

THIS AGREEMENT, By and between the Forest County Potawatomi Community of Wisconsin, hereinafter known as the "Tribe", and the City of Milwaukee, a municipal corporation, hereinafter known as "City";

WITNESSETH:

IN CONSIDERATION of the sum of One Dollar (\$1.00) to each party in hand paid by the other, receipt whereof is hereby acknowledged, and in further consideration of the covenants and agreements hereinafter contained.

WHEREAS, The Tribe and the City wish to enter into an Out-of-Program Agreement providing for the installation of various public improvements to serve the planned expansion of the Potawatomi Casino located at 1721 West Canal Street; and

WHEREAS, The Tribe is the owner of the entire site upon which the existing casino and the proposed expansion would be located; and

WHEREAS, That site is illustrated by Exhibit "A" to this agreement;

NOW, THEREFORE, In consideration of these premises and the mutual benefits herein accruing and for other good and valuable considerations,

IT IS AGREED, By and between the parties hereto that:

1. Funding Obligation

Unless specifically noted, the Tribe agrees to provide all funds

necessary for design and construction of the public improvements, easement preparation as may be required, water fittings, materials inspections, construction inspections, and any related City work necessitated by the project and as described herein.

2. Public Improvements Design

It is agreed that the City through its Department of Public Works will design the public improvements listed and described herein. All plans shall be prepared to City specifications. All City costs associated with plan preparation shall be the Tribe's responsibility.

3. Construction Option

Upon mutual concurrence of the Tribe and the Commissioner of Public Works, the Tribe may let and administer construction contracts for one or more of the improvements covered by this Agreement. In the event the Tribe manages one or more public improvement construction contracts, City shall perform its normal inspections during the course of construction. In addition, the Tribe agrees to comply with and administer on behalf of the City, all applicable City rules and requirements pertaining to Emerging Business Enterprise (EBE) and local resident involvement in the construction contracts. The Tribe also agrees to incorporate the Department of Public Works' General Specifications for public improvements and the Department's standard warranty requirements into any private construction contract.

The Tribe shall not authorize any changes in improvement plans without the prior approval of the Commissioner of Public Works. All payments to contractors must be pre-approved by the

Commissioner.

4. Site Grading

The Tribe agrees to pre-grade, as may be necessary, any of its property where public improvements would be located in easement. Grading plans shall be reviewed and approved by the Commissioner of Public Works. The grading plan must be approved prior to design engineering of the public improvements. The Tribe is responsible for obtaining any and all permits required to undertake grading activities.

5. Water Improvements

Approximately 435 feet of existing 12-inch diameter water main located in the former right-of-way of W. Pittsburgh Street immediately east of S. 19th Street will be abandoned in place. New 12-inch water main approximately 420 feet in length will be constructed in what is now known as W. Potawatomi Circle to replace the abandoned segment. These water main changes will necessitate the extension of two existing water laterals. In addition to the required water main work, several existing fire hydrants will have to be removed or relocated. The estimated costs for all of these water facility improvements are as follows:

Design	\$ 11,500
Construction (including materials)	\$ 130,000
Inspection & related activities	\$ 18,500

If the Tribe undertakes the construction of the water improvements with its own contractor, the Tribe shall provide all required water fittings. The Tribe shall also be responsible for obtaining any

required State of Wisconsin Department of Natural Resources Water Main Installation permits. City will provide the flow test information required as part of the permit application.

6. Sewer Improvements

The existing combined overflow sewer located in the eastern north/south leg of Potawatomi Circle (formerly S. 16th Street) will be converted into a storm sewer. This section of combined overflow sewer is in good condition and can be converted without major repairs or replacement. Only minor adjustments to the sewer will be required. However, this sewer is currently under the jurisdiction of the Milwaukee Metropolitan Sewerage District and must be conveyed from MMSD to the City. Formal approval of the conveyance along with formal acceptance are required from both MMSD's and the City's governing bodies.

Approximately three hundred and ninety (390) feet of existing combined sewer extending south of the east/west leg of Potawatomi Circle will have to be relayed if that section of sewer is to remain in service. The sewer to be relayed is located in an existing easement.

As an alternative to relaying this section of sewer, it may be abandoned in place and the easement released. In that event, the drainage area it serves will have to be connected to other nearby public storm sewer.

New sanitary and storm sewers will also be constructed in the east/west section of Potawatomi Circle (formerly W. Pittsburgh Street). A new sanitary sewer will extend for a distance of approximately 500 feet westerly of the former Pittsburgh / S. 16th Street intersection. A new storm sewer will extend for distance of approximately 540 feet westerly from the same point. A new

sanitary sewer will extend easterly for a distance of approximately 260 feet in Pittsburgh from S. 19th Street. And a new storm sewer will extend easterly from S. 19th Street for approximately 240 feet. These sewers will provide sanitary and storm sewer service to the development.

Existing sanitary and storm sewers located in the now-vacated W. Pittsburgh Street alignment will be abandoned and any easements will be released.

Finally, it may be possible to divert overflow storm water from the project directly into the Menomonee River thereby reducing the need for on-site storm water improvements. This would require certain sewer alterations in W. Canal Street sewers adjacent to the site. The City will investigate this possibility and will work with the Tribe to identify the most cost effective storm water management system. Per paragraph 2, plans for those storm and sanitary sewer improvements, which will eventually be publicly owned and maintained, shall be prepared by the City.

The estimated costs for the sewer alterations in former S. 16th Street are:

Design	\$ 5,000
Construction	\$ 20,000
Inspection	\$ 1,400

The estimated costs for relaying the north/south sewer for a distance of 390 feet south of former W. Pittsburgh Street are:

Design	\$ 6,000
Construction	\$ 50,000
Inspection	\$ 4,000

The estimated costs for the sewer extensions in former W. Pittsburgh Street are:

Design	\$ 30,000
Construction	\$460,000
Inspections	\$ 13,000

The potential cost for improvements to divert storm water directly to the Menomonee River have not been estimated. The City will only pursue this strategy with the concurrence of the Tribe after a preliminary plan and cost estimate are completed. The Tribe will be responsible for all costs.

All existing sewer lines that will be abandoned in place shall become the responsibility of the Tribe. They may be left in place or removed at the Tribe's discretion.

Review and approval of all plans for sewer improvements by the Milwaukee Metropolitan Sewerage District and the Department of Natural Resources are required.

7. Utility Laterals

Any additional utility laterals required to serve the casino expansion shall be installed by the Tribe under permit from the City's Department of Neighborhood Services. The Neighborhood Services Department will inspect the work. The cost of additional laterals is not included in the preceding sewer and water estimates.

8. Storm Water Management Plan

A revised Storm Water Management Plan for the project must be submitted for review and approval by the City Engineer. Any storm water management improvements identified in the approved revised Storm Water Management Plan shall be constructed by the Tribe. A bond must be submitted to the City in an amount established by the Storm Water Management Plan

to ensure completion of the required improvements. Ownership and maintenance of these improvements shall be the responsibility of the Tribe.

9. Access Improvements

An existing parking structure will be expanded as part of the project. The tribe proposes a direct connection from the new section of the parking structure to the City's 16th Street viaduct. The Tribe must demonstrate that this connection can be accomplished without compromising the viaduct's structural integrity. The connection component shall be a freestanding structure that places no structural load upon the viaduct. This connection component shall be owned and maintained by the Tribe and shall be constructed solely at the Tribe's expense. Plans for the interface of the connection structure with the viaduct shall be reviewed and approved by the City Engineer prior to construction. These plans must show proposed modifications to the existing viaduct fence, parapet, roadway deck, and sidewalk.

The plans must also illustrate any utility modifications that will be necessary to accomplish the connection. The estimated cost to review the connection plans is \$1,000.

10. Traffic Impact Analysis

The Tribe shall prepare a Traffic Impact Analysis for review and approval by the City Engineer. This study shall evaluate the traffic impacts of the proposed parking structure connection to the 16th Street viaduct. Design recommendations to mitigate potential problems shall be incorporated into plans for the connection. The

estimated cost to review the traffic analysis is \$1,000.

The study shall also evaluate the need for traffic signals at the intersection of the connection component and the viaduct. If signals are warranted, they shall be installed and maintained by the City. All costs of installation shall be borne by the Tribe. The estimated cost for traffic signal installation is \$50,000.

11. Canal Street Median Landscaping

Three median islands are being constructed in the new Canal Street roadway adjacent to the north frontage of the casino.

The City will install a water connection to each median capped with a vacuum breaker. The Tribe agrees, at its sole expense, to extend irrigation system improvements throughout the medians, to plant landscaping materials in the medians, and to maintain those plantings. Plans for the landscape improvements, including irrigation system improvements, shall be submitted to the Commissioner of Public Works for review and approval prior to installation. Such approval shall not be unreasonably withheld.

The Tribe's landscape maintenance responsibilities shall include removal of dead plant materials and replanting as necessary, removal of litter and debris from the planters, and installation of seasonal plantings if desired by the Tribe. The City shall operate and maintain the irrigation system. The Tribe's landscape responsibilities shall be in effect on a calendar year basis. If the Tribe does not wish to maintain the medians in any year, it shall so notify the Commissioner in writing by October 31st of the preceding year.

12. Other Improvements

The Tribe agrees that any utility and access improvements necessary to serve the site in addition to those listed above shall be its responsibility and shall be undertaken by the Tribe at its sole expense. The Tribe further agrees that the City shall review and approve plans for any work to occur in the public right-of-way. Permits necessary for any such work shall be obtained by the Tribe or other responsible parties.

13. Easements

The Tribe agrees to provide, where necessary and at no cost to the City, all easements and other property rights required to construct, operate and maintain the public improvements described herein. It shall be the Tribe's responsibility to obtain any permits and/or easements or other property rights necessary for the operation and maintenance of the storm water management system and outlets, as approved.

14. Private Utilities

The Tribe agrees that all private utility lines necessary to provide telephone, communications, electrical, and gas services to the casino expansion shall be installed underground, except where the City Plan Commission finds that such underground installations are not feasible.

15. Deposit for Plan Preparation

The total estimated cost for the City's preparation of engineering plans for the water and sewer improvements is \$ 46,500. This figure

does not include the estimated \$6,000 cost of designing the relay sewer south of Pittsburgh. It also does not include the cost of easement preparation, if necessary. The cost to prepare easements is \$600 per affected property. City will not begin plan preparation or easement preparation until the required deposit, in the form of a check made out to the City of Milwaukee, is provided. City will proceed with sewer and water design work prior to final approval of the revised Storm Water Management Plan. Tribe acknowledges that any significant changes in the SWMP after the initiation of utility design work may add to the cost of such design.

16. Deposit for Review of Plans & Studies

The total estimated cost for the City's review of the parking structure connection plans and the Traffic Impact Analysis is \$2,000. City will not begin its review of either of these until a check in this amount and made out to the City of Milwaukee has been provided.

17. Funding Guarantee For Construction

The Tribe shall submit an irrevocable Letter of Credit or other funding guarantee, satisfactory in format to the City Attorney, in an amount equal to the estimated construction contract cost for the sewer and water improvements described herein prior to the award of any public improvement contracts. If the contracts are to be publicly awarded, the funding guarantee shall be for the total estimated amount of the work as estimated herein (\$ 610,000 not including the estimated \$50,000 for the south of Pittsburgh sewer). If the contracts are to be privately awarded, the funding guarantee shall be in an amount equal to the total of the private contracts. In

either event, the amount of the funding guarantee may be reduced from time to time in amounts equal to the value of improvements which have been installed and approved by the City's inspectors and engineers. The amount of any such reduction shall not exceed the amount actually paid to the contractors.

Any and all irrevocable Letters of Credit shall guarantee that the Tribe's bank or savings and loan will provide the required funds to cover the contract cost of installing the applicable infrastructure improvements and will, upon simple request by the Commissioner of Public Works and the City Treasurer, release same to City as required, all such funds to be furnished interest free. The Letter-of-Credit or other funding guarantee shall be submitted to the City prior to the City or the Tribe entering into any contracts for installation of public improvements.

18. Deposits for City Force Work Costs

The estimated cost for installation of traffic signals, if warranted, is \$ 50,000. The Tribe shall deposit this amount in the form of a check made out to the City of Milwaukee once the Traffic Impact Analysis has been approved by the City Engineer.

The total estimated cost for construction engineering (field inspections, contract management, materials inspections, clean water testing, etc.) is \$ 32,900. This figure does not include the estimated \$4,000 required for inspection of the relay sewer south of Pittsburgh. The Tribe shall deposit funds for inspections and related costs in the form of a check made out to the City of Milwaukee prior to the City advertising for public improvement construction bids or prior to the Tribe awarding any contracts for public improvements.

19. Payments

In the event the City lets public improvement construction contracts, the contract costs for the public improvements will be billed to the Tribe upon determination that such costs have been incurred by City. The Tribe shall provide the City with funds to make contract payments. If such funds are not provided within 30 days of being requested, City may draw against the funding guarantee referenced in paragraph 16. It shall be further understood and agreed that where Tribe funded work covered under the terms of this Agreement does not proceed to the bid or contract stage, the City shall still retain a sufficient amount of the Tribe's Engineering Design Review deposit to cover expenses incurred by the City for plan review work commenced by the City at the Tribe's request

Upon completion of the public improvements and all associated City work, City shall return any unspent portions of the Tribe's cash deposits (i.e. the Engineering Design Deposit, the plan review deposit, and the City Force Work Deposit) to the Tribe.

20. Inspections

Both parties agree that all materials furnished and all work performed hereunder shall conform to all regulations and specifications of the City of Milwaukee and its Commissioner of Public Works and shall be subject to inspection by and approval of inspectors and engineers furnished by the Department of Public Works. All engineering and inspection costs incidental to the installation of the public improvements covered by this Agreement shall be subject to the terms of this Agreement, the cost of such

service when furnished by City being established as the wages of the person or persons engaged in such work plus all costs of overhead.

21. Ownership of Public Improvements

It is understood and agreed by both parties hereto that upon completion of the public improvements, title to all public facilities installed under the terms of this Agreement shall vest in the City of Milwaukee and that the City will accept the obligation of operation and maintenance in accordance with its standard practice.

22. Building Permits

It is understood and agreed by both parties hereto that building permits for the casino expansion shall not be issued until (1) the revised Storm Water Management Plan has been approved, (2) the Tribe has provided the City with all required funding guarantees and deposits, (3) all required approvals for any sewer improvements have been granted by the appropriate agencies, and (4) all easements required to construct and maintain underground improvements have been provided to the City.

23. Occupancy Permits

It is understood and agreed by both parties hereto that an occupancy permit for the casino expansion shall not be issued until all planned public improvements have been sufficiently completed so that essential public utility services and traffic access are provided to the structure.

24. City Ordinances and Regulations

City warrants that all work shall be undertaken in accord with City standard and customary public works contracting procedures unless such work is to be undertaken by City Forces or by the Tribe per paragraph 3. It is further understood and agreed that this Agreement is subject to all City ordinances and regulations and nothing herein shall be deemed to waive or supersede such requirements.

25. Indemnification

In case of any action in court, claim, or proceeding before an administrative agency is brought against the City, or against any of its officers, agents, or employees, for failure, omission or neglect of the Tribe or of any contractor retained by it, in whole or in part, to perform any of the covenants, acts, matters, or things by this Agreement undertaken, or for injury or damage caused by the negligence of the Tribe, its officers, agents, and employees, or the officers, agents, and employees of any contractor retained by it, the Tribe shall defend, indemnify and save harmless the City and its officers, agents, and employees from all losses, damages, costs, expenses, judgments or decrees arising out of such action. The City shall tender the defense of any claim or action at law or in equity to the Tribe or the Tribe's insurer, and upon such tender, it shall be the duty of the Tribe or the Tribe's insurer to defend such claim or action without cost or expense to the City or its officers, agents, or employees.

SIGNATURE PAGES

THIS AGREEMENT, drafted by the City of Milwaukee, shall be binding upon the Tribe, its lessees, successors and assigns, and upon the City its successors and assigns.

TRIBE SIGNATURES

IN WITNESS WHEREOF, the Tribe has caused this document to
be signed and sealed this ____ day of _____, 2005.

_____ Tribe Representative

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this ____ day of _____, 2005, who
executed the foregoing instrument, and acknowledged that they executed the same.

_____. Notary Public, State of Wisconsin

My Commission expires:_____.

CITY SIGNATURES

IN WITNESS WHEREOF, the proper City Officers have caused this document to be signed and the City's seal to be affixed this _____ day of _____, 2005.

Tom Barrett, Mayor
CITY OF MILWAUKEE

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2005,
Tom Barrett, Mayor of the City of Milwaukee, a municipal corporation, to me known to be
the person who executed the foregoing instrument and to me known to be such Mayor of
said municipal corporation, and acknowledged that he executed the foregoing instrument
as such officer as the deed of said municipal corporation, its authority, and pursuant to
Resolution File No. adopted _____, 2005.

Notary Public, State of Wisconsin

My Commission expires:_____.

City Clerk
CITY OF MILWAUKEE

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2005,
_____, City Clerk of the above-named municipal corporation, to me known
to be the person who executed the foregoing instrument and to me known to be such City
Clerk of said municipal corporation, and acknowledged that he executed the foregoing
instrument as such officer as the deed of said municipal corporation, its authority, and
pursuant to Resolution File No. adopted _____, 2005.

Notary Public, State of Wisconsin

My Commission expires _____.

Comptroller
CITY OF MILWAUKEE

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

 Personally came before me this _____ day of _____, 2005,
_____, City Comptroller of the City of Milwaukee, a municipal corporation, to
me known to be the person who executed the foregoing instrument and to me known to
be such City Comptroller of said municipal corporation, and acknowledged that he
executed the foregoing instrument as such officer as the deed of said municipal
corporation, its authority, and pursuant to Resolution File No. adopted
_____, 2005.

Notary Public, State of Wisconsin

My Commission expires:_____.