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Ozaukee County, WI
Connie Mueller CoCC
2026CV000001

STATE OF WISCONSIN

CIRCUIT COURT

OZAUKEE COUNTY

STATE ex rel. GREAT LAKES NEIGHBORS, INC.
and GREAT LAKES NEIGHBORS, INC.
1369 N. Port Washington Road - No. 374
Grafton, WI 53024

Plaintiff-Relator,

Case No. 25-CV-001

Case Codes: 30955 (Petition - Certiorari)

CITY OF PORT WASHINGTON
JOINT REVIEW BOARD
and
CITY OF PORT WASHINGTON,

Defendants,

and

VANTAGE DATA CENTER MANAGEMENT COMPANY, LLC
VDC WISCO REALTY INVESTMENTS I, LLC,
VDC WISCO REALTY INVESTMENTS 2, LLC, and
VDC WISCO REALTY INVESTMENTS 3, LLC,

Intervenor.

AMENDED COMPLAINT

Now comes Great Lakes Neighbors, Inc., and in its own interest and on relation to and on behalf of the State of Wisconsin as named above, and as and for its amended complaint against Defendant, City of Port Washington Joint Review Board and City of Port Washington, states and alleges as follows:

NATURE OF ACTION

1. This is a challenge to the legal validity of a Tax Incremental District approved by the City of Port Washington Joint Review Board on November 18, 2025. The TID authorizes what is in effect, a gift of public tax funds in the form of property tax reimbursement and additional interest payments in a total amount that exceeds \$458.6 Million over the next 18 years

to Vantage Data Centers Management Company, LLC (“Vantage”), a private developer proposing to construct a hyperscale data center campus in Port Washington, Wisconsin.

2. The underlying proposed Data Center project does not need public subsidy to be developed, but the developer and the City’s expert have asserted that it does. In doing so, they have stated as a basis for that assertion that the developer could look elsewhere to develop the project, and thus that the City needs to provide Vantage with TID subsidy in order to encourage the developer to build the project in the City. This is put forward as being a proper basis to give a very large public subsidy to the private developer that complies with the “but for” test.

3. This project and the proposed TID are opposed by many citizens and taxpayers of the City, the Town of Port Washington, and the surrounding areas. Indeed, as a result of the City’s pursuit, approval of the TID and the associated Data Center, and significant objection to it, several citizens, including several members of the Plaintiff GLNI, worked to have a referendum put forward that would create a new City ordinance, requiring future TID proposals of more than \$10,000,000 to be approved by referendum of the City’s electors. That referendum passed with over 60% of the vote on April 7, 2026.

4. A review of the existing available record shows that TID No. 5 is unlawful and legally invalid and may be challenged under the certiorari standard of review as follows:

- (i). The existing and available facts of record demonstrate that the properties within TID No. 5 are not obsolete or blighted, the proposed project does not qualify as an industrial project, or one designed for industrial uses as is required by the TID law and associated statutes governing industrial development.
- (ii). The existing and available facts of record demonstrate that the proposed project plan and underlying development of the Data Center Development under TID No. 5 does not satisfy the “but for” test as required by the TID law.
- (iii). The existing and available facts of record demonstrate that there is an insufficient factual basis to support a finding that the public subsidy being provided by the City will significantly enhance the value of the property in the TID No. 5 District.

- (iv). The existing and available facts of record demonstrate that TID No. 5 and incorporated Developer's Agreement entitle the developer to reimbursements of many expenses and costs that are not eligible for reimbursement pursuant to the TID law, including but not limited to an obligation that binds the City to pay the developer over \$187,000,000 in interest payments during the next 18 years, which is therefore ultra vires of the authority granted the City and the JRB under the TID law.

PARTIES

5. Defendant City of Port Washington is a municipal and governmental body established under the laws of Wisconsin including Ch. 62 Wis. Stats., and associated municipal laws and has its principal place of business at 1000 Grand Avenue, Port Washington, WI 53074.

6. Defendant City of Port Washington Joint Review Board is a governmental body established pursuant to Wis. Stats. § 66.1105 and applicable law with its principal offices located at 1000 Grand Avenue, Port Washington, WI 53074.

7. Intervenor Vantage et al., is an entity and/or combination of LLCs. No information has been found in the record as to location or principal place of business or address or registered agent of Vantage.

8. Plaintiff, "Great Lakes Neighbors, Inc. ("GLNI") is a Wisconsin Non-Profit Corporation established under Ch. 181 stats., with its principal place of business at 1369 N. Port Washington Rd., #374 Grafton, WI 53024. GLNI has several members that are City and Town of Port Washington residents, property owners and taxpayers, including some who live and own property near TID No. 5 and the proposed Data Center. These members are taxpayers and property owners, also reside in the local school district, and are also residents and property owners in Ozaukee County.

9. These members of GLNI will be injured and specially damaged, and face and will suffer pecuniary damages as a result of the approval of the TID, the incorporated Developer's

Agreement, and through the associated development construction and operation of the Data Center under the TID.

10. The operation of the TID and the associated development and operation of the Data Center will negatively impact the property values of nearby property owners including members of GLNI. This has already occurred for one member of GLNI as further described below.

11. In addition, the approval and further implementation of the TID and the authority established thereunder and the associated Developer's Agreement, should it remain approved and of legal force and effect, will cause direct, concrete, and pecuniary injury to all taxpayers in the City of Port Washington. This injury will be caused by the implementation of the legally invalid TID No. 5, which if allowed to continue, will transfer property tax revenues which would otherwise remain part of the City's general fund revenue to the private developer of the proposed Data Center, Vantage. Because TID No. 5 is invalid, as set forth below, the expenditure of public tax funds for the sole and direct benefit of the developer will be an unlawful expenditure of public funds, establishing general taxpayer standing for all City taxpayers pursuant to applicable law including *S.D. Realty Co. v. Sewerage Comm. of Milwaukee*, 15 Wis.2d 15, 21-22 (1961) and *Voters with Facts v City of Eau Claire et al*, 376 Wis.2d 479, 496 (Ct.App.2017).

12. In addition to general taxpayer injury and standing as described above, the approval and further implementation of the TID and the associated Developer's Agreement, should it remain approved and of legal force and effect, will cause a direct, concrete, and pecuniary injury and loss to Non-TID taxpayers in the City of Port Washington and Town of Port Washington. This will occur because the approval of the TID allows the developer to receive or

retain for itself property tax payments that would otherwise be due and owing to the City and/or School District arising from any increase in value of the property within TID No. 5.

13. Because of the authority granted by TID No. 5, the amount of property taxes that would arise from the natural increase in value of the property within the TID, which would occur without the TID and be collected by the City and used to pay for public necessities, will instead be applied to pay Vantage for advancing or incurring costs related to construction of the Data Center because the entire incremental increase in the tax value of the properties within the TID are legally required to be applied for the sole benefit of the developer.

14. The incremental increase in property taxes that would normally occur for the property that is now within TID No. 5 would be part of the City and the School District's general fund revenues without the TID. However, due to TID No. 5, those tax revenues will be instead unavailable to the City for general public necessities, and will instead go to the benefit of the developer within TID No. 5. This will necessarily cause an increased burden on the remaining Non-TID properties which those properties would not otherwise experience but for the TID.

15. In addition to the above impact, when the City increases its levy in the future, which it will do, it will need more property tax revenues to raise that higher levy amount. It will thus need to impose and collect more tax revenues from the taxable properties within the tax base.

16. However, when the City imposes its higher levy rate and resulting mill rate against the taxable properties in the City to raise the additional revenue, it will not be permitted to impose that levy rate and mill rate against the increased value of the property within TID No. 5. This means that because of TID No. 5, the City will be required to impose a higher tax burden on the remaining Non-TID properties for the life of the TID.

17. These future losses of tax revenues arising from the natural growth in the value of the tax base, and/or the need to impose more tax burden on the Non-TID properties to raise the levy, are not speculative and will result from the approval of TID 5, and will cause concrete pecuniary injury and damages to the remaining properties laying outside of the TID (i.e. the Non-TID properties.) *See City of Hartford v. Kirley*, 172 Wis.2d. 191, 214, n.19 (1992).

18. The future loss of tax revenue and/or the need to impose more tax burden on the remaining Non-TID properties will occur because of the approval and operation of TID No. 5, and will cause a concrete and certain increase in the tax burden on taxable properties, and thus the taxpayers within the City and the School District including the following property owners and taxpayers, who are also members of GLNI:¹

19. Christine Le Jeune and Sebastian Elischer reside at and own the property at 137 East Cleveland Street, Port Washington, Wisconsin 53074. The location of their property is shown as *CP-3 and CP-4* on the aerial map of the TID No. 5 district and surrounding area prepared by GLNI from public information and filed herewith as Exhibit TP. *See Exhibit TP at p. 2 (map) and p. 5 (schedule) filed herewith.* Ms. Le Jeune and Mr. Elischer are property owners and taxpayers in the City of Port Washington and School District 4515, which covers and includes the property within TID No. 5, and have regularly paid and are current on their property taxes due to the City, the School District and the County. A copy of their 2025 property tax bill is filed herewith. *See Exhibit TP at p. 6 – tax bill.*

20. Miss Le Jeune and Mr. Elischer will, as described above and because they are property taxpayers in the City and/or School District, suffer concrete, pecuniary injury and harm

¹ Several members of GLNI agreed to be listed and include their property information in this amended complaint relative to showing the standing of GLNI, as further described below. The organization includes several additional members, who are listed in Exhibit TP, and others who are not listed, as well as supporters who are not formal members.

in the future, in the form of increased tax burden, as a result of the approval and operation of TID No. 5 and development and operation of the proposed Data Center, should it be allowed to proceed.

21. They are also, as property taxpayers, protected by the safeguards and requirements that are codified within the TID law to only allow for appropriate developments, and the expenditure or commitment of public tax funds in furtherance of such developments, if such project satisfies the safeguards and requirements of the TID statute.

22. They therefore have individual taxpayer standing to pursue the claims alleged herein, and could do so if they chose to do so, individually. They also have the right to allow GLNI, of which they are members, to base its legal standing on their standing and they do so for purposes of this case and consistent with the established mission of GLNI. GLNI therefore has standing to pursue the claims alleged herein.

23. Sarah and Dale Kirner reside at and own the property at 367 Michael Court, Port Washington, Wisconsin 53074. The location of their property is shown as *CP-10* on the aerial map of the TID No. 5 district and surrounding area prepared by GLNI from public information and filed herewith as Exhibit TP. *See Exhibit TP at p. 2 (map) and p.5 (Schedule)*. The Kirners are property owners and taxpayers in the City of Port Washington and School District 4515, which covers and includes the property within TID No. 5, and have regularly paid and are current on their property taxes due to the City, the School District, and the County. A copy of their 2025 property tax bill is filed herewith. *See Exhibit TP at p. 7 - tax bill*.

24. The Kirners will, as described above and because they are property taxpayers in the City and/or School District, suffer concrete, pecuniary injury and harm in the future, in the

form of increased tax burden, as a result of the approval and operation of TID No. 5 and development and operation of the proposed Data Center, should it be allowed to proceed.

25. They are also, as property taxpayers, protected by the safeguards and requirements that are codified within the TID law to only allow for appropriate developments, and the expenditure or commitment of public tax funds in furtherance of such developments, if such project satisfies the safeguards and requirements of the TID statute.

26. They therefore have individual taxpayer standing to pursue the claims alleged herein, and could do so if they chose to do so, individually. They also have the right to allow GLNI, of which they are members, to base its legal standing on their standing and they do so for purposes of this case and consistent with the established mission of GLNI. GLNI therefore has standing to pursue the claims alleged herein.

27. Daniel and Meghan Held reside at and own the property at 531 North Webster Street, Port Washington, Wisconsin 53074. The location of their property is shown as *CP-7* on the aerial map of the TID No. 5 district and surrounding area prepared by GLNI from public information and filed herewith as Exhibit TP. *See Exhibit TP at p. 2 and p. 5.* The Helds are property owners and taxpayers in the City of Port Washington and School District 4515, which covers and includes the property within TID No. 5, and have regularly paid and are current on their property taxes due to the City, the School District and the County. A copy of their 2025 property tax bill is filed herewith. *See Exhibit TP at p. 8 - tax bill.*

28. The Helds will, as described above and because they are property taxpayers in the City and/or School District, suffer concrete, pecuniary injury and harm in the future, in the form of increased tax burden, as a result of the approval and operation of TID No. 5 and development and operation of the proposed Data Center, should it be allowed to proceed.

29. They are also, as property taxpayers, protected by the safeguards and requirements that are codified within the TID law to only allow for appropriate developments, and the expenditure or commitment of public tax funds in furtherance of such developments if such project satisfies the safeguards and requirements of the TID statute.

30. They therefore have individual taxpayer standing to pursue the claims alleged herein, and could do so if they chose to do so, individually. They also have the right to allow GLNI, of which they are members, to base its legal standing on their standing and they do so for purposes of this case and consistent with the established mission of GLNI. GLNI therefore has standing to pursue the claims alleged herein.

31. Karen M. Golden resides at and owns the property at 889 Lake Road, Port Washington, Wisconsin 53074. The location of her property is shown as *TP-6* on the aerial map of the TID No. 5 district and surrounding area prepared by GLNI from public information and filed herewith as Exhibit TP. *See Exhibit TP at p. 2 and p. 5.* Ms. Golden is a property owner and taxpayer in the City of Port Washington and the School District 4515, which covers and includes the property within TID No. 5, and has regularly paid and is current on her property taxes due to the City, the School District and the County. A copy of her 2025 property tax bill is filed herewith. *See Exhibit TP at p. 9 - tax bill.*

32. Ms. Golden will, as described above and because she is a property taxpayer in the City and/or School District, suffer concrete, pecuniary injury and harm in the future, in the form of increased tax burden, as a result of the approval and operation of TID No. 5 and development and operation of the proposed Data Center, should it be allowed to proceed.

33. She is also, as a property taxpayer, protected by the safeguards and requirements that are codified within the TID law to only allow for appropriate developments, and the

expenditure or commitment of public tax funds in furtherance of such developments if such project satisfies the safeguards and requirements of the TID statute.

34. She therefore has individual taxpayer standing to pursue the claims alleged herein, and could do so if she chose to do so, individually. She also has the right to allow GLNI, of which she is a member, to base its legal standing on her standing and she does so for purposes of this case and consistent with the established mission of GLNI. GLNI therefore has standing to pursue the claims alleged herein.

35. Wendy A. Rismeyer resides at and owns the property at 118 East Douglas Street, Port Washington, Wisconsin 53074. The location of her property is shown as *CP-1* on the aerial map of the TID No. 5 district and surrounding area prepared by GLNI from public information and filed herewith as Exhibit TP. *See Exhibit TP at p. 2 and p. 5.* Ms. Rismeyer is a property owner and taxpayer in the City of Port Washington and School District 4515, which covers and includes the property within TID No. 5, and she has regularly paid and is current on her property taxes due to the City, the School District and the County. A copy of her 2025 property tax bill is filed herewith. *See Exhibit TP at p. 10 - tax bill.*

36. Ms. Rismeyer will, as described above and because she is a property taxpayer in the City and/or School District, suffer concrete, pecuniary injury and harm in the future, in the form of increased tax burden, as a result of the approval and operation of TID No. 5 and development and operation of the proposed Data Center, should it be allowed to proceed.

37. She is also, as a property taxpayer, protected by the safeguards and requirements that are codified within the TID law to only allow for appropriate developments, and the expenditure or commitment of public tax funds in furtherance of such developments, if such project satisfies the safeguards and requirements of the TID statute.

38. She therefore has individual taxpayer standing to pursue the claims alleged herein, and could do so if she chose to do so, individually. She also has the right to allow GLNI, of which she is a member, to base its legal standing on her standing and she does so for purposes of this case and consistent with the established mission of GLNI. GLNI therefore has standing to pursue the claims alleged herein.

39. Joshua Greene resides at and owns the property at 208 West Dodge Street, Port Washington, Wisconsin 53074. The location of his property is shown as *CP-12* on the aerial map of the TID No. 5 district and surrounding area prepared by GLNI from public information and filed herewith as Exhibit TP. *See Exhibit TP at p. 2 and p.5.* Mr. Greene is a property owner and taxpayer in the City of Port Washington and the School District 4515, which covers and includes the property within TID No. 5, and he has regularly paid and is current on his property taxes due to the City, the School District and the County. A copy of his 2025 property tax bill is filed herewith. *See Exhibit TP at p. 11 - tax bill.*

40. Mr. Greene will, as described above and because he is a property taxpayer in the City and/or School District, suffer concrete, pecuniary injury and harm in the future, in the form of increased tax burden, as a result of the approval and operation of TID No. 5 and development and operation of the proposed Data Center, should it be allowed to proceed.

41. He is also, as a property taxpayer, protected by the safeguards and requirements that are codified within the TID law to only allow for appropriate developments, and the expenditure or commitment of public tax funds in furtherance of such developments, if such project satisfies the safeguards and requirements of the TID statute.

42. He therefore has individual taxpayer standing to pursue the claims alleged herein, and could do so if he chose to do so, individually. He also has the right to allow GLNI, of which

he is a member, to base its legal standing on his standing and he does so for purposes of this case and consistent with the established mission of GLNI. GLNI therefore has standing to pursue the claims alleged herein.

43. Amanda Mueller resides at and owns the property at 4488 Lilac Lane in the Town of Port Washington, Wisconsin 53074. The location of her property is shown as *TP-3* on the aerial map of the TID No. 5 district and surrounding area prepared by GLNI from public information and filed herewith as Exhibit TP. *See Exhibit TP at p. 2 and p. 5.* Ms. Mueller is a property owner and taxpayer in the Town of Port Washington and within School District 4515, which covers and includes the property within TID No. 5, and she has regularly paid and is current on her property taxes due to the Town and School District and the County. A copy of her 2025 property tax bill is filed herewith. *See Exhibit TP at p. 12 - tax bill.*

44. Ms. Mueller will, as described above and because she is a property taxpayer in the City and/or School District, suffer concrete, pecuniary injury and harm in the future, in the form of increased tax burden, as a result of the approval and operation of TID No. 5 and development and operation of the proposed Data Center, should it be allowed to proceed.

45. She is also, as a property taxpayer, protected by the safeguards and requirements that are codified within the TID law to only allow for appropriate developments, and the expenditure or commitment of public tax funds in furtherance of such developments, if such project satisfies the safeguards and requirements of the TID statute.

46. She therefore has individual taxpayer standing to pursue the claims alleged herein, and could do so if she chose to do so, individually. She also has the right to allow GLNI, of which she is a member, to base its legal standing on her standing and she does so for purposes of

this case and consistent with the established mission of GLNI. GLNI therefore has standing to pursue the claims alleged herein.

47. Ms. Mueller has also and separately been harmed by the negative impact and diminution in the value of her property caused by the proximity of her property to the proposed TID No. 5 and the Data Center. This has been caused by the approval of the several land use entitlements, including among them the Developer's Agreement and TID No. 5, and the construction and operation of the Data Center that will result. This harm and injury is a pecuniary and concrete loss that has arisen due to the inability to sell her home at market value, that itself is due to the impending development, presence, and operation of the Data Center and TID No. 5.

48. Ms. Mueller bought her property on Lilac Lane 4 years ago. When she learned of the Data Center, she determined she would sell her current property and move further away from the Data Center. She listed the Lilac Lane property for sale in August of 2025. As part of making her disclosures, she noted that the Data Center was a public project that was planned for the area. This happened before any offers were made. Two offers were then made, but when potential buyers learned that the public project was the proposed Vantage Data Center, they withdrew their offers. This was specifically due to the negative impact and stigma they believed would occur by the Data Center. One of the potential buyer's statement to Ms. Mueller's broker was as follows:

Firstly, I really want to thank you for your full disclosure on the data center unfortunately after doing more research this will have to be a strong no for me it's such a shame because the house looks ideal and with so many improvements however the idea of such a beautiful bucolic land as it is now being destroyed for AI and data storage doesn't sit well with me it's a huge swath of land anyway it's so unfortunate

49. After this, Ms. Mueller's broker suggested as follows:

" ... let's simplify this if you got an offer today for 675 wouldn't you think that's a fire sale.

50. Ms. Mueller responded:

“ that is a 72,000 reduction then add on 6% Realtors fee. Why am I taking such a loss, if lilac was 3 miles and any direction it would be a bidding war. the very least I would consider a 725, the data center will not let that happen.

See Copies of text messages filed herewith as Exhibit F.

51. These facts show that Ms. Mueller has also been expressly injured and has already suffered direct pecuniary loss and economic damages in the form of a clear devaluation of her property due to the imminent operation and development of TID No. 5 and the Data Center. This injury is special damages to her due to her relatively close proximity to TID No. 5 and the proposed Data Center, and is in addition to her standing as a taxpayer.

52. These special damages give her standing to pursue a claim arising from the approval and future construction and operation of TID No. 5 and the Data Center. Because of these facts and the concrete economic injury she is already experiencing, Ms. Mueller has standing to pursue claims against TID No. 5 and the development of the Data Center. She also has the right to allow GLNI, of which she is a member, to base its legal standing on her standing and she does so for purposes of this case and consistent with the established mission of GLNI. GLNI therefore has standing to pursue the claims alleged herein.

JURISDICTION

53. The acts giving rise to the claims described below occurred in this County and those claims are properly pursued by the named Plaintiff as a review under the certiorari standard of review, and pursuant to Wis. Stats. § 781.01 and applicable law including, *Voters with Facts v. City of Eau Claire*, 382 Wis.2d 1, 53 (2018) and *Voters with Facts v. City of Eau Claire*, 376 Wis.2d 479, 507-08 (Ct.App.2017).²

² GLNI, through its members, filed and served a Notice of Circumstances and Claim pursuant to Wis. Stats. §893.80 upon the City and the City JRB as of February 25, 2026, arising from the November 4, 2025 approval of TID No.5

**FACTS REGARDING REVIEW AND
APPROVAL OF THE TID/TIF PROJECT**

54. During the past approximately one year, the City of Port Washington has been in the process of approving the development of a hyperscale Data Center complex located on what was formerly Town of Port Washington lands. These lands are located in the southeastern portion of the Town and the northeasterly corner of the City. As of the undersigned date, these Town lands and parcels are to be, and/or have been annexed into the City. The City has also rezoned these lands from their previous rural Agricultural use.

55. The Data Center project is being pursued by a developer known as Vantage Data Centers Management Company, LLC (“Vantage”). Vantage is a private developer of hyperscale data centers.

56. The Data Center project is proposed to lie within approximately 1,674 acres of property that has been designated as the TID District and given the name TID No. 5. A plan view of the TID District is filed herewith as **Exhibit A**.

57. As part of seeking approval of the Project, a consultant, Ehlers, was hired to prepare what is known as a Project Plan for the proposed TID No. 5.

58. The Project Plan is prepared on behalf of the City and purports to provide facts and information, and also expert-based opinion, regarding whether the proposed TID/TIF Project satisfies and will satisfy the requirements of the TID/TIF law within Wis. Stats. § 66.1105. A copy of the Project Plan is filed herewith as **Exhibit B**.

59. Representatives of Plaintiff GLNI have investigated the process of review and negotiation that was carried out regarding the TID, and based on that has determined that there

by the City and the subsequent final approval by the JRB on November 18, 2025, and which sets forth all the facts giving rise to the claims alleged and asserted in this amended complaint.

was significant non-public communications and discussion between representatives of Ehlers, Vantage, and City officials regarding the Data Center and the TID during the several months between January 2025 and final approval of TID No. 5, which occurred on November 18, 2025.

60. The City Council held its first meeting on the TID on June 10, 2025 as a special session. The minutes reveal no details or facts that were discussed regarding TID Districts, nor the use of a TID District to help finance the proposed Data Center Project, and specifically the issue of whether a TID District was necessary or appropriate to facilitate development of the Data Center.

61. Further discussions regarding the TID and the associated proposed developer's agreement occurred in closed session meetings held by the Common Council on July 1, 2025 and August 6, 2025. These have been evaluated by separate parties and their legal counsel and strongly appear to have been conducted in violation of the Open Meetings law. The Developers Agreement, which is incorporated into the TID, was thereafter approved on August 19, 2025. A copy of the approved agreement is filed herewith as **Exhibit E**.

62. The first public hearing on the proposed TID was held at the Plan Commission on October 16, 2025. A review of that meeting and the minutes shows that there was very little discussion by Plan Commission members or staff about the requirements for approving a TID. A review of the materials provided to the Plan Commission members included only the Project Plan, which is at **Exhibit B**.

63. The City Common Council reviewed the proposed TID at a meeting on November 4, 2025. Again, the Project Plan was the only factual basis provided in support of approving the TID. The minutes reveal no meaningful substantive discussion regarding the requirements for a TID or the need for one to subsidize the proposed Data Center. A review of a recording of that

meeting shows the same and is available on the City's website, with limited discussion starting at 2:01.

64. The Joint Review Board was convened and held a meeting on the proposed TID No. 5 on November 18, 2025. Again, there was no discussion about the requirements of the TID or the need for the TID. No JRB members discussed the requirement that the JRB make certain specific findings including that "but for" the public subsidy being provided by the TID, the proposed Data Center would not be able to be financed by the private market.

65. In advance of the JRB's November 18th, 2025 meeting, GLNI by undersigned filed a letter of objection with the Common Council and the JRB. A true and correct copy of that objection is filed herewith as **Exhibit C.**

66. The JRB did not discuss in any detail the objections raised by GLNI's letter in **Exhibit C.** However, Special Counsel for the City did reference some additional materials regarding the TID and stated that those were being provided to the record. This included a poster/flyer regarding the Data Center and the TID. More significantly, it also included a 31-page "economic study" prepared by the Developer's consultant. A copy of that study is filed herewith as **Exhibit D.**

67. The economic study in Exhibit D was not provided to any of the decision-makers in the process of approving the TID. It was not included in any of the pre-hearing packets for the Plan Commission public hearing, or the full Common Council's review of the proposed TID nor to the JRB members ahead of their meeting. None of the JRB members reviewed the study before voting to approve the TID. There was an oral presentation and slides presented by Mayor Neitzke at the 10/7/2025 Common Council meeting regarding the Economic Impact Study completed by Ryan LLC on behalf of Vantage Data Centers starting at 1:36:00. The Mayor

states at the beginning of the presentation that the study can be viewed again via YouTube and will also be available on the City's Official Facebook. The study does not address the necessity of a TID. Members of GLNI were not able to locate a Facebook posting which included the Economic Study. The study is not included in the agenda packet and is referred to as "Data Center Impact Presentation" on the agenda.

68. At the public meetings regarding the Data Center and the TID, many residents and property owners objected to the proposed TID. The concerns and objections included, among other things, that the properties within the proposed TID district were not "blighted" or "obsolete" and thus did not qualify as the types of properties that could form the basis for a TID District, that the Developer Vantage did not need financial support, and that the City was giving away public funds and potentially exposing the tax base and thus the property owners to very large risk of having to pay over \$187,000,000 just in interest payments to the developer so that the Developer would build public and other infrastructure that was solely for or almost solely for its own benefit.

69. The objecting property owners also pointed out that the tax assessed values of the properties within the proposed TID District would not increase as predicted in the Project Plan. Further, that because Wisconsin law currently only allows cities to raise their overall tax levy in direct proportion to their net new construction in a given year or shortly thereafter, and because the vast majority of the valuation increases that may arise from the Data Center will be locked up on the TID District for 18 years, the City will be forced to either take those tax levy increase opportunities as they occur on the backs of the residential taxpayers or make their stated budget shortfall issues even worse.

70. The effect of the approval of the TID will be to reward the Developer with more than \$458 Million in subsidy for merely doing what private commercial property owners are required to do by the free market, which is to maintain and as necessary renovate their properties at their own expense and risk and also pay special assessments for the development of required public infrastructure necessary to allow for their development.

71. As a result of approval of TID No. 5, should it be upheld, the Developer will obtain a windfall and will be unjustly and improperly enriched by among other things, \$187,000,000 in interest payments, made at a rate of 7%, in exchange for advancing funds necessary to construct certain infrastructure portions of the proposed Data Center.

72. The public will not realize any benefit from an increase in the tax base from Data Center properties for 18 years, and there is no guarantee it will ever receive any benefit, because there is no guarantee that the underlying properties will increase in taxable assessed value sufficiently to result in a net gain for the City.

73. There is no basis in the TID law or otherwise for a City municipal government to promise to pay over \$187,000,000 in interest to a private developer, whether at the prime rate, a discounted rate, or the premium rate that currently obtains, and has been agreed to by the City, in exchange for that developer constructing a private facility and associated infrastructure designed and installed to benefit that developer and its property and development.

74. These concerns described above were presented at the public hearing on the TID and also in writing ahead of the November 18, 2025, JRB approval of the TID. These issues were not discussed or explained and were generally ignored or dismissed by the members of the Plan Commission, the City Council and the JRB.

FIRST CLAIM FOR RELIEF
(Violation of Wis. Stats. § 66.1105(4)(gm)
Properties are not blighted or obsolete or qualify for industrial uses)

75. The allegations above are incorporated into this claim for relief.

76. The Project Plan for TID No. 5 declares that the proposed TID is allowed for under the statutes as an Industrial District or one suitable for industrial sites.

77. State TID statutes provide that to be a valid TID:

“Not less than 50 percent, by area, of the real property within the district is at least one of the following: a blighted area; in need of rehabilitation or conservation work, as defined in s. 66.1337(2m)(a); suitable for industrial sites within the meaning of s. 66.1101 and has been zoned for industrial use; or suitable for mixed-use development.

See Wis. Stats. § 66.1105(4)(gm)(4)(a).

78. The City, to facilitate the development of the Data Center, rezoned large areas of Town land to a new designation I-3 Technology Campus District. The underlying property is almost exclusively unspoiled agricultural land and has been rezoned specifically to allow for the development of the proposed Data Center

79. A Data Center is not an industrial use.

80. A Data Center is not an industrial use according to any provision of the TID law or other related and associated statutes.

81. The TID Project Plan does not discuss whether a Data Center use is an industrial use or an industrial project of the type that is contemplated under the TID law.

82. In addition, the Project Plan and the associated Developer’s Agreement do not provide for long-term employment opportunities of the type that the statutes require to justify public subsidy for industrial development.

83. The Project Plan and the associated Developer's Agreement provide no guarantee that the proposed data center will stay in operation for any length of time much less the full 18 years required for any projected tax benefits to be realized by the Town, City, or the county.

84. As a result, TID No. 5 as proposed and approved by the City Council and Joint Review Board is not in compliance with Wis. Stats. § 66.1105(4)(gm)(4)(a) or § 66.1101.

85. TID No. 5 is subject to review under the certiorari standard of review as is being sought by this amended complaint and by this claim for relief, and which requires review by the Court to determine whether the approval of TID No. 5 is legally valid as follows:

86. As described herein, and within this claim for relief, TID No. 5 has been approved contrary to law and is thus unlawful and void because it does not satisfy a requirement of the TID statute that not less than 50% of the real property within the TID is suitable for industrial sites, it is also unlawful and void because the record as it currently exists fails to demonstrate that there is sufficient evidence to support the determination that any portion of the real property within TID No. 5 is suitable for industrial use, and as a result may and should be declared as such by the Court pursuant to applicable law including *Voters with Facts v. City of Eau Claire*, 382 Wis.2d 1, 53 (2018) and *Voters with Facts v. City of Eau Claire*, 376 Wis.2d 479, 507-08 (Ct.App.2017).

SECOND CLAIM FOR RELIEF

(Failure to satisfy the "But for" test in Wis. stats. § 66.1105(4m)(c)(1)(a))

87. The allegations above are incorporated into the claim for relief.

88. The TID law at Wis. Stats. § 66.1105 and applicable law requires that in order to approve a TID District, a positive finding must be made by the JRB that "but for" the infusion and subsidy to the project being provided by public TIF financing, the project "would not occur without the creation of a tax incremental district."

89. The statutory language is as follows:

(c)1. The [JRB] shall base its decision to approve or deny a proposal on the following criteria:

a. Whether the development expected in the tax incremental district would occur without the use of tax incremental financing.

b. Whether the economic benefits of the tax incremental district, as measured by increased employment, business and personal income and property value, are insufficient to compensate for the cost of the improvements.

c. Whether the benefits of the proposal outweigh the anticipated tax increments to be paid by the owners of property in the overlying taxing districts.

See Wis. Stats. § 66.1105(4m)(c)(1)(a).

90. The reason given by the Project Plan for the need for public subsidy through the TID law is that:

Absent the use of tax incremental financing and the Developer's obligation to provide the upfront funding, the City would be unable to fund this program of infrastructure improvements. The City has also considered that the Developer was considering other potential sites for the Project, and that financial participation through tax incremental financing is essential to securing projects of this magnitude that provide local, regional and statewide economic benefits. *See Exhibit B - Project Plan at p. 4.*

91. This conclusion and assertion was not based on any actual facts showing the inability of the Developer to renovate its properties without using TID/TIF public funding and is not consistent with the laws allowing municipalities to borrow money to build infrastructure and to also impose special assessments on the properties that are benefitted.

92. In addition, the Developer has agreed to advance the money to install infrastructure improvements as part of the Development of the Data Center, which are designed and needed only because the Developer wants to locate the Data Center in the subject area and for its sole benefit. Given these facts, the Developer has the means to develop and improve its own buildings and infrastructure and does not need public subsidy to do so.

93. The fact that a developer may choose to not develop its project in a particular municipality is not a proper basis to approve a very large public subsidy to a private developer and cannot be considered as satisfying the “but for” test and should be found to be against public policy.

94. As a result, the proposed Data Center and Project Plan does not satisfy the “but for” test set forth in Wis. Stats. § 66.1105(4m)(c)(1)(a) and is therefore invalid and void as being contrary to law and further, review of the existing available record demonstrates there is a lack sufficient evidence to support the positive assertion by the JRB that the “but for” test is satisfied. TID No. 5 is unlawful and should be declared as such and voided by the Court pursuant to applicable law including *Voters with Facts v. City of Eau Claire*, 382 Wis.2d 1, 53 (2018) and *Voters with Facts v. City of Eau Claire*, 376 Wis.2d 479, 507-08 (Ct.App.2017).

THIRD CLAIM FOR RELIEF

(Failure to satisfy enhancement test under Wis. Stats. 66.1105(4)(gm)(4)(b))

95. The allegations above are incorporated into this claim for relief.

96. Pursuant to Wis. Stats. § 66.1105(4)(gm)(4)(b), to be a valid TID the City must make a finding that the “improvement of the area is likely to enhance significantly the value of substantially all of the other real property in the district.”

97. Because the TID is being characterized as an industrial use all lands within the District must remain zoned I-3 Technology Campus District for the duration of the TID which is predicted to be 18 years.

98. However the Technology Campus District zoning only allows for uses that are supportive of or supported by the Data Center.

99. The Project Plan and the Developer's Agreement provide no factual basis to support a finding that all the lands in the proposed TID No. 5 will "significantly" increase in value.

100. As a result, there is no proper basis to approve the TID as it is not shown through actual sufficient and substantial evidence that the "improvement of the land within the TID will significantly enhance the value of all of the other real property in the district." There is no expert analysis or underlying empirical data to support that conclusion in the project plan or the greater record.

101. As a result, the proposed TID No. 5 is invalid and may and should be declared so by the Court pursuant to applicable law including *Voters with Facts v. City of Eau Claire*, 382 Wis.2d 1, 53 (2018) and *Voters with Facts v. City of Eau Claire*, 376 Wis.2d 479, 507-08 (Ct.App.2017).

FOURTH CLAIM FOR RELIEF
(Ultra Vires - no authority to pay developer interest)

102. The allegations above are incorporated into this claim for relief.

103. The TID/TIF law at Wis. Stats. § 66.1105 provides a means for municipal governments to provide financial support and subsidy to private developers when such public subsidy is allowed and justified pursuant to the statutory requirements of the TID law.

104. The Project Plan for TID No. 5 and Developer's Agreements require that the City reimburse the private party Developer for their investment to improve their own properties and create infrastructure to support their development. They also require that the City pay many millions of dollars in interest to the developer. The Project Plan predicts over \$187,000,000 in interest will be owed by the City to the Developer over the next 18 years.

105. The TID law does not contemplate or authorize under the plain language of the statute, and cannot be construed so as to allow the payment of interest costs to a developer for advancing funds to construct infrastructure that will primarily only benefit that developer. Nor does it allow a municipal body to contract with a developer to pay that developer large amounts of interest to develop what is, in effect, a private development, and including that binding commitment as part of a developers agreement and associated TID project plan, as has been done here.

106. As a result, the proposed TID No. 5 is invalid, in full, or to the extent that it authorizes and requires through the force of law that the City pay the developer interest at a rate of 7% for advancing funds to construct infrastructure for the developer's benefit, and may and should be declared so by the Court pursuant to applicable law including *Voters with Facts v. City of Eau Claire*, 382 Wis.2d 1, 53 (2018) and *Voters with Facts v. City of Eau Claire*, 376 Wis.2d 479, 507-08 (Ct.App.2017).

WHEREFORE Plaintiff requests the following relief in this matter:

1. That the court enter an order directing the City to promptly assemble and produce the complete record regarding the review and approval of TID No. 5 for certiorari review.
2. That after review and any supplementing of the record as deemed appropriate by the Court, the Court enter an order declaring TID No. 5 unlawful and void pursuant to some or all of the claims for relief stated herein.
3. Enter an order directing that Defendants cease any further action in reliance upon or in furtherance of the project plans for TID No. 5.
4. Costs as allowable by law; and
5. Such other relief as the Court deems proper.

Dated this 13th of April, 2026

Electronically Signed by Joseph R. Cincotta

Joseph R. Cincotta

State Bar No. 1023024

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