

MENOMINEE INDIAN TRIBE OF WISCONSIN
and
MENOMINEE KENOSHA GAMING AUTHORITY
and
ONEIDA TRIBE OF INDIANS OF WISCONSIN

MEMORANDUM OF AGREEMENT IN REGARD TO
MENOMINEE KENOSHA PROJECT

WHEREAS, the Oneida Tribe of Indians of Wisconsin ("OTIW") believes that the development by the Menominee Indian Tribe of Wisconsin ("MITW") and the Menominee Kenosha Gaming Authority, a wholly owned tribally chartered instrumentality of the MITW ("MKGA"), collectively referred to as "Menominee" of an off reservation gaming opportunity in Kenosha, Wisconsin (the "Project") will assist the MITW in providing much needed programming and services to its members in the poorest county and Reservation in the State of Wisconsin; and

WHEREAS, Menominee believes that OTIW has unique abilities in certain business areas that would help Menominee develop and operate the Project; and

WHEREAS, Menominee's utilization of those abilities on commercially reasonable terms would benefit both Menominee and OTIW; and

WHEREAS, there is a long history of friendship between MITW and OTIW and its members ;

NOW THEREFORE BE IT RESOLVED that OTIW and Menominee agree to the following:

1. Banking, ATM and Cash Advance Services

a. OTIW, or an affiliate of OTIW agreed upon by the Parties ("OTIW Affiliate") shall have the right of first refusal to provide ATM and Cash Advance Services at the Project. Within sixty (60) days of execution of this Agreement, MKGA and any Development or Management Consultant or Contractor to Menominee related to the Project shall offer to OTIW or OTIW Affiliate a contract or contracts that shall at a minimum provide for OTIW or OTIW Affiliate provision of ATM and Cash Advance Services at the Project. The offer shall, at a minimum:

(i) Contain terms that are deemed commercially reasonable for a facility of the projected size and scope of the Project;

(ii) Contain an initial term not shorter than seven (7) years;

(iii) The parties agree that a commercially reasonable contract or contracts contain terms that at a minimum result in projections of \$3 million annually in revenue to OTIW or OTIW Affiliate;

b. OTIW or OTIW Affiliate warrant that they have the capacity to provide ATM and Cash Advance Services.

c. Upon receipt by OTIW or OTIW Affiliate of the contract or contracts referenced in this Section, the Parties shall meet to discuss and make any changes to the contract or contracts mutually acceptable to the Parties.

d. MKGA shall provide the right of first refusal to OTIW or OTIW Affiliate to lease not less than 1500 square feet of space at the Project for the purpose of OTIW or OTIW Affiliate providing banking services in accordance with the following:

i. Within one hundred twenty days of MKGA execution of a construction contract for the Project, MKGA shall provide to OTIW or OTIW Affiliate a proposed lease agreement, and identification of the location of the not less than 1500 square feet of space. The terms of the lease shall be consistent with similar leases to third party lessees on the Property. In the alternative, if the option of 1500 square feet of space is not taken up by OTIW or OTIW Affiliate, OTIW or OTIW Affiliate shall have an option to develop an onsite facility within the Project area within 2 (two) years of execution of the construction agreement in a manner consistent with the Property architectural standards and the Kenosha Trust Land Regulations, Ordinance # 04-44.

ii. Within sixty (60) days of receipt of the proposed lease stated above, OTIW or OTIW Affiliate shall either accept and execute the lease, or waive its rights pursuant to this Section 1.d.

iii. The right of first refusal related to leasing of space for banking purposes is subject to the terms of Menominee Nation Ordinance 04-44, Section I.C Permitted Uses and the Intergovernmental Agreement between Menominee and the City and County of Kenosha. Menominee shall in good faith work toward ensuring that provision of such banking services contemplated in this subsection d. is a permitted use on the property.

2. Participation in Financing.

OTIW or OTIW Affiliate shall have the right of first refusal to participate in the financing of the Project ("Financing") in accordance with the following terms:

a. MKGA and its Development or Management consultant or contractor shall meet and confer with OTIW or OTIW Affiliate for a period of one hundred twenty (120) days commencing upon receipt of approval of the Compact and Project by the State for the purpose of negotiating terms of a commitment between MKGA and its Development or Management consultant or contractor and OTIW or OTIW Affiliate by OTIW or OTIW Affiliate to provide up to \$400,000,000.00 in senior debt related to the Financing.

b. If, pursuant to subsection a above, the Parties are unable to reach a commitment by OTIW or OTIW Affiliate on terms satisfactory to all Parties, OTIW or OTIW Affiliate shall notify MKGA in writing, within fifteen (15) days after the end of the ninety (90) day period listed above whether or not they have a

continued interest in participating in the Financing on the terms listed in subsection c below. If OTIW or OTIW Affiliate notifies MKGA that it does have a continued interest in participating in the Financing on the terms listed in subsection c below, such notification shall state the amount of funds OTIW or OTIW Affiliate are willing to lend. Failure of OTIW or OTIW Affiliate to provide written notice of its continued interest in participating in Financing in the manner provided for shall result in OTIW or OTIW Affiliate waiving any rights to participate in Financing.

c. Absent agreement of the Parties pursuant to subsection a, and upon MKGA's receipt of notice pursuant to subsection b, OTIW or OTIW Affiliate shall have the right to participate in Financing arranged by MKGA's Development or Management consultant or contractor, in an amount not to exceed \$200 million on the following terms:

i. MKGA shall provide the terms of a financing commitment agreed to between MKGA and a third party lender to OTIW or OTIW Affiliate within thirty (30) days of execution of such agreement (the "Financing Commitment"). Within thirty (30) days of receipt of said commitment, OTIW or OTIW Affiliate shall commit in writing to participate in the Financing on the same terms regarding interest rate, security, term, and amortization applicable to the third party lender in the Financing Commitment. Said participation shall be in an amount equal to the lesser of that provided for in the notice pursuant to subsection b above, or \$200 million. Failure of OTIW or OTIW Affiliate to comply with this provision shall result in OTIW or OTIW Affiliate waiving any rights to participate in Financing.

ii. The term "third party lenders" for the purposes of this provision shall not include any development or management consultant or contractor to Menominee, OTIW, or OTIW Affiliate.

d. Financing, for the purposes of this Agreement shall refer only to the initial Financing of the Project, or the first \$400,000,000 in Financing, whichever is greater. This Agreement is not applicable to any Financing of the Project beyond that listed in this subsection d.

e. MKGA and its Developers or Management Consultant or contractor shall meet and confer with OTIW or OTIW Affiliate to negotiate terms of commitment:

- i. for purposes of providing financing for any future development on the Project site; and
- ii. for the purpose of providing banking services to MKGA and the Project once operational.

3. Project Marketing. For a period of fifteen (15) years, commencing upon the date the Governor approves the Project, Menominee agrees that it shall not take the following actions:

a. Advertise gaming related to the Project on television north of the Milwaukee media market. The Parties agree that any over the air spillover north of Milwaukee resulting from such advertising on Milwaukee television stations shall not be deemed contrary to this Agreement;

b. Advertise gaming related to the Project on radio –north of the Milwaukee media market;

- c. Advertise gaming related to the Project by billboard located in the Green Bay - Appleton media market;
 - d. Advertise gaming related to the Project in the Green Bay Press-Gazette or Appleton Post - Crescent.
 - e. Conduct Prospect Direct Mailing to persons residing north of Milwaukee County. Prospect Direct Mailing for the purpose of this Agreement shall mean direct mailing to a potential customer with whom the Hard Rock or Menominee do not already have an established relationship through their loyalty program(s);
 - f. In relation to advertising gaming related to the Project in the Milwaukee media market, shall not purchase cable Inter-connect for any community in Sheboygan County or north of Sheboygan County.
4. Native American Preference. MKGA warrants that it will adopt Native American preference employment policies applicable to the Project. MKGA will work cooperatively with OTIW to ensure OTIW members residing in the surrounding community are aware of such Native American preference policies, and of job opportunities available at the Project.
5. Exclusivity. Menominee agrees that it will not enter into any agreement with Hard Rock International that would prohibit Hard Rock International from locating, or licensing a Hard Rock Cafe in Green Bay, Wisconsin, where such Hard Rock Café is not within or ancillary to a Class II or Class III gaming site.
6. Joint Economic Development. Subject to the approval of their respective governing bodies, Menominee and OTIW shall create a joint committee / task force, made up of members of the Menominee and OTIW governing bodies for the purpose of exploring OTIW (or OTIW Affiliates) and Menominee (or Menominee Affiliates) partnering on economic development projects for the benefit of both OTIW, Menominee, and northeastern Wisconsin.
7. Agreements. Upon the execution and delivery of this Agreement, Menominee and OTIW will work in good faith together to execute any necessary definitive agreements embodying all of the terms and conditions set forth in this Agreement and other provisions customary for a transaction of this nature.
8. Enforcement. Menominee and OTIW agree that enforcement of this Agreement is necessary and requires each sovereign to waive sovereign immunity to accomplish such enforcement. To the extent necessary to enforce the provisions of this Agreement, the Tribes agree to a waiver of sovereign immunity to allow enforcement of this agreement as set forth in this section.
- a. Subject to the provisions of this Section, Menominee and OTIW hereby expressly and irrevocably grants to each other, within the scope of this Section, a limited waiver of its sovereign immunity from unconsented suit or judicial litigation and consents to suit in accordance with this Section.

b. Disputes under this Agreement shall be addressed by dispute resolution. Each Tribe shall select one member from the Wisconsin Tribal Judges Association to act as dispute resolution forum. Those two members shall select a third member from the Wisconsin Tribal Judges Association and those three members shall constitute the arbitration forum to render an opinion regarding resolution of the dispute. If three members of the Wisconsin Tribal Judges Association are unable to act as the dispute resolution forum, the parties shall utilize the American Arbitration Association's arbitrator selection process.

c. Disputes authorized under this Agreement and this section shall be limited to enforcement of the terms of this Agreement.

d. The Tribes hereby expressly and irrevocably agree that any dispute resolution decision or arbitration award shall be enforced in the Tribal courts of the Tribe against which enforcement is sought.

e. Menominee and OTIW shall bear their own costs and shall share equally the costs of any arbitration or dispute resolution. The parties expressly agree that this provision shall survive the termination, for any reason, or expiration of this Agreement.

f. Menominee and OTIW covenant and agree that the limited waiver of sovereign immunity and other waivers contained in this Agreement are irrevocable and MITW and OTIW agree not to revoke or limit, in whole or in part, their limited waiver of sovereign immunity or other waivers contained in this Section.

g. Subject to the terms and provisions of this Agreement, any disagreement or dispute between the parties as to the interpretation, enforcement or breach of this Agreement, or the parties' rights or obligations thereunder, shall be resolved whenever possible by meeting and conferring. Either party may request such a meeting by giving notice to the other. Upon receipt of such notice the parties shall meet within thirty (30) business days. If there is no resolution to the disagreement or dispute at the initial meeting, the parties agree to at least one (1) further meeting to confer not more than fifteen (15) days after the first meeting. The location for the meeting shall be in Kenosha County, or any other location mutually agreed upon by the parties.

h. Enforcement of any determination or order for monetary damages against Menominee shall be limited to the undistributed or future net revenues or other assets of MKGA and/or other tribal gaming businesses established for the purpose of owning and operating the Kenosha Facility.

9. Regulations. Any obligations of the parties hereunder shall be subject to obtaining all relevant regulatory approvals, if any.

10. Notice. Any notice required or permitted to be given under this Agreement by one party to the other party may be hand-delivered or sent by first-class mail, postage pre-paid, to the receiving party's representative at the address listed below:

Notice to MITW:
Craig Corn, Chairman
Menominee Indian Tribe
P.O. Box 910
Keshena, WI

Notice to OTIW:
Edward Delgado, Chairman
Oneida Tribe of Indians of Wisconsin
P.O. Box 365
Oneida, WI 54155

Notice to MKGA:
Gary Besaw, Chairman
Menominee Kenosha Gaming Authority
P.O. Box 910
Keshena, WI 54135

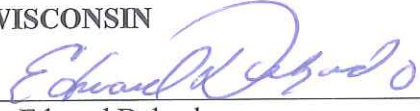
(Signatures on Following Page)

ACCEPTED AND AGREED this 17th day of October, 2013


THE MENOMINEE INDIAN TRIBE OF WISCONSIN

By: 
Name: Craig Corn
Title: Chairman, Menominee Tribal Legislature

**THE ONEIDA TRIBE OF INDIANS
OF WISCONSIN**

By: 
Name: Edward Delgado
Title: Chairman, Oneida Business Committee

THE MENOMINEE KENOSHA GAMING AUTHORITY

By: 
Name: Gary Besaw
Title: Chairman, Menominee Kenosha Gaming Authority

GUARANTY

The Menominee Indian Tribe of Wisconsin, pursuant to Article XIII of its Constitution and Bylaws, hereby guarantees the commitments made in the foregoing Memorandum of Understanding entered into on or about October 17, 2013 by and between the Oneida Tribe of Indians of Wisconsin, the Menominee Indian Tribe of Wisconsin, and the Menominee Kenosha Gaming Authority (the "Agreement"). It further waives its immunity from suit for the purpose of enforcing this guaranty in conformance with the dispute resolution terms contained in Section 8 of the Agreement, and incorporates those provisions into this Guaranty by reference.

Dated this 17th day of October, 2013

By: 
Name: Craig Corn
Title: Chairman, Menominee Tribal Legislature