methodology of the study. Johnson could not explain how Potawatomi was rated first or second in nearly every financial category and yet he ranked Potawatomi last. Although Mr. Johnson said his report was scored using simple mathematics, his final rankings are in fact mathematically impossible. See the attached Simple Mathematics Chart, which corrects the C.H. Johnson Report. The Mayor was quoted as conceding that Potawatomi was likely not certified because of Johnson’s ranking.

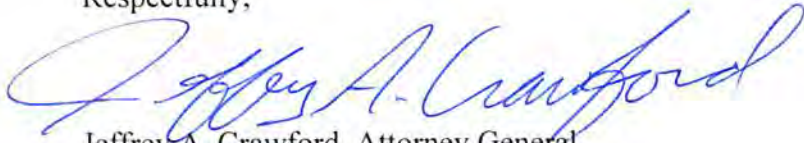
**Conclusion and Request**

It is obvious to all, and it will be obvious to the citizens of Waukegan, that the failure to certify Potawatomi was based on inaccurate information and a defective and fundamentally unfair process. The City can still make this right by reconsidering the rejection of the vote on Potawatomi. We urge the City Council to do so on Monday, October 21.

October 18, 2019

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Respectfully,



Jeffrey A. Crawford, Attorney General  
Forest County Potawatomi Community

Cc: Robert Long  
Gerald P. Callaghan  
Robert O'Donnell  
Donna B. More  
Bryan Winter

enclosure

## C.H. Johnson October 2, 2019 - Report "Simple Mathematics"

Johnson does not explain his category ranking but it appears he is using a 1 to 4 scoring. Stating that:

"This memorandum report presents our summary-level analysis and ranking of proposals #1 through #4 as received by the City, based upon the information presented in those proposal."

Based on his scoring, one is the highest ranking and four is the lowest ranking. He also states:

"No weighting or commentary about qualitative or other factors has been considered."

The following chart summarizes the Johnson scoring for each applicant. Johnson's Figure 15 rankings do not match the actual scoring of each category. Waukegan Potawatomi Casino added Johnson's scores and then divided by the number of figures. Even if you accept Johnson's scoring, the correct rankings should be:

First- Rivers - 1.73

Second- Waukegan Potawatomi Casino - 1.82

Third- Full House - 2.91

Fourth- North Point -3.55

	Waukegan Potawatomi Casino	Rivers	Full House	North Point
<b>1. Property Specifications and Location</b>				
<b>Figure 1 and 2- Proposed Site Purchase Price</b>	\$5.6 Million* Score:4	\$11.0 Million Score:3	\$30.0 Million Score:1	\$22.0 Million Score:2
<b>2. Description of Proposed Development</b>				
<b>Figure 3 - Size of Proposed Casinos</b>	1,800 - Slots 50- Gaming Tables	1,100 - Slots 60- Gaming Tables	1,500- Slots 60- Gaming Tables	1,160 - Slots 48 - Gaming Tables
<b>A. Proposed Development</b>	Score:1	Score:4	Score:2	Score:3
<b>Figure 4 - Annual Employment Created by Proposed Casinos **</b>	1,382- At Casino 2,599 - Total Jobs	1,092 - At Casino 1,439- Total Jobs	820- At Casino 1,350- Total Jobs	685- At Casino 1,180- Total Jobs
<b>G. Economic Benefits</b>	Score:1	Score:2	Score:3	Score:4

C.H. Johnson October 2, 2019 - Report  
"Simple Mathematics"

	Waukegan Potawatomi Casino	Rivers	Full House	North Point
<b>Figure 5- Gaming/Admissions Tax</b>	\$8.0 Million  Score:2	\$9.5 Million  Score:1	\$6.5 Million  Score:3	\$4.4 Million – excludes Admission Tax***  Score:4
<b>Figure 6- Comparison of Proposed Development</b>	Seconded highest estimated fiscal impact to City of Waukegan  Score: 2	Highest estimated fiscal impact to City of Waukegan  Score: 1	Seconded lowest estimated fiscal impact to City of Waukegan  Score: 3	Lowest estimated fiscal impact to City of Waukegan (excluding Admission taxes)  Score: 4
<b>3. Project Team Experience</b>				
<b>Figure 7 – Comparison of Project Team and Experience</b>	Figure 7 has no score. All 4 applicants are listed as extensive experience.	Figure 7 has no score. All 4 applicants are listed as extensive experience.	Figure 7 has no score. All 4 applicants are listed as extensive experience.	Figure 7 has no score. All 4 applicants are listed as extensive experience.
<b>4. Financial Data</b>				
<b>Figure 8- Estimated Project Cost (\$M)</b>	\$343.3 Million  Score: 2	\$416.0 Million  Score: 1	\$275.3 Million  Score: 4	\$302.2 Million  Score: 3
<b>Figure 9 – Projected Gross Device and Table Gaming Revenue</b>	\$213.3 Million – Gross Device Gaming Revenue  \$39.8 Million – Gross Table Gaming Revenue  Score: 1	\$199.4 Million- Gross Device Gaming Revenue  \$49.8 Million - Gross Table Gaming Revenue  Score: 2	\$121.7 Million - Gross Device Gaming Revenue  \$45.9 Million - Gross Table Gaming Revenue  Score: 3	\$103.8 Million - Gross Device Gaming Revenue  \$21.0 Million - Gross Table Gaming Revenue  Score:4
<b>Figure 10- Project Gross Gaming</b>	\$253.1 Million	\$249.2 Million	\$167.6 Million	\$124.8 Million

C.H. Johnson October 2, 2019 - Report  
"Simple Mathematics"

	Waukegan Potawatomi Casino	Rivers	Full House	North Point
<b>Revenues (Year 5) vs. Gaming Revenues at Existing IL Casinos (2018)</b>	Score:1	Score:2	Score:3	Score:4
<b>Figure 11 – Project Average Gaming Revenue ( Year 5)</b>	\$118,504- Average Device Gaming Revenue ( Per Slot)  \$769,740 – Average Table Gaming Revenue (Per Table)	\$181,273 - Average Device Gaming Revenue ( Per Slot)  \$830,000- Average Table Gaming Revenue (Per Table)	\$81,128 - Average Device Gaming Revenue ( Per Slot)  \$764,312- Average Table Gaming Revenue (Per Table)	\$89,483 - Average Device Gaming Revenue ( Per Slot)  \$437,500- Average Table Gaming Revenue (Per Table)
<b>Figure 12 – Projected Average Device Revenues (Per Slot) vs. Average Device Revenues at Existing IL Casinos (2018)</b>	Score:2 \$118,504	Score:1 \$181,273	Score:3 \$81,128	Score:4 \$89,483
<b>Figure 13 – Projected Average Table Gaming Revenues (Per Table) vs. Average Table Revenues at Existing IL Casinos (2018)</b>	Score:2 \$796,740	Score:1 \$830,000	Score:3 \$764,312	Score:4 \$437,500
<b>Figure 15 – Johnson Report Score Matrix (Rankings)</b>	2.5	2.0	1.5	1.8
<b>Corrected Figure 15 Rankings</b>				
<b>Score Totals</b>	<b>20 (Second)</b>	<b>19 (First)</b>	<b>32 (Third)</b>	<b>39 (Fourth)</b>
<b>Average Score/Ranking</b>	1.82	1.73	2.91	3.55

## **C.H. Johnson October 2, 2019 - Report "Simple Mathematics"**

**\* Potawatomi did not offer this amount.**

**\*\* Figure 4. Categories B-F are not scored. Category G. Economic Benefits is not scored but WPC is # 1 and Rivers is # 2 on the range of impact. Full House did not provide an estimate, which is a violation of the RFQ/P 2.G. North Point annual impact number is not listed.**

**\*\*\*North Point failed to provide their Admission Tax Estimate. Report Figure 4 and Figure 5. This is a violation of RFQ/P 2.A.**

Request for Agenda Item

Motion to Reconsider

Waukegan City Council Meeting - October 21, 2019

We, the undersigned Members of the Waukegan City Council, hereby request that the following matter be placed on the agenda for the City Council Meeting on October 21, 2019: **Motion to reconsider the City Council's vote of October 17, 2019 on the Resolution for Potawatomi, which resolution is entitled "A RESOLUTION CERTIFYING POTAWATOMI's PROPOSAL FOR A RIVERBOAT GAMING OPERATION TO THE ILLINOIS GAMING BOARD."** A copy of said Resolution is attached hereto.

*Gregg Moran*  
Member, City Council, Ward 2

Dated: 10/18/19

*Jul Horian*  
Member, City Council, Ward 8

Dated: 10/18/19

*Ann Taylor*  
Member, City Council, Ward 9

Dated: 10/18/19

\_\_\_\_\_  
Member, City Council, Ward \_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Member, City Council, Ward \_\_

Dated: \_\_\_\_\_

Received:

By: \_\_\_\_\_

Date: \_\_\_\_\_

*Delia 10/18/19 3:43pm*





**RESOLUTION No. 2019-R-\_\_\_**

**A RESOLUTION CERTIFYING POTAWATOMI'S  
PROPOSAL FOR A RIVERBOAT GAMING OPERATION  
TO THE ILLINOIS GAMING BOARD**

**WHEREAS**, Pursuant to Public Act 101-0031(the "Act"), the State of Illinois earmarked an owner's license for the conduct of riverboat gambling in the City of Waukegan (the "City"); and

**WHEREAS**, Pursuant to Public Act 101-0031(the "Act"), the State of Illinois earmarked an owner's license for the conduct of riverboat gambling in the City of Waukegan (the "City"); and

**WHEREAS**, the City issued a Request for Qualifications and Proposals ("RFQ") to identify prospective developers of a Riverboat gambling operation (hereinafter referred to as either "casino" or "riverboat"); and

**WHEREAS**, the City received a response from Potawatomi (the "Applicant") to build and operate a casino in Waukegan, Illinois hereto attached as Exhibit A; and

**WHEREAS**, the City held a Public Hearing on September 18, 2019 at 4:00pm at the Genesee Theatre, where the Applicant presented their proposal to the public, and the public was given time to address both the Applicant and the City's Corporate Authorities; and

**WHEREAS**, the City allowed three weeks of written comment following the Public Hearing, receiving more than 1,200 comments from residents and the public; and

**WHEREAS**, the City Council further heard oral comments from more than two dozen members of the public on the casino proposals at its regularly scheduled Council meeting held October 7, 2019; and

**WHEREAS**, the City Staff and consultants thoroughly vetted the Applicant's proposal, with their findings being incorporated into the report prepared by Charles Johnson, hereto attached as Exhibit B; and

**WHEREAS**, the Act requires that the corporate authority of the City submit a certification to the Illinois Gaming Board (the "Board") concerning certain items found in Section 230 ILCS 10/7(e-5); and

**WHEREAS**, the City Council desires to certify the Applicant to the Board for its competitive bidding process, pursuant to the Act, as the Board has specialized knowledge and technical expertise to more

thoroughly investigate, and select of the applicants certified by the City, to select that applicant who will be most beneficial to the City and State; and

**WHEREAS**, the City contemplates that final negotiations on all of the terms with the Applicant cannot take place until after the Board completes its process and issues a license; and

**WHEREAS**, the City Council finds that the Applicant has negotiated with the Corporate Authority in good faith; and

**WHEREAS**, the City and the Applicant have mutually agreed in general terms upon a permanent location for the riverboat; and

**WHEREAS**, the City and the Applicant have mutually agreed in general terms on location for a temporary riverboat; and

**WHEREAS**, the City and the Applicant have mutually agreed in general terms on the percentage of revenues to be shared with the City; and

**WHEREAS**, the City and the Applicant have mutually agreed in general terms on the zoning, licensing, public health, and other issues under the jurisdiction of the City;

**NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF WAUKEGAN, LAKE COUNTY, ILLINOIS as follows:**

**SECTION ONE.** The foregoing recitals are hereby incorporated as findings of fact as if fully set forth here.

**SECTION TWO.** The Applicant, Potawatomi, is hereby certified to the Illinois Gaming Board, with the details of the mutual agreements included in the Applicant's Response to the City's Request for Proposals, hereto attached as Exhibit A, which should be read in conjunction with any additional materials submitted by the Applicant, hereto attached as Exhibit C. All Exhibits are hereby incorporated in their entirety as if fully set forth here.

**SECTION THREE.** This Resolution shall take effect immediately upon passage.

PASSED BY THE CITY COUNCIL OF THE CITY OF WAUKEGAN, ILLINOIS, ON THIS \_\_\_\_ DAY OF OCTOBER, 2019.

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SAMUEL D. CUNNINGHAM, JR.  
MAYOR OF THE CITY OF WAUKEGAN

ATTEST:

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JANET E. KILKELLY, CITY CLERK



## Monday, October 21, 2019 Regular City Council Meeting

**Time of meeting: 7:00 pm**  
**Waukegan City Hall ~ Council Chambers**  
**100 N MLK Jr. Ave - Waukegan IL 60085**  
**Telephone: (847)599-2513**

### **1. Opening Items**

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- A. Roll Call
- B. Invocation by Pastor Juan C. Romero, Pacto Con Cristo, Christian Church/ Pledge of Allegiance
- C. Mayor's Comments

### **2. Resolutions/Proclamations/Presentations/Appointments**

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- A. Partnership Update-Lake County Audubon Society
- B. Proclamation: "Anchor & Ark Lodge #1027 Day – October 26, 2019"

### **3. Audience Time**

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- A. Audience Time

### **4. Consent Agenda (Items under the Consent Agenda are considered routine and/or non-controversial and will be approved by one motion. If any one board member wishes to have a separate vote on any item, it will be pulled from the Consent Agenda and voted on separately)**

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- A. Motion to authorize the proper City Officials to approve Change Order #1 in the amount of \$150,000.00 with Ciorba Group, Consulting Engineers for the continuation of the FY2019 Bridge and Culvert Engineering Task Order resulting in a revised contract amount of \$285,100.00. The contract was originally approved on February 20, 2018 in an amount of \$135,110.00. This matter was heard at the Finance & Purchasing Committee.
- B. Motion to grant an exception to the competitive bidding process pursuant to Sec. 2-458 (i)(3) Government Joint Purchasing Act, and approve the award of a contract to West Side Tractor Sales in the amount of \$153,161.41 for the purchase of a 2019 John Deere 644K FT4 4WD Loader with accessories, warranties, less trade-in and discount. This project utilizes 2018B General Obligation Bond Funds. This matter was heard at the Finance & Purchasing Committee.
- C. Motion to grant an exception to the competitive bidding process pursuant to Sec. 2-458 (i)(3) Government Joint Purchasing Act, and approve the award of a contract to Graybar in the amount of \$830,000.00 for the improvement of street lighting as described in the attached Scope of Work. This project utilizes 2018B General Obligation Bond Funds. This matter was heard at the Finance & Purchasing Committee.
- D. Motion to grant an exception to the competitive bidding process pursuant to Sec. 2-458 (i)(3) Government Joint Purchasing Act, and approve the award of a contract to Packer City Int'l Trucks in the amount of \$166,961.31 for the purchase of a snow plow truck with spreader. This project utilizes 2018B General Obligation Bond Funds. This matter was heard at the Finance & Purchasing Committee.
- E. Motion to grant an exception to the competitive bidding process pursuant to Sec. 2-458 (i)(3) Government Joint Purchasing Act, and approve the award of a contract to Currie Commercial in the amount of \$305,226.00 for the purchase of six (6) 2020 Ford F-250 4x4 SD SuperCab Trucks. This project utilizes 2018B General Obligation Bond Funds. This matter was heard at the Finance & Purchasing Committee.

F. Motion to approve the award of a contract to Campanella & Sons, the lowest qualified bidder, in order to make Rugby Ct. watermain improvements in an amount of \$147,448.15. This project utilizes 2018C Water & Sewer Bond funds. This matter was heard at the Finance & Purchasing Committee.

G. Motion to grant an exception to the competitive bidding process pursuant to Sec. 2-458 (i)(7) Good Faith Waiver, and approve the award of a contract to Chicago Communications in order to make install a wireless backhaul infrastructure at the Water Plant in an amount of \$70,000.00. This project utilizes 2018C Water & Sewer Bond funds. This matter was heard at the Finance & Purchasing Committee.

H. Motion to authorize the proper City Officials to renew the agreement with Data Management Inc for Time Clock Plus for a period of two-years, and to provide for on-site training for the time & attendance system, in an amount not to exceed \$37,760.00. This matter was heard at the Finance & Purchasing Committee.

I. Motion to authorize the Director of Planning & Economic Development to make formal application for a grant requiring the disbursement of reimbursable funds and / or a local match requirement with the Chicago Metropolitan Agency for Planning (CMAP), Local Technical Assistance (LTA) Program. This matter was heard at the Finance & Purchasing Committee.

J. Motion to approve Zoning Calendar #2590 - Planned Development - Barwell Manor. This matter was heard by the Community Development Committee.

K. Motion to approve Zoning Calendar #2591 - Map Amendment (Rezoning) - 612 S. Genesee Street. This matter was heard by the Community Development Committee.

L. Motion to approve Zoning Calendar #2593 - Text Amendments to the City of Waukegan Zoning Ordinance providing for single room occupancy units and other affordable housing, by amending Articles 7, 8, 9, 10, 12 and 13. This matter was heard by the Community Development Committee.

M. Motion to approve Regular Payroll dated October 11, 2019 in the total amount of \$1,609,757.95.

N. Motion to approve PBLC Holiday Buyback payroll dated October 11, 2019 in the total amount of \$9,904.32.

O. Motion to approve IAFF Uniform Allowance payroll dated October 11, 2019 in the total amount of \$55,500.00.

P. Motion to approve Elected Official and Civil Service Stipend payroll dated October 11, 2019 in the total amount of \$6,566.66.

Q. Motion to approve final payouts (Lyons E, Ulloa A, Flores A) dated October 11, 2019 in the total amount of \$69,984.68.

R. Motion to approve Retro Payroll (Martinez S, Niemiec, R) dated October 11, 2019 in the total amount of \$1,859.55.

S. Motion to approve vendor payments dated October 21, 2019 in the total amount of \$2,099,613.44.

T. Motion to approve all raffle sale applications

## **5. Reports and Communication**

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A. Annual Treasurer's report

B. Monthly Treasurer's Report

## **6. Finance & Purchasing Committee**

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A. Motion to approve an Ordinance Adopting and Levying a Municipal Cannabis Retailers' Occupation Tax.

B. Motion to authorize the proper City Officials to negotiate the terms of a renewal of a Sales Tax Rebate Agreement expiring December 31, 2019 by and between the City of Waukegan and HD Supply Facilities Maintenance Ltd.

## **7. Special Community Development Committee**

---

A. Motion to approve Zoning Calendar #2594 - Text Amendments to the City of Waukegan Zoning Ordinance authorizing and regulating the legal marketing of adult-use recreational cannabis, by amending Articles 8, 9, 10, 12 and 13. This matter was heard by the Community Development Committee.

**8. Old Business**

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**9. New Business**

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A. Motion to approve, as presented, a Resolution Authorizing an Intergovernmental Agreement with the Illinois Environmental Protection Agency to provide for Ambient Air Sampling for Ethylene Oxide

**10. Ordinances**

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A. Ordinance approving an Appropriation Transfer relative to the Annual Appropriation adopted for the May 1, 2018 to April 30, 2019 fiscal year.

**11. Closing Items**

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A. Aldermen's Time

**12. Adjournment**

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**13. Committee Times**

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A. 5:00 PM Finance & Purchasing Committee

B. 5:30 PM Special Community Development Committee

City of Progress

**REGULAR MEETING MINUTES - OCTOBER 21, 2019**  
**OFFICE OF THE WAUKEGAN CITY CLERK**  
**JANET E. KILKELLY**

**The Council of the City of Waukegan met in regular session on Monday, October 21, 2019 at 7:00 PM**

**City Council Chambers, City Hall. 100 N. Martin Luther King Jr. Ave, Waukegan.**

**Mayor; Samuel D. Cunningham Jr, City Clerk; Janet E. Kilkelly, City Treasurer; Dr. John R. Schwab, and Corporation Counsel; Robert J. Long, were present.**

**1. Opening Items**

**Procedural: A.** Roll Call

**PRESENT:** Ald Seger, Ald Moisiso, Ald Kirkwood, Ald Newsome, Ald Turner, Ald Rivera, Ald Florian, Ald Taylor, Ald Bolton.

**ABSENT:** None.

**Information: B.** Invocation by Pastor Juan C. Romero, Pacto Con Cristo, Christian Church / Pledge of Allegiance

**Information: C.** Mayor's Comments - *At this time, Mayor Cunningham shared his comments with residents. Presentations took place at this time, as well.*

**2. Resolutions/Proclamations/Presentations/Appointments**

**Information: A.** Partnership Update-Lake County Audubon Society

**Action: B.** Motion by Ald Taylor, second by Ald Bolton to approve a Proclamation: "Anchor & Ark Lodge #1027 Day – October 26, 2019"

**MOTION APPROVED**

**3. Audience Time**

Jeff Crawford: He came in support to reconsider Potawatomi.

Donna Moore: She came in support to reconsider Potawatomi.

Ray Vukovich: He came in support to reconsider Potawatomi.

Diana Burdette: She talked about IEPA - She explained that voices in the community need to be heard. She explained a few House Bills, and explained what can be done.

Dylan Burdette: He talked about IEPA - and explained that voices in the community need to be heard. He talked about the companies that are causing issues, and that are operating as normal. He explained that businesses need to be held accountable.

Clyde McLemore: He submitted a written document for the Office of the City Clerk, which is available in the City Records. He explained his efforts for Black Lives Matter, and an upcoming event.

Dave Heikkala: He raised concerns regarding the numbers given by Johnson Consulting at the Special City Council Meeting on the 17th of October.

Daniel Hartman: He spoke in opposition of the proposed casino.



Jonathan Gaskil: Assistant Executive Director of the Waukegan Public Library - He gave an update from the Waukegan Public Library.

Peggy Jones: She introduced herself as a member of Beacon Place Community Center, Waukegan. She talked about an upcoming event, co-partnered with ComEd. The event is scheduled to be held on November 16th.

Rosy Munuz: She discussed issues with Aldermen violating the Open Meetings Act, when discussing the reconsideration of Potawatomi Casino.

Karen Long McClead: Introduced herself as a volunteer leader of Clean Power Lake County - She spoke on the dangers of ETO in our community.

Margaret Carrasco: She spoke regarding her complaint against Micheal Bond, of Taproom Gaming and North Point Casino. She explained a situation that took place between a business owner and Mr. Bond, at Fountain Square. She called on the City of Waukegan to disqualify North Point Casinos' proposal.

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**Motion by Ald Moisio, second by Ald Florian to move item 8, Old Business, before Consent agenda.**

**MOTION APPROVED**

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### **8. Old Business**

**Action: A.** Motion by Ald Florian, second by Ald Moisio to reconsider the casino proposal from Potawatomi Casino

At this time, a lengthy discussion took place between Ald Moisio, Ald Florian, Ald Taylor, and Mayor Cunningham. Ald Taylor originally voted Nay, but after consideration, decided to change her vote to an Aye vote. Ultimately, the majority of the City Council voted to reconsider the casino proposal for Potawatomi Casino.

**AYE:** Ald Seger, Ald Moisio, Ald Newsome, Ald Florian, Ald Taylor.

**NAY:** Ald Kirkwood, Ald Turner, Ald Rivera, Ald Bolton.

**ABSENT:** None.

**ABSTAIN:** None.

**MOTION APPROVED**

**Action: B.** Motion by Ald Florian, second by Ald Moisio to approve a Resolution certifying Potawatomi's proposal for a riverboat gaming license to the Illinois Gaming Board.

**AYE:** Ald Moisio, Ald Newsome, Ald Florian.

**NAY:** Ald Seger, Ald Kirkwood, Ald Turner, Ald Rivera, Ald Taylor, Ald Bolton.

**ABSENT:** None.

**ABSTAIN:** None.

**MOTION FAILED**

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Motion by Ald Newsome, second by Ald Moisio to move item 9. A. New Business, to the Consent Agenda.

**MOTION APPROVED**



**4. Consent Agenda (Items under the Consent Agenda are considered routine and/or non-controversial and will be approved by one motion. If any one board member wishes to have a separate vote on any item, it will be pulled from the Consent Agenda and voted on separately.)**

**Motion by Ald Newsome, second by Ald Turner to approve Consent Agenda Items 4. A, B, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, and T. Item 9. A. New Business, was also added to the Consent Agenda for a vote. Item 4. C was removed from the Consent Agenda by Ald Newsome.**

**MOTION APPROVED**

**Action (Consent): A.** Motion to authorize the proper City Officials to approve Change Order #1 in the amount of \$150,000.00 with Ciorba Group, Consulting Engineers for the continuation of the FY2019 Bridge and Culvert Engineering Task Order resulting in a revised contract amount of \$285,100.00. The contract was originally approved on February 20, 2018 in an amount of \$135,110.00. This matter was heard at the Finance & Purchasing Committee.

**Action (Consent): B.** Motion to grant an exception to the competitive bidding process pursuant to Sec. 2-458 (i)(3) Government Joint Purchasing Act, and approve the award of a contract to West Side Tractor Sales in the amount of \$153,161.41 for the purchase of a 2019 John Deer 644K FT4 4WD Loader with accessories, warranties, less trade-in and discount. This project utilizes 2018B General Obligation Bond Funds. This matter was heard at the Finance & Purchasing Committee.

**Action: C.** Motion by Ald Newsome, second by Ald Kirkwood to grant an exception to the competitive bidding process pursuant to Sec. 2-458 (i)(3) Government Joint Purchasing Act, and approve the award of a contract to Graybar in the amount of \$830,000.00 for the improvement of street lighting as described in the attached Scope of Work, **pending staff and legal approval**. This project utilizes 2018B General Obligation Bond Funds. This matter was heard at the Finance & Purchasing Committee.

Ald Newsome explained why this item was taken out of the consent agenda. She explained that an **amendment (see above)** was made to this agenda item during the Finance and Purchasing Committee.

**AYE:** Ald Seger, Ald Moisia, Ald Kirkwood, Ald Newsome, Ald Turner, Ald Rivera, Ald Florian, Ald Taylor, Ald Bolton.

**NAY:** None.

**ABSENT:** None.

**ABSTAIN:** None.

**MOTION APPROVED**

**Action (Consent): D.** Motion to grant an exception to the competitive bidding process pursuant to Sec. 2-458 (i)(3) Government Joint Purchasing Act, and approve the award of a contract to Packer City Int'l Trucks in the amount of \$166,961.31 for the purchase of a snow plow truck with spreader. This project utilizes 2018B General Obligation Bond Funds. This matter was heard by the Community Development Committee.

**Action (Consent): E.** Motion to grant an exception to the competitive bidding process pursuant to Sec. 2-458 (i)(3) Government Joint Purchasing Act, and approve the award of a contract to Currie Commercial in the amount of \$305,226.00 for the purchase of six (6) 2020 Ford F-250 4x4 SD SuperCab Trucks. This project utilizes 2018B General Obligation Bond Funds. This matter was heard at the Finance & Purchasing Committee.

**Action (Consent): F.** Motion to approve the award of a contract to Campanella & Sons, the lowest qualified bidder, in order to make Rugby Ct. watermain improvements in an amount of \$147,448.15. This project utilizes 2018C Water & Sewer Bond funds. This matter was heard at the Finance & Purchasing Committee.

**Action (Consent): G.** Motion to grant an exception to the competitive bidding process pursuant to Sec. 2-458 (i)(7) Good Faith Waiver, and approve the award of a contract to Chicago Communications in order to make install a wireless backhaul infrastructure at the Water Plant in an amount of \$70,000.00. This project utilizes 2018C Water & Sewer Bond funds. This matter was heard at the Finance & Purchasing Committee.

**Action (Consent): H.** Motion to authorize the proper City Officials to renew the agreement with Data Management Inc for Time Clock Plus for a period of two-years, and to provide for on-site training for the time & attendance system, in an amount not to exceed \$37,760.00. This matter was heard at the Finance & Purchasing Committee.

**Action (Consent): I.** Motion to authorize the Director of Planning & Economic Development to make formal application for a grant requiring the disbursement of reimbursable funds and / or a local match requirement with the Chicago Metropolitan Agency for Planning (CMAP), Local Technical Assistance (LTA) Program. This matter was heard at the Finance & Purchasing Committee.

**Action (Consent): J.** Motion to approve Zoning Calendar #2590 - Planned Development - Barwell Manor. This matter was heard by the Community Development Committee.

**Action (Consent): K.** Motion to approve Zoning Calendar #2591 - Map Amendment (Rezoning) - 612 S. Genesee Street. This matter was heard by the Community Development Committee.

**Action (Consent): L.** Motion to approve Zoning Calendar #2593 - Text Amendments to the City of Waukegan Zoning Ordinance providing for single room occupancy units and other affordable housing, by amending Articles 7, 8, 9, 10, 12 and 13. This matter was heard by the Community Development Committee.

**Action (Consent): M.** Motion to approve Regular Payroll dated October 11, 2019 in the total amount of \$1,609,757.95.

**Action (Consent): N.** Motion to approve PBLC Holiday Buyback payroll dated October 11, 2019 in the total amount of \$9,904.32.

**Action (Consent): O.** Motion to approve IAFF Uniform Allowance payroll dated October 11, 2019 in the total amount of \$55,500.00.

**Action (Consent): P.** Motion to approve Elected Official and Civil Service Stipend payroll dated October 11, 2019 in the total amount of \$6,566.66.

**Action (Consent): Q.** Motion to approve final payouts (Lyons E, Ulloa A, Flores A) dated October 11, 2019 in the total amount of \$69,984.68.

**Action (Consent): R.** Motion to approve Retro Payroll (Martinez S, Niemiec, R) dated October 11, 2019 in the total amount of \$1,859.55.

**Action (Consent): S.** Motion to approve vendor payments dated October 21, 2019 in the total amount of \$2,099,613.44.

**Action (Consent): T.** Motion to approve all raffle sale applications

**Action: New Business (Consent Agenda): 9. A.** Motion to approve, as presented, a Resolution Authorizing an Intergovernmental Agreement with the Illinois Environmental Protection Agency to provide for Ambient Air Sampling for Ethylene Oxide

**AYE:** Ald Seger, Ald Moisio, Ald Kirkwood, Ald Newsome, Ald Turner, Ald Rivera, Ald Florian, Ald Taylor, Ald Bolton.

**NAY:** None.

**ABSENT:** None.

**ABSTAIN:** None.

**MOTION APPROVED**

## **5. Reports and Communication**

**Information: A.** Annual Treasurer's Report.

**Action: B.** Motion by Ald Seger, second by Ald Rivera to approve the Monthly Treasurer's Report

City Treasurer, Dr. John R. Schwab, explained the discussion that took place regarding the attached reports. He explained that a voice vote is needed by the Aldermen, and that the reports are filed with the Office of the City Clerk, and the Office of the Lake County Clerk, upon approval from City Aldermen.

### **MOTION APPROVED**

## **6. Finance and Purchasing**

**Action: A.** Motion by Ald Newsome, second by Ald Taylor to approve an Ordinance Adopting and Levying a Municipal Cannabis Retailers' Occupation Tax.

Ald Newsome, Ald Kirkwood, Ald Turner, and Mayor Cunningham discussed. Concerns were shared. Corporation Counsel Robert J. Long, clarified, and answered their concerns.

**AYE:** Ald Seger, Ald Moisio, Ald Kirkwood, Ald Newsome, Ald Rivera, Ald Florian, Ald Taylor, Ald Bolton.

**NAY:** Ald Turner.

**ABSENT:** None.

**ABSTAIN:** None.

### **MOTION APPROVED**

**Action: B.** Motion to authorize the proper City Officials to negotiate the terms of a renewal of a Sales Tax Rebate Agreement expiring December 31, 2019 by and between the City of Waukegan and HD Supply Facilities Maintenance Ltd.

### **TABLED IN COMMITTEE BY ALD NEWSOME**

## **7. Special Community Development Committee**

**Action: A.** Motion by Ald Moisio, second by Ald Taylor to approve Zoning Calendar #2594 - Text Amendments to the City of Waukegan Zoning Ordinance authorizing and regulating the legal marketing of adult-use recreational cannabis, by amending Articles 8, 9, 10, 12 and 13. This matter was heard by the Community Development Committee.

Ald Taylor explained that she is not pro, or against adult-use recreational cannabis, but explained that she would like to see a community meeting, to help answer some questions that are hard by residents. Ald Bolton agreed with Ald Taylor, and explained why. Ald Moisio explained what may happen during a public forum for this topic. Ald Moisio moved to make a motion to hold over this item.

### **Motion by Ald Moisio to hold over item 7. A. under Special Community Development Committee.**

Mayor Cunningham shared his comments. Ald Florian explained that she didn't feel the City of Waukegan did a good job letting people know about this topic. Ald Kirkwood shared his comments, and thoughts on this topic. Ald Florian explained that she respects his opinion. Mayor Cunningham cautioned Ald Florian on her comments, and explained that he believes staff did a good job, and explained that she should not make statements regarding everyone in her Ward. Ald Florian explained that she misspoke, and does not want it to sound like she feels the staff did a bad job, because that is not how she feels, but rather feels the public did not realize that the Planning and

Zoning Committee was the only time they had to give their input. Noelle Kisher-Leapper clarified for Aldermen, how the public was notified.

## HELD OVER BY ALD MOISIO

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### **10. Ordinances**

**Action: A.** Motion by Ald Newsome, second by Ald Seger to approve an Ordinance approving an Appropriation Transfer relative to the Annual Appropriation adopted for the May 1, 2018 to April 30, 2019 fiscal year.

**AYE:** Ald Seger, Ald Moisio, Ald Kirkwood, Ald Newsome, Ald Turner, Ald Rivera, Ald Florian, Ald Taylor, Ald Bolton.

**NAY:** None.

**ABSENT:** None.

**ABSTAIN:** None.

### **MOTION APPROVED**

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### **11. Closing Items**

#### **Procedural: A. Aldermen's Time**

**Ald Seger:** No Comment.

**Ald Moisio:** He explained that Aldermen need to think long and hard about these tax revenue opportunities. He explained that we have two industries that want to come in and make money. He explained that we are not business friendly, and that we need to get out of our own ways. We have been through these budgets and have seen the numbers. He explained that we don't want to raise property taxes, and explained that it will happen if we don't agree with the tax revenue opportunities. He further explained.

**Ald Kirkwood:** He announced the upcoming 'Family Photo Day' for 4th Ward Residents. He explained that we will become a crumbling city if we do not figure out these tax revenue opportunities.

**Ald Newsome:** She talked about the upcoming Exchange Club - Pancake Breakfast at Bonnie Brook Golf Course, this upcoming Saturday morning.

**Ald Turner:** He gave a brief report on the 6th Ward - and explained what is happening, and how departments such as Public Works and Code Enforcement, have been doing a great job.

**Ald Rivera:** He explained that Public Works is doing a great job, and that Mike Hewitt always gets the job done when he is called.

**Ald Florian:** She thanked everyone for coming out tonight, during audience time. She explained that residents are listened to. She clarified a few things that were said at the last meeting regarding her Ward and their opinion on the proposed casino. She also clarified a few things regarding the discussion of Black Lives Matter with Alderman Turner. She talked about her upcoming 8th Ward Clean Up. She also encouraged to clean up leaves and put them in the parkway.

**Ald Taylor:** She reminded residents that she had her last 9th Ward Clean Up of the season on Saturday. She encouraged residents to not put leaves in the street, and to put them on the parkway. She reminded everyone in her 9th Ward about Trick-Or-Treat Hours.

**Ald Bolton:** She sent her condolences to the Buckner Family. She explained the clean up efforts in the 1st Ward - and explained that everything is being nicely prepared by Mike Hewitt and the Public Works team, including alley ways.

Mayor Cunningham shared his condolences on behalf of the City of Waukegan, to the Quinn Family. Mr. Quinn always attends meetings, and has recently lost his wife.

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**12. Adjournment**

Motion by Ald Moisio, second by Ald Taylor to Adjourn at **9:10 PM**

**MOTION APPROVED**

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**These minutes were transcribed by the Office of the Waukegan City Clerk:**

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**JANET E. KILKELLY, CITY CLERK**  
Office of the City Clerk  
City of Waukegan  
Waukegan, Illinois

*ATTEST:*

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**DAVID A. PATTERSON, DEPUTY CITY CLERK**  
Office of the City Clerk  
City of Waukegan  
Waukegan, Illinois

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
LAKE COUNTY, ILLINOIS

FILED

Waukegan Patriotism  
vs.  
City of Waukegan

Case No. 19cv1190 JAN 03 2020

Eric Cantanger Waukegan  
CIRCUIT CLERK

ORDER

This case comes on Plaintiff's motion for leave to file a first amended complaint. The parties received notice, the Court being advised in due

1. The motion for leave to file the first amended complaint is granted.

2. Defendant is given <sup>until February 7, 2020</sup> a responsive pleading.

3. The case is set for a status of proceedings <sup>February 14</sup> on ~~February 14~~ 2020 @ 9:00 a.m. in C407

ENTER:

JUDGE

Stacey L. Seneczko

Dated this 31 day of January, 2020.

Prepared by:  
Attorney's Name: Robert C. Jewell  
Address: 2800 S. Ashley  
City: Waukegan State: IL  
Phone: 847.967.1750 Zip Code: 60048  
Fax:  
ARDC: 312.496.1

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
LAKE COUNTY, ILLINOIS

FILED

JAN 17 2020

Waukegan  
Potawatomi Hotel Casino  
vs.  
Waukegan

Case No. 19 CH 1190

Emm Carstangut Wierstka  
CIRCUIT CLERK

Agreed ORDER

This matter comes before the court on agreement of the parties, this court orders:

The status date set for January 24, 2020 is stricken.

ENTER:

Stacey L. Seneczko

JUDGE

Dated this 17<sup>th</sup> day of January, 2020.

Prepared by:  
Attorney's Name: Hayleigh Herchenbael  
Address: 28045 N Ashley Circle Ste 101  
City: Libertyville State: IL  
Phone: 847 367 2750 Zip Code: 60048  
Fax: 847 367 2758  
ARDC: 6327026