

IN THE ARKANSAS SUPREME COURT

JENNIFER MCGILL, individually and
on behalf of the ARKANSAS CANVASSING
COMPLIANCE COMMITTEE; &
CHEROKEE NATION ENTERTAINMENT, LLC

PETITIONERS

v.

CV-24-_____

JOHN THURSTON, in his official capacity
as ARKANSAS SECRETARY OF STATE

RESPONDENT

ORIGINAL ACTION PETITION

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Petitioners Jennifer McGill, individually and on behalf of the Arkansas Canvassing Compliance Committee (“ACCC”), and Cherokee Nation Entertainment, LLC (“CNE”), pursuant to article 5, section 1 of the Arkansas Constitution, Amendment 7 of the Arkansas Constitution, and Arkansas Supreme Court Rule 6-5, for their Original Action Petition against John Thurston, in his official capacity as Secretary of State of the State of Arkansas, state:

INTRODUCTION

1. In 2018, Arkansas voters approved the addition of Amendment 100 to the Arkansas Constitution. Amendment 100 authorized the licensing and operation of four casinos in the state of Arkansas, one in Jefferson County, one in Crittenden County, one in Garland County and one in Pope County.

2. On March 20, 2024, Arkansas Attorney General Tim Griffin certified a popular name and ballot title for a proposed constitutional amendment (the “Proposed Amendment”) to Amendment 100, § 4 of the Arkansas Constitution. *See* Ex. A, at 5–6 (Ark. Op. Atty. Gen. No. 2024-046).

3. The Proposed Amendment, among other things, amends subsections (i), (k), (m), and (n) of Amendment 100, § 4 of the Arkansas Constitution. Ex. B. The combined effect of these proposed amendments is to remove the requirement that the Arkansas Racing Commission issue a casino license for a casino in Pope County, Arkansas. *Id.* The Proposed Amendment also adds subsections (s) and (t) to Amendment 100, § 4. *Id.* New subsection (s) revokes “a casino license” if it was “issued for a casino in Pope County, Arkansas prior to the effective date of this Amendment.” *Id.* And new subsection (t) provides a process by which a casino license may be issued in any county aside from Crittenden, Garland, and Jefferson Counties if a future constitutional amendment allows for such a license. *Id.*

4. On July 31, 2024, Respondent Arkansas Secretary of State John Thurston certified an initiative petition (the “Initiative Petition”) for the Proposed Amendment to the ballot for the November 5, 2024, general election. *See* Exhibit C.

5. Local Voters in Charge (“LVC”), a registered ballot-question committee sponsored and submitted the Initiative Petition. Exhibit D. LVC was responsible for collecting signatures on the Initiative Petition and ensuring that the signatures were collected in compliance with Arkansas law.

6. While LVC has four members who are residents of Arkansas, it was solely funded by the Choctaw Nation (“Choctaw”), who, as of June 30, 2024, had contributed \$5.3 million to the Initiative Petition effort. *See* Exhibit E. The Choctaw operates a casino in Pocola, Oklahoma. The casino’s parking lot sits in Fort Smith, Arkansas. The Choctaw applied for the license to operate the casino in Pope County but was unsuccessful. The license was awarded to CNE, which is owned by Cherokee Nation Businesses, LLC, on June 27, 2024. The distance from the Choctaw casino in Pocola to the site of the proposed casino in Pope County, Arkansas, is 92 miles.

7. In 2020, the same four individual members of LVC were the members of a ballot-question committee called Fair Play Arkansas 2022 (“Fair Play”). Like LVC, Fair Play sought to eliminate the license to operate the casino in Pope County. Like LVC, Fair Play was solely funded by the Choctaw. Fair Play failed to collect enough signatures to get its proposed amendment on the ballot. For that failed effort, the Choctaw contributed and Fair Play spent \$4.1 million. *See* Exhibit F. As of June 30, 2024, the Choctaw have spent nearly \$9.5 million to eliminate the casino in Pope County and to protect the business interests of its Oklahoma casino.

8. For the 2024 Initiative Petition, LVC and the Choctaw ignored and violated Arkansas laws regarding the collection of signatures, and as such, the Proposed Amendment should not have been certified.

9. Petitioners here assert that Respondent's certification is invalid.

10. The Arkansas Constitution is clear: "Only legal votes shall be counted upon petitions." Ark. Const. art. 5, § 1. In gathering signatures for the Initiative Petition, LVC violated numerous Arkansas statutes regulating paid canvassers. Upon information and belief, LVC (1) unlawfully paid bonuses or otherwise compensated canvassers based upon the number of signatures a canvasser collected; (2) failed to certify that all canvassers had no disqualifying criminal offenses; (3) used canvassers who were not qualified as canvassers due to having disqualifying offenses, (4) failed to register as paid canvassers individuals that solicited signatures while "coaching" canvassers in real time and thus qualified as paid canvassers in their own right; (5) employed canvassers that were not Arkansas residents, (6) failed to properly train and instruct canvassers, and (7) otherwise failed to register and certify numerous paid canvassers. These violations of Arkansas law resulted in a plethora of illegal signatures on the Initiative Petition. As alarming, canvassers misrepresented the Initiative Petition in violation of Arkansas law. LVC failed to obtain enough valid signatures to qualify the Proposed Amendment for the 2024 ballot. Considering the nature of the systemic problems outlined above and LVC's unlawful signature collection program, no signature collected by a paid canvasser should have been verified.

11. In addition to insufficient signatures, the popular name and ballot title are riddled with flaws. Despite the popular name and ballot title indicating that the Proposed Amendment repeals the authorization for casino gaming in Pope County, the popular name, ballot title, and actual text of the Proposed Amendment fail to inform voters that a license has been issued, to

whom it was issued, and that the existing license is being revoked. In fact, the popular name does not even reference revocation.

12. Lastly, popular names and ballot titles must disclose any conflict between a proposed amendment and federal law. *See Lange v. Martin*, 2016 Ark. 337, 500 S.W.3d 154 (2016). The Proposed Amendment would revoke CNE’s casino license, which potentially violates the Takings Clause, Contracts Clause, Due Process Clause, and Equal Protection Clause of the United States Constitution. It could also violate or at least amend other provisions of the Arkansas Constitution. But the popular name and ballot title do not disclose this information and thus are insufficient to “give voters a fair understanding of the issues presented and the scope and significance of the proposed changes in the law.” *Wilson v. Martin*, 2016 Ark. 334, at 7, 500 S.W.3d 160, 166.

PARTIES

13. Jennifer McGill is a citizen, resident, and registered voter in Arkansas.

14. ACCC is a ballot-question committee registered with the Arkansas Ethics Commission and formed to educate the public regarding the Proposed Amendment. *See* Ark. Code Ann. § 7-9-402(2)(A). The members of ACCC are Jennifer McGill, Mayor Roger Lee, Nick Patel, and Cherokee Nation Business, LLC.

15. CNE is a Cherokee Nation limited liability company, registered with the Arkansas Secretary of State, and is wholly owned by CNB. CNE holds a license to conduct casino gaming in Pope County, Arkansas.

16. Respondent John Thurston is the duly elected, qualified, and acting Secretary of State of the State of Arkansas and the ex officio Secretary of the State Board of Election Commissioners. Respondent is responsible for certifying initiative petitions to the ballot for

elections and furnishing a certified copy of the popular name and ballot title to the various election commissions not less than eighteen days before an election. Ark. Code Ann. § 7-9-115.

JURISDICTION

17. This Court has jurisdiction over this original action under article 5, § 1 and Amendment 7 of the Arkansas Constitution and Arkansas Supreme Court Rule 6-5(a).

18. Arkansas Supreme Court Rule 6-5 regarding original actions provides: “Evidence upon issues of fact will be taken by a master to be appointed by the Court. . . . Upon the filing of the master’s findings, the parties shall file briefs as in other cases.” Appointment of a special master is appropriate and necessary to make factual determinations in this case.

COUNT I: INSUFFICIENT SIGNATURES

19. Petitioners incorporate paragraphs 1 through 17 in their entirety.

20. Amendment 7 of the Arkansas Constitution provides, in pertinent part, that ten percent of the legal voters may propose a constitutional amendment by initiative petition. Ark. Const. art. 5, § 1; Ark. Const. amend. 7. The total number of votes cast for the office of Governor in the last preceding general election is the basis upon which the number of signatures is computed. For the November 2024 election, Respondent has determined that 90,704 valid signatures of registered voters are required to place a proposed amendment on the ballot, with sufficient signatures required from at least fifty counties of the state. Ark. Code Ann. § 7-9-126(e). LVC submitted and Respondent certified 116,200 signatures in favor of the Initiative Petition.

21. LVC almost exclusively engaged paid canvassers to collect signatures for the Initiative Petition.

22. Arkansas law makes clear the obligation of sponsors regarding the use of paid canvassers. As described more fully below, LVC ignored these obligations by, for example, paying bonuses or otherwise compensating canvassers relative to the number of signatures collected. LVC also violated Arkansas law by employing paid canvassers who were not Arkansas residents. Ark. Code Ann. § 7-9-103(4)(6).

A. LVC Violated Arkansas Law by Paying Canvassers Based on Signatures

23. Petitioners incorporate paragraphs 1 through 22 in their entirety.

24. Phillip Dewey and Berta Erickson, each described in their affidavits as a “Manager for the canvassing efforts of Local Voters in Charge,” submitted affidavits signed by them, stating that “Sponsor agrees that it will not pay or offer to pay a paid canvasser on the basis of the number of signatures” obtained by the canvasser. *See, e.g.*, Exhibits G and H.

25. These attestations are false. Upon information and belief, LVC’s canvassing company, PCI Consultants, Inc. (“PCI”), paid bonuses to canvassers based upon the number of signatures obtained by the canvassers, including offering \$100.00 for 100 signatures and promising additional money to canvassers when they obtained enough signatures to “close out a county,” which meant collecting the requisite number of signatures from a given county. Upon information and belief, LVC’s canvassing company also offered gift cards or other prizes to canvassers in exchange for a certain number of signatures. LVC also placed canvassers in “time out” if they did not meet certain minimum signature requirements, which provides another example of conditioning their compensation, in part, on the collection of a specific number of signatures.

26. Arkansas law clearly prohibits this payment scheme: “(1) It is unlawful for a person to pay or offer to pay a person, or receive payment or agree to receive payment, on a basis related to the number of signatures obtained on a statewide initiative petition or statewide referendum

petition. (2) This subsection does not prohibit compensation for circulating petitions but only compensation for obtaining signatures when the compensation or compensation level is impacted by or related to the number of signatures obtained. (3) A signature obtained in violation of this subsection is void and shall not be counted. (4) A violation under this subsection is a Class A misdemeanor.” Ark. Code Ann. § 7-9-601(g).

27. All signatures collected by canvassers to whom additional compensation was offered or given based on the number of signatures such canvassers collected cannot be counted.

B. LVC Failed to Register and Certify Paid Canvassers

28. Petitioners incorporate paragraphs 1 through 27 in their entirety.

29. Organizations and individuals are prohibited from “provid[ing] money or anything of value to another person for obtaining signatures on a statewide initiative petition or statewide referendum petition unless the person receiving the money or item of value meets the requirements of [Arkansas Code Annotated § 7-9-601].” Ark. Code Ann. § 7-9-601(a). Any signatures improperly obtained under that statute “shall not be counted by the Secretary of State for any purpose.” *Id.*

30. Only “paid canvassers” may receive compensation under § 7-9-601 for soliciting signatures. “Paid canvasser” means “a person who is paid or with whom there is an agreement to pay money or anything of value...in exchange for **soliciting** a signature on a petition.” Ark. Code Ann. § 7-9-601(c). (emphasis added).

31. Upon information and belief, LVC employed and paid numerous persons (“Captains”), many from out of state, who escorted and coached (improperly) registered paid canvassers. The Captains also held petition parts and explained the meaning and legal effect of

the Initiative Petition directly to potential petitioners. Put simply, Captains solicited signatures for the Initiative Petition. None of the Captains submitted a “Paid Canvasser Affidavit.”

32. LVC did not register the Captains, certify them, provide their addresses, or fulfill any of the other obligations placed upon LVC by Arkansas Code Annotated § 7-9-601.

33. Upon information and belief, some Captains have criminal offenses that would have disqualified them from serving as paid canvassers in Arkansas.

34. On July 3, 2024, the Arkansas Attorney General issued opinion number 2024-053, which concludes that individuals who are paid to “solicit signatures” are paid canvassers.

35. LVC’s actions are unlawful and require disqualification of all signatures obtained in violation of the statute. After disqualification of signatures tainted by the Captains, the Proposed Amendment lacks sufficient signatures to qualify for the 2024 ballot.

36. Further, the Captains’ role in the collection of signatures by paid canvassers was so widespread that all signatures collected by paid canvassers should be disregarded.

C. LVC Failed to Certify Paid Canvassers

37. Petitioners incorporate paragraphs 1 through 36 in their entirety.

38. Arkansas Code Annotated § 7-9-601(b)(3) states that, “[u]pon submission of the sponsor’s list of paid canvassers to the Secretary of State, the sponsor shall certify to the Secretary of State that each paid canvasser in the sponsor’s employ has no disqualifying offenses in accordance with this section.”

39. LVC did not submit documentation and paid canvasser lists to the Secretary of State. Rather, PCI’s agents did so.

40. When submitting documentation and paid canvasser lists to the Secretary of State, on various occasions PCI’s agents submitted declarations from paid canvassers (but not Captains).

The declarations are requirements imposed by § 7-9-601(a). But these requirements are separate from the certification requirement set forth in § 7-9-601(b)(3) and the submission requirements of § 7-9-601(a)(2).

41. As stated by the Arkansas Supreme Court, “the certification is the only assurance the public receives that the paid canvassers” do not have disqualifying offenses. *Miller v. Thurston*, 2020 Ark. 267, at 8, 605 S.W.3d 255, 259.

42. PCI, not LVC, continuously submitted updated canvasser lists throughout the signature-gathering process. But LVC, as the sponsor, was assigned by the General Assembly the nondelegable duty to submit those certifications to the Secretary of State.

43. Instead, Phillip Dewey and Berta Erickson, each described in their affidavits as a “Manager for the canvassing efforts of Local Voters in Charge,” submitted affidavits signed by them attempting to attest that LVC “certifies that no paid canvasser” has a disqualifying offense. *See Exhibits G and H.*

44. The statutory provision is clear that certification is required and must be provided “upon submission of the sponsor’s list of paid canvassers to the Secretary of State.” Ark. Code Ann. § 7-9-601(b)(3).

45. A canvassing company and its employees cannot certify on behalf of a sponsor, especially not regarding paid canvassers. The General Assembly assigned that duty specifically to the sponsor and no one else. The statute does not provide any authority for the sponsor to delegate this responsibility to another person or entity.

46. The statute is also clear that any certification offered by the sponsor must be submitted before the canvasser solicits any signatures.

47. Arkansas Code Annotated § 7-9-126(b)(4)(A) states that “[a] petition part and all signatures appearing on the petition part shall not be counted for any purpose by the official charged with verifying the signatures, including the initial count of signatures, if . . . “[t]he canvasser is a paid canvasser whose name and the information required under § 7-9-601 were not submitted or updated by the sponsor to the Secretary of State before the petitioner signed the petition.” “Petitioner” is defined as person who signs the petition. Ark. Code Ann. § 7-9-101(8).

48. Similarly, Arkansas Code Annotated § 7-9-601(f) states that “[s]ignatures incorrectly obtained or submitted under this section shall not be counted by the Secretary of State for any purpose.”

49. LVC failed to adhere to the express statutory requirements, specifically that it as the sponsor—not its paid canvassing company—certify that canvassers had no disqualifying offenses prior to obtaining signatures. Thus, the paid canvassers were never properly certified, and the signatures obtained by uncertified paid canvassers cannot be counted and should be discarded. After disqualification of those signatures, the Proposed Amendment cannot appear on the 2024 ballot.

D. LVC’s Canvassers Fraudulently Induced Signatures

50. Petitioners incorporate paragraphs 1 through 49 in their entirety.

51. Upon information and belief, LVC’s canvassers continuously induced signatures from registered voters by misrepresenting the nature of the measure and its effect. Upon information and belief, LVC’s canvassers repeated false statements, including that: (1) the Initiative Petition is neither for nor against casinos; (2) the Initiative Petition creates a casino in Pope County; (3) the Initiative Petition is about local control; (4) the Initiative Petition allows local

communities to determine whether they can have a casino, (5) the Initiative Petition will not disturb current casinos, and (6) the Initiative Petition creates a casino in Pulaski County.

52. A person commits a Class A Misdemeanor if that person, acting as a canvasser, “[k]nowingly misrepresents the purpose and effect of the petition or the measure affected for the purpose of causing a person to sign a petition.” Ark. Code Ann. § 7-9-103(c)(6).

53. A sponsor and/or canvasser commits the offense of petition fraud if he “[k]nowingly misrepresents the purpose and effect of the petition or the measure affected for the purpose of causing a person to sign a petition.” Ark. Code Ann. § 5-55-601(b)(2)(F). Petition fraud is a Class D felony. Ark. Code Ann. § 5-55-601(c).

54. Violating an election law is a disqualifying offense as defined by Arkansas Code Annotated § 7-9-601(d)(3)(B)(ii).

55. Further, this Court has held that where fraud is shown, the burden of proving each signature to be valid is upon the sponsor. *Ellis v. Hall*, 219 Ark. 869, 873, 245 S.W.2d 223, 225 (1952); *see also Porter v. McCuen*, 310 Ark. 674, 839 S.W.2d 521 (1992) (highlighting various errors in the petitioning process that rendered the petition invalid, including notary issues).

56. The cases cited above were rendered before petition fraud was codified as a Class D felony by Act 376 of 2019 (codified at Arkansas Code Annotated § 5-55-601(c)). The State’s interest in protecting the integrity of the petition process and preventing fraud has expanded substantially since these decisions because the State has found canvassers’ use of fraud to try to change the Arkansas Constitution and Arkansas statutory law has been increasing. The Initiative Petition process here underscores why the State has increased its fraud prevention laws.

57. Based upon the fraud perpetuated by LVC and its canvassers, all petitions carried by the perpetrating canvassers should be invalidated and all signatures discarded. Even further,

the entire canvassing effort, based upon the number of known violations of Arkansas election laws, is tainted by fraud, and the burden must be on the sponsor to prove the validity of each signature. That is, the sponsor must prove the number of signatures not induced by fraud. It will not be able to demonstrate enough to qualify for the ballot. After disqualification of fraud-induced signatures, the Proposed Amendment does not qualify for the 2024 ballot.

E. Verification Affidavits Contain Incorrect Residence Addresses for Canvassers

58. Petitioners incorporate paragraphs 1 through 57 in their entirety.

59. Under Arkansas Code Annotated § 7-9-108(b), “[e]ach part of a petition shall have attached thereto the affidavit of the canvasser to the effect that the canvasser’s current residence address appearing on the verification is correct.” This Court explains that this statute “requires that the petition shall contain a residential address for the canvasser.” *Benca v. Martin*, 2016 Ark. 359, at 12, 500 S.W.3d 742, 750.

60. Upon information and belief, numerous canvassers provided residence addresses where they did not reside or that do not exist.

61. Under Arkansas Code Annotated § 7-9-126(b), “[a] petition part and all signatures appearing on the petition part shall not be counted . . . if [t]he petition lacks the . . . residence address of the canvasser”

62. After disqualification of signatures collected by canvassers who failed to provide a valid “residence address,” the Proposed Amendment does not qualify for the 2024 ballot.

F. LVC Failed to Properly Educate Canvassers and Committed Other Errors

63. Petitioners incorporate paragraphs 1 through 62 in their entirety.

64. LVC failed to properly educate its canvassers as required under Arkansas Code Annotated § 7-9-111(f)(2).

65. Specifically, LVC failed to explain to each paid canvasser (both registered and unregistered paid canvassers) the requirements under Arkansas law for obtaining signatures on an initiative or referendum petition, prior to each paid canvasser soliciting for signatures.

66. Further, various petition parts and signatures should not have been counted due to violations of Arkansas Code Annotated § 7-9-126. For instance, there are numerous parts in which the petitioner who signed the part did not complete the personally identifying information on the rest of the signature line.

G. Petitions Submitted by Volunteer Canvassers Are Invalid

67. Petitioners incorporate paragraphs 1 through 66 in their entirety.

68. Arkansas Code Annotated §§ 7-9-108–109 make clear that each petition part must be signed by petitioners in the presence of the canvasser whose affidavit appears on the part.

69. Upon information and belief, numerous petition parts collected by volunteer canvassers were not signed in the attesting canvasser's presence. For example, many of these petition parts were left out on tables in public for people to sign—outside the presence of the attesting canvasser.

70. All petition parts signed outside the presence of the attesting canvasser are invalid and cannot be counted.

71. Due to these failures, the Initiative Petition and, consequently, the Proposed Amendment should be disqualified for failure to comply with the above-referenced statutes.

COUNT II: THE POPULAR NAME AND BALLOT TITLE ARE INSUFFICIENT

72. The popular name and ballot title are insufficient and misleading, and they do not provide the voter with sufficient information to make an informed decision.

73. The ballot title states:

An amendment to the Arkansas Constitution, Amendment 100, § 4, subsection (i) to reduce the number of casino licenses that the Arkansas Racing Commission is required to issue from four to three; amending Amendment 100, § 4, subsections (k) through (n) to repeal authorization for a casino in Pope County, Arkansas and to repeal the authority of the Arkansas Racing Commission to issue a casino license for Pope County, Arkansas; amending Amendment 100 § 4, to add subsection (s), providing that if the Arkansas Racing Commission, or other governing body, issues a casino license for a casino in Pope County, Arkansas prior to the effective date of this Amendment, then said license is revoked on the effective date of this Amendment; amending Amendment 100 § 4, to add subsection (t), providing that if a future constitutional amendment authorizes the issuance of a casino license in any county other than those issued now or hereafter for Crittenden County (to Southland Racing Corporation), Garland County (to Oaklawn Jockey Club, Inc.) and Jefferson County (to Downstream Development Authority of the Quapaw Tribe of Oklahoma and later transferred to Saracen Development, LLC), then the quorum court of each county where a casino is to be located shall call a special election by ordinance to submit the question of whether to approve of a casino in the county; amending Amendment 100 § 4, to add subsection (t)(1)-(3), setting the date for the special election and requiring the ordinance calling the special election to state the election date and to specify the format of the question on the ballot as “FOR a casino in [] County” and “AGAINST a casino in [] County,” and, “The question presented to voters must include whether or not a casino may be located in the county”—“A casino is defined as a facility where casino gaming is conducted”; amending Amendment 100 § 4, to add subsection (t)(4), requiring the county board of election commissioners to publish the ordinance calling the special election as soon as practicable in a newspaper of general circulation in the county in which the special election is held; amending Amendment 100 § 4, to add subsection (t)(5), requiring a majority of those in the county who vote at the election in certain counties where a future casino is proposed to be located to approve of the casino at the special election before the Arkansas Racing Commission, or other governing body, may accept any applications for a casino license in that county; making this Amendment effective on and after November 13, 2024; providing that the provisions of this Amendment are severable in that if any provision or section of this Amendment or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application that can be given effect without the invalid provision or application; and repealing all laws or parts of laws in conflict with this Amendment.

Exhibit A at 5–6.

74. As described below, the popular name and ballot title are insufficient because: (1) the popular name and ballot title purport to rescind authorization for casino gaming in Pope County but fail to disclose to the voters various material facts, including that a casino license has been

issued to CNE and that the Proposed Amendment potentially amends provisions of the Arkansas Constitution other than Amendment 100; (2) the popular name and ballot title are misleading; and (3) the ballot title fails to disclose that the proposed amendment potentially violates the United States Constitution.

A. The Popular Name and Ballot Title Fail to Provide Sufficient Information to Voters

75. Petitioners incorporate paragraphs 1 through 74 in their entirety.

76. As set forth above, the popular name and ballot title must set forth sufficient information for the voter to make an informed decision. If information omitted from the ballot title is an essential fact that would give the voter serious ground for reflection, it must be disclosed. *Walker v. McCuen*, 318 Ark. 508, 515, 886 S.W.2d 577, 581 (1994).

77. The popular name and ballot title do not disclose that a license has already been issued to CNE to conduct casino gaming in Pope County. This would be a key fact in any voter's mind when considering this measure in the voting booth.

78. That a license has been issued is an important fact that a voter needs to consider in order to make an informed decision. The popular name and ballot title (and the Proposed Amendment itself) do not disclose to the voters that a license has been issued. Without that important information, the voter cannot make an intelligent and informed decision. There is no way the voter knows the consequences of his decision. That is, the ballot title completely deprives voters of the ability to decide whether to revoke the existing casino license. Rather, the voter would have to look outside of the ballot title and popular name, and even outside the Proposed Amendment itself, to know that the Proposed Amendment revokes a license.

79. Thus, a voter may reasonably reach a different conclusion regarding the Proposed Amendment if that voter knew that a license had already been issued, that the project is in progress, and that his or her vote might eliminate CNE's authority to continue the project.

80. LVC may respond that there was no way for it to know, when drafting the pertinent documents, that CNE would eventually be awarded the casino gaming license. But that is not true. Amendment 100 requires that a qualified applicant receive a casino license in Pope County, Arkansas. Ex. I. It was common knowledge that CNE was the only qualified applicant as early as October 26, 2023, when the County Judge of Pope County voiced his "exclusive support" for CNE to receive a casino license in Pope County. So it was clear from that point forward that CNE would receive the Pope County casino license.

81. Even if LVC could claim ignorance of the fact that CNE was going to receive the casino license, that is of no import for multiple reasons. This Court has established the standard of review set forth above to protect the Arkansas electorate, and all essential facts must be disclosed to the electorate. LVC should have simply been more forthcoming regarding the likelihood of licensure for any entity before the Proposed Amendment's effective date. But LVC chose not to do so. For these reasons, the popular name and ballot title are insufficient.

B. The Ballot Title Impermissibly Limits Future Constitutional Amendments

82. Petitioners incorporate paragraphs 1 through 81 in their entirety.

83. The ballot title and text of the Proposed Amendment falsely suggest that the Proposed Amendment will impose restrictions on future amendments, specifically that a local election will be required if a future amendment authorizes a casino or casinos. That is legally impossible and, thus, deceptive.

84. The proposed amendment cannot preemptively repeal a future amendment that may conflict with it. The Attorney General warned of this problem in a recent opinion. *See*, Ark. Op. Atty. Gen. No. 2024-009 (Jan. 25, 2024) (citing Amendment 7 as it applies to preemptive repeals).

85. The Proposed Amendment does just that by attempting to repeal laws that do not yet exist. The popular name states the Proposed Amendment will “requir[e] local voter approval in a countywide special election for certain new casino licenses.” The ballot title states that, “if a future constitutional amendment authorizes the issuance of a casino license in any county,” other than Crittenden, Garland, and Jefferson Counties, then a county special election is required. But, per the rules of statutory construction, if a later amendment conflicts with this proposed amendment, the latter controls.

86. The Proposed Amendment contemplates a future amendment while simultaneously implying that the future amendment could not repeal any part of the Proposed Amendment. This is inaccurate, misleading, and confusing.

87. For these reasons, the ballot title is insufficient.

C. The Popular Name Is Misleading and Conflicts with the Ballot Title

88. Petitioners incorporate paragraphs 1 through 87 in their entirety.

89. The popular name of a proposed initiated act must be intelligible, honest, and impartial. *Gaines v. McCuen*, 296 Ark. 513, 758 S.W.2d 403 (1988). It must not be misleading or partisan. *Id.*; *see also Arkansas Women’s Political Caucus v. Reviere*, 283 Ark. 463, 467, 677 S.W.2d 846, 848 (1984) (explaining that “the requirements for the popular name” are less stringent than those for a ballot title but that “popular ballot names which contain catch phrases or slogans that tend to mislead or give partisan coloring to the merit of a proposal will be rejected”).

90. The popular name provides: “An amendment requiring local voter approval in a countywide special election for certain new casino licenses and repealing authority to issue a casino license in Pope County, Arkansas.”

91. This Court is “bound to examine the popular name to determine whether it sufficiently conveys an intelligible idea of the scope and import of the proposed amendment; and whether it contains any misleading language or partisan coloring.” *Ferstl v. McCuen*, 296 Ark. 504, 509, 758 S.W.2d 398, 400 (1988).

92. The popular name here is far more than a tool to identify the proposal. The popular name is too long and, as stated by the Arkansas Attorney General, reads like a brief summary. Ark. Op. Atty. Gen. No. 2024-034. The brief summary leads the voter to believe that the Proposed Amendment is only prospective in nature, meaning that it takes away authorization to issue licenses in the future, not that it revokes an existing license.

93. The popular name also suggests that the measure would allow for “certain new casino licenses” after “local voter approval in a countywide special election” but it does not extend any such authority. Quite the opposite, the text of the measure would prevent issuance of new casino licenses unless there is local voter approval. But, those new casino licenses do not exist. They would require another constitutional amendment to come into existence. Of course, neither the popular name nor the ballot title is clear about this point. In short, the popular name serves to confuse the voters, not identify the proposal.

94. Thus, the popular name is misleading, and therefore both the popular name and ballot title are insufficient.

D. A Substantial Error Exists in the Proposed Amendment

95. Petitioners incorporate paragraphs 1 through 94 in their entirety.

96. An error exists in the text of the measure. Specifically, language amending subsection (n) of Amendment 100, § 4 references “quorum county in the court. . . .”

97. This language is not in Amendment 100, § 4 and is a major grammatical error in the text of the measure that renders the Proposed Amendment unintelligible—a “quorum county” does not exist. Typographical errors are by their very nature misleading and, thus, grounds for rejection. *See* Ark. Op. Atty. Gen. No. 2005-168; Ark. Op. Atty. Gen. No. 2023-127.

98. Being more than a de minimis grammatical error, this error requires rejection of the popular name, ballot title, and Proposed Amendment. Therefore, Respondent should be enjoined from including the measure on the ballot.

E. The Ballot Title Fails to Comport with the Text of the Amendment

99. Petitioners incorporate paragraphs 1 through 98 in their entirety.

100. Within ten (10) days of submission of an original draft initiative petition, the Attorney General “shall approve and certify or shall substitute and certify a more suitable and correct ballot title and popular name for each amendment or act.” Ark. Code Ann. § 7-9-107(d)(1).

101. “[A] ballot title must be intelligible, honest, and impartial so that it informs the voters with such clarity that they can cast their ballots with a fair understanding of the issues presented.” *Bailey v. McCuen*, 318 Ark. 277, 284–85, 884 S.W.2d 938, 942 (1994) (citing *Leigh v. Hall*, 232 Ark. 558, 339 S.W.2d 104 (1960)).

102. On March 20, 2024, the Attorney General edited LVC’s proffered popular name and ballot title and certified the edited popular name and ballot title for the Proposed Amendment. *See* Exhibit A at 3–6.

103. In the ballot title, the Attorney General substituted the phrase “majority of those in the county who vote at the election” in place of “majority of the voters in the county.” *Id.* at 3–4, 6.

104. However, this change was made without regard to the text of the Proposed Amendment.

105. As a result, while the ballot title was changed, the text of the Proposed Amendment was not.

106. Section 3 of the Proposed Amendment’s text proposes to add subsection (t)(5) to Amendment 100, § 4: “A majority of the voters in the county where the casino is proposed to be located must approve of a casino at the special election.” Exhibit B.

107. The plain language of the amendment requires a majority of registered voters, not a majority of those actually voting on the measure. “Majority of registered voters” is a substantially higher requirement than a majority of those actually voting. On information and belief, there are no other elections in the State that require approval of a majority of registered voters.

108. The ordinance and special election in the Proposed Amendment are analogous to a measure and referendum as contemplated by article 5, § 1 of the Arkansas Constitution and Arkansas Code Annotated § 14-14-905(f)(1).

109. Article 5 states that “[a]ny measure submitted to the people as herein provided shall take effect and become a law when approved by a majority of the votes cast upon such measure, and not otherwise, and shall not be required to receive a majority of the electors voting at such election.”

110. The Proposed Amendment potentially amends Article 5 by requiring a heightened standard, but nothing in the popular name, ballot title, or the text puts the voter on notice of the heightened standard. *See* 131 A.L.R. 1382; *People ex rel. Davenport v. Brown*, 11 Ill. 478 (1850).

111. Although this Court interpreted similar text to mean only a majority of votes cast (*see Vance v. Austell*, 45 Ark. 400 (1885)), it held this language is “susceptible of two interpretations.” *Rockefeller v. Matthews*, 249 Ark. 341, 345, 459 S.W.2d 110, 112 (1970). The two possible interpretations of this language render the text of the measure misleading.

112. This Court determines the sufficiency of a ballot title and does not “defer to the Attorney General’s opinion or give it presumptive effect.” *See Bailey*, 318 Ark. at 284, 884 S.W.2d at 942.

113. The substitution made to the ballot title conflicts with the plain language of the Proposed Amendment and therefore renders the ballot title misleading. Further, the plain language of the proposed amendment likely amends the Arkansas Constitution, but nothing in the popular name or ballot title put the voter on notice of such. Respondent should be enjoined from placing the Proposed Amendment on the ballot.

F. The Popular Name Fails to Comport with the Text of the Amendment

114. Petitioners incorporate paragraphs 1 through 113 in their entirety.

115. The Attorney General edited the popular name of the amendment at issue before certification on March 20, 2024. Ex. A at 2–5.

116. The Attorney General changed the phrase “any new casino license” to “certain new casino licenses.” *Compare id.* at 1, *with id.* at 5.

117. However, as with the ballot title, this change was made without regard for the text of the Proposed Amendment.

118. As a result, while the popular name was changed, the text of the Proposed Amendment was not.

119. Section 3 of the Proposed Amendment provides language “[r]equiring the county quorum court to call a special election on the question of whether to approve of any future casino to be located in the county...[.]” The phrase “certain new casino” in the popular name significantly departs in meaning from the phrase “any future casino” in the text of the Proposed Amendment.

120. The substitution made to the popular name conflicts with the plain language of the Proposed Amendment and therefore Respondent must be enjoined from putting the Proposed Amendment on the ballot.

G. The Ballot Title Fails to Disclose Potential Conflicts with State and Federal Law

121. Petitioners incorporate paragraphs 1 through 120 in their entirety.

122. A ballot title must inform the voters if a proposed amendment would violate federal law. *Lange*, 2016 Ark. 337, at 9, 500 S.W.3d 154, 159.

123. Since the Proposed Amendment would revoke CNE’s casino gaming license, the proposed amendment potentially violates the Contracts Clause, Takings Clause, Due Process Clause, and Equal Protection Clause of the United States Constitution. U.S. Const. art. I, § 10, cl. 1; *id.* amend. V; *id.* amend. XIV.

124. Likewise, the Proposed Amendment violates, or at the very least, amends and partially repeals other clauses of the Arkansas Constitution. However, nothing in the popular name, ballot title, or text of the Proposed Amendment puts the voter on notice of such action. Therefore, the popular name and ballot title are insufficient.

1. The Proposed Amendment Potentially Violates the Takings Clause and Amends or Repeals Provisions of the Arkansas Constitution

125. Petitioners incorporate paragraphs 1 through 124 in their entirety,

126. CNE has a protectable property interest in its casino gaming license.

127. One of the hidden purposes of the Proposed Amendment is to cancel by fiat CNE's casino license. The popular name and ballot title (and the Proposed Amendment) fail to disclose that the electorate could be effecting a constitutional taking of CNE's property interest.

128. The popular name and ballot title (and the Proposed Amendment) fail to disclose that the State (and thus taxpayer funds) could be responsible for compensating CNE for taking its property.

129. The United States Constitution provides that private property shall not "be taken for public use, without just compensation." U.S. Const. amend. V. Similarly, the Arkansas Constitution, article 2, § 22 provides that "[t]he right of property is before and higher than any constitutional sanction; and private property shall not be taken, appropriated or damaged for public use, without just compensation therefor." The Proposed Amendment potentially violates both the United States and Arkansas Constitutions.

130. While an applicant for a license generally has no property interest, once awarded, a licensee has an interest in maintaining their license. *Stauch v. City of Columbia Heights*, 212 F.3d 425 (8th Cir. 2000). "One manner in which state law can create a property interest is by establishing procedural requirements that impose substantive limitations on the exercise of official discretion." *Id.* at 429. The Eighth Circuit found "that the licensing scheme which limits the City's discretion to deny renewal, creates a protected property interest." *Id.* at 430.

131. Various provisions of Amendment 100 of the Arkansas Constitution, the Arkansas Code, and the Casino Gaming Rules provide that CNE has a property right in its casino gaming license. *See* Ark. Const. Amend. 100, § 4(i), 4(e)(12), and 4(q); Casino Gaming Rules 2.13.16, 2.13.12(a), and 2.13.18.

132. Reviewing these provisions, it is clear that Amendment 100, which limits the discretion of the Arkansas Racing Commission to deny renewal, creates a protected property interest. The use of the word “shall” in the Amendment regarding renewal leaves no discretion. Additionally, the objective criteria set forth in the Casino Gaming Rules and the protections guaranteed by Arkansas Code Annotated § 25-15-211 for license holders establish a property interest in a license.

133. Stated differently, the procedural requirements operate as significant and substantive restrictions on the government.

134. Thus, Amendment 100, and the relevant Casino Gaming Rules and Arkansas Code, create more than a unilateral expectation in their express provisions regarding renewal and protection of a casino gaming license, and therefore a property right exists.

135. The popular name and ballot title do not inform the electorate that it will be voting on whether to potentially take away a constitutionally protected interest. Similarly, the popular name and ballot title do not inform the electorate that the State, and thus taxpayers, could be liable under both the United States and Arkansas Constitutions to pay CNE significant compensation for the taking of its property. Thus, the popular name and ballot title are insufficient to allow the voters to make an informed decision.

2. The Proposed Amendment Potentially Violates the Contracts Clause and Conflicts with the Arkansas Constitution

136. Petitioners incorporate paragraphs 1 through 135 in their entirety.

137. The United States Constitution sets forth that states shall not pass laws impairing the obligation of contracts. U.S. Const. art. I, § 10, cl. 1. Similarly, the Arkansas Constitution, article 2, § 17, states that “[n]o bill of attainder, ex post facto law, or law impairing the obligation of contracts shall ever be passed”

138. The Proposed Amendment, if adopted, would substantially interfere with CNE's contracts with vendors, contractors, and government entities (like the Economic Development Agreement with Pope County, which among other provisions requires CNE to pursue and utilize the casino license). *See, e.g.*, Exhibit J.

139. The Proposed Amendment, if adopted, would completely nullify, or at the very least substantially interfere with, these existing contracts.

140. This substantial impairment was not foreseeable at the time of execution of the contracts. An amendment to the Arkansas Constitution is not a simple change. For example, an amendment to the Arkansas Constitution requires much more than a change of regulation by a regulatory body, the latter which may be foreseen or at least anticipated.

141. Since a substantial impairment exists, the State must show that the regulation protects a "broad societal interest rather than a narrow class." *Allied Structural Steel Co. v. Spannaus*, 438 U.S. 234, 249 (1978). "[I]f a State undertakes to alter substantially the terms of a contract, it must justify the alteration, and the burden that is on the State varies directly with the substantiality of the alteration." *White Motor Corp. v. Malone*, 599 F.2d 283, 287 (8th Cir. 1979).

142. The popular name, ballot title, and Proposed Amendment do not set forth any purpose. "There is no statement of legislative intent or any other legislative history from which to directly ascertain the purpose of the [Proposed Amendment]." *See Janklow*, 300 F.3d at 860.

143. Removing one county from Amendment 100's licensure mandate does not constitute a broad societal interest, particularly when the other three casino licenses in three other counties remain unchanged.

144. The intent of the drafters of the Proposed Amendment is plain. The Proposed Amendment has almost completely been funded by the Choctaw Nation. The Choctaw's sole

purpose is to protect from any competition its casino that sits on the Arkansas border. The Choctaw's fear of loss of revenue to the Arkansas casino market provides no justification for the proposed change.

145. A substantial impairment exists, the State cannot satisfy its burden, and the Proposed Amendment does nothing to address the interference it ultimately brings upon the license holder, CNE, and other contracting parties. The Proposed Amendment will completely eliminate the interests of CNE along with its contracts without any type of compensation. Per the popular name and ballot title, one day CNE will be a license holder with numerous enforceable contracts and the next day have nothing.

146. For these reasons, the Proposed Amendment, if adopted, could violate the Contracts Clause of the United States Constitution as well as the Arkansas Constitution. The popular name and ballot title do not disclose this fact to voters. Therefore, the popular name and ballot title are insufficient.

3. The Proposed Amendment Potentially Violates the Equal Protection Clause

147. Petitioners incorporate paragraphs 1 through 146 in their entirety.

148. "Equal protection under the law is guaranteed by the Fourteenth Amendment to the United States Constitution and by article 2, sections 2, 3, and 18 of the Arkansas Constitution."

Ray v. State, 2017 Ark. App. 574, 4, 533 S.W.3d 587, 590.

149. For an equal-protection challenge to be warranted, there must first be a determination that there is a state action which differentiates among individuals. *Arnold v. State*, 2011 Ark. 395, 384 S.W.3d 488.

150. The Proposed Amendment certainly differentiates among the license holders. It revokes CNE's Pope County casino license while leaving valid the remaining casino licenses in Crittenden, Jefferson, and Garland Counties.

151. This disparate treatment has no relationship to a rational governmental objective, because eliminating casino gaming in one county but allowing it to continue in other counties without any reason does not satisfy the constitutional standard.

152. Similarly, the Proposed Amendment imposes disparate treatment by affecting and interfering with contracts of CNE while doing nothing to contractual relationships to the other license holders.

153. In short, the Proposed Amendment's disparate treatment has no real purpose and is entirely arbitrary. Put another way, the Proposed Amendment is not rationally related to achieving any legitimate governmental objective under any reasonably conceivable fact situation. For these reasons, the Proposed Amendment, if adopted, would potentially violate the Equal Protection Clause of the United States Constitution and similar Arkansas constitutional provisions. The popular name and ballot title do not disclose this fact to voters. Therefore, the popular name and ballot title are insufficient.

4. The Proposed Amendment Potentially Violates Procedural Due Process

154. Petitioners incorporate paragraphs 1 through 153 in their entirety.

155. The United States Constitution prohibits States from "depriv[ing] any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV, § 1. "Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment." *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976).

156. “For more than a century the central meaning of procedural due process has been clear: ‘Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be noticed.’ *Fuentes v. Shevin*, 407 U.S. 67, 80 (1972).

157. As explained above, CNE has a property interest in its casino license. *See supra* ¶¶ 125–129.

158. The Proposed Amendment likely revokes CNE’s casino license with no opportunity for CNE to be heard on its compliance with the laws governing the license.

159. The popular name, ballot title, and text of the Proposed Amendment does nothing to alert voters that a “for” vote strips CNE of its right to Procedural Due Process in violation of the Fourteenth Amendment of the federal Constitution.

160. Therefore, the popular name and ballot title are insufficient, and the Proposed Amendment should be stricken from the ballot.

CONCLUSION

161. LVC failed to adhere to Arkansas law in the canvassing process. Specifically, all signatures are invalid because (1) Arkansas law forbids the compensation structure LVC employed; (2) LVC failed to submit certifications to the Secretary of State that paid canvassers did not have disqualifying offenses; (3) LVC failed to register and certify paid canvassers; (4) LVC failed to properly train its paid canvassers; and (5) LVC and the canvassers misrepresented the purpose of the Initiative Petition. Based upon these failures, LVC failed to obtain a sufficient number of valid signatures to qualify the Proposed Amendment for the 2024 ballot.

162. Further, the popular name and ballot title fail the test. The popular name and ballot title (and the Proposed Amendment) do not inform the electorate that it will be (1) repealing a license that has already been issued; (2) potentially taking the property of CNE; (3) interfering

with significant contracts, including one between CNE and a subdivision of the State (Pope County); (4) imposing disparate treatment on CNE without any rational basis; and (5) subjecting the State (and hence taxpayers) to liability for violations of the United States and Arkansas Constitutions. The popular name and ballot title have a plethora of other errors detailed above. The voters should understand the consequences of their votes, but this popular name and ballot title fall far short.

163. For these reasons, the Proposed Amendment should not have been certified and cannot appear on the November 5, 2024, general election ballot.

REQUEST FOR RELIEF

164. Petitioners request this matter be expedited.

165. Petitioners request this Court appoint a Master pursuant to Arkansas Supreme Court Rule 6-5(c) and Ark. R. Civ. P. 53 to identify and review all relevant facts regarding signatures and the signature gathering process and to issue factual findings relevant to the allegations and claims set forth herein.

166. Finally, Petitioners request this Court enjoin Respondent from placing the Proposed Amendment on the ballot and, if this Court's ruling is issued after the election, strike and invalidate the Proposed Amendment and any votes cast thereon.

Respectfully submitted,

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EXHIBIT A



TIM GRIFFIN
ATTORNEY GENERAL

Opinion No. 2024-046

March 20, 2024

Elizabeth Robben Murray, Attorney
Friday, Eldredge & Clark LLP
400 West Capitol Avenue, Suite 2000
Little Rock, Arkansas 72201

Dear Ms. Murray:

I am writing in response to your request, made under A.C.A. § 7-9-107, that I certify the popular name and ballot title for a proposed constitutional amendment. In Opinion No. 2024-034, I rejected a prior version of your proposed initiated amendment to the Arkansas Constitution. You have now revised the language of your proposal and submitted it for certification.

My decision to certify or reject a popular name and ballot title is unrelated to my view of the proposed measure's merits. I am not authorized to consider the measure's merits when considering certification.

1. Request. Under A.C.A. § 7-9-107, you have asked me to certify the following popular name and ballot title for a proposed initiated amendment to the Arkansas Constitution:

Popular Name

An amendment requiring local voter approval in a countywide special election for any new casino licenses and repealing authority to issue a casino license in Pope County, Arkansas.

Ballot Title

An amendment to the Arkansas Constitution, Amendment 100, § 4, subsection (i) to reduce the number of casino licenses that the Arkansas Racing Commission is required to issue from four to three; amending Amendment 100, § 4, subsections (k) through (n) to repeal authorization for a casino in Pope County, Arkansas and to repeal the authority of the Arkansas Racing Commission to issue a casino license for Pope County,

323 CENTER STREET, SUITE 200
LITTLE ROCK, ARKANSAS 72201

EXHIBIT

A

Arkansas; amending Amendment 100 § 4, to add subsection (s), providing that if the Arkansas Racing Commission, or other governing body, issues a casino license for a casino in Pope County, Arkansas prior to the effective date of this Amendment, then said license is revoked on the effective date of this Amendment; amending Amendment 100 § 4, to add subsection (t), providing that if a future constitutional amendment authorizes the issuance of a casino license in any county other than those issued now or hereafter for Crittenden County (to Southland Racing Corporation), Garland County (to Oaklawn Jockey Club, Inc.) and Jefferson County (to Downstream Development Authority of the Quapaw Tribe of Oklahoma and later transferred to Saracen Development, LLC), then the quorum court of each county where a casino is to be located shall call a special election by ordinance to submit the question of whether to approve of a casino in the county; amending Amendment 100 § 4, to add subsection (t)(1)-(3), setting the date for the special election and requiring the ordinance calling the special election to state the election date and to specify the format of the question on the ballot as “FOR a casino in [] County” and “AGAINST a casino in [] County,” and, “The question presented to voters must include whether or not a casino may be located in the county”—“A casino is defined as a facility where casino gaming is conducted”; amending Amendment 100 § 4, to add subsection (t)(4), requiring the county board of election commissioners to publish the ordinance calling the special election as soon as practicable in a newspaper of general circulation in the county in which the special election is held; amending Amendment 100 § 4, to add subsection (t)(5), requiring a majority of the voters in any county where any future casino is proposed to be located to approve of the casino at the special election before the Arkansas Racing Commission, or other governing body, may accept any applications for a casino license in that county; making this Amendment effective on and after November 13, 2024; providing that the provisions of this Amendment are severable in that if any provision or section of this Amendment or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application that can be given effect without the invalid provision or application; and repealing all laws or parts of laws in conflict with this Amendment.

2. Rules governing my review. In Opinion No. 2024-034, issued in response to your first submission for review and certification, I explained the rules and legal standards that govern my review of popular names and ballot titles. I rely on those same rules and legal standards here and incorporate them by reference.

3. Application to your popular name. Although the popular name need not contain detailed information or include exceptions that might be required of a ballot title, the

popular name must not be misleading.¹ And, as I noted in Opinion 2024-034, the popular name’s length itself is not misleading.² But a word used in the popular name does not accurately reflect the proposed measure or the ballot title (emphasis added): it requires “voter approval in a countywide special election for **any** new casino licenses.” The proposed measure itself is narrower (emphases added): it requires voter approval in a countywide special election “[i]f a constitutional amendment authorizes or otherwise allows the issuance of a casino license in **any** county **other than those issued now or hereafter** for Crittenden County (to Southland Racing Corporation), Garland County (to Oaklawn Jockey Club, Inc.) and Jefferson County (to Downstream Development Authority of the Quapaw Tribe of Oklahoma and later transferred to Saracen Development, LLC).”³ Therefore, I am substituting and certifying a “more suitable” popular name.⁴ The popular name provided below is substituted and certified for your proposed constitutional amendment.

4. Application to your ballot title. Having reviewed the text of your proposed constitutional amendment and ballot title, I believe the following changes to your ballot title are necessary to ensure that your ballot title clearly and accurately sets forth the purpose of your proposed initiated amendment to the Arkansas Constitution:⁵

- **“Majority of the voters.”** Section 3 of the measure’s text adds subsection (t)(5) to Amendment 100, § 4 (emphasis added): **“A majority of the voters in the county** where the casino is proposed to be located must approve of a casino at the special election.” While you may intend that phrase to mean “registered voters,” the Arkansas Supreme Court has long defined “a majority of the voters” to mean the majority of those who actually vote on an issue, not those that could have voted.⁶

¹ *E.g.*, *Chaney v. Bryant*, 259 Ark. 294, 297, 532 S.W.2d 741, 743 (1976); *Moore v. Hall*, 229 Ark. 411, 414–15, 316 S.W.2d 207, 208–09 (1958); see also Ark. Att’y Gen. Op. 2024-034 (articulating this rule in the opinion issued for your original submission for certification).

² Although I did note in that same opinion that you may wish to shorten the popular name to better meet the purpose of popular names. Here, your popular name is one word shorter than it was previously.

³ To ensure the popular name is not misleading, and to adequately apprise the voters of the licenses following the “other than” language, approximately fifty-five words would need to be added to the popular name—currently at twenty-eight words.

⁴ See A.C.A. § 7-9-107(d)(1) (authorizing the Attorney General to “substitute and certify a more suitable and correct ballot title and popular name for each amendment or act”).

⁵ In the measure’s text, you recite Amendment 100, § 4(i)–(n), striking language to indicate what you intend to remove from Amendment 100 and underlining language to indicate what you intend to add to Amendment 100. But when reciting Amendment 100, § 4(n), the measure’s text contains the phrase “quorum county in the court” instead of “quorum court in the county.” While that is not a reason for rejection here, the measure’s text contains a scrivener’s error that you may wish to correct.

⁶ *E.g.*, *Vance v. Johnson*, 238 Ark. 1009, 1013, 386 S.W.2d 240, 243 (1965); *Glover v. Hot Springs Kennel Club, Inc.*, 230 Ark. 544, 548–53, 323 S.W.2d 902, 904–07 (1959); *Browning v. Waldrip*, 169 Ark. 261, 273 S.W. 1032, 1032–33 (1925); *Graves v. McConnell*, 162 Ark. 167, 257 S.W. 1041, 1043 (1924); *Watts v.*

In *Glover v. Hot Springs Kennel Club, Inc.*, the Arkansas Supreme Court reviewed a state statute that required “a majority of the qualified electors” of a county to approve a greyhound racing franchise.⁷ There, the legal question was whether “it was necessary for the greyhound racing proposition submitted to the voters of Garland County to receive *merely a majority of those voting* on the proposition at the election, or was it necessary for the proposition to receive the vote of the *majority of all of the 17,245 poll tax holders* of Garland County.”⁸

Affirming and noting “an impressive line” of “on point” decisions stretching back to 1885,⁹ the *Glover* Court held that “a majority of the qualified electors of the county” has “a fixed legal meaning, to-wit: a majority of those who voted.”¹⁰ And while that case concerned certain statutory language—“majority of the qualified electors of the county”—the Court cited Arkansas Supreme Court cases that held the same based on different statutory language.¹¹ For instance, the *Glover* Court cites *Browning v. Waldrip*, which held that “majority of the landowners in a district” means “a majority of the landowners in the district voting at the election.”¹² The Arkansas Supreme Court holdings over the last 138 years recognize that the language “majority of” those voting in a particular voting district or jurisdiction has a fixed legal meaning: those who actually voted at the particular election.

So, in the ballot title, I have changed “majority of the voters in the county” to “majority of those in the county who vote at the election.” If instead you intend to vary from the “fixed legal meaning” that the Arkansas Supreme Court cases cited herein describe, you may make those changes and resubmit your popular name, ballot title, and full text of the proposed measure for certification.

- **Ballot title summary.** The Arkansas Supreme Court has interpreted the Arkansas Constitution to require that sponsors include all material in the ballot title that qualifies as an “essential fact which would give the voter serious ground for reflection.”¹³ But your proposed constitutional amendment contains a material provision that does not appear in your ballot title, which would likely give voters

Bryan, 153 Ark. 313, 240 S.W. 405, 406 (1922); *Vance v. Austell*, 45 Ark. 400, 406–07 (1885); Ark. Att’y Gen. Op. 2004-195.

⁷ 230 Ark. at 548–53, 323 S.W.2d at 904–07.

⁸ *Id.*, 230 Ark. at 548, 323 S.W.2d at 904.

⁹ *Id.*, 230 Ark. at 548–52, 323 S.W.2d at 904–07.

¹⁰ *Id.*, 230 Ark. at 553, 323 S.W.2d at 907.

¹¹ *Id.*, 230 Ark. at 548–52, 323 S.W.2d at 904–07.

¹² 169 Ark. at 261, 273 S.W. at 1032–33.

¹³ *Bailey*, 318 Ark. at 285, 884 S.W.2d at 942.

“serious ground for reflection” and would render the ballot tile misleading by omission. The ballot title inaccurately and incompletely summarizes the measure’s text by stating it requires “a majority of the voters in **any** county where **any** future casino is proposed to be located to approve of the casino at the special election.” So I have replaced the first instance of “any” with “certain” and the second instance of “any” with “a” to better summarize the measure’s text.

- ***Grammatical changes.*** I also made a few minor grammatical changes and clarifications to your ballot title to ensure it is not misleading or confusing to voters. A comma has been added after each of the following phrases: “subsection (i)” and “subsections (k) through (n).” I also expanded the space between the brackets used in the ballot title.

5. Substitution and certification. With the above changes incorporated, the following popular name and ballot title are substituted and certified:

Popular Name

An amendment requiring local voter approval in a countywide special election for certain new casino licenses and repealing authority to issue a casino license in Pope County, Arkansas.

Ballot Title

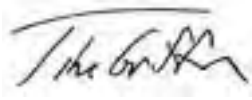
An amendment to the Arkansas Constitution, Amendment 100, § 4, subsection (i), to reduce the number of casino licenses that the Arkansas Racing Commission is required to issue from four to three; amending Amendment 100, § 4, subsections (k) through (n), to repeal authorization for a casino in Pope County, Arkansas and to repeal the authority of the Arkansas Racing Commission to issue a casino license for Pope County, Arkansas; amending Amendment 100 § 4, to add subsection (s), providing that if the Arkansas Racing Commission, or other governing body, issues a casino license for a casino in Pope County, Arkansas prior to the effective date of this Amendment, then said license is revoked on the effective date of this Amendment; amending Amendment 100 § 4, to add subsection (t), providing that if a future constitutional amendment authorizes the issuance of a casino license in any county other than those issued now or hereafter for Crittenden County (to Southland Racing Corporation), Garland County (to Oaklawn Jockey Club, Inc.) and Jefferson County (to Downstream Development Authority of the Quapaw Tribe of Oklahoma and later transferred to Saracen Development, LLC), then the quorum court of each county where a casino is to be located shall call a special election by ordinance to submit the question of whether to approve of a casino in the county; amending Amendment 100 § 4, to add subsection (t)(1)-(3), setting the date for the special election and requiring the ordinance calling the

special election to state the election date and to specify the format of the question on the ballot as “FOR a casino in [] County” and “AGAINST a casino in [] County,” and, “The question presented to voters must include whether or not a casino may be located in the county”—“A casino is defined as a facility where casino gaming is conducted”; amending Amendment 100 § 4, to add subsection (t)(4), requiring the county board of election commissioners to publish the ordinance calling the special election as soon as practicable in a newspaper of general circulation in the county in which the special election is held; amending Amendment 100 § 4, to add subsection (t)(5), requiring a majority of those in the county who vote at the election in certain counties where a future casino is proposed to be located to approve of the casino at the special election before the Arkansas Racing Commission, or other governing body, may accept any applications for a casino license in that county; making this Amendment effective on and after November 13, 2024; providing that the provisions of this Amendment are severable in that if any provision or section of this Amendment or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application that can be given effect without the invalid provision or application; and repealing all laws or parts of laws in conflict with this Amendment.

Under A.C.A. § 7-9-108, instructions to canvassers and signers must precede every petition, informing them of the privileges granted by the Arkansas Constitution and the associated penalties for violations. I have included a copy of the instructions that should be incorporated into your petition before circulation.

Assistant Attorney General William R. Olson prepared this opinion, which I hereby approve.

Sincerely,



TIM GRIFFIN
Attorney General

EXHIBIT B



MAR 06 2024

ATTORNEY GENERAL
OF
ARKANSAS

Popular Name

“An amendment requiring local voter approval in a countywide special election for any new casino licenses and repealing authority to issue a casino license in Pope County, Arkansas.”

Ballot Title

“An amendment to the Arkansas Constitution, Amendment 100, § 4, subsection (i) to reduce the number of casino licenses that the Arkansas Racing Commission is required to issue from four to three; amending Amendment 100, § 4, subsections (k) through (n) to repeal authorization for a casino in Pope County, Arkansas and to repeal the authority of the Arkansas Racing Commission to issue a casino license for Pope County, Arkansas; amending Amendment 100 § 4, to add subsection (s), providing that if the Arkansas Racing Commission, or other governing body, issues a casino license for a casino in Pope County, Arkansas prior to the effective date of this Amendment, then said license is revoked on the effective date of this Amendment; amending Amendment 100 § 4, to add subsection (t), providing that if a future constitutional amendment authorizes the issuance of a casino license in any county other than those issued now or hereafter for Crittenden County (to Southland Racing Corporation), Garland County (to Oaklawn Jockey Club, Inc.) and Jefferson County (to Downstream Development Authority of the Quapaw Tribe of Oklahoma and later transferred to Saracen Development, LLC), then the quorum court of each county where a casino is to be located shall call a special election by ordinance to submit the question of whether to approve of a casino in the county; amending Amendment 100 § 4, to add subsection (t)(1)-(3), setting the date for the special election and requiring the ordinance calling the special election to state the election date and to specify the format of the question on the ballot as “FOR a casino in [] County” and “AGAINST a casino in [] County,” and, “The question presented to voters must include whether or not a casino may be located in the county”—“A casino is defined as a facility where casino gaming is conducted”; amending Amendment 100 § 4, to add subsection (t)(4), requiring the county board of election commissioners to publish the ordinance calling the special election as soon as practicable in a newspaper of general circulation in the county in which the special election is held; amending Amendment 100 § 4, to add subsection (t)(5), requiring a majority of the voters in any county where any future casino is proposed to be located to approve of the casino at the special election before the Arkansas Racing Commission, or other governing body, may accept any applications for a casino license in that county; making this Amendment effective on and after November

**EXHIBIT
B**

13, 2024; providing that the provisions of this Amendment are severable in that if any provision or section of this Amendment or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application that can be given effect without the invalid provision or application; and repealing all laws or parts of laws in conflict with this Amendment.”

Full Text of the Proposed Measure

SECTION 1. Repeal of Authorization for a Casino in Pope County.

Arkansas Constitution, Amendment 100, § 4, subsections (i) – (n), are amended to read as follows, with stricken language to be deleted from Amendment 100 and underlined language to be added to Amendment 100:

- (i) The Arkansas Racing Commission shall issue ~~four~~ three casino licenses.
- (j) The Arkansas Racing Commission shall issue a casino license, as provided in this Amendment, to a Franchise holder located in Crittenden County, there being only one, to conduct casino gaming at a casino to be located at or adjacent to the Franchise holder’s greyhound racing track and gaming facility as of December 31, 2017 in Crittenden County. The Arkansas Racing Commission shall also issue a casino license, as provided in this Amendment, to a Franchise holder located in Garland County, there being only one, to conduct casino gaming at a casino to be located at or adjacent to the Franchise holder’s horse racing track and gaming facility as of December 31, 2017 in Garland County. Casino licenses to be issued to Franchise holders shall be issued upon:
 - (1) Adoption by the Arkansas Racing Commission of rules necessary to carry out the purposes of this Amendment; and
 - (2) Initial laws and appropriations required by this Amendment being in full force and effect.
- (k) ~~The Arkansas Racing Commission shall award a casino license to a casino applicant for a casino to be located in Pope County within two miles of the city limits of the county seat.~~ The Arkansas Racing Commission shall also award a casino license to a casino applicant for a casino to be located in Jefferson County within two miles of the city limits of the county seat.
- (l) Casino licensees are required to conduct casino gaming for as long as they have a license.

- (m) The Arkansas Racing Commission shall require all casino applicants for a casino license in ~~Pope County~~ and Jefferson County to demonstrate experience conducting casino gaming.
- (n) The Arkansas Racing Commission shall require all casino applicants for a casino license in ~~Pope County~~ and Jefferson County to submit either a letter of support from the county judge or a resolution from the quorum county in the court in ~~the county where the proposed casino is to be located~~ Jefferson County and, if the proposed casino is to be located within a city or town, shall also require all casino applicants to include a letter of support from the mayor in the city or town where the applicant is proposing the casino to be located.

SECTION 2. Revocation of any casino license issued for Pope County, Arkansas prior to the effective date of this Amendment.

Arkansas Constitution, Amendment 100, § 4, is amended to add subsection (s) to read as follows with underlined language to be added to Amendment 100:

- (s) If the Arkansas Racing Commission, or other governing body, issues a casino license for a casino in Pope County, Arkansas prior to the effective date of this Amendment, then said license is revoked on the effective date of this Amendment.

SECTION 3. Requiring the county quorum court to call a special countywide election on the question of whether to approve of any future casino to be located in the county, excepting casinos operating in Crittenden County (pursuant to a license issued now or hereafter to Southland Racing Corporation), Garland County (pursuant to a license issued now or hereafter to Oaklawn Jockey Club, Inc.) and Jefferson County (pursuant to a license issued now or hereafter to Downstream Development Authority of the Quapaw Tribe of Oklahoma and later transferred to Saracen Development, LLC).

Arkansas Constitution, Amendment 100, § 4, is amended to add subsection (t) to read as follows with underlined language to be added to Amendment 100:

- (t) If a constitutional amendment authorizes or otherwise allows the issuance of a casino license in any county other than those issued now or hereafter for Crittenden County (to Southland Racing Corporation), Garland County (to Oaklawn Jockey Club, Inc.) and Jefferson County

(1) Downstream Development Authority of the Quapaw Tribe of Oklahoma and later transferred to Saracen Development, LLC), then the quorum court of each county where a casino is to be located shall call a special election by ordinance to submit the question of whether to approve of a casino in the county.

(1) Except as provided in subsection (t)(2), the special election shall be held on the second Tuesday of:

(A) March or November in a year when a presidential election is held; or

(B) May or November of all other years.

(2)(A) Special elections scheduled to occur in a month in which the second Tuesday is a legal holiday shall be held on the third Tuesday of the month.

(B) Special elections held in months in which a preferential primary election or general election is scheduled to occur shall be held on the date of the preferential primary election or general election.

(3) The ordinance calling the special election shall:

(A) State the date of the special election; and

(B) Require the special election ballot to set forth the question substantially as follows:

“FOR a casino in [_____] County

AGAINST a casino in [_____] County

The question presented is whether or not a casino may be located in the county. A casino is defined as a facility where casino gaming is conducted.”

(4) The county board of election commissioners shall publish the ordinance calling the special election as soon as practicable in a newspaper of general circulation in the county in which the special election is held.

(5) A majority of the voters in the county where the casino is proposed to be located must approve of a casino at the special election before the Arkansas Racing Commission, or other governing body, may accept any applications for a casino license in that county.

SECTION 4. Severability.

If any provision or section of this Amendment or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or application of the Amendment that can be given effect without the invalid provisions or applications, and to this end the provisions of this Amendment are declared to be severable.

SECTION 5. Repeal of Conflicting Laws.

By adoption of this Amendment, all Arkansas laws or parts of Arkansas laws in conflict with this Amendment are repealed.

SECTION 6. Effective Date.

This amendment shall be effective on and after November 13, 2024.

EXHIBIT C



JOHN THURSTON
ARKANSAS SECRETARY OF STATE

July 31, 2024

James Knight
1310 W. Main Street, Ste. 201
Russellville, AR 72801

Sent via regular mail and email

RE: Proposed Constitutional Amendment
Popular Name: An Amendment Requiring Local Voter Approval in a Countywide Special Election for Certain New Casino Licenses and Repealing Authority to Issue a Casino License in Pope County, Arkansas

Dear Mr. Knight:

The petition submitted for the proposed Constitutional Amendment referenced above has met the signature requirements as established by Article 5 § 1 of the Arkansas Constitution. An appropriate Certification of Sufficiency is enclosed.

For a proposed Constitutional Amendment, the required number of valid signatures in 2024 is 90,704. The Secretary of State verified no less than 116,200 signatures.

The Secretary of State intends to certify the proposed Constitutional Amendment to the County Boards of Election Commissioners in August of 2024.

The Secretary of State will publish notice of the proposed Constitutional Amendment as directed by Article 5 § 1, of the Arkansas Constitution and Ark. Code Ann. § 7-9-113. Pursuant to Act 982 of 2017, the petition sponsor shall reimburse the cost of this publication to the Secretary of State within thirty (30) calendar days of notification of the final costs for publication.

Sincerely,


John Thurston
Arkansas Secretary of State

Enclosure: Certification of Sufficiency (as indicated)

STATE OF ARKANSAS



Certification of Sufficiency

I, John Thurston, Secretary of State of the State of Arkansas, do hereby certify that the petition submitted for the proposed constitutional amendment popularly known as

An Amendment Requiring Local Voter Approval in a Countywide Special Election for Certain New Casino Licenses and Repealing Authority to Issue a Casino License in Pope County, Arkansas

has met the signature requirements set forth in Article 5, Section 1 of the Arkansas Constitution, in order to place the proposed constitutional amendment on the Arkansas General Election ballot of November 5, 2024.

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at my office in the city of Little Rock, this 31st day of July, 2024.



John Thurston

John Thurston
Secretary of State

EXHIBIT D

**BALLOT QUESTION COMMITTEE (BQC)*
STATEMENT OF ORGANIZATION**

To be filed with:
Arkansas Ethics Commission
Post Office Box 1917
Little Rock, AR 72203
Phone (501) 324-9600
Fax (501) 324-9606

(Arkansas Ethics Commission File Stamp)

FILED

JAN 24 2024

ARKANSAS ETHICS
COMMISSION

BY



Check if this is an amendment to a previously filed statement of organization

Section One: BQC Name

Name of BQC (in full): Local Voters in Charge

Section Two: BQC Address & Phone Number

If BQC has no office address, use the address of the BQC officer authorized to receive notices on behalf of the BQC.

Address: 1310 West Main St., Suite 201

City: Russellville State: AR Zip: 72801 Telephone Number: (479) 968-2001

Section Three: BQC Officers and Directors

Provide the name, title, address, and telephone number of the treasurer and other principal officers and directors of the BQC.

Name: Jim P. Knight Title: President

Address: 1310 West Main St., Suite 201 City: Russellville State: AR Zip: 72801

Telephone Number: (479) 968-2001

Name: Bill James Title: Treasurer

Address: 507 Carden Pl City: Russellville State: AR Zip: 72802

Telephone Number: (479) 747-0206

Name: Hans Stirtz Title: General Officer

Address: 303 E. 2nd St. City: Russellville State: AR Zip: 72801

Telephone Number: (479) 970-1397

Name: Rick Thone Title: General Officer

Address: 400 Round Rock Road City: Russellville State: AR Zip: 72802

Telephone Number: (479) 857-3773

* The term "ballot question committee" is defined in Ark. Code Ann. § 7-9-402(2)(A) and (B) and § 600(c)(1) and (2) of the Ethics Commission's Rules on Ballot and Legislative Question Committees.

Section Four: Financial Information

Provide the name and address of each financial institution in which the BQC deposits money or anything else of monetary value.

Name of Financial Institution: First State Bank

Address: 501 West Main St. City: Russellville State: AR Zip: 72801

Name of Financial Institution: _____

Address: _____ City: _____ State: _____ Zip: _____

Section Five: Members

Provide the name of each person who is a member of the committee. A person that is not an individual may be listed by its name without also listing its own members, if any.

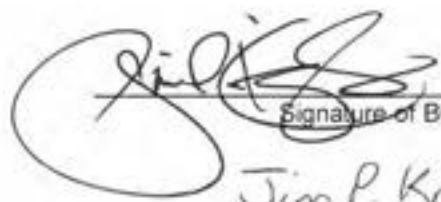
None

Section Six: Brief Statement

Provide a brief statement identifying the substance of each ballot question as to which the BQC will expressly advocate the qualification, disqualification, passage, or defeat, and, if known, the date each ballot question shall be presented to a popular vote at an election.

The committee advocates for an amendment to the Arkansas Constitution in the November 5, 2024, General Election to
repeal authorization for a casino and casino gaming in Pope County, Arkansas, as provided in Arkansas
Constitutional Amendment 100, and to require a local option vote for any future potential casino locations.

1/22/24
Date



Signature of BQC Officer
Jim P. Knight

EXHIBIT E

**BALLOT QUESTION COMMITTEE ("BQC")
FINANCIAL REPORT OF PERSON MEETING THE DEFINITION OF BQC SET
FORTH IN § 7-9-402(2)(A)***

To be filed with:
Arkansas Ethics Commission
Post Office Box 1917
Little Rock, AR 72203
Phone (501) 324-9600
Fax (501) 324-9606

(Arkansas Ethics Commission File Stamp)

FILED

JUL 15 2024

ARKANSAS ETHICS
COMMISSION

BY 

Check if this report is an amendment to a previously filed report

1. NAME OF COMMITTEE (IN FULL) Local Voters in Charge		2. TYPE OF REPORT <input checked="" type="checkbox"/> Monthly Report (due 15 days after end of month) <input type="checkbox"/> Preelection Report (due 7 days before election)* <input type="checkbox"/> Final Report (due 30 days after election) *NOTE: Preelection report must be received by the Ethics Commission on or before due date.
ADDRESS 1310 W. Main St. Suite 201		
CITY, STATE AND ZIP CODE Russellville, AR 72801		
TELEPHONE NUMBER 479-968-2001		

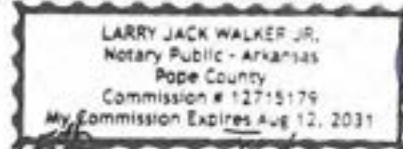
This report covers period: (6 - 01-2024) through (6 - 30 - 2024)

SUMMARY	FOR REPORTING PERIOD	CUMULATIVE TOTALS
3. BALANCE OF FUNDS AT BEGINNING OF REPORTING PERIOD	\$363,374.23	
4. TOTAL MONETARY CONTRIBUTIONS RECEIVED DURING REPORTING PERIOD	\$2,850,000.00	\$5,300,100.00
5. TOTAL EXPENDITURES MADE DURING REPORTING PERIOD	\$1,749,385.19	\$3,836,110.96
6. BALANCE OF FUNDS AT CLOSE OF REPORTING PERIOD	\$1,463,989.04	

7. () **NO ACTIVITY** Check if you have not received or made any contributions during this reporting period.
If you have no activity, file the first page of this report only.

I certify under oath that I have examined this report and to the best of my knowledge and belief the information so disclosed is a complete, true, and accurate financial statement.


State of Arkansas)
County of Pope) ss




Signature of Ballot Question Committee Officer

Subscribed and sworn before me this 15th day of July, 2024
15th day of July

(Legible Notary Seal)


Signature of Notary Public

My Commission Expires Aug. 12, 2031

* Ark. Code Ann. § 7-9-402(2)(A) provides as follows: "ballot question committee" means any person, located within or outside Arkansas, that receives contributions for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of any ballot question, or any person, other than an elected official expending public funds, or an individual, located within or outside Arkansas, who makes expenditures for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of any ballot question.

**EXHIBIT
E**

8. LOAN INFORMATION
Please Type or Print
Do Not List Loans Previously Reported

Date	Name and Address of Lender	Amount
	None	
9. TOTAL LOANS THIS REPORT		\$0.00

ITEMIZED MONETARY CONTRIBUTIONS OF \$50 OR MORE RECEIVED BY COMMITTEE
Please Type or Print

Date of Receipt	Name of Contributor	Street Address of Contributor	Place of Business Employer/Occupation	Amount of Contribution	Cumulative Total from this Contributor

11. TOTAL ITEMIZED MONETARY CONTRIBUTIONS OF \$50 OR MORE	\$2,850,000.00
12. TOTAL UNITEMIZED MONETARY CONTRIBUTIONS	\$0.00
13. TOTAL MONETARY CONTRIBUTIONS THIS REPORT <small>(includes totals from lines 9, 11, and 12)</small>	\$2,850,000.00

14. NONMONEY CONTRIBUTIONS RECEIVED BY COMMITTEE
 (Does not include volunteer services by individuals)

Date of Receipt	Name of Contributor	Street Address of Contributor	Description and Value of Nonmoney Item	Cumulative Total from this Contributor
	None			
15. TOTAL NONMONEY CONTRIBUTIONS THIS REPORT			\$0.00	

IMPORTANT

In addition to monetary contributions, committees should report the receipt of any nonmoney ("in-kind") contributions. A committee receives an in-kind contribution whenever a person provides the committee with an item or service without charge or for a charge that is less than the fair market value of the item or service in question.

**16. ITEMIZED EXPENDITURES OF \$100 OR MORE MADE BY COMMITTEE
OR ON BEHALF OF COMMITTEE BY ADVERTISING AGENCY, PUBLIC
RELATIONS FIRM, OR POLITICAL CONSULTANT**

Please Type or Print

Use Additional Copies of this Page if Necessary

Date	Name of Person to Whom Expenditure was Made	Street Address	Amount of Expenditure	Purpose of Expenditure
6/04/2024	First State Bank	3103 E. Main. St. Russellville, AR 72802	\$20.00	Wire Fee
6/05/2024	Nicole Gillum, Esquire, PLLC	1301 W. Capitol Ave. Little Rock, AR 72201	\$30,000.00	Legal Services
6/05/2024	Kyle Ogden	201 S. Orange Ave., Suite 950 Orlando, FL 32801	\$6,800.00	Background Checks
6/06/2024	First State Bank	3103 E. Main. St. Russellville, AR 72802	\$20.00	Wire Fee
6/06/2024	Consensus Communications	201 S. Orange Ave., Suite 950 Orlando, FL 32801	\$20,000.00	Campaign Consulting Fee
6/07/2024	First State Bank	3103 E. Main. St. Russellville, AR 72802	\$20.00	Wire Fee
6/07/2024	PCI Consultants, Inc.	26500 W. Agoura Road, Suite 102-146 Calabasas, CA 91302	\$411,765.05	Canvassing Services
6/12/2024	First State Bank	3103 E. Main. St. Russellville, AR 72802	\$20.00	Wire Fee
6/12/2024	PCI Consultants, Inc.	26500 W. Agoura Road, Suite 102-146 Calabasas, CA 91302	\$410,173.45	Canvassing Services
6/12/2024	Kyle Ogden	2723 Foxcroft Rd., Suite 101 Little Rock, AR 72227	\$7,100.00	Background Checks
6/12/2024	Posey Printing Company, Inc.	715 W. C St. Russellville, AR 72801	\$5,706.15	Petition Printing
6/20/2024	First State Bank	3103 E. Main. St. Russellville, AR 72802	\$20.00	Wire Fee
6/20/2024	PCI Consultants, Inc.	26500 W. Agoura Road, Suite 102-146 Calabasas, CA 91302	\$410,615.26	Canvassing Services
6/27/2024	PCI Consultants, Inc.	26500 W. Agoura Road, Suite 102-146 Calabasas, CA 91302	\$431,405.28	Canvassing Services
6/27/2024	First State Bank	3103 E. Main. St. Russellville, AR 72802	\$20.00	Wire Fee
6/28/2024	Kyle Ogden	2723 Foxcroft Rd., Suite 101 Little Rock, AR 72227	\$15,700.00	Background Checks

**ITEMIZED EXPENDITURES OF \$100 OR MORE MADE BY COMMITTEE
OR ON BEHALF OF COMMITTEE BY ADVERTISING AGENCY, PUBLIC
RELATIONS FIRM, OR POLITICAL CONSULTANT**

Please Type or Print

Date	Name of Person to Whom Expenditure was Made	Street Address	Amount of Expenditure	Purpose of Expenditure
17. TOTAL ITEMIZED EXPENDITURES OF \$100 OR MORE			\$1,749,385.19	
18. TOTAL UNITEMIZED EXPENDITURES			\$0.00	
19. TOTAL EXPENDITURES THIS REPORT (includes totals from lines 17 and 18)			\$1,749,385.19	

EXHIBIT F

**BALLOT QUESTION COMMITTEE ("BQC")
FINANCIAL REPORT OF PERSON MEETING THE DEFINITION OF BQC SET
FORTH IN § 7-9-402(2)(A)***

To be filed with:
Arkansas Ethics Commission
Post Office Box 1917
Little Rock, AR 72203
Phone (501) 324-9600
Fax (501) 324-9606

(Arkansas Ethics Commission File Stamp)

FILED

SEP 15 2022

ARKANSAS ETHICS
COMMISSION

BY *[Signature]*

Check if this report is an amendment to a previously filed report

1. NAME OF COMMITTEE (IN FULL) Fair Play for Arkansas - 2022		2. TYPE OF REPORT <input checked="" type="checkbox"/> Monthly Report (due 15 days after end of month) <input type="checkbox"/> Preelection Report (due 7 days before election)* <input type="checkbox"/> Final Report (due 30 days after election) *NOTE: Preelection report must be received by the Ethics Commission on or before due date.
ADDRESS 1310 W. Main St, Suite 201		
CITY, STATE AND ZIP CODE Russellville, AR 72801		
TELEPHONE NUMBER 479-968-2001		

This report covers period: (8 - 1 - 2022) through (8 - 31 - 2022)

SUMMARY	FOR REPORTING PERIOD	CUMULATIVE TOTALS
3. BALANCE OF FUNDS AT BEGINNING OF REPORTING PERIOD	\$246,863.48	
4. TOTAL MONETARY CONTRIBUTIONS RECEIVED DURING REPORTING PERIOD	\$296,048.00	\$4,140,827.98
5. TOTAL EXPENDITURES MADE DURING REPORTING PERIOD	\$338,104.95	\$3,936,021.45
6. BALANCE OF FUNDS AT CLOSE OF REPORTING PERIOD	\$204,806.53	

7. () NO ACTIVITY Check if you have not received or made any contributions during this reporting period.
If you have no activity, file the first page of this report only.

I certify under oath that I have examined this report and to the best of my knowledge and belief the information so disclosed is a complete, true, and accurate financial statement.

LARRY JACK WALKER JR.
Notary Public - Arkansas
Pope County
Commission # 12715179
My Commission Expires Aug 12, 2031

[Signature]
Signature of Ballot Question Committee Officer

State of Arkansas } ss
County of Pope

Subscribed and sworn before me this 15 day of September, 2022

[Signature]
Signature of Notary Public

(Legible Notary Seal)

My Commission Expires Aug 12, 2031

* Ark. Code Ann. § 7-9-402(2)(A) provides as follows: "ballot question committee" means any person, located within or outside Arkansas, that receives contributions for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of any ballot question, or any person, other than an elected official expending public funds, or an individual, located within or outside Arkansas, who makes expenditures for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of any ballot question.

**EXHIBIT
F**

8. LOAN INFORMATION
Please Type or Print
Do Not List Loans Previously Reported

Date	Name and Address of Lender	Amount
	None	
9. TOTAL LOANS THIS REPORT		\$0.00

10. ITEMIZED MONETARY CONTRIBUTIONS OF \$50 OR MORE RECEIVED BY COMMITTEE

Please Type or Print
Use Additional Copies of this Page if Necessary

Date of Receipt	Name of Contributor	Street Address of Contributor	Place of Business Employer/Occupation	Amount of Contribution	Cumulative Total from this Contributor
8/2/2022	Choctaw Nation of Oklahoma	10820 Chukka Hina Dr., Durant, Oklahoma 74701	Federally Recognized Indian Tribe	\$296,048.00	4,133,527.98

ITEMIZED MONETARY CONTRIBUTIONS OF \$50 OR MORE RECEIVED BY COMMITTEE
Please Type or Print

Date of Receipt	Name of Contributor	Street Address of Contributor	Place of Business Employer/Occupation	Amount of Contribution	Cumulative Total from this Contributor
11. TOTAL ITEMIZED MONETARY CONTRIBUTIONS OF \$50 OR MORE					\$296,048.00
12. TOTAL UNITEMIZED MONETARY CONTRIBUTIONS					\$0.00
13. TOTAL MONETARY CONTRIBUTIONS THIS REPORT <small>(Includes totals from lines 9, 11, and 12)</small>					\$296,048.00

14. NONMONEY CONTRIBUTIONS RECEIVED BY COMMITTEE

(Does not include volunteer services by individuals)

Date of Receipt	Name of Contributor	Street Address of Contributor	Description and Value of Nonmoney Item	Cumulative Total from this Contributor
15. TOTAL NONMONEY CONTRIBUTIONS THIS REPORT			\$0.00	

IMPORTANT

In addition to monetary contributions, committees should report the receipt of any nonmoney ("in-kind") contributions. A committee receives an in-kind contribution whenever a person provides the committee with an item or service without charge or for a charge that is less than the fair market value of the item or service in question.

**16. ITEMIZED EXPENDITURES OF \$100 OR MORE MADE BY COMMITTEE
OR ON BEHALF OF COMMITTEE BY ADVERTISING AGENCY, PUBLIC
RELATIONS FIRM, OR POLITICAL CONSULTANT**

Please Type or Print

Use Additional Copies of this Page if Necessary

Date	Name of Person to Whom Expenditure was Made	Street Address	Amount of Expenditure	Purpose of Expenditure
8/4/2022	Blitz Canvassing, LLC	7600 E. Eastman Ave., #405 Denver, CO 80231	\$277,480.00	Canvassing Services
8/10/2022	Friday Eldridge and Clark, LLP	400 W. Capitol Ave., Ste 2000, Little Rock, AR 72201-3522	\$18,568.00	Legal Services
8/17/2022	Posey Printing Company, Inc.	715 West C St. Russellville, AR 72801	\$1,204.45	Petition Printing
8/18/2022	Friday Eldridge and Clark, LLP	400 W. Capitol Ave., Ste 2000, Little Rock, AR 72201-3522	\$40,832.50	Legal Services

**ITEMIZED EXPENDITURES OF \$100 OR MORE MADE BY COMMITTEE
OR ON BEHALF OF COMMITTEE BY ADVERTISING AGENCY, PUBLIC
RELATIONS FIRM, OR POLITICAL CONSULTANT**

Please Type or Print

Date	Name of Person to Whom Expenditure was Made	Street Address	Amount of Expenditure	Purpose of Expenditure
17. TOTAL ITEMIZED EXPENDITURES OF \$100 OR MORE			\$338,084.95	
18. TOTAL UNITEMIZED EXPENDITURES			\$20.00	
19. TOTAL EXPENDITURES THIS REPORT <small>(includes totals from lines 17 and 18)</small>			\$338,104.95	

20. EXPENDITURES BY CATEGORY

Please Type or Print

CATEGORY	TOTAL AMOUNT
Advertising	
Direct Mail	
Office Supplies	
Travel	
Telephone	
Other Expenses (list)	
Legal Services	\$59,400.50
Bank Fees	\$20.00
Petition Printing	\$1,204.45
Canvassing Services	\$277,480.00
21. TOTAL EXPENDITURES BY CATEGORY	\$338,104.95

EXHIBIT G

Sponsor Affidavit Regarding Paid Canvassers

I, Phillip Dewey, being duly sworn on oath or solemn affirmation do state and attest as follows:

- I make the following statement based upon my own personal knowledge.
- I am of sound mind, and otherwise qualified to make this affidavit.
- I am 18 years of age or older.
- I am providing this affidavit on behalf of and at the direction of Local Voters in Charge, a duly formed Arkansas Ballot Question Committee and Sponsor of an initiative petition popularly known as "AN AMENDMENT REQUIRING LOCAL VOTER APPROVAL IN A COUNTYWIDE SPECIAL ELECTION FOR CERTAIN NEW CASINO LICENSES AND REPEALING AUTHORITY TO ISSUE A CASINO LICENSE IN POPE COUNTY, ARKANSAS."
- I am a Manager for the canvassing efforts of Local Voters in Charge. My responsibilities include hiring and managing the paid canvassers.
- The Sponsor has provided each paid canvasser listed on the attached Exhibit A a copy of the most recent edition of the Arkansas Secretary of State's Initiatives and Referenda Handbook.
- The Sponsor has explained to each paid canvasser listed on Exhibit A the Arkansas law applicable to obtaining signatures on an initiative or referendum petition.
- The Sponsor is submitting herewith as Exhibit A a list of paid canvassers' names and current residential addresses to the Arkansas Secretary of State.
- The Sponsor has instructed each paid canvasser listed in Exhibit A to provide sufficient information of the paid canvasser's identity to allow the Sponsor to obtain the criminal

**EXHIBIT
G**

history and criminal record of the paid canvasser within thirty (30) days before the date that the paid canvasser will begin to collect signatures.

- The Sponsor has obtained the criminal history and criminal record of each paid canvasser listed on Exhibit A.
- Where indicated by such criminal history or criminal record, the Sponsor has contacted the appropriate authority in the state or jurisdiction if a criminal history or criminal record indicates an open or pending matter if that open or pending matter would be a disqualifying offense as defined by A.C.A. §7-9-601(d)(3)(B).
- The Sponsor has obtained at Sponsor's cost, from the Division of Arkansas State Police, a current criminal history and criminal record search on each paid canvasser being registered by the Sponsor with the Arkansas Secretary of State.
- The criminal history and criminal record search for each paid canvasser listed in Exhibit A was obtained from the Division of Arkansas State Police within thirty (30) days before the date the paid canvasser will begin collecting signatures.
- The Sponsor agrees that it will not pay or offer to pay a paid canvasser on the basis of the number of signatures obtained on a statewide initiative petition or statewide referendum petition.
- The Sponsor certifies that no paid canvasser listed in Exhibit A has pleaded guilty or nolo contendere to or been found guilty of any disqualifying offense as defined by A.C.A. §7-9-601(d)(3)(B) in any state of the United States, the District of Columbia, Puerto Rico, Guam, or any other United State protectorate.
- The Sponsor is herewith submitting as Exhibit B to the Arkansas Secretary of State the paid canvassers' signed affidavits reflecting that they have not pleaded guilty or nolo

contendere to or been found guilty of any disqualifying offense as defined by A.C.A. §7-9-601(d)(3)(B) in any state of the United States, the District of Columbia, Puerto Rico, Guam, or any other United State protectorate.

Dated this 5 day of APRIL, 2024.

On behalf of

LOCAL VOTERS IN CHARGE

Phillip Dewey

Print Name

[Signature]
Signature

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF Pulaski

On this 5 day of April, 2024, before me, a Notary Public, duly commissioned, appearing in person the within named Phillip Dewey to me personally known who stated and acknowledged that he/she had so signed, executed and delivered the foregoing instrument for the consideration, uses, and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this 5 day of April, 2024.

My Commission Expires:

2-7-2029

(SEAL)

[Signature]
Notary Public

NICIA TRAVIS
Notary Public - Arkansas
Pulaski County
My Commission Expires 02-07-2029
Commission # 12706711

EXHIBIT H

Sponsor Affidavit Regarding Additional Paid Canvassers

I, BERTA ERICKSON, being duly sworn on oath or solemn affirmation do state and attest as follows:

- I make the following statement based upon my own personal knowledge.
- I am of sound mind, and otherwise qualified to make this affidavit.
- I am 18 years of age or older.
- I am providing this affidavit on behalf of and at the direction of Local Voters in Charge, a duly formed Arkansas Ballot Question Committee and Sponsor of an initiative petition popularly known as "AN AMENDMENT REQUIRING LOCAL VOTER APPROVAL IN A COUNTYWIDE SPECIAL ELECTION FOR CERTAIN NEW CASINO LICENSES AND REPEALING AUTHORITY TO ISSUE A CASINO LICENSE IN POPE COUNTY, ARKANSAS."
- I am a Manager for the canvassing efforts of Local Voters in Charge. My responsibilities include hiring and managing the paid canvassers.
- The Sponsor has provided each paid canvasser listed on the attached Exhibit A a copy of the most recent edition of the Arkansas Secretary of State's Initiatives and Referenda Handbook.
- The Sponsor has explained to each paid canvasser listed on Exhibit A the Arkansas law applicable to obtaining signatures on an initiative or referendum petition.
- The Sponsor is submitting herewith as Exhibit A a supplemental list of paid canvassers' names and current residential addresses to the Arkansas Secretary of State.
- The Sponsor has instructed each paid canvasser listed in Exhibit A to provide sufficient information of the paid canvasser's identity to allow the Sponsor to obtain the criminal

**EXHIBIT
H**

history and criminal record of the paid canvasser within thirty (30) days before the date that the paid canvasser will begin to collect signatures.

- The Sponsor has obtained the criminal history and criminal record of each paid canvasser listed on Exhibit A.
- Where indicated by such criminal history or criminal record, the Sponsor has contacted the appropriate authority in the state or jurisdiction if a criminal history or criminal record indicates an open or pending matter if that open or pending matter would be a disqualifying offense as defined by A.C.A. §7-9-601(d)(3)(B).
- The Sponsor has obtained at Sponsor's cost, from the Division of Arkansas State Police, a current criminal history and criminal record search on each paid canvasser being registered by the Sponsor with the Arkansas Secretary of State.
- The criminal history and criminal record search for each paid canvasser listed in Exhibit A was obtained from the Division of Arkansas State Police within thirty (30) days before the date the paid canvasser will begin collecting signatures.
- The Sponsor agrees that it will not pay or offer to pay a paid canvasser on the basis of the number of signatures obtained on a statewide initiative petition or statewide referendum petition.
- The Sponsor certifies that no paid canvasser listed in Exhibit A has pleaded guilty or nolo contendere to or been found guilty of any disqualifying offense as defined by A.C.A. §7-9-601(d)(3)(B) in any state of the United States, the District of Columbia, Puerto Rico, Guam, or any other United State protectorate.
- The Sponsor is herewith submitting as Exhibit B to the Arkansas Secretary of State the additional paid canvassers' signed affidavits reflecting that they have not pleaded guilty

or nolo contendere to or been found guilty of any disqualifying offense as defined by A.C.A. §7-9-601(d)(3)(B) in any state of the United States, the District of Columbia, Puerto Rico, Guam, or any other United State protectorate.

Dated this 29th day of April, 2024.

On behalf of

LOCAL VOTERS IN CHARGE

BERTA ERICKSON

Print Name

Berta Erickson

Signature

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF Washington

On this 29 day of April, 2024, before me, a Notary Public, duly commissioned, appearing in person the within named Berta Erickson to me personally known who stated and acknowledged that he/she had so signed, executed and delivered the foregoing instrument for the consideration, uses, and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this 29 day of April, 2024.

My Commission Expires:

02-02-2031

(SEAL)

Cynthia
Notary Public



EXHIBIT I



BEN D. CROSS
POPE COUNTY JUDGE

100 West Main Street Russellville, AR 72801
(479) 968-7487 Fax (479) 967-6874
popecountyjudge@popecountyar.gov



October 26, 2023

Arkansas Racing Commission
c/o Honorable Chairman, Mr. Alex Lieblong
1515 West 7th Street, Ste. 505
Little Rock, AR 72201

Re: *Letter of Support for Cherokee Nation Entertainment, L.L.C.*

Dear Chairman Lieblong and Honorable Members of the Arkansas Racing Commission,

In my capacity as County Judge of Pope County, I submit this letter to express my exclusive support for Cherokee Nation Entertainment, L.L.C. ("CNE") to submit an application for licensure to operate a casino in Pope County, Arkansas. This letter shall serve as the letter of support required by Ark. Const. Amend. 100, § 4(n), Arkansas Casino Gaming Rule 2.13 and Act 371 of 2019. I have met with representatives of CNE and know they possess the qualifications, experience and commitment to community support to successfully operate a casino in Pope County. I respectfully request that the ARC convene at its earliest convenience and establish the application process. It is my hope that the ARC can schedule a date before the end of the year for CNE to present its application and the ARC award the casino gaming license. Thank you for your service to the State of Arkansas.

Sincerely,

Ben D. Cross
Pope County Judge



EXHIBIT

I

EXHIBIT J

2019 AUG 13 PM 7:45

**ECONOMIC DEVELOPMENT
AGREEMENT**

7/11/2019
POPE COUNTY CLERK

PE

This Economic Development Agreement (the "Agreement") is entered into as of August 13th 2019 by and between the citizens of Pope County, Arkansas acting by and through the Pope County Judge Ben Cross (the "County") and Cherokee Nation Businesses, LLC, (the "Operator"). Capitalized terms used and defined elsewhere in this Agreement are defined in Section 1.

RECITALS

- A. Operator seeks to make application to the Arkansas Racing Commission (the "Commission") for the casino license established in Arkansas Constitutional Amendment 100 in Pope County, Arkansas (the "License").
- B. As a condition precedent to submission of such application, Operator is required by Amendment 100, the Rules of the Commission, and Arkansas Act 371 of 2019, to provide written evidence of the County's support of said application;
- C. The Pope County Judge has the authority, pursuant to Ark. Const. Amend 55 Sec 1(a) and Ark. Code Ann. Sections 14-14-801(a), 14-14-801(2), 14-14-1102(b)(7)(A), 14-164-201, *et seq.*, 14-170-205, and 14-176-103, to negotiate in good faith with the Operator, to enter into this Agreement, to perform all of the terms and conditions imposed upon the County hereunder, and to require performance by Operator of the terms and conditions upon it hereunder;
- D. Operator's development plans contemplate not only a Casino, but also ancillary facilities including recreational and entertainment components;
- E. The Project will result in hundreds of millions of dollars of capital investment by Operator, thousands of jobs, significant direct and indirect revenues and other economic benefits to the County and surrounding area; and
- F. This Agreement shall become effectuated, fully executed and enforceable upon endorsement signatures of representatives of both the County and Operator and the passage of a Resolution of Support by the Pope County Quorum Court for the Operator's casino license application to be submitted to the Commission.

NOW, THEREFORE, in consideration of their execution and delivery of this Agreement, the passage of a Resolution of Support for the Operator and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Operator and the County hereby agree to the following:

1. Definitions

The terms defined in this Section 1 shall have the meanings indicated for purposes of this

**EXHIBIT
J**

Agreement. Capitalized terms which are used primarily in a single Section of this Agreement are defined in that Section.

- (a) "Amendment 100" refers to Amendment 100 to the Arkansas Constitution, known as the Arkansas Casino Gaming Amendment of 2018.
- (b) "Casino" shall have the meaning given such term in Rule 1.065 of the Rules.
- (c) "Commission" means the Arkansas Racing Commission.
- (d) "Rules" means the Arkansas Casino Gaming Rules in effect from time to time as promulgated by the Commission pursuant to Amendment 100.

2. General Provisions

2.1 Purpose

The County has determined that the development, construction and operation of the Project will (i) be in the best interests of the citizens of Pope County and its municipalities; (ii) support and contribute to the economic growth within the County and the entire State of Arkansas; (iii) contribute to the provision and preservation of gainful employment opportunities for residents of the County; and (iv) support and promote tourism in Central Arkansas and the County. Accordingly, the County Judge has evaluated each potential operator for Pope County and the terms of a potential agreement prior to agreeing to the terms of this Agreement.

2.2 Application for License

Operator shall comply with the applicable rules and regulations adopted and/or prescribed by the Commission, presently or in the future, which govern the operation of Casino gaming at the Project, including the Rules. The parties agree that (i) the Rules are incorporated into this agreement, as and when adopted or prescribed, the same as if set forth fully herein, and (ii) in the event of a conflict between the provisions of this Agreement and the Rules, the Parties agree to take all reasonably necessary steps to amend or modify this Agreement to accommodate or reflect the Rules in a manner that preserves to the extent possible the economic benefits of the transactions contemplated hereby to each of the Parties.

2.3 Term

The term of this Agreement shall commence upon (i) execution of this Agreement by the County Judge, and the authorized representative of the Operator, and (ii) the passage of a Resolution of Support for the Operator's Casino License Application to be submitted to the Commission, and shall continue until the expiration of the term of the License, including any and all renewals or extensions thereof (the "Term").

3. Project

(a) Operator will pursue development of the Project, which will meet the following minimum commitments:

i. a minimum construction cost of Two Hundred Twenty Five Million DOLLARS (\$225,000,000), in addition to the Economic Development Fee referenced in 4.1(b) below;

ii. casino/gaming facilities constructed in compliance with the License and any rules or regulations imposed by the Commission;

iii. a hotel with a minimum of 200 rooms which shall, meet the construction and operational standards necessary to achieve the American Automobile Association's "Four Diamond" hotel rating, or substantial equivalent thereof;

iv. a mixed-use indoor conference and music venue capable of accommodating a minimum of one thousand (1,000) guests;

v. multiple price-point dining facilities, sports bar/communal areas;

vi. a sports book/simulcast parlor, subject to the Commission's Rules;

vii. a waterpark;

viii. a recreational vehicle park;

ix. an outdoor music venue capable of accommodating a minimum of five thousand (5,000) guests;

x. a medical air ambulance landing zone for use by medevac patients; and

xi. a separate, secure office space to be utilized as a sub-station by local law enforcement agencies.

(b) Operator shall use commercially reasonable efforts to promptly apply for, pursue and obtain the License, in the name of its wholly owned subsidiary, Legends Resort and Casino, LLC, an Arkansas LLC, and all other approvals necessary for the design, development, construction and operation of the Project (the "Approvals").

(c) Operator agrees to keep the County reasonably informed with respect to the progress of design and construction of the Project. The County acknowledges and agrees that the Operator may alter the Project and its components from time to time provided that said alterations shall remain in compliance with this Agreement.

3.1 Duty to Complete; Commencement of Operations

The Operator will use commercially reasonable efforts to commence and complete construction of the Project, and to commence operations of the Project, at the earliest dates reasonably practicable, taking into account, among other factors, (i) the process for obtaining the License and the Approvals, and the potential of regulatory delays and/or legal challenges, (ii) the typical time frames for design, development and construction of projects of this nature and magnitude, (iii) the process of recruiting and training the necessary skilled workforce and obtaining all necessary permits/licenses for operating the Project, and (iv) events or factors that are unforeseeable or outside the Operator's control, including any Force Majeure event.

3.2 Project Operations

Operator agrees to diligently operate and maintain the Project in accordance with the Rules and in compliance with this Agreement.

3.3 Maintenance; Transfer

(a) Operator agrees at all times during the term of this Agreement to use reasonable business judgment and diligence to maintain and/or upgrade the improvements comprising the Project, and to refrain from making transfers of any interest in the Project except as may be expressly authorized by the Commission and in consultation with the County Judge and Quorum Court of Pope County.

(b) The terms of this Agreement shall be binding and enforceable by the County against any successor in interest to the Operator.

4. Obligations of Operator

4.1 Economic Development Fee

(a) The Operator recognizes and acknowledges that the construction and operation of the Project will cause direct and indirect impacts and benefits within Pope County. The Operator also recognizes and acknowledges that the ultimate responsibility to mitigate the community impacts of the Project rests upon local governmental units.

(b) The Operator shall be obligated to pay Economic Development Fees in the total amount of Thirty-Eight Million Eight Hundred Thousand DOLLARS (\$38,800,000.00) (the "EDF"), to be distributed among certain municipalities and fire protection districts or associations within Pope County. Operator shall deliver to the Recipients within thirty (30) days of the successful resolution of all litigation or administrative challenges relating to the issuance of the License (the "Final Conditions") cashier's checks, as follows, to-wit:

- i. \$27,599,373 to Pope County, Arkansas;
- ii. \$3,361,608 to the City of Pottsville, Arkansas;
- iii. \$3,532,236 to the City of Atkins, Arkansas;
- iv. \$1,444,000 to the City of London, Arkansas;
- v. \$1,505,356 to the City of Dover, Arkansas;
- vi. \$242,427 to the City of Hector, Arkansas;
- vii. \$800,000 to the Crow Mountain Fire Protection District;
- viii. \$130,000 to the Pope County Fire Association;
- ix. \$30,000 to the Arkansas Tech University Foundation;
- x. \$25,000 to the Russellville Center For the Arts;
- xi. \$25,000 to the Dover Public Education Foundation;
- xii. \$25,000 to the Hector Public Education Foundation;
- xiii. \$25,000 to the Atkins Red Devil Foundation;
- xiv. \$25,000 to the Pottsville Community Scholarship Fund;
- xv. \$10,000 to the Dover Chamber of Commerce;
- xvi. \$10,000 to the Atkins People For a Better Atkins; and
- xvii. \$10,000 to the River Valley Arts Center.

(c) The EDF hereinabove provided is agreed to be appropriate and adequate and fairly and lawfully established. Any share of the EDF that is refused by a Recipient will be paid to Pope County.

4.2 Community Development Grants

(a) It is in the best interests of the County and the Operator to provide resources for continuing charitable contributions to the people of Pope County, Arkansas. Accordingly, beginning on the second anniversary date of the commencement of Casino gaming operations, and on each subsequent anniversary date during the term of this Agreement, Operator shall contribute the sum of Two Million DOLLARS (\$2,000,000) to a charitable foundation which is properly established and operating pursuant to state and federal law to be designated by the County prior to commencement of the payments described in this sub-section.

(b) The amount of the contributions provided in (a) above shall be adjusted every five (5) years during the term hereof to reflect the percentage increase in the Consumer Price Index for All Urban Consumers, U.S. City Average published by the Bureau of Labor Statistics of the United States Department of Labor ("CPI") over the previous five (5) years, calculated by using the most recently published CPI at the date of the adjustment, and the CPI on the same date five (5) years prior to the date of the adjustment.

4.3 Ongoing Research and Economic Development Support

(a) Operator shall contribute the sum of Twenty Five Thousand DOLLARS (\$25,000), every two (2) years during the term of this Agreement, to the Arkansas Tech University Foundation for purposes of study/research relating to the economic impact of the Project.

(b) Operator shall contribute the sum of One Hundred Thousand DOLLARS (\$100,000) annually to the Russellville Economic Development Alliance, or its successor or assigns.

(c) The amount of the contributions provided in (a) and (b) above shall be adjusted every five (5) years during the term hereof to reflect the percentage increase in the Consumer Price Index for All Urban Consumers, U.S. City Average published by the Bureau of Labor Statistics of the United States Department of Labor ("CPI") over the previous five (5) years, calculated by using the most recently published CPI at the date of the adjustment, and the CPI on the same date five (5) years prior to the date of the adjustment.

(d) The contributions provided in (a) and (b) above shall begin on the first anniversary date of the commencement of Casino gaming operations.

4.4 Certain Hiring Practices

(a) Operator agrees to use commercially reasonable efforts to create positions for and set a targeted goal of filling three percent (3%) of its workforce at the Project with individuals who have one or more "disabilities" (as that term is defined under the Americans with Disabilities Act).

(b) Operator agrees to hire a full time employee certified as an addiction counselor or contract with an appropriate Pope County non-profit organization to provide addiction counseling services.

(c) Operator agrees that upon commencement of operations, all employees who do not receive gratuities as part of their regular compensation will be subject to a \$13 per hour minimum wage.

4.5 Utility Services; Infrastructure

County agrees to fully cooperate with, utilize its best efforts, and actively assist Operator in the timely procurement of necessary utility and other public services, including, without limitation, electric, gas, water, sewer and sanitation services, as well as necessary infrastructure improvements, including, without limitation, street and highway improvements, access thoroughfares, curb cuts and signalized intersections, all at costs, assessments or rates generally available to other commercial users within Pope County, Arkansas. Operator agrees that it will

assume and pay all costs associated with the street and drainage infrastructure improvements and modifications upon county roadways and rights-of-way necessary for the development of the Project.

5. Covenants of Operator

The Operator covenants that throughout the Term, the Operator shall:

(a) Do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence, and refrain from making any organic changes to its legal form (including changing the legal status of its wholly owned subsidiary as an Arkansas LLC), or any changes in the status of the Project site that would have the effect of eliminating or changing any of its responsibilities regarding the payment of taxes, assessments, levies, permit fees, or the like, to the State of Arkansas or any subdivision or agency thereof, or to Pope County or any of its subdivisions, municipalities or agencies thereof

(b) Do or cause to be done all things necessary to preserve, renew and keep in full force and effect the rights, licenses, registrations, permits, certifications, approvals, consents, franchises, patents, copyrights, trade secrets, trademarks and trade names that are used in the conduct of its businesses and other activities, and comply with all governmental requirements applicable to the operation of its business and other activities, in all material respects, whether now in effect or hereafter enacted.

(c) Violation or breach of this Section shall result in liquidated damages equal to the then present value of the subsequent 15 years of tax losses to the state of Arkansas, Pope County and all municipalities within, as a direct result of such a breach or violation.

6. Default

6.1 Events of Default

The occurrence of any of the following shall constitute an "Event of Default" under this Agreement:

(a) If any material representation or warranty made by Operator hereunder shall prove to have been false or misleading in any material respect as of the time made or furnished.

(b) Subject to Force Majeure, if Operator shall materially default in the performance of any (i) governmental requirement; or (ii) commitment, agreement, covenant, term or condition (other than those specifically described in any other subparagraph of this Section 6.1) of this Agreement, and in such event if Operator shall fail to remedy any such default within one hundred eighty (180) days after receipt of written notice of default with respect thereto.

(c) If Operator fails to make any payments required to be made by Operator hereunder as and when due, and further fails to make any such payment within ninety (90) days after receiving written notice of default from the County; provided that if any such payment be the subject of a good faith dispute as to the amount thereof and Operator is proceeding with diligence to resolve such dispute, the time for making such payment shall be extended pending such resolution.

(d) If the County, either through letter from the County Judge's Office or Resolution of the Quorum Court, endorses or expresses support for any other casino license applicant during the term of this Agreement.

5.2 Remedies

(a) Upon an Event of Default, the County shall have the right if it so elects to: (i) institute and prosecute proceedings to enforce in whole or in part the specific performance of this Agreement by Operator, and/or to enjoin or restrain Operator from commencing or continuing said breach, and/or to cause by injunction Operator to correct and cure said breach or threatened breach; and/or (ii) exercise any and all other remedies available at law or in equity.

(b) Except as expressly stated otherwise, the rights and remedies of the County whether provided by law or by this Agreement, shall be cumulative, and the exercise by the County of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach, to the extent permitted by law. No waiver made by the County shall apply to obligations beyond those expressly waived in writing.

(c) In the event that the County, either through letter from the County Judge's Office or Resolution of the Quorum Court endorses or expresses support for any other casino license applicant during the term of this Agreement, this Agreement shall become voidable, at the election of the Operator, after which Operator shall no longer be bound hereunder and may continue to pursue its casino license application utilizing the Resolution of Support before the Commission.

6.3 Termination

Except for the provisions that by their terms survive, this Agreement shall terminate upon the occurrence of any of the following, and upon notification of such occurrence by Operator to County:

(a) The Commission fails to issue the License or issues the same to someone other than Operator;

(b) Operator's License (i) is revoked by a final, non-appealable order; (ii) expires and is not renewed by the Commission and Operator has exhausted any rights it may have to appeal such

expiration or non-renewal; or (iii) subsequently terminates due to conditions the Commission imposes which are not satisfied within the time periods specified therein, subject to any cure periods or extension rights.

7. Miscellaneous

7.1 Applicable Law and Construction

The laws of the State of Arkansas shall govern the validity, performance and interpretation of this Agreement. This Agreement has been negotiated by the County and Operator, and the Agreement, shall not be deemed to have been drafted by the County or by the Operator, but by each of them.

7.2 Venue

The parties expressly agree that any actions or legal proceedings relating to this Agreement may be brought in the State of Arkansas and that any legal action or procedure of any nature which may be brought by any party relating to this Agreement may only be brought in the following venues, to wit: the Circuit Court sitting in Pope County, Arkansas, or the United States District Court sitting in Little Rock, Arkansas.

7.3 Complete Agreement

This Agreement constitutes the full and complete agreement between the parties with respect to the subject matter hereof, and supersedes and controls in its entirety over any and all prior agreements, understandings, representations and statements whether written or oral by each of the parties.

7.4 No Joint Venture

The County and the Operator agree that nothing contained in this Agreement or any other documents executed in connection herewith is intended or shall be construed to establish the County and Operator as joint venturers or partners.

7.5 Time of the Essence

All times, wherever specified herein for the performance by Operator of its obligations hereunder, are of the essence of this Agreement.

7.6 Captions

The captions of this Agreement are for convenience of reference only and in no way define, limit or describe the scope or intent of this Agreement or in any way affect this Agreement.

7.7 Force Majeure

(a) An event of "Force Majeure" shall mean the following events or circumstances, to the extent that they delay or otherwise adversely affect the performance beyond the reasonable control of Operator, or its agents and contractors, of their duties and obligations under this Agreement: (i) Strikes, lockouts, labor disputes, disputes arising from a failure to enter into a union or collective bargaining agreement, inability to procure materials on favorable terms due to market-wide shortages, failure of utilities, labor shortages or explosions; (ii) Acts of God, tornadoes, floods, sinkholes, fires and other casualties; (iii) Acts of a public enemy, acts of war, terrorism, effects of nuclear radiation, or national or international calamities; (iv) Concealed and unknown conditions of an unusual nature that are encountered below ground or in an existing structure; (v) Any litigation or administrative delay which impedes the ability of Operator to complete the Project, unless based in whole or in part on the actions or failure to act of Operator; (vi) The failure by, or unreasonable delay of, the County, the State of Arkansas or any other governmental authority or subdivision to issue any licenses, permits or approvals on terms Operator reasonably deems necessary to develop, construct, open or operate the Project, unless such failure or delay is based materially on the actions or failure to act of Operator, or its agents and contractors; or (vii) Any impacts to major modes of transportation to the Project Site, whether private or public, which adversely and materially impact access to the Project Site.

(b) Notwithstanding any other provision of this Agreement to the contrary, Operator shall be entitled to an adjustment in the time for, or excuse of the performance of, any duty or obligation of Operator under this Agreement for Force Majeure events, but only for the number of days due to and/or resulting as a consequence of such causes and only to the extent that such occurrences actually prevent or delay the performance of such duty or obligation or cause such performance to be commercially unreasonable.

7.8 Amendments

This Agreement may not be modified or amended except by a written instrument signed by the Parties; provided, however, that the parties acknowledge that the Commission may, subsequent to the date of this Agreement, promulgate additional rules or regulations, issue interpretations or adopt policies or evaluation criteria which rules, regulations, interpretations, policies or criteria may conflict with, or may not have been contemplated by, the express terms of this Agreement. In such event, the Parties agree to take all reasonably necessary steps to amend or modify this Agreement to accommodate or reflect the provisions of all such regulations, interpretations, policies or criteria, in a manner that preserves to the fullest extent possible the economic benefits of the transactions contemplated hereby to each of the Parties.

7.9 Further Assurances and Assistance

The County and Operator will cooperate and work together in good faith to the extent reasonably necessary and commercially reasonable to accomplish the mutual intent of the parties that the Project be successfully completed as expeditiously as is reasonably possible. The County also agrees to utilize its best efforts to assist Operator in its dealings with the City of Russellville, whether in obtaining required approvals, services, permits or permissions or addressing matters of concern or importance to its officials or citizens.

7.10 Severability

In the event one or more provisions of the Agreement shall be deemed unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.

7.11 Exclusivity

County agrees that it shall not negotiate or enter into another economic development agreement, or any similar agreement to this Agreement, with any other party so long as this Agreement has not been terminated.

IN WITNESS WHEREOF, the Parties have set their hands and had their seals affixed on the dates set forth after their respective signatures below on this 13th day of August, 2019.


"COUNTY"

Counsel for Pope County, Arkansas

By: 

Ben D. Cross
Pope County Judge

8/13/2019
@ 7:18 P.M.



Clayton E. McCall
McCall Law Firm
1020 West Main St.
Russellville, AR 72801

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