



# **The Commonwealth of Massachusetts**

## **Massachusetts Gaming Commission**

### **NOTICE OF MEETING and AGENDA**

October 9, 2012 Meeting

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, notice is hereby given of a meeting of the Massachusetts Gaming Commission. The meeting will take place:

Tuesday, October 9, 2012

1:00 p.m.

Division of Insurance

1000 Washington Street

1<sup>st</sup> Floor, Meeting Room 1-E

Boston, Massachusetts

### **PUBLIC MEETING - #30**

1. Call to order
2. Approval of minutes
  - a. September 25, 2012 Meeting
3. Project Work Plan
  - a. Consultant status report
  - b. "Out of sequence" policy decisions and/or community/developer advisories
  - c. Phase I regulations
    - i. Approval of RFA 1 Application forms
4. Administration
  - a. Personnel searches
  - b. Report from Director of Administration
5. Finance/Budget
  - a. Update
6. Racing Division
  - a. Operations Update
7. Public Education and Information
  - a. Community and/or Developer outreach/responses to requests for information
    - i. Chelsea questions
  - b. Acting Ombudsman Report
    - i. List of key contacts for applicants
  - c. Report from Director of Communications and Outreach.
  - d. Report on October 2<sup>nd</sup> meeting at Holyoke Community College
  - e. AIA Presentation

8. Research Agenda
  - a. Status report
9. Other business – reserved for matters the Chair did not reasonably anticipate at the time of posting

I certify that on this date, this Notice was posted as “Gaming Commission Meeting” at [www.mass.gov/gaming/meetings](http://www.mass.gov/gaming/meetings), and emailed to: [regs@sec.state.ma.us](mailto:regs@sec.state.ma.us), [melissa.andrade@state.ma.us](mailto:melissa.andrade@state.ma.us), [brian.gosselin@state.ma.us](mailto:brian.gosselin@state.ma.us).

10/4/12  
(date)

Stephen P. Crosby by [Signature]  
Stephen P. Crosby, Chairman

**Date Posted to Website:** October 4, 2012 at 1:00 p.m.

**The Commonwealth of Massachusetts  
Massachusetts Gaming Commission**

**Meeting Minutes**

**Date:** September 25, 2012

**Time:** 1:00 p.m.

**Place:** Boston Convention and Exhibition Center  
415 Summer Street, Room 150  
Boston, Massachusetts

**Present:** Commissioner Stephen P. Crosby, Chairman  
Commissioner Gayle Cameron  
Commissioner James F. McHugh  
Commissioner Bruce Stebbins  
Commissioner Enrique Zuniga

**Absent:** None

**Call to Order:**

Chairman Crosby opened the 29<sup>th</sup> public meeting.

**Approval of Minutes:**

See transcript pages 2-4.

Chairman Crosby stated that two sets of minutes are ready for approval, September 11 and September 18. Commissioner Stebbins and Chairman Crosby made two suggested revisions to the September 11 minutes.

*Motion made by Commissioner McHugh to approve the minutes of September 11, 2012. Motion seconded by Commissioner Cameron. The motion passed unanimously by a 5-0-0 vote.*

*Motion made Commissioner Cameron to approve the minutes of September 18, 2012. Motion seconded by Commissioner Stebbins. The motion passed unanimously by a 5-0-0 vote.*

**Project Work Plan:**

See transcript pages 4-113.

**Consultant Status Report**

Draft Master Schedule – Eric Lowther of PMA Consultants addressed the Board. He stated that he is assisting the Commission with developing a schedule and work plan and now has an integrated schedule that reflects the scope of the gaming consultants and Commission's work. He provided copies of the schedule to the Commission and provided an overview. He stated that

based on this schedule the first casino license will be awarded at the end of February, 2014. Chairman Crosby stated that this date is based on the gaming consultants' estimates. If everything goes smoothly, however, the Commission could move more quickly, as plausible license issuing dates lie somewhere between October and November of 2012 and February to March of 2014. Commissioner Zuniga stated that if any phase of this schedule is completed early, such as investigations, the PMA scheduling tool would incorporate the early completion date and calculate a new timeline based on it.

Strategic Plan Draft – Chairman Crosby stated that one of the primary work products for the Commission's consultants was development of a strategic work plan. The consultants have presented the Commission with a draft plan and today's meeting is designed to present them with feedback so that the next, and possibly final, draft can be produced. Present for this discussion were consultants Guy Michael, Robert Carroll, Michael Epps, and Frederick Gushin.

Commissioner Zuniga stated that he would like to discuss how the Commission organize itself to meet the timeline suggested for drafting the Phase 2 regulations. Commissioner McHugh asked whether the Commission could conduct suitability hearings one quarter earlier if applicants supplied sufficient information more quickly than the draft timeline anticipated. Mr. Michael responded that compressing the timeline would be feasible but would probably have to be determined on a case-by-case analysis. He stated that the times suggested in the draft are reasonable estimates. Mr. Gushin stated that other areas in the timeline also could be compressed and, although there are certain benchmarks on the timeline, the overall process could be accelerated.

Commissioner McHugh stated that the Commission has to provide a full set of regulations to the local government advisory committee by March, 2013, in order to promulgate them by the end of June in accordance with the timeline contained in the draft schedule. Mr. Michael pointed out that it is possible to prioritize components of the regulations and work on the necessary ones first. Chairman Crosby stated that regulations dealing with licensing issues should be done first and all the operating regulations for gaming facilities could be done later.

Commissioner Zuniga asked if the six month timeline for investigations is realistic or can be shortened. Mr. Gushin stated that the timeline for investigation in major gaming states is anywhere from nine months to eighteen months. He stated his experience suggests that six months is a reasonable timeframe. A discussion was held on factors that may slow down an investigation, such as a company's internal bureaucracy or a local partner's need for more time to fill out forms for the first time than is required by another entity to fill out forms similar to those it filled up before.

Commissioner Zuniga asked if releasing the slots parlor license first would advance the schedule. Mr. Michael responded positively. Chairman Crosby stressed that this discussion raises again the critical need to get the Bureau up and running promptly. Chairman Crosby and Commission Zuniga raised concerns about the unknown impact and implications of the tribal compact. Mr. Carroll stated that bridges between the Tribal Gaming Commission, the Commission and other state agencies are going to have to be built before the amount of resources required for

Commission involvement in tribal gaming can be determined accurately. Chairman Crosby stated that the Commission is reaching out to the Tribe to begin relationship building. If both Commissions do not work together and have similar standards, then everything will have to be done twice.

Commissioner Stebbins stated that appointing a gaming policy advisory committee and structuring where it fits into the Commission's organizational structure is important. Commissioner McHugh asked if the consultants have a comprehensive list of the entities and kinds of MOUs the Commission will need as it moves forward. Mr. Carroll stated that the consultants are working on compiling such a list and have discussed it with the Attorney General. At the moment, however, they do not have a comprehensive list of all the agencies that may require MOUs. Chairman Crosby asked that the consultants include in the organization chart positions related to small business promotion, workforce development, and supplier diversity. Commissioner Zuniga recommended including a CIO or information technology person in the organization chart as well.

Chairman Crosby asked if there were any sound reasons for issuing a license to the slots facility first. Mr. Gushin responded doing so would begin the flow of revenues to the state more quickly than if the Commission decided to issue a Category I license first. He also stated that the construction time for a slots facility is shorter because such a facility would not necessarily require new construction and certainly would not require construction as elaborate as would be required for a casino with table games. Mr. Michael stated that one initial reaction might be that opening a slots facility in an area that may have a Category 1 licensee could provide the slots parlor with some type of a competitive advantage. On balance, however, the sooner a slots license could be issued, the better public policy would be served.

Chairman Crosby asked why it would be the Commission's responsibility, and not the casino's, to protect from robbery or fraud. Mr. Michael stated that the casino and the state have a joint interest in making sure the casinos are well run, efficient, and honest. Mr. Epps stated that the Commission has two overarching duties, to protect the revenue for the state and to protect the guests of the industry to make sure they will have a fair game. The Commission needs to be vigilant to ensure that both goals are met.

Commissioner Zuniga asked what the consultants believe the Commission's immediate next steps should be. Mr. Gushin stated that getting the scope of licensing process started, while the Phase 2 regulations are being discussed, so that when the investigations are completed the regulations are in place and the Commission can move forward on evaluation of projects and ultimately make a decision. Commissioner Stebbins asked that as the consultants move into Phase 2 they address the notion of phasing, such as phasing construction and temporary facilities. With those thoughts in mind, the gaming consultant stated that they would return to the task of drafting the strategic plan and would present a revised draft to the Commission for its consideration.

Phase 1 Regulations – Commissioner McHugh stated that three documents relative to the Phase 1 regulations are before the Commission. One document is a matrix incorporating all of the

substantive public comments received through September 10. In the matrix, the comments are tied to the specific section of the draft regulations to which they are addressed. In connection with each comment, there is a recommendation as to whether the Commission should accept the suggested change or not. The recommendation is based on consultations between himself, the gaming and the legal consultants. The second document is a matrix directed at what one commentator called typos and matters of form. The third document is a redline version of the regulations in which all of the recommendations in both matrices have been incorporated. He stated that the plan is to submit the draft to the Secretary of State on Friday for publication, with the goal of issuing the RFA-1 regulations on October 12.

Commissioner McHugh reviewed the major changes proposed in the matrices. The first narrows the ban on political contributions but maintains a broad requirement for disclosure of all contributions. The next removes an ambiguity about the definition of confidential information and the mechanism for defining it. The next deals with community reimbursement and the process involved in obtaining that reimbursement, as well as a suggestion on which it is not necessary to act at this time, that if an applicant provides the \$400,000 fee from which \$50,000 is paid to a host or surrounding community, the applicant will still have a \$400,000 credit against the costs of the investigation.

*Motion made by Commissioner Stebbins that Commission accept the recommended changes contained in the document entitled Summary of Public Comments on Draft Phase I Regulations 9/13/12 draft that is part of the meeting packet and the changes and the recommendations in the column labeled Commission resolution in the document entitled proposed 205 CMR 16 101.00-117.000, Suffolk Downs' Notes Regarding Form Consistency Errata and Typographical Errors that is also part of the meeting packet and authorize Commissioner McHugh to incorporate the substance of those changes in the current draft of the Phase I regulations and file a draft incorporating those changes with the Secretary of State on the Commission's behalf. Motion seconded by Commissioner Zuniga. The motion passed unanimously by a 5-0-0 vote.*

*A recess was taken.*

Chairman Crosby reconvened the 29<sup>th</sup> meeting.

Chairman Crosby stated that one area that was not discussed with the consultants was job titles. He stated that there will be an Executive Director, with Directors reporting to him, but asked about the title of the Deputy Director of IEB. Commissioner Cameron stated that everyone should have the title of Director, such as the Director of IEB and positions under the Director would be Deputy Directors. Commissioner Stebbins recommended leaving flexibility to consider someone serving in a joint role as director of a division, but deputy director of the overall Commission, under the Executive Director.

Chairman Crosby stated that the Commission will be amending its contract with the team of gaming consultants with an extension that deals with RFA-2. Commissioner Zuniga stated that he has been working with Director Glovsky on drafting an agreement to pay the consultants on a monthly basis and there are some additional items, such as travel reimbursement, that have to be

worked out before an agreement can be finalized. He has asked the consultants to put together a chart showing the number of individuals will be working on the project, as well as the Commission staff who will be involved and necessary timing elements.

*Motion made by Commissioner McHugh to authorize Commissioner Zuniga to negotiate a contract with Spectrum Corporation and the firm of Michael and Carroll for provision of the services necessary for promulgating the Phase II regulations including a schedule of payments, costs and requirements for travel and allied contractual components. Motion seconded by Commissioner Stebbins. The motion passed unanimously by a 5-0-0 vote.*

Chairman Crosby then stated that the Commission has to prepare itself to do the background investigations that will become necessary as soon as the Phase 1 applications are filed. Those investigations will, of necessity, be outsourced because the Commission does not have the capability to do them in-house. He stated that no tax money will be involved in the investigative process, as the full costs of the investigation will be borne by the applicants. He stated that the question before the Commission is whether to utilize the consulting firms that are already working for the Commission. He stated that the present team is the best in the industry, was competitively procured, and has worked seamlessly to accomplish a great deal during the past five months. Payments for the investigations, however, could be quite substantial, perhaps running into the millions of dollars. He continued by stating that the Commission is exempt from the state procurement regulations but voluntarily chose to use them. In this case, however, following those regulations is in competition with the need to move very quickly to prepare for the applications.

Commissioner Zuniga stated that, given the manner in which the Commission originally hired the two firms, the purposes served by the procurement regulations would be served even if the Commission exempted itself from those regulations for this procurement. Commissioner McHugh stated that utilizing the current consultants would be cost effective. He stated that they have high ethics and vast experience. In addition, Spectrum has just conducted investigations in Ohio and may have fresh information that would be valuable in the investigative process. Commissioner Cameron stated that gaming background investigations are unique and intricate and require many contacts with individuals and agencies in other jurisdictions. She stated that she has confidence in the staff the consultants could provide and the quality and ethics of the individuals who will be conducting the investigations. Commissioner Stebbins was in agreement with the recommendation and stated that he valued the expertise of the consultant team. Chairman Crosby recommended that the Commission proceed with either a sole-source procurement or amendment to the existing contract. Commissioner Zuniga asked if the consensus is to exempt the Commission from the regulations adopted in April for the purposes of this one procurement and received a positive response.

*Motion made by Commissioner McHugh that the Commission exempt itself from the procurement regulations found in 801 CMR that the Commission adopted earlier this year but that it do so for the sole purpose of engaging the firm of Spectrum and the firm of Michael and Carroll to assist the Commission with the investigation of Phase 1 applicants, provided that suitable terms,*

*arrangements, and conditions of the contract covering the investigation can be arranged. Motion seconded by Commissioner Cameron. The motion passed unanimously by a 5-0-0 vote.*

**Administration:**

See transcript pages 113-124.

Personnel Searches - Chairman Crosby stated that all the job searches are moving ahead and several may be completed within the next few days. The Commission decided to move forward with hiring for these positions by the appropriate hiring manager next week, if it is possible to do so, even though several Commissioners will be out of town.

Report from Director of Administration – Director Glovsky stated that she has been coordinating meetings between the Commissioners and consultants and ensuring different parts of the strategic plan have been addressed. She stated that she has been working with Kristen Gooch to establish a protocol for communication between the Commission and the consultants during the Phase 2 process. She stated that she has been working with Commissioner Zuniga on the extension of the contract with the consultants and has begun working with Commissioner Stebbins on an ISA with the Collins Institute to do research regarding host communities and surrounding communities. She is working on procurements for research and financial advisory services. She has been preparing office space and equipment for the new hires. She stated that she also has prepared and would like to post a job description for a generalist.

Personnel Policies - Chairman Crosby stated that he provided the Commission with a set of core values which he would like to adopt. He reviewed the content and stated that he would like to have the values set out in the beginning of the employee manual.

*Motion made by Commissioner Stebbins to adopt the proposed set of core values for the Commission and for all future and current employees of the Mass Gaming Commission. Motion seconded by Commissioner McHugh. The motion passed unanimously by a 5-0-0 vote.*

Chairman Crosby stated that Commissioners McHugh and Stebbins will be conducting the regular weekly Commission meeting next week while he and Commissioners Cameron and Zuniga are out of town attending a national gaming meeting.

**Finance/Budget:**

See transcript pages 124-143.

Update - Commissioner Zuniga stated that he has developed a draft memorandum outlining a procedure for reimbursing host communities. This procedure reflects Commission regulations allowing the Commission to pay money to a host community if a developer or operator and a host or surrounding community come to an agreement as to the amount to be paid and send a letter to the Commission to start the process of reimbursement. Commissioner Zuniga stated that when an agreement is submitted, the community will be given 50% of the agreed upon amount.



The community can also get the money directly from the developer. Commissioner Stebbins stated that, in order to prevent double payments, the Commission should have the ability to determine whether a community has already received money from the developer when it receives a community's payment request. Commissioner McHugh stated that in Phase 2 the developer has to disclose all payments made to a community.

Commissioner Stebbins expressed concern about releasing additional money when the initial \$50,000 is expended, as the Commission will need that money for investigations. Commissioner Zuniga clarified if the community expenses go beyond \$50,000, it does not come out of the remaining \$350,000, at this time. Instead, the additional sums would have to come from the developer. The remaining \$350,000 will be used by the Commission for the investigatory process.

Commissioner Zuniga stated that he has distributed the third draft of the employee manual and has incorporated all the changes discussed at the Commission's August 14 meeting.

### **Racing Division:**

See transcript pages 143-148.

Operations Update – Commissioner Cameron stated that the greyhound dog owners have brought forward an issue with regard to payments. When greyhound racing was discontinued, statutory provisions were made for payments to people who were losing their livelihood. The owners disagree with an interpretation of the governing statute made by the Department of Professional Licensure, which has been handling racing operations. She conducted a meeting with the owners and requested outside counsel to provide an opinion on what the statute meant. She has concluded that one of the claims advanced by the owners has merit and has notified them, on an informal basis, of her conclusion. As a result, she anticipates the issue will be resolved in the near future.

Commissioner Cameron also stated that she has been contacted by Ms. Dorchak, President and General Counsel representing GREY2K USA. Ms. Dorchak believes that the law prohibiting greyhound racing in Massachusetts also prohibits simulcasts of greyhound racing. Commissioner Cameron stated that one of the Commission's responsibilities is to analyze the simulcast and pari-mutuel statutes to determine their efficiency and whether some need replacement. A report on that subject must be filed with the Legislature no later than January 1. Commissioner Cameron stated that she is contemplating a contract with an attorney who has great subject matter knowledge and who will be making a recommendation to the full Commission when his investigation is complete.

### **Public Education and Information:**

See transcript pages 148-161.

Community and/or Developer Outreach/Responses to Requests for Information – Commissioner McHugh stated that he is continuing to work on the answers to the questions posed by the City of Chelsea.

Springfield Ethics Commission Opinion – Chairman Crosby stated that the Commission has received the opinion from the State Ethics Commission regarding the Springfield consultant. He stated that the Commission is considering whether to respond, but will probably take the position that it is fundamentally accepting of the decision. The Commission decided to give Chairman Crosby authority to respond to the opinion if in his judgment a response is appropriate.

Acting Ombudsman Report – Chairman Crosby stated that he received a suggestion that the Commission compile a list of key contacts for applicants. He agrees that compilation of such a list would be a good idea and will ask the Ombudsman to do so once the ombudsman is hired.

Chairman Crosby stated that he received correspondence from MEPA informing the Commission that Suffolk Downs is filing its environmental notice form. He stated that he would like to have the Director of MEPA attend one of the Commission meetings to provide an overview of the environmental review process.

Chairman Crosby stated that he has had discussions with the Governor's office and recommended establishing the gaming policy committee as soon as possible. Under the statute, the Governor will appoint the chair. Chairman Crosby anticipates that the Commission's Ombudsman will staff the committee.

Discussion of Diversity/Inclusion Forum, September 19, 2012 – Chairman Crosby stated that the Commission walked away from the forum with a sense that much can be done but also that nothing in this area happens by itself. He has discussed with Commissioner Stebbins putting together a job description that focuses on a job description for a person whose responsibility will center on workforce and supplier development and would like to hire that person soon. Commissioner Stebbins stated that his initial thought before hiring a staff person is to ask representatives from organizations such as Access and Opportunity, Mass Development, Associated Industries of Massachusetts, and other agencies to gather and talk about a sound strategic approach to the diversity issues discussed at the forum, with the thought of perhaps finding support for the Commission's effort from within the existing partners.

### **Research Agenda:**

See transcript page 161.

Status Report – Chairman Crosby stated that Director Glovsky talked about the research agenda in her presentation and an RFI is in process.

Chairman Crosby stated that he, along with Commissioners Zuniga and Cameron, will be going to Las Vegas for the National Responsible Gambling Conference on Sunday, and then will spend the next three days attending the American Gaming Association Conference, also in Las Vegas.

*Motion made to adjourn, motion seconded and carried unanimously.*

**List of Documents and Other Items Used at the Meeting**

1. Massachusetts Gaming Commission September 25, 2012 Notice of Meeting & Agenda
2. September 11, 2012 Meeting Minutes of Massachusetts Gaming Commission
3. September 18, 2012 Meeting Minutes of Massachusetts Gaming Commission
4. Massachusetts Gaming Commission Work Plan
5. Proposed CMR 101.00 – 117.00 Suffolk Downs' Notes Regarding Form, Consistency, Errata and Typographical Errors
6. Summary of Public Comments on Draft Phase I Regulations - 9/13/12 draft
7. 205 CMR Massachusetts Gaming Commission Redline draft – September 25, 2012
8. Core Values
9. September 25, 2012 Memorandum Regarding Procedure for Reimbursing Host Communities

/s/ James F. McHugh  
James F. McHugh  
Secretary

3.c.1



Seaport West  
155 Seaport Boulevard  
Boston, MA 02210-2800

617 832 1000 *main*  
617 832 7000 *fax*

Kevin C. Conroy  
617 832 1145 *direct*  
kconroy@foleyhoag.com

September 21, 2012

**By Email**

James F. McHugh  
Commissioner  
Massachusetts Gaming Commission  
84 State Street, Suite 720  
Boston, MA 02109

Re: Application form comments

Dear Commissioner McHugh:

On behalf of my client, Mohegan Resorts Mass, LLC d/b/a Mohegan Sun at Palmer and its affiliates, including the Mohegan Tribal Gaming Authority, thank you for the opportunity to provide comments on the Commission's Phase I forms and instructions.

Mohegan Sun at Palmer does not have any comments regarding the content of the application forms or instructions and applauds the Commission's use of the Multi-Jurisdictional form and a Business Entity Disclosure Form modeled after those used in other jurisdictions.

Consistent with our earlier comments and testimony on the Phase I regulations, however, Mohegan Sun at Palmer respectfully requests that the Commission expand the guidance and expectations with respect to the confidentiality of information provided in the three draft applications. Specifically, Mohegan Sun urges the Commission to provide presumptive confidentiality to all three of the application forms rather than providing presumptive confidentiality to only portions of the forms. Based on Mohegan Sun's experience, the presumption of confidentiality for these applications and the background investigations which follow is the *de jure* or *de facto* practice in other leading gaming jurisdictions in the United States, including Pennsylvania and New Jersey. A recent American Gaming Association white paper on gaming regulation notes that most gaming jurisdictions treat the entire applications as confidential and identifies Indiana as an outlier. Stewart, "Improving Gaming Regulation: 10 Recommendations for Streamlining Processes While Maintaining Integrity", p. 11, 2011, [www.americangaming.org](http://www.americangaming.org).

The exemptions to the Commonwealth's Public Records Law, M.G.L. c. 4, § 7(26)(a) – (t), which are incorporated into the Gaming Commission's proposed regulations, 205 CMR 103.02(1), arguably protect much of the information contained in the forms even that information that the Commission did not deem confidential. For example, an individual's height, weight and marital status are exempt pursuant to M.G.L. c. 4, § 7(26)(c)

and are “intimate details of a highly personal nature.” Attorney General v. Assistant Commissioner of the Real Property Department of Boston, 380 Mass. 623, 626 n. 2 (1980). See also Appendix to the official Guide to the Massachusetts Public Records Law. This information was not treated as confidential by the Commission in its confidential determinations for the personal forms. In addition, the names of individuals who apply for firearms licenses are protected under the Law, Id. §7(26)(j), and this information should be protected from disclosure. Likewise, the names of children and step-children of an applicant or qualifier should be treated as confidential. The Commonwealth’s Public Records Law protects the names of family members of law enforcement and other state employees. Id. §7(26)(p). While casino employees and other qualifiers are not subject to the same potential pressures as public officials, casino operators and regulators in other jurisdictions are careful not to make public personal or family information on employees and other licensees so that they may not be targeted by criminals seeking to undermine the integrity of legalized gaming. Similarly, an individual’s house of worship or fraternal organization, which is required to be listed in response to question 14 on the Supplemental Form, should likewise not be disclosed to protect the privacy of individuals.

A presumption of confidentiality for the three applications, which then may be rebutted, for good cause, provides valuable certainty to applicants, investors and employees alike and promotes the competition, inclusiveness, candor and thorough background investigation process envisioned by the expanded gaming law, M.G.L. c.23K, and the Commission. Doing otherwise would also potentially undermine the spirit of mutual cooperation and assistance which the Commission has already established with regulators in other states because of differences in disclosure standards. Operators and regulators in other states may be required to reverse confidentiality designations if portions of the same record become publicly available in Massachusetts, or related uncertainty may lead to costly and burdensome pleadings and hearings over protective orders. See, e.g, 4 Pa.C.S. § 1206(f)(3).

For all of the above reasons, Mohegan Sun at Palmer urges the Commission to provide the presumption of confidentiality for all three applications. We note that the Phase II application, regulations and public hearing process will necessarily require that some of the information in the Business Entity Disclosure Forms, in particular, be made public, such as the names of key employees and managers, but in the background investigation process, the forms themselves should be treated confidentially.

Thank you for the opportunity to comment. Please let me know if you have any questions.

Sincerely,



Kevin C. Conroy

COMMENTS ON MASS. GAMING COMMISSION'S  
PROPOSED PERSONAL AND BUSINESS ENTITY DISCLOSURE FORMS

September 21, 2012

Business Entity Disclosure Form

<u>Item</u>	<u>Comment</u>
Items 1B, 5-8, 13, 14, 16, & 18	These questions request home addresses and/or dates of birth for various persons associated with the entity completing the BED form. We recommend that no such personal information be included within the BED Form and rather that it be contained to the personal disclosure forms of those who are required to qualify.
Pg. 8, Items 13 & 14	These items request information concerning all voting and nonvoting owners of the entity completing the form, regardless of their percentage of ownership, and requires personal history or business entity disclosure forms from all owners, again regardless of the percentage of ownership. While the note recognizes that owners of publicly trading holding companies of gaming license applicants are eligible for waivers, it does not recognize that owners of gaming license applicants and nonpublicly traded holding companies are also eligible for waivers, as contemplated by the statute and the Commission's proposed regulations. The form should recognize the availability of all potential waivers.
Pg. 18, Items 31E & 31F	These items – which each ask about reimbursements to officers, directors or employees for political contributions — are substantively identical to each other. We recommend either one should be deleted.
Pg. 20, Item 38	This item requests a copy of all reports and correspondences from the independent auditors “which pertain to the issuance of financial statements, managerial advisory services, or internal control recommendations.” Without further guidance, this request appears overly broad. The request for “correspondence” could be read to include emails and it is hard to conceive of a communication between a company and its auditors that does not “pertain” or relate in some fashion to one or more of the listed topics. It appears that the Commission could achieve the disclosure it seeks by requiring production of all reports, findings, or other documents (including correspondence) that “constitute” or “set forth” financial statements, managerial advisory services, or internal control recommendations, without being burdened by nonsubstantive or preliminary communications.
Pg. 23, Item 43	This item requires submission of an affidavit, a release authorization, a consent to inspections, searches and seizures, and a waiver of liability. The affidavit may be signed by “[t]he President or any officer of the entity authorized to affirm,” while “[t]he remaining documents are to be signed by the President or Chief Executive Officer.” We recommend that the document be given uniform treatment and that the form provide that each may be signed by “the President or any officer of the entity authorized to affirm and sign the documents”.

## Massachusetts Personal History Disclosure Supplemental Form

<u>Item</u>	<u>Comment</u>
Pg. 6, Personal Data	<ul style="list-style-type: none"> <li>• The mailing address (second line) should be designated confidential if it is a home address (marked confidential in the third line).</li> <li>• The email address should be designated confidential, just like home addresses and home phone numbers. We recognize that the email address is optional, but it is likely more qualifiers will disclose it if it is deemed confidential.</li> </ul>
Pg. 7, Item 3	We recommend that the individual's percentage ownership of a license holder or applicant be confidential, in the same way that the Commission proposed to treat the amount of the investment as confidential.
Pg. 9, Items 9-12	We recommend that the Commission consider all of the requested information concerning US and foreign income tax filings and audits to be confidential personal information.
Pg. 10, Item 15	We recommend that the Commission consider all of the requested information concerning motor vehicle licenses to be confidential personal information. This would be consistent with the proposed treatment of vehicle license information in Item 38 on pg. 36 of the Multi-Jurisdictional Personal History Disclosure Form ("MJPHD Form").
Pg. 11, Item 17	This item — requesting information about any license or permit held by applicant, spouse or any entity in which applicant or spouse was an officer, director, or 5% owner has ever been denied, suspended or revoked — is duplicative of the Items 21 and 22 in the MJPHD Form. We recommend that Item 17 be deleted from the Mass. Supplemental Form.
Pg. 12, Item 19	The information requested in this item — whether the qualifier has ever voluntarily placed himself or herself on a self-exclusion list — is included in Item 37 of the MJPHD Form, except that the Commission's annotation indicates that Mass. filers should not include self-exclusions. It is not apparent why the Commission asks that self-exclusion be omitted from Item 37 on the MJPHD Form and then makes it the subject of a special question on the Mass. Supplemental Form. We recommend including self-exclusions on the MJPHD Form and deleting Item 19 from the Mass. Supplement.
Pg. 12, Item 10	This item — requesting three personal references — is identical to (and duplicative of) Item 75 in the MJPHD. We recommend that Item 20 be deleted from the Mass. Supplement.

### Multi-Jurisdictional Personal History Disclosure Form

<u>Item</u>	<u>Comment</u>
Pg. 4, Personal Data	Similar to the Comment on the Mass. Supplemental Form: <ul style="list-style-type: none"><li>• The mailing address (second line) should be designated confidential if it is a home address (marked confidential in the third line).</li><li>• The email address should be designated confidential, just like home addresses and home phone numbers. We recognize that the email address is optional, but it is likely more qualifiers will disclose it if it is deemed confidential.</li></ul>
Pg. 7, Item 3	We recommend that the Commission consider information related to qualifiers' prior landlords and mortgage holders to be confidential personal information.
Pg. 8, Item 4	We recommend that the Commission consider marital status and spouse identification information to be confidential personal information.
Pg. 17, Item 15	We recommend that the Commission consider all of the employment history information to be confidential personal information.
Pg. 20, Item 18	We recommend that the Commission consider trust information to be confidential personal information.
Pg. 24, § 24	We recommend that the Commission omit the column for license numbers (because many jurisdictions do not issue license numbers) or designate the license numbers as information that the Commission considers confidential.





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## **Phase 1 Forms**

**Massachusetts Gaming Commission**

**21 September 2012**

## **INTRODUCTION**

The Massachusetts Gaming Commission (the “Commission”) is developing forms that will serve as the application documents of the Phase 1 licensing process. The Phase 1 component of the overall application process was developed in an effort to pre-qualify developers and expedite the licensing process. The Commission has developed three documents that will serve as the primary application forms for the investigation to determine the financial stability and integrity of potential operators.

The three forms include;

1. The Multi-Jurisdictional Personal History Disclosure Form (Multi-Jurisdictional Form)
2. The Massachusetts Supplement Form
3. The Business Entity Disclosure Form

Those applicants that are “pre-qualified” will move forward to Phase II, which will focus on an applicant’s overall development proposal.

The Commission has requested interested parties to provide early input concerning the proposed Phase 1 forms. MGM Resorts International (“MGM”), one of the world’s leading global hospitality companies, is pleased to provide comments in response to the Commission’s notice of the proposed Phase 1 forms.

MGM strongly supports the Commission’s intent to utilize the Multi-Jurisdictional form in an effort to expedite the process for operators. The Multi-Jurisdictional Form is widely regarded by regulators in many jurisdictions, including New Jersey and Nevada. It has proven to be an effective tool in the investigatory process for both regulators and applicants.

The Commission has also decided to move forward with two additional forms to ensure a thorough investigative review process. A state supplemental form is common among jurisdictions who utilize the Multi-Jurisdictional Form. MGM believes this is an appropriate vehicle to expand on areas not covered by the Multi-Jurisdictional Form. The Commission is also issuing a Business Entity Disclosure Form which will look to review the applicant and entities that due to their business relationship with the applicant will also need to be pre-qualified. This is also a standard in the industry and is commonly used in many jurisdictions. Accordingly MGM applauds the Commission for its efforts to secure a transparent and efficient application process ensuring the highest level of confidence for the public.

## **PHASE 1 FORM COMMENTS**

MGM would like to address certain confidentiality and policy issues in response to the Commission’s request for comments on the proposed Phase 1 forms:

Section 8 (19) (b) of Chapter 23K mandates “applications for licenses shall be public records under section 10 of chapter 66.” MGM respects and applauds the Legislature’s and the Commission’s desire to

conduct an open and transparent process while balancing the need and obligation to protect sensitive, personal and proprietary information that should not be released to the public.

To that end MGM would like to identify several areas where the Commission should move to protect information that should be exempt from disclosure. The **Multi-Jurisdictional Form (page 1, second and third lines)** and **Massachusetts Supplement Form (page 6, second and third lines)** request a mailing address and a home address. The home address is redacted but the mailing address is not and for most individuals they are the same. MGM would like to simply suggest the mailing address be redacted if it is also the individual's home address.

On **page 9 of the Massachusetts Supplemental Form** there are questions that ask if the applicant has ever had a tax return adjusted or audited (**question 10**) and if the applicant has ever failed to file a return (**question 11**). Considering some of the other information that is redacted, MGM believes this information should be as well, especially with respect to question 10 since an adjustment or audit are not necessarily derogatory.

In some of the items in the **Business Entity Disclosure Form (e.g. 27 Existing Litigation)** it requests information relating to "existing civil litigation to which the entity, its parent or any subsidiary is presently a party". Similarly, Item 30 references "the entity, its parent or any subsidiary". However there is no clarification as to how "subsidiary" is defined.

We ask that the Commission recognize that for many of the large multi-property and multi-jurisdictional gaming companies that will be completing these forms, a requirement to disclose all "existing civil litigation that the applicant, its parent or any subsidiary" may be onerous to the applicant based upon the day-to-day commercial and facility related disputes and claims that are normal course for businesses that attract tens of thousands of visitors daily and transact hundreds of millions of dollars in transactions annually. Accordingly, we respectfully request that the litigation disclosure be qualified by materiality, and be modified as follows: "existing material civil litigation to which the entity, its parent or its direct operating subsidiary is presently a party". Further, we suggest that the Commission adopt a definition of materiality for companies regulated by the Securities and Exchange Commission (SEC), providing for a disclosure of such litigation to the extent it would be required to be disclosed pursuant to SEC rules and regulations.

## **CONCLUSION**

As detailed herein, MGM respectfully submits these comments and appreciates the Commission's consideration. We truly believe it is essential to conduct a fair, open and transparent process. However that mission needs to be balanced with the Commission's responsibility to protect certain information that should remain confidential in order to ensure a complete and thorough investigatory process.

We thank you for the opportunity to contribute our views in this important dialogue and we would be pleased to sit down with the Commission to discuss these comments, in addition to our thoughts on all other aspects of the Gaming Act and the activities of the Commission.

**ABOUT MGM RESORTS INTERNATIONAL:**

MGM Resorts International (NYSE: MGM) is one of the world's leading global hospitality companies, operating a peerless portfolio of destination resort brands, including Bellagio, MGM Grand, Mandalay Bay and The Mirage. The Company has significant holdings in gaming, hospitality and entertainment, owns and operates 15 properties located in Nevada, Mississippi and Michigan, and has 50% investments in four other properties in Nevada, Illinois and Macau. One of those investments is CityCenter, an unprecedented urban resort destination on the Las Vegas Strip featuring its centerpiece ARIA Resort & Casino. Leveraging MGM Resorts' unmatched amenities, the M life loyalty program delivers one-of-a-kind experiences, insider privileges and personalized rewards for guests at the Company's renowned properties nationwide. Through its hospitality management subsidiary, the Company holds a growing number of development and management agreements for casino and non-casino resort projects around the world. MGM Resorts International supports responsible gaming and has implemented the American Gaming Association's Code of Conduct for Responsible Gaming at its gaming properties. The Company has been honored with numerous awards and recognitions for its industry-leading Diversity Initiative, its community philanthropy programs and the Company's commitment to sustainable development and operations.

**COMMUNICATIONS**

Kindly provide all communications concerning these comments to:

Martin T. Nastasia

BROWN RUDNICK LLP

One Financial Center

Boston, MA 02111

Tel: 617-856-8407

Fax: 617-289-0724

Email: [mnastasia@brownrudnick.com](mailto:mnastasia@brownrudnick.com)

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## Instructions for Applicants for a Gaming License-RFA Phase 1 Application

An Applicant for a Category 1 or Category 2 gaming license is required to submit as part of the RFA Phase 1 application the following:

1. A non-refundable initial application fee of \$400,000, payable to the Massachusetts Gaming Commission. An Applicant may pay the nonrefundable application fee either by certified check or by secure electronic transfer made payable to the Massachusetts Gaming Commission. If the fee is submitted in advance of filing the application, the Applicant must sign a certification stating that it will be applying for a gaming license and that it understands that the application fee is nonrefundable.
2. A complete and accurate Massachusetts Business Entity Disclosure Form for the Applicant, including an executed and notarized Release Authorization; Consent to Inspections, Searches And Seizures; Statement Of Truth; and Waiver Of Liability, initialing at the bottom of each page of the application form as indicated.
3. A complete and accurate Massachusetts Business Entity Disclosure Form for each holding and parent company of the Applicant, and for any proposed operating company of the gaming establishment or other entity designated by the Commission to be an entity qualifier of the Applicant, including an executed and notarized Release Authorization; Consent To Inspections, Searches And Seizures; Statement Of Truth; and Waiver Of Liability, initialing at the bottom of each page of the application form as indicated. Please place the Release Authorization as the last page of the application form.
4. For each natural person qualifier of the Applicant or of a holding or parent company of the Applicant, or of a proposed operating company of the gaming establishment, as identified by the Commission:
  - a. A complete and accurate Multi-Jurisdictional Personal History Disclosure Form, including an executed and notarized Statement Of Truth; and
  - b. A complete and accurate Massachusetts Supplemental Form to the Multi-Jurisdictional Personal History Disclosure Form, including an executed and notarized Release Authorization, Statement of Truth, Waiver of Liability and Consent to Inspections.

Copies of the above forms are available for downloading from the Commission's website. Please click the download icon at the bottom of the page. Application documents will be sent to your internet browser in either PDF or Word format. Complete instructions on how to prepare the application and where to send it are included in the document. Please comply fully with said instructions. If you have any questions regarding completion of the application form, or with any of the instructions, please call the Commission at: (617) 979-8400.

**The deadline for filing the RFA Phase 1 application is Nov 30, 2012. Please note that the initial application fee is due no later than when the application is submitted.**

All applicants for a gaming license, and all of the qualifiers of the applicant, both natural person and entity qualifiers, shall be subject to a thorough background investigation by the Investigations and Enforcement Bureau of the Commission, or by its designated agents. The

## **Instructions for Applicants for a Gaming License-RFA Phase 1 Application**

licensing fee shall be used to defray the costs of said investigations and any additional costs shall also be borne by the Applicant.

Applicants are obligated to establish their suitability for a gaming license and the suitability of all qualifiers by clear and convincing evidence.

The awarding of gaming licenses is a two phase process. In Phase 1, the Commission will evaluate the qualifications and suitability of a gaming license applicant and all of its natural person and entity qualifiers.

All applicants found suitable by the Commission, according to the standards set forth in the Massachusetts Gaming Act, M.G.L. c. 23K, will be eligible to proceed to Phase 2 of the process and submit RFA Phase 2 applications.

In Phase 2, the Commission will review an applicant's proposal, focusing on the merits of an applicant's proposed gaming establishment, compliance with all statutory and regulatory criteria, and other matters within the Commission's jurisdiction.

It is highly recommended that applicants review the details of the application process set forth in the Massachusetts Gaming Act, M.G.L. c. 23K, and its attendant regulations, 205 CMR 101.00 through 117.00. This information is available on the Commission's website. All requests for confidentiality will be processed in accordance with the provisions of 205 CMR §§ 103.09 through 103.13. All requests for waivers of any disclosure requirement will be processed in accordance with 205 CMR §§ 102.03, 116.03.

All application forms must be filed electronically, by the following method:

### Document Shipments

1. All documents must be submitted on CDs, DVDs or USB Drives. Please do not send documents via email because this format does not lend itself well to our internal control processes. Furthermore, email is not very secure and, for this reason, it is a poor choice for confidential documents.
2. Both USB 2.0 and USB 3.0 drives are acceptable.
3. All CDs, DVDs and USBs should be labeled with the entity name and any other practical identifying information. Labeling should be applied to a CD, itself, rather than the dust jacket or plastic case. Labeling information can be hand written on a CD or USB using a permanent marker pen. Printed labels are appreciated but not required.
4. Each shipment of documents should be accompanied by a cover memo stating: who is sending the material, the number of CDs or USB drives and a brief description of the contents.

## **Instructions for Applicants for a Gaming License-RFA Phase 1 Application**

5. The mailing address for shipments of CDs and USBs is:

Massachusetts Gaming Commission  
84 State Street, Suite 720  
Boston, Massachusetts 02109

## **Instructions for Applicants for a Gaming License-RFA Phase 1 Application**

### Security

Documents submitted to the Commission may be encrypted if a high level of security is required. In order to simplify password management, once a password has been selected, please use that same password for any subsequent documents that are encrypted.

### File Standards.

1. If a large number of files are being shipped they should be organized into folders. Most often, folders will be used to help separate the qualifiers, companies and holding companies.
2. File names should not be longer than 35 characters and should not contain characters such as: \ ~! @#\$ %^&\*()+{}|<>"/=. If a date is used in a file name it can be written in the following format: Jan 25, 2012. Please do not use coded file names such as "003r334ff4/1/12."
3. File names should be descriptive and consist of two parts: (1) the document type and (2) the name of the applicant or the company name. For example, "Federal Tax 2001 Ruth Mendez" would be the file name of the federal tax return filed by an applicant named Ruth Mendez. For the most common types of documents please use the standard file names listed below. If a document does not correspond to one of these standard names then use a name that is descriptive of the document type.
  - a) MJPHD Adam Smith
  - b) SMJPHD Alex Twifford
  - c) Release Forms Jordan Quill
  - d) Birth certificate Adam Smith
  - e) Federal Tax 2001 Ruth Mendez
  - f) State Tax 2001 Ruth Mendez
  - g) Bank Statement Ruth Mendez
  - h) IRS Form 4506 Alex Twifford
  - i) SEC 10 2008 Jordan Quill
  - j) Driver's License Jordan Quill
  - k) Family Trust Adam Smith
  - l) Organizational Chart XYZ Corp
  - m) Operating Agreement YXX Corp
  - n) Articles of Organization XYZ Corp.





**The Commonwealth of Massachusetts**  
**Massachusetts Gaming Commission**

84 State Street, Suite 720  
Boston, Massachusetts 02109  
(617)979-8400

September 25, 2012

**By Hand and By E-Mail (regs@sec.state.ma.us)**

The Hon. William H. Galvin  
Secretary of the Commonwealth  
Regulations Division  
One Ashburton Place, Room 1613  
Boston, MA 02108

2012 SEP 26 PM 2:16

STATE  
VISOR

**Re: Amended Small Business Impact Statement  
205 CMR 101.00 through 117.00  
Massachusetts Gaming Commission Phase 1 Regulations**

Dear Secretary Galvin:

Effective August 1, 2010, pursuant to M.G.L. c. 30A, § 5, agencies promulgating new regulations must submit an Amended Small Business Impact Statement ("Amended Statement") prior to the adoption of the proposed regulations. The Massachusetts Gaming Commission (the "Commission") submits the following Amended Statement pertaining to its proposed regulations: 205 CMR 101.00 through 117.00: Massachusetts Gaming Commission Phase 1 Regulations (the "Phase 1 Regulations").

Pursuant to M.G.L. c. 30A, § 5, the Commission has considered whether any of the following methods of reducing the impact of the proposed regulations on small businesses would hinder achievement of the purpose of the proposed Phase 1 Regulations:

**1. Establishing less stringent compliance or reporting requirements for small businesses.**

Less stringent requirements are not necessary because the Commission does not expect the Phase 1 Regulations to affect small businesses for the following reasons:

1. The Phase 1 Regulations govern hearings and practice before the Commission; access to and confidentiality of Commission records; the duties, authorities and responsibilities of the Commission's investigation and enforcement bureau; and the first phase of the licensing process for operating a gaming establishment in Massachusetts pursuant to M.G.L. c. 23K, as enacted by Chapter 194 of the Acts of 2011.

2. The Phase 1 Regulations implement the Commission's authority to evaluate the qualifications and suitability of a gaming license applicant, its qualifiers and other persons required to be investigated in connection with the proposed issuance of a license to operate a gaming establishment in Massachusetts under M.G.L. c. 23K. No such establishments – large or small – currently exist in the Commonwealth.
3. Chapter 23K specifically requires significant fees and investments by prospective licensees:
  - a. For a Category 1 gaming establishment, the statute requires a \$400,000 application fee, a minimum licensing fee of not less than \$85,000,000, and a capital investment of not less than \$500,000,000; and
  - b. For a Category 2 gaming establishment, the statute requires a \$400,000 application fee, a minimum licensing fee of not less than \$25,000,000, and a capital investment of not less than \$125,000,000.

See M.G.L. c. 23K, §§ 10, 11 and 15(11). Given these statutory requirements, small businesses are not expected to apply for qualification through the process proscribed by the Phase 1 Regulations.

4. The Phase 1 Regulations do contain proposed regulations for certain adjudicatory proceedings under G.L. c. 23K. *See* 205 CMR 101.00. For non-gaming vendors and various employees of gaming licensees, consistent with the purpose of establishing less stringent compliance or reporting requirements for small businesses, the Commission has chosen to use informal, rather than formal, adjudicatory processes to help minimize any incidental burden on these individuals and small businesses.

**2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses.**

As stated in response to #1, the proposed Phase 1 Regulations do not impose new compliance or reporting requirements for small businesses.

**3. Consolidating or simplifying compliance or reporting requirements for small businesses.**

As stated in response to #1, the proposed Phase 1 Regulations do not impose new compliance or reporting requirements for small businesses.

**4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation.**

The Phase 1 Regulations do not require design or operational standards. Instead, they proscribe standards for the qualification of applicants for gaming licenses required by M.G.L. c. 23K. As such, these standards are based, among other things, on an

investigation of the “integrity, good character and reputation” of the applicant and its qualifiers as required by M.G.L. c. 23K, §12.

**5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the commonwealth.**

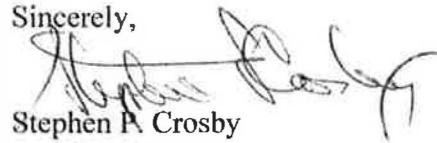
The Commission believes that the Phase 1 Regulations will encourage the formation of new business in the Commonwealth by expediting the gaming licensing process. The proposed Phase 1 Regulations will expedite the selection of the ultimate gaming establishment licensees by vetting out those applicants at the initial stage who do not meet the necessary qualification, suitability and integrity standards. The promulgation of the Phase 1 Regulations will thus allow the licensing of gaming establishments to begin sooner, proceed more efficiently and cost-effectively, and ultimately encourage the formation of new businesses in the Commonwealth.

**6. Minimizing adverse impact on small businesses by using alternative regulatory methods.**

As stated in response to #1, the proposed Phase 1 Regulations do not impose new compliance or reporting requirements for small businesses. However, for non-gaming vendors and various employees of gaming licensees, the Commission has chosen to use informal, rather than formal, adjudicatory processes to help minimize adverse impact on small businesses by using alternative regulatory methods.

I submit this Amended Small Business Impact Statement on behalf of the Massachusetts Gaming Commission pursuant to M.G.L. c. 30A, § 5. Please contact me or the Commission’s Outside Counsel, Stephen D. Anderson at Anderson & Kreiger LLP (617-621-6510), if you have any questions.

Sincerely,



Stephen P. Crosby  
Commission Chair  
Massachusetts Gaming Commission

cc: Stephen D. Anderson (by email)



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## THE CITY OF SPRINGFIELD, MASSACHUSETTS

Springfield City Council  
*James J. Ferrera, III, President*

October 4, 2012

Chairman Stephen Crosby

Massachusetts Gaming Commission

84 State Street, Suite 720

Boston, MA 02109

Chairman Crosby,

I just had a quick question that I thought you may be able to help me out with. It appears that the City of Springfield's last day to enter their casino selection process is 10/10/12 and the State Gaming Commission's last day to enter their casino selection process is the end of 2012. If this is true what happens to a casino company that what's to enter the State's selection process, pay the \$400,000.00 application fee on say November 3, 2012 for a site located in Springfield. Does an arbitrary date established by one community preclude a company from competing for a state casino gaming license in that community when all other communities in said jurisdiction are complying with state requirements? Please feel free to contact me anytime on my cell at 413-246-5506 or by email at [jferrera33@comcast.net](mailto:jferrera33@comcast.net) . Thank you for your time and attention into this very important matter.

Sincerely,

James J. Ferrera, III  
President Springfield City Council



October 1, 2012

Mr. Stephen Crosby, Chair  
MA Gaming Commission  
84 State Street, Suite 720  
Boston, MA 02109

Greater Springfield  
Convention and Visitors Bureau

Dear Chairman Crosby,

As Chairman of the Board of the Greater Springfield Convention and Visitors Bureau (GSCVB), I write to you today on behalf of our membership and the tourism industry in the Pioneer Valley. I want to thank you and the Commission for hosting the MA Gaming Forum focused on Tourism, Community Mitigation and Workforce Development on August 8<sup>th</sup> at Western New England University and for inviting me to participate on the Tourism panel.

As I stated at the public event, the gaming issue has long been a very prominent topic as the GSCVB, the state-designated Regional Tourist Council (RTC) for Hampden County, considers the many factors affecting local and regional tourism development. We are obligated to ensure that any new attraction of this magnitude will work cooperatively with our hundreds of current tourism members. It is vital that good opportunities be provided to market all relevant businesses, cross-promote and help bring new customers into existing establishments, as well as into the new gaming facility.

We are confident that our RFP process to engage a developer in a marketing partnership agreement can help accomplish just that. I have attached a copy of the RFP for your review and would respectfully ask that your Commission look favorably on this process and consider the strength of a relationship with the local RTC as part of your application and/or regulatory process for proposed MA gaming establishment developers.

If we can answer questions or provide any additional tourism information, please contact me directly at 413-530-6999 or GSCVB President Mary Kay Wydra at 413-755-1372. We look forward to assisting you.

Sincerely,

Peter Roskothen  
Chairman of the Board

*Massachusetts*  
massvacation.com

CC: MA Gaming Commission Members

1441 Main Street, Springfield, MA 01103 • Tel: (413) 787-1548 • Fax: (413) 781-4607 • [www.valleyvisitor.com](http://www.valleyvisitor.com)



## **REQUEST FOR PROPOSALS**

**Greater Springfield Convention and Visitors Bureau (GSCVB)  
Marketing Partnership Agreement  
With Western MA Gaming Establishment Developers**

**May 2012**

## **Introduction:**

The Greater Springfield Convention and Visitors Bureau (GSCVB), a membership-based non-profit destination marketing organization representing over 270 businesses, promotes Massachusetts' Pioneer Valley as a year-round destination for conventions, meetings, group tour and leisure travel. (Log onto [www.valleyvisitor.com](http://www.valleyvisitor.com) for more information about the GSCVB and the tourism industry within the Pioneer Valley.) As the Regional Tourist Council (RTC) representing Hampden County, the GSCVB is currently entertaining proposals for marketing partnerships with gaming establishment developers focused on a western MA location.

Proposals must be comprehensive and submitted within 60 days of receipt of this RFP to Mary Kay Wydra, President, Greater Springfield Convention and Visitors Bureau, 1441 Main Street, Springfield, MA 01103.

## **Purpose:**

The Greater Springfield Convention and Visitors Bureau, established in 1985, is looking toward the future and wants to ensure continued success across all platforms. By developing an overall comprehensive marketing partnership with a gaming establishment developer, the GSCVB will be able to determine effective marketing initiatives, identify necessary resources, and seamlessly integrate new initiatives for Bureau members that will positively impact visitation to both the gaming establishment and tourism-related businesses in Massachusetts' Pioneer Valley. It is the intention of the GSCVB to use the information provided by the proposer as the basis for entering into a non-exclusive Memorandum of Understanding (MOU) with any or all proposers who present a proposal deemed favorable by the GSCVB. This MOU shall be used to establish the terms of a strategic marketing agreement to be developed by the GSCVB and the Western Massachusetts gaming establishment development licensee. The GSCVB Board of Directors reserves the right, but shall not be obligated, to endorse a specific proposal. The MOU which will be used by the proposer to further the application process and enhance their bid for the license in Western MA, may not be made public prior to the selection of the licensee without mutual approval from both parties.

## **Requirements:**

The successful proposer will provide the following:

- Overview of the company
- Plan or vision for the proposed gaming establishment resort and how it will strengthen the local tourism industry including regional attractions, cultural and arts venues, hotels and restaurants
- Examples of similar marketing partnerships with other Convention and Visitors Bureaus (CVBs) or tourism agencies in the communities in which they currently or previously operated similar properties
- Knowledge of Massachusetts' Pioneer Valley's hospitality offerings and its implications for both domestic and international visitors
- Contacts within the tourism industry including tour operators and media
- A familiarity with existing state and regional initiatives targeting domestic and international tourism

## **Submission:**

For each component proposers will outline their best proposal and submit creative plans on how they will execute each. Proposers are encouraged to provide very specific proposals outlining how they will maximize engagement with the GSCVB with regards to the following minimum criteria:

- I. Membership and active participation in the GSCVB
- II. Scope of project with detailed information on # of jobs created (construction/permanent and type), location, access, # of sleeping rooms, # of meeting rooms, event/entertainment spaces, anticipated “brands” to be featured on the property, dining options, general architectural theme of establishment, spa services and amenities
- III. Demonstrate existing or previous partnerships with other CVBs, Chambers of Commerce or tourism agencies in communities in which the proposer operates or operated a gaming establishment(s)
- IV. Background on the company or individual responding to the request and specifically who will serve as primary contact with GSCVB
- V. To encourage visitation throughout the region, the gaming establishment shall offer a Points/Players Program. This redemption program throughout Hampden, Hampshire and Franklin Counties will be coordinated solely through the GSCVB; this program should be exclusive to GSCVB members in the three counties named, but available in counties beyond with a preferential arrangement for GSCVB members. Eligible business categories include: attractions, accommodations, restaurants, entertainment venues and ticketed public events
- VI. To promote western MA, the gaming establishment will provide opportunities for internal on-site cross promotions and integrated on-line promotions including, but not limited to: on site concierge services and other resources for trip planning throughout the region, complimentary tourism-oriented signage and on-line messaging, collateral material distribution with the GSCVB Visitors Guide to be distributed in all hotel guest rooms, significant website presence, and dedicated display space(s) to promote area attractions coordinated with the GSCVB.
- VII. Many GSCVB members are companies that supply products and services to the hospitality industry of the region. Explain in detail the efforts that will be engaged to ensure GSCVB member participation in the gaming establishment’s procurement of such goods and services.
- VIII. Indicate the funding level (with escalating increases adjusted over time) that the proposer agrees to partner with the GSCVB for the term of the gaming establishment license to participate in GSCVB-coordinated external cooperative marketing including Pioneer Valley branding programs, as well as traditional co-op ads featuring other tourism-related businesses
- IX. Present a detailed marketing plan that demonstrates efforts to drive incremental visitation to the region in terms of meetings, group tours and leisure travel. Explain how your plan will compliment and coordinate with the marketing of the GSCVB
- X. Describe the employee training program the proposer will offer and the proposer’s willingness to allow inclusion of GSCVB developed training that details local tourism knowledge and hospitality components
- XI. Outline plans for transportation access to surrounding visitor attractions
- XII. Outline the proposer’s willingness, level of commitment and mechanisms to fund a grant program coordinated through the GSCVB to be used to generate large-scale events, i.e. sporting events, with substantial overnight visitation in the region
- XIII. Describe any other specific engagement strategies the proposer would employ that are not included above

Questions may be directed to GSCVB President Mary Kay Wydra at [marykay@valleyvisitor.com](mailto:marykay@valleyvisitor.com) or 413-755-1372. Any clarifications and answers to questions will be shared with all RFP respondents. Please provide a written proposal and an electronic version on a storage device within 60 days of receipt of this document to:

Mary Kay Wydra - President  
Greater Springfield Convention and Visitors Bureau  
1441 Main Street  
Springfield, MA 01103  
[marykay@valleyvisitor.com](mailto:marykay@valleyvisitor.com)

The GSCVB may request a meeting or oral presentation for further clarification of proposals submitted.





*The Commonwealth of Massachusetts*  
*Executive Office of Energy and Environmental Affairs*  
 100 Cambridge Street, Suite 900  
 Boston, MA 02114

Deval L. Patrick  
GOVERNOR

Timothy P. Murray  
LIEUTENANT GOVERNOR

Richard K. Sullivan Jr.  
SECRETARY

Tel: (617) 626-1000  
 Fax: (617) 626-1181  
<http://www.mass.gov/envir>

August 24, 2012

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
 ON THE  
 ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME	: Project First Light-Destination Resort Casino
PROJECT MUNICIPALITY	: Taunton
PROJECT WATERSHED	: Taunton River
EEA NUMBER	: 14924
PROJECT PROPONENT	: Mashpee Wampanoag Tribe
DATE NOTICED IN MONITOR	: July 11, 2012

Pursuant to the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62I) and Section 11.03 of the MEPA Regulations (301 CMR 11.00), I hereby determine that this project **requires** the preparation of a mandatory Draft Environmental Impact Report (DEIR).

As allowed under Chapter 194 of the Acts of 2011: An Act Establishing Expanded Gaming in the Commonwealth (the Expanded Gaming Act), signed into law by Governor Patrick on November 22, 2011, the Mashpee Wampanoag Tribe (the Tribe) has proposed the construction of a destination resort casino in the City of Taunton. The Tribe and the Commonwealth of Massachusetts have also entered into a Tribal-State Compact (the Compact) with respect to the operation of Gaming on the Tribe's Indian Lands pursuant to the Indian Gaming Regulatory Act (IGRA), as amended, and codified at 25 U.S.C. §§ 2701 to 2721 inclusive, and 18 U.S.C. §§ 1166 to 1168, inclusive. Massachusetts General Laws Chapter 23K, Section 19, as amended by Section 16 of the Expanded Gaming Act, authorizes the Commonwealth, through the Massachusetts Gaming Commission (MGC), to license three casinos within the Commonwealth, one each in three distinct geographic regions within the

Commonwealth. Those regions are identified as Regions A, B, and C in the Expanded Gaming Act. Section 19 of the Expanded Gaming Act anticipated that under IGRA a tribe may seek to conduct expanded gaming in Region C (Southeastern Massachusetts). A class III gaming project under IGRA would not require a license from the Commonwealth to operate, so long as a tribal-state compact is in place. This requirement has been met, as referenced above. Approval of the Compact also fulfilled the requirements of Section 91 of the Expanded Gaming Act, which directs the MGC to not issue a request for Category 1 License applications in Region C unless and until it determines that the Tribe will not have land taken into trust for it by the United States Secretary of the Interior.

IGRA requires that a tribe's gaming must be conducted on Indian Lands, which includes land taken into trust by the United States. The Tribe has applied to the U.S. Department of the Interior, Bureau of Indian Affairs (BIA) to have 146 acres of land in Taunton (the project site) and 170 acres of land in Mashpee placed into trust under the Indian Reorganization Act of 1934 (IRA), (25 USC §465) and the associated Federal regulations at 25 CFR §151. This process would also designate the aforementioned areas in Taunton and Mashpee as the Tribe's reservation pursuant to Section 7 of the IRA (25 USC §467). This request is pending at the time of issuance of this Certificate.

Prior to negotiation of the Compact with Governor Patrick, the Tribe met its obligations under Section 91 of the Expanded Gaming Act by working with the City of Taunton to hold a voter referendum. At the Tribe's request, the City of Taunton conducted a referendum on June 9, 2012 in which the site of the Tribe's proposed gaming development was approved by the community's voters. The Tribe and the City of Taunton also negotiated an Intergovernmental Agreement (IGA), dated May 17, 2012 and signed on July 10, 2012. The IGA, referenced in the Compact, identifies anticipated costs to the City of Taunton and proposes mitigation measures to offset the impacts of construction and operation of a destination resort casino.

The IGA includes commitments by the Tribe to mitigate project-related impacts to traffic, water, wastewater, and greenhouse gas emissions (via sustainable design agreements). These mitigation commitments in the IGA are limited to the direct benefit of the City of Taunton, and do not specifically address mitigation of the potential impacts of the project to surrounding communities. The IGA also identifies numerous categories of mitigation actions and impact payments that are beyond the purview of MEPA jurisdiction (e.g., agreements with regard to payments in lieu of taxes, funding of compulsive gambling addiction treatment, ordinance and inspection compliance, and funding of additional equipment and services from police, fire, emergency medical and administrative personnel).

MEPA review is limited by statute to those aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment. Damage to the Environment is defined as:

*any destruction of impairments (not including insignificant damage or impairment) actual or probable, to any of the natural resources of the Commonwealth including, but not limited to, air pollution, improper sewage disposal, pesticide pollution, excessive noise, improper operation of dumping grounds, impairment and eutrophication of rivers, streams, flood plains, lakes,*

*pond or other surface or subsurface water resources, destruction of seashores, dunes, marine resources, underwater archaeological resources, wetlands, open space, natural areas, parks or historic districts. (301 CMR 11.02(2))*

Many of the comments received on the Environmental Notification Form (ENF) focus on non-environmental or non-jurisdictional impacts with regard to the MEPA process. MEPA is an environmental impact disclosure process; MEPA does not approve or deny a project, but serves as a forum for a project proponent to identify potential project-related impacts and propose mitigation measures to offset these potential impacts prior to the separate State Agency individual permitting processes. A key purpose of MEPA is to “assist each Agency in using (in addition to applying any other applicable statutory and regulatory standards and requirements) all feasible means to avoid Damage to the Environment or, to the extent Damage to the Environment cannot be avoided, to minimize and mitigate Damage to the Environment to the maximum extent practicable”(301 CMR 11.01(1)(a)).

Numerous comments on the ENF expressed concern regarding both the potential environmental impact of the project on surrounding communities, but also broader issues of public safety, housing, and education. The identification of these potential environmental and social impacts, as well as funding to offset potential impacts of the project on community resources and finances were the primary concern of the comment letters I received from surrounding communities, State legislators, and residents.

Section 12.2 of the Compact identifies the mechanism for the identification and funding of mitigation measures for surrounding communities. The Compact states:

*funding to mitigate impacts with respect to Surrounding Communities shall be in accordance with section 61 of Massachusetts General Laws chapter 23K, as added by section 16 of the [Expanded Gaming] Act. Pursuant to section 61 the MGC will expend monies from its Community Mitigation Fund to assist communities to offset costs related to the construction and operation of a gaming establishment including, but not limited to, the impacts on communities and water and sewer districts in the vicinity of the Facility, local and regional education, transportation, infrastructure, housing, environmental issues and public safety, including the office of the county district attorney, police, fire and emergency services.*

The Compact also indicates that as part of the Tribe’s application to the BIA under IGRA, and in accordance with its obligations under the National Environmental Policy Act (NEPA), the Tribe must commission and pay for environmental impact studies prior to the project site being accepted into trust. The NEPA process includes public hearings and other obligations to gather the input and views of surrounding communities. Furthermore, unlike the MEPA review process, the scope and content of NEPA studies evaluate impacts on the human environment, which NEPA broadly defines to include among other things: education, housing, public safety, infrastructure, transportation and traffic, air, land, water, wildlife, and all other social and physical considerations. Therefore, many of the issues within the purview of NEPA review are not jurisdictional under the MEPA review process, thereby allowing an additional

forum for the evaluation of potential project impacts and associated mitigation requirements and costs.

The Expanded Gaming Act includes the potential establishment of local Community Mitigation Advisory Committees (M.G.L. c.23K, Section 68e) tasked with providing input to the Community Mitigation subcommittee of the MGC. The Expanded Gaming Act tasks the MGC's Community Mitigation subcommittee with developing recommendations to be considered by the MGC to:

*address issues of community mitigation as a result of the development of gaming establishments in the Commonwealth including, but not limited to, how funds may be expended from the Community Mitigation Fund, the impact of gaming establishments on the host community and surrounding communities including, but not limited to, the impact on local resources as a result of new housing construction and potential necessary changes to affordable housing laws, increased education costs and curriculum changes due to population changes in the region, development and maintenance of infrastructure related to increased population and utilization in the region and public safety impacts resulting from the facility and ways to address that impact. The subcommittee shall receive input from local community mitigation advisory committees. The subcommittee shall review annually the expenditure of funds from the Community Mitigation Fund and make recommendations to the commission relative to appropriate and necessary use of community mitigation funds. (M.G.L. c.23K, Section 68b)*

The Expanded Gaming Act requires that 6.5 percent of the revenue received from Gaming Local Aid Fund (M.G.L. c.23K, Section 63) be transferred to the Community Mitigation Fund. Based upon information provided on behalf of the Tribe (which projects annual gross gaming revenue of \$400,000,000) it is estimated that \$5,590,000 will be placed in the Community Mitigation Fund on an annual basis when the casino complex is fully operational. I strongly encourage the creation of a local Community Mitigation Advisory Committee, as established by the Expanded Gaming Act, and referenced in Section 12.2 of the Compact, to facilitate the funding and implementation of mitigation measures in both the City of Taunton and surrounding communities. In the DEIR, the Tribe should make a commitment to advocate for the creation of such a committee by the MGC.

Many commenters requested that I establish a Special Review Procedure (SRP) in accordance with 301 CMR 11.09 to govern the future MEPA review of the project and to assist in identifying and implementing a variety of potential mitigation measures for surrounding communities. I note that the establishment of an SRP requires the consent of a proponent, and the proponent of this project does not consent to such a procedure. The Tribe has verbally, and correctly, pointed to the mechanisms provided in the Expanded Gaming Act, the Compact, and the NEPA process for community input and negotiation of mitigation funding and implementation, as providing the ability and the forums to address many issues that are beyond the jurisdiction of MEPA. For these reasons the Tribe has declined to establish an SRP for this project. The MEPA review applicable to this project, along with the subsequent state environmental permitting, will yield the appropriate analysis, reflect the concerns of the

surrounding communities, and will result in the avoidance, minimization and mitigation of this project's environmental impacts.

Comments on the ENF reflect myriad concerns for both the potential on-site environmental impacts, as well as potential regional impacts associated with anticipated increases in traffic. I have received comment letters from elected officials and municipal representatives. Comments were also submitted by multiple municipalities, State and regional agencies, from environmental advocacy groups, and from businesses and residents. The MEPA process has provided, and will continue to provide, a valuable forum for the collection of all relevant points of view, but reconciling all of the identified (and sometimes competing) concerns is beyond the scope of the MEPA. The MEPA process occurs early in the design process to identify key environmental concerns and challenges associated with a project and therefore necessarily takes place in advance of final project design. It does not generally address issues at a level of detail commensurate with those often reviewed at the local level, either through site plan review or zoning board review levels within each municipality. MEPA is also not a zoning process, and it does not proscribe to a Proponent what, where or how a project should be designed or built. Thus, while many of the issues identified in comment letters are beyond the scope of review under MEPA, the scope issued today ensures that the environmental impacts of the proposed project will be thoroughly disclosed and evaluated and that thoughtful mitigation measures will be explored by the Tribe.

### Project Description

As described in the ENF, the project consists of construction of a destination resort casino within and adjacent to the Liberty & Union Industrial Park (LUIP) located on Route 140, Stevens Street, and O'Connell Way in East Taunton. As currently envisioned, the project will include the following major elements to be built in two main phases, with the first phase subdivided into three subphases:

- Phase I-A: a 150,000-sf casino, food court, and international buffet, two fine dining restaurants, a lounge, ten retail stores, a 3,200-space parking garage, and approximately 2,100 surface parking spaces;
- Phase I-B: a 300-room hotel with additional gaming space, a spa, pool, roof terrace, and meeting space;
- Phase I-C: a second 300-room hotel and a 200-seat, 24-hour café/restaurant; and
- Phase II: a third 300-room hotel, a 15,000-sf event center, a 25,000 sf indoor/outdoor water park, and approximately 700 surface parking spaces.

The 146.39-acre project site is bounded to the north by Middleborough Avenue, to the east by Stevens Street, to the south by Route 140, and to the west by Route 24 and the Cotley River/Barstowe's Pond system. Both Middleborough Avenue and Stevens Street are predominantly residential, with the East Taunton Elementary School located approximately two-tenths of a mile from the existing LUIP entrance at the intersection of O'Connell Way and Stevens Street. According to the ENF, the Tribe currently controls 15 parcels, nine of which are within the LUIP and six of which are immediately adjacent to the LUIP. An active freight-rail line bisects the site from east to west, currently limiting access to approximately 50 acres of the

project site located north of the railroad. This northern portion of the project site is characterized by mature forest, former agricultural fields, and abuts Barstowe's Pond, a small man-made impoundment of the Cotley River. The current occupied land uses on the project site include a 22,480-sf fitness center (Work Out World) and 44,100 sf of office space at 50 O'Connell Way, and two 175,000 sf warehouse buildings known as the Crossroads Commerce Center on the LIUP Phase 2 site. According to the ENF these uses will remain on-site after the casino and hotels are built. Only a vacant 137,000 sf industrial/office building is expected to be replaced by the project.

The completed project will create 23.5 new acres of impervious area, resulting in 46.1 acres of overall impervious area within the 146.39-acre project site. Total project gross square footage is estimated at 2,176,000 sf (buildings and parking structures). The project will generate 21,096 new traffic trips per day, for a project total of 24,700 traffic trips. The project will consume 220,000 gallons per day (GPD) of potable water and generate 220,000 GPD of wastewater.

#### MEPA Procedural History

The ENF was noticed in the July 11, 2012 Environmental Monitor, commencing the typical 20-day comment period. The Tribe consented to a two week extension of the comment period on the ENF, extending the public comment deadline to August 14, 2012. On July 24, 2012, a public MEPA Scoping Session was held at Taunton High School in compliance with 301 CMR 11.06(2).

Portions of the project site have previously been subject to MEPA review. The section of the site south of the railroad tracks was included as part of Phase 2 of the East Taunton Industrial Park (a/k/a LIUP) (EEA No. 12631). According to the historic MEPA filings, Phase 2 is comprised of approximately 663,400 sf of warehouse/distribution facilities, including 69,900 sf of office space, in six buildings on 63 acres of land located north of Stevens Street. Based upon information included in the ENF, it appears that portions of this project have been built, including the access roadway (O'Connell Way). Additionally, the project site is located adjacent to a recently reviewed MEPA project associated with the removal of Barstowe's Pond Dam (EEA No. 14750) by the Taunton Development Corporation in conjunction with numerous Federal and State partners. This project includes the removal of the existing Barstowe's Pond dam and construction of a spilt-flow channel consisting of two 20-25 foot wide channels located immediately downstream of the east and west side of the dam in the Cotley River. This dam forms a shallow 11.9-acre impoundment that is located approximately 2,000 feet south of the Cotley's River's confluence with the Taunton River. The proposed water park (Phase II) development site is located north of the railroad tracks and is located adjacent to the impoundment created by Barstowe's Pond Dam and the Cotley River.

#### Jurisdiction and Permitting

This project is subject to MEPA review and requires the preparation of a mandatory EIR because it requires a State Agency Action and exceeds numerous MEPA review thresholds including:

- Creation of ten or more acres of impervious area (301 CMR 11.03(1)(a)(2));
- New discharge or expansion in discharge to a sewer system of 100,000 or more GPD (301 CMR 11.03(5)(b)(4)(a));
- Generation of 3,000 or more unadjusted new additional daily trips on roadways providing access to a single location (301 CMR 11.03(6)(a)(6));
- Construction of 1,000 or more new parking spaces at a single location (301 CMR 11.03(6)(a)(7));
- Construction, widening, or maintenance of a roadway or its right-of-way that will cut five or more living public shade trees of 14 or more inches in diameter at breast height (301 CMR 11.03(6)(b)(2)(b)); and
- Destruction of all or any part of any Archaeological site listed in the State Register of Historic Places or the Inventory of Historic and Archaeological Assets of the Commonwealth (301 CMR 11.03(10)(b)(2)).

The project will require several permits from the Massachusetts Department of Environmental Protection (MassDEP) including: a Section 401 Water Quality Certification, a Sewer Extension Permit (BRP WP 71), a Sewer Connection Permit (BRP WP 74), a water supply Distribution Modification permit (BRP WS 32), and potentially a Chapter 91 (c.91) Waterways License. The project will also require a Vehicular Access Permit from the Massachusetts Department of Transportation (MassDOT). The project may require an Order of Conditions from the Taunton Conservation Commission, or in the case of an appeal, a Superseding Order of Conditions from MassDEP. The project will undergo Airspace Review by the Massachusetts Aeronautics Commission (MAC). The project may also require several federal permits including: a National Pollutant Discharge Elimination System (NPDES) Construction General Permit from the United States Environmental Protection Agency (USEPA), a Section 404 Clean Water Act Permit from the United States Army Corps of Engineers (USACOE), and a Part 77 Airspace Review from the Federal Aviation Administration (FAA). Furthermore, it is anticipated that the project will require a Record of Decision under the National Environmental Policy Act (NEPA) and a Land into Trust Proclamation from the BIA. The project is subject to the MEPA Greenhouse Gas (GHG) Emissions Policy and Protocol.

The Tribe has not identified the use of any State funding for its project. However, the nature of the Expanded Gaming Act and its broad jurisdiction confers the functional equivalent of broad scope jurisdiction under MEPA. Additionally, per 301 CMR 11.01(2)(a)(3), subject matter jurisdiction is functionally equivalent to broad scope jurisdiction in the case of a project requiring a c. 91 License. Therefore, MEPA jurisdiction for this project is broad and extends to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment as defined in the MEPA regulations.

### Review of the ENF

The ENF submitted by the Tribe included a completed form, required plans and maps, the ENF distribution list, and a Transportation Study. The ENF included a brief description of the existing land uses on the project site, the project's proposed programmatic elements, a limited alternative analysis, and a bulleted summary of the key mitigation measures negotiated as part of the IGA with the City of Taunton.

### Wetlands and Waterways

The physical extent of wetlands or waterways on-site were graphically represented in the ENF using Massachusetts Geographic Information Systems (MassGIS) and Federal Emergency Management Agency (FEMA) Flood Zone data overlain on a large-scale aerial photograph<sup>1</sup>. No quantification of specific wetland resource area impacts were provided in the ENF, with the exception that the Tribe plans to design the project such that impacts to Bordering Vegetated Wetlands (BVW) will be less than 5,000 sf. The ENF also identified the project site as containing a waterway (the Cotley River) subject to the Waterways Act (M.G.L. c.91). No information was provided on potential wetland resource area impacts associated with the roadway and utility infrastructure improvements agreed upon in the IGA. The ENF stated that project-related stormwater runoff will be collected and managed in accordance with MassDEP's Stormwater Management Standards.

### Water Supply and Wastewater

The ENF identified existing water usage on-site as 10,000 GPD, with an estimated project-related increase of 210,000 GPD, for a project total of 220,000 GPD of water demand. The ENF assumes a scenario whereby the City of Taunton will provide water to the project site via the City's existing water treatment facility. A new water main is proposed in Stevens Street to replace an existing main to provide potable water and fire protection to the casino and improve service to customers along Stevens Street. The ENF indicated that the City is presently permitted to withdraw up to 7.49 million gallons per day (MGD) of water and that the additional water demand associated with the project will not exceed the City's permitted withdrawal capacity.

The ENF also estimated proposed wastewater generation at approximately 220,000 GPD, with 210,000 GPD of new flows generated by the project and 10,000 GPD associated with the existing on-site uses. The Tribe has proposed construction of a new pumping station and an approximately 3,600 foot-long force main to convey these anticipated wastewater flows. This new infrastructure will be installed to facilitate discharge of project-related wastewater to the existing gravity sewer that supplies the existing Route 140 pump station. The ENF indicated that the City of Taunton's existing wastewater treatment facility (WWTF) is permitted to treat up to 8.4 MGD of wastewater, with an average existing daily flow of 7.6 MGD, indicating that sufficient capacity exists in the system to treat the additional flows generated by the project. The ENF also indicated that the Tribe intends to comply with the City of Taunton's existing

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<sup>1</sup> Wetland and waterway data were provided at a 1:9000 scale using 2008 orthophotography from MassGIS.



infiltration and inflow (I/I) removal policy which requires new sewer connection applicants to remove five gallons of I/I for every one gallon of proposed wastewater.

The City of Taunton is in the process of preparing a Comprehensive Wastewater Management Plan (CWMP) to plan for current and future wastewater needs within the City. The CWMP has completed the DEIR process under MEPA (EEA no. 13897), but has yet to file a Final Environmental Impact Report (FEIR). The Tribe expects that the CWMP MEPA process will be completed prior to filing any wastewater permits for the casino project. As noted in the ENF, the Secretary's Certificate on the DEIR for the CWMP requires that projects undertaken during the CWMP review process (i.e., before final MEPA action on the CWMP) that require a MassDEP Sewer Extension or Connection Permit must file a Notice of Project Change (NPC) seeking a Phase I waiver under the CWMP. The Tribe has requested that the ENF be considered as the required NPC as mandated in the CWMP DEIR. Given the different project proponents (the CWMP is a City of Taunton project) and the lack of information included in the ENF relating the proposed project to the impacts disclosed in the CWMP MEPA review documents, I cannot accept the ENF as the required NPC for the City of Taunton's CWMP. The City of Taunton, as part of the filing of the FEIR for the CWMP, must address the potential wastewater impacts associated with the casino project with regard to the wastewater planning, future and proposed needs areas, and environmental impacts. The City of Taunton should contact MEPA staff prior to preparation of the FEIR for the CWMP to ensure that these project changes are accurately reflected in the submission documents and that guidance provided in this Certificate's scope is incorporated into the CWMP FEIR, as necessary.

#### Historic Resources

The project site includes two pre-contact Native American archaeological sites, which are included in the Massachusetts Historical Commission's (MHC) Inventory of Historic and Archaeological Assets of the Commonwealth (MHC site no. 19-BR-499 and no. 19-BR-500). Site no. 19-BR-499 is located within the project site and was the subject of an intensive (locational) archaeological survey in 2002 as part of the development of the LUIP. Subsequent to this survey, MHC staff determined that site no. 19-BR-499 was not significant and did not meet the criteria of eligibility for listing in the National Register of Historic Places. Site no. 19-BR-500, located north of the railroad tracks, was also identified in the aforementioned 2002 survey and was recommended for further testing to determine the significance of the site and its boundaries. According to the ENF, the project site also includes the former site of the Windemere Farm (TAU.579), a property included on the Inventory of Historic and Archaeological Assets of the Commonwealth. However, this asset was demolished as part of a previous development project on the site.

### Hazardous Materials

The ENF indicated that a Phase I Environmental Site Assessment (ESA) has been completed for the project. The ESA noted that the barn and shed located on the northern portion of the project site may have asbestos containing material within them. No other findings from the ESA were included in the ENF.

### Traffic and Transportation

The ENF included a Transportation Study prepared in conformance with the *EOEEA/MassDOT Guidelines for EIR/EIS Traffic Impact Assessment (TIA)*. The Transportation Study estimated that the project will generate an additional 21,096 average daily vehicle trips (adt), which in addition to the 3,604 adt generated by existing on-site development, results in a total of approximately 24,700 adt associated with the proposed activities on the project site. The current uses on the project site are also accompanied by 1,106 parking spaces. The project will add an additional 4,945 structured and surface parking spaces, for a project site total of 6,051 parking spaces. The project site is located approximately two miles from the Taunton Municipal Airport at King Field, a public general aviation airport. Under proposed conditions the main entry to the project site will be via O'Connell Way, with a separate service entry located several hundred yards to the north on Stevens Street. The internal roadway will connect the various project components and parking areas. This proposed internal roadway must cross the existing railroad tracks to access the Phase II project area.

The Transportation Study described both existing (year 2012) and proposed (year 2022) roadway, pedestrian, and bicycle conditions; interchange conditions; roadway, intersection and interchange volumes; safety issues at intersections and interchanges; and operational analyses for intersections and interchanges for the AM Peak Hour, Friday Peak Hour, and Saturday Middyay Peak Hour conditions.

The ENF also included a list of proposed transportation mitigation measures to address project-related impacts to the project Study Area. New site driveways and intersections created by the project and proposed traffic improvements were also analyzed as part of the Transportation Study. The Study Area included major intersections within the City of Taunton. These intersections include:

#### Signalized Intersections:

- Galleria Mall Drive South/County Street (Route 140);
- Overpass Connector/Route 140 NB Ramps/Stevens Street;
- Route 24 NB Ramps (Exit 12B)/County Street (Route 140);
- Route 24 SB Ramps (Exit 12A)/County Street (Route 140);
- Mozzone Boulevard/County Street (Route 140);
- Erika Drive/County Street (Route 140);
- Hart Street/County Street (Route 140);
- Washington Street/Broadway (Route 138);
- Oak Street/Washington Street (Route 140)/Tremont Street;

- Cohannet Street (Route 140)/Weir Street (Route 138);
- High Street/Winthrop Street (Route 44);
- Main Street (Routes 140 and 44)/Church Green (Route 44)/Summer Street (Route 140);
- County Street (Route 140)/Gordon M. Owen Riverway Extension; and
- Dean Street (Route 44)/Longmeadow Road/Gordon Owen Parkway.

Non-Signalized Intersections:

- Galleria Mall Driveway North/County Road/Overpass Connector;
- O'Connell Way/Driveway/Stevens Street;
- Middleboro Avenue/Stevens Street;
- Hart Street/Middleboro Avenue/Poole Street/Bristol Plymouth High School Driveway;
- Bristol Plymouth High School Driveway/Hess Gas Station/County Street (Route 140);
- Galleria Mall Driveway South/Galleria Mall Drive;
- Exeter Street/Bay Street/Broadway (Route 138);
- Washington Street (Route 140)/R. Martin Sr. Parkway (Route 140);
- Court Street/Broadway (Route 138)/Weir Street;
- Court Street/Western Green (Routes 44 and 138);
- Summer Street (Route 140)/County Street (Route 140)/Ingell Street;
- County Street (Route 140)/Johnson Street;
- Myricks Street (Route 79)/Route 140 at Exit 10 NB Ramps;
- Myricks Street (Route 79)/Route 140 at Exit 10 SB Ramps;
- Middleboro Avenue/Old Colony Avenue/Liberty Street;
- Middleboro Avenue/Pinehill Street/Caswell Street;
- Pinehill Street/Stevens Street;
- F.R. Martin Parkway/Cohannet Street; and
- Williams Street/Gordon Owen Parkway.

The Transportation Study also evaluated conditions at both the Route 24/Route 140 Interchange (Exits 12A and 12B) and the Route 140/Stevens Street Interchange (Exits 11A and 11B). Crash Data reviewed in the Transportation Study concluded that four signalized intersections exceeded the MassDOT District 5 average rate of 0.77 crashes per million entering vehicles, and eight non-signalized intersections exceeded the average rate of 0.60 crashes per million entering vehicles. A detailed crash analysis for the Route 24 and 140 highway segments was not included in the Transportation Study. Traffic operations were evaluated for AM Peak Hour, Friday Peak Hour, and Saturday Midday Peak Hour conditions at both signalized and unsignalized intersections, as well as the Route 24/Route 140 and Route 140/Stevens Street Interchanges (merge and diverge, weaving, and basic freeway segments). The Transportation Study identified several intersections that operate at LOS E or F under 2012 Existing Conditions.

The Transportation Study included an analysis of the 2022 No-Build Condition. This analysis evaluated future conditions within the Study Area without the construction of the casino

project, but did consider background traffic growth, traffic generated by full-buildout of the approved LUUP, and proposed intersection improvements at the Hart's Four Corners intersection. The 2022 No-Build Condition analysis did not consider the potential roadway network improvements associated with proposed upgrades to the Route 24/Route 140 interchange, the proposed South Coast Rail commuter rail project, or the proposed reconstruction of Route 140 from Route 24 to Taunton Depot Drive. The LOS analysis for the 2022 No-Build Condition identified several intersections that either continue to operate at LOS E or F or degrade to LOS E or F from the 2012 Existing Conditions analysis.

The 2022 Build Condition included an analysis of traffic conditions associated with full build-out of the proposed project. For the purposes of the traffic analysis, the proposed uses were generally broken into three use categories: a 324,000-sf destination resort casino complex, including a gaming floor, restaurants, retail and back of house space, and a 15,000-sf performance venue (the casino complex); 900 hotel rooms; and a 25,000-sf indoor water park. Estimated trip generation rates were derived from a variety of resources including actual daily and hourly traffic counts at the Phase 1 Mohegan Sun casino in Uncasville, Connecticut for the casino complex, the Institute of Transportation Engineers (ITE) manual (8<sup>th</sup> edition) for the hotel uses, and daily and peak hour traffic volume data from an existing 55,000-sf "Coco Keys" indoor water park in Mount Laurel, New Jersey. Separate trip rates were determined for patrons and employees of the casino complex. Project-related trip distribution was derived from methodology used in the 2008 *Environmental Impact Statement* for a proposed casino in Middleborough, Massachusetts, updated to reflect Year 2010 U.S. Census Data, again with independent distribution patterns developed for patron trips and employee trips. The majority of trips to the project site are expected to use Route 140 southbound via Exit 11A. The LOS analysis for the 2022 Build Condition identified several intersections that either continue to operate at LOS E or F or degrade to LOS E or F from the 2022 No-Build Conditions Analysis. Additionally, the Transportation Study identified operations below LOS D during certain peak periods for the Route 24/Route 140 Interchange.

To mitigate project-related transportation impacts, the ENF proposed a comprehensive series of improvements or modifications to Study Area roadways. These mitigation measures were also incorporated into the IGA between the Tribe and the City of Taunton. The proposed measures include the following:

**Route 24/Route 140 and Route 140/Stevens Street Interchanges:** According to the ENF, MassDOT, in conjunction with replacing the structurally deficient Route 24 bridge over Route 140, has investigated a number of conceptual alternatives for relieving traffic congestion, accommodating the potential future widening of Route 24, and improving pedestrian and bicycle accommodations at the interchange of Route 24 and Route 140 in Taunton (MassDOT Project #605888). Consideration of improvements at this interchange has been ongoing since the mid-1990's. MassDOT has prepared a preferred design alternative (Alternative 1D); however according to the ENF, this estimated \$28,750,000 improvement has not been programmed by the State as of Spring 2012. Alternative 1D includes a number of proposed changes to these interchanges. The Route 24 southbound off-ramp is proposed to split from the mainline in two lanes, one to a new ramp to Route 140 northbound and the other to Route 140 southbound. The ramp to Route 140 southbound would enter Route 140 in its own lane, outside of a signal as

currently exists today. Route 140 under Route 24 would be widened to seven lanes (four lanes today) to accommodate a northbound double left turn lane to Route 24 southbound and a double through lane on Route 140 northbound. Route 140 southbound would have a divided single off-ramp lane from Route 24 southbound divided with a median barrier from two through lanes to Route 140 southbound and a transition to a double left turn to the Route 24 northbound ramp. Route 140 northbound between Interchange 11 (Stevens Street) and Route 24 would be widened to the north to provide three lanes (currently two lanes with an auxiliary lane transition from the Stevens Road on-ramp.) Exit 11A to Stevens Street at the Galleria Mall Drive would be signalized.

The Tribe, as stated in the ENF, does not expect that these MassDOT improvements will be completed in time for the opening of the proposed casino. Therefore, the Tribe has proposed a series of interim improvements purported to improve the existing operation of the interchange and accommodate proposed casino traffic.

- **Route 24 Southbound Ramp (Exit 12B)/County Street (Route 140 Interchange):** At the Route 24 southbound ramp, the Route 140 northbound approach will be widened to accommodate two left-turn lanes and two through lanes just beyond the Route 24 overpass. The Route 24 southbound off-ramp approach will be realigned and widened to allow for double left-turn lanes and a single channelized right-turn lane, which will enter into its own lane, allowing a free, uninterrupted movement onto Route 140. The right-turn lane will be signalized to avoid conflict with the northbound double left-turn movement. The Route 140 southbound approach will be widened to allow two through lanes and a channelized right-turn lane. Route 140 southbound beneath Route 24 will be widened to accommodate two through lanes and a barrier-separated through lane to accommodate the free right turn from the Route 24 southbound off-ramp. All traffic signal equipment will be upgraded.
- **Route 24 Northbound Ramp (Exit 12A)/County Street (Route 140):** The Route 140 southbound approach at the Route 24 northbound ramp will be modified to include two through lanes, an added lane from the Route 24 southbound ramp, and one exclusive left-turn lane. The Route 140 northbound approach to the Route 24 northbound ramp will include two through lanes and two channelized right-turn lanes (signalized) that will taper to one lane onto Route 24 northbound. All traffic signal equipment will be upgraded.
- **Galleria Mall Drive South/County Street/Route 140 Southbound Ramps (Exit 11A):** The majority of traffic volume in this area comes from Route 140 southbound to the Stevens Street Connector. To facilitate continuous flow from Route 140 southbound, the Route 140 southbound ramp will maintain its own lane, while County Street will be reconfigured to merge from two lanes to one lane prior to merging with Route 140 southbound ramp traffic. The Stevens Street Overpass centerline will be restriped to create three northbound travel lanes as it approaches the signal at the Overpass Connector/Route 140 northbound ramps/Stevens Street intersection and one southbound travel lane heading towards County Street. All traffic signal equipment will be upgraded.

- **Overpass Connector/Route 140 Northbound Ramps/Stevens Street Intersection:** A new ramp is proposed on Stevens Street to the north of the existing Overpass Connector/Route 140 Northbound Ramps/Stevens Street intersection to allow all Stevens Street southbound traffic to access Route 140 northbound. A single shared through/right-turn lane for the Stevens Street southbound approach will be provided. As noted previously, the northbound Stevens Street Overpass approach will have three through lanes and a channelized right-turn island. Northbound and eastbound approaches to the intersection will continue to access Route 140 northbound as they do under existing conditions. All traffic signal equipment will be upgraded and coordinated with other traffic signals.
- **Route 140 Northbound (between Exits 11 and 12):** To accommodate the proposed new Stevens Street ramp Route 140 northbound modifications will be required. As the new Stevens Street ramp will enter Route 140 northbound approximately 700 feet north of the existing on-ramp from the Overpass Connector/Stevens Street intersection, a barrier will be constructed to separate traffic from these two on-ramps from the Route 140 mainline traffic. This traffic will then merge into Route 140 northbound traffic, with Route 140 northbound widened from two lanes to three lanes between the new ramp and the approach to the Route 24 northbound on-ramp.
- **O'Connell Way/Stevens Street/LUIP Phase 1 Drive:** This intersection will function as the main entry road into the casino complex. The northbound Stevens Street approach will include two left-turn lanes, a through lane, and a right-turn lane. The southbound approach will remain unchanged with a left-turn lane and a through/right-turn lane. This intersection will be signalized. The eastbound site drive approach will include an uninterrupted channelized right-turn lane, with its own lane onto Stevens Street, allowing for direct access to the proposed new Route 140 northbound on-ramp. Left-turns and through movements out of the project site driveway will be prohibited through physically restricted geometry. All traffic signal equipment will be upgraded and coordinated with other traffic signals.
- **Stevens Street/Proposed Casino Service Road:** A secondary service road will be constructed to the east of the proposed garage to accommodate service vehicles from both the Crossroads Center and the casino. Signage is proposed to prohibit right turns by casino patrons or employees onto the Service Road. The Tribe has also committed to work with the City of Taunton and MassDOT to investigate a truck exclusion on Stevens Street north of the proposed service driveway.

**Route 140 West of Route 24:** The Transportation Study identified two MassDOT projects designed to improve traffic operations and safety within the Study Area. These projects include: roadway reconstruction, median installation, sidewalk reconstruction, traffic signal upgrades, and drainage improvements along Route 140 in the City of Taunton (MassDOT Project #605191); and the total reconstruction of Hart's Four Corners (MassDOT Project #605679). The ENF noted that additional project-related mitigation has been proposed by the Tribe at some of the intersections affected by the aforementioned projects.

- **Mozzone Boulevard/County Street (Route 140):** Implementation of traffic signal timing modifications, re-striping the northbound lanes to have a left-turn only lane and a through lane, and coordination of signal timing with nearby intersections.
- **Bristol Plymouth HS Drive/County Street (Route 140):** Installation of a traffic signal, if warranted.
- **Erika Drive/County Street (Route 140):** Update existing traffic signal cycle length and phasing splits to achieve acceptable LOS during all peak hours.
- **Hart's Four Corners – Hart Street/County Street (Route 140):** the current design proposed that both County Road approaches be widened to three lanes consisting of a left-turn lane, a through lane, and a shared through/right-turn lane. The Hart Street approaches would remain as a shared left-turn/through lane and a right-turn lane. The Tribe has proposed widening both Hart Street approaches to include a left-turn lane, a through lane, and a right-turn lane.
- **County Street (Route 140)/Gordon M. Owen Riverway Extension:** Adjust existing traffic signal phasing splits to improve intersection delays.

**Other Improvements:**

- **High Street/Winthrop Street:** Update existing traffic signal timings and phasing to improve intersection operations.
- **Winthrop Street (Route 44)/Highland Street:** Evaluate and update signal timings and phasing to improve intersection operations.

**East Taunton Neighborhood Improvements:** The Tribe will contribute funds to initiate planning for and implementation of a traffic calming plan for neighborhoods in East Taunton, with a focus on Stevens Street, Hart Street, Middleboro Avenue, Caswell Street, and Staples Street. This financial contribution will also include an allowance for monitoring project traffic within the East Taunton neighborhood at agreed-upon intervals after opening of each project phase. Traffic improvements proposed in the ENF include:

- **Bristol Plymouth High School Drive/Hart Street/Poole Street:** Realign the high school driveway to align with Poole Street, add a flashing warning beacon on Hart Street, and construct Americans with Disabilities Act (ADA) accommodations.
- **Stevens Street/Middleboro Avenue:** Install a flashing warning beacon, construct ADA accommodations, widen the sidewalk on intersection approaches, and install crosswalk markings. Investigate signing Stevens Street as a Heavy Vehicle Exclusion.
- **Stevens Street/Pinehill Street:** Install a raised intersection and radar speed control signs both northbound and southbound in advance of Pinehill Street, construct ADA accommodations, update crosswalk markings and post a Heavy Vehicle Exclusion for Pinehill Street.

- **Middleboro Avenue/Pinehill Street/Caswell Street:** Construct either a modern roundabout or install a fully actuated traffic signal. Construct geometric improvements, ADA accommodations, crosswalks, and sidewalks.
- **Middleboro Avenue/Old Colony Avenue/Liberty Street:** Construct either a modern roundabout or install a fully actuated traffic signal. Construct geometric improvements, ADA accommodations, crosswalks, and sidewalks.
- **East Taunton Elementary School Driveway/Stevens Street:** Install school zone flashing warning devices on each driveway approach, along with appropriate signage and pavement markings.

The Transportation Study concluded that the proposed traffic mitigation measures will bring operations at affected signalized intersections within the Study Area back to acceptable levels under the 2022 Build Conditions (LOS D or higher).

#### *Public Transportation*

Existing transit service in the Study Area is provided by the Greater Attleboro-Taunton Regional Transit Authority (GATRA). GATRA provides both fixed-route bus service and demand response (Dial-A-Ride) service in Taunton and other nearby communities. According to the ENF, the project site, while not directly served by GATRA, is convenient to GATRA Bus Routes 3 and 8.

#### *Parking*

On-site parking currently consists of 1,106 surface parking spaces provided in separate lots associated with the existing building uses. Parking for the casino is proposed in the form of a 3,200-space structured parking garage and approximately 2,100 surface parking spaces provided in lots on-site. It is unclear from the ENF how parking demand was derived for the proposed uses.

#### *Transportation Demand Management*

The ENF described a proposed transportation demand management (TDM) program designed to reduce single occupancy vehicle (SOV) trips to the project site and encourage use of alternative modes of transportation. The Tribe will promote the use of public transportation for both patrons and employees. Currently there is no commuter rail service in Taunton (stations are proposed as part of the South Coast Rail project), but the Tribe has expressed a willingness to explore a shuttle bus to a future Taunton Depot Station. The Tribe has also proposed meeting with GATRA to explore expanding/modifying service to include the project site. The Tribe will also encourage the use of high occupancy vehicles such as limousines and buses, as well as car and vanpool services for employees. The Tribe will use web-based information and other means to disperse information on reducing SOV trips. The Tribe will also establish a shuttle bus system on-site for employees to travel between parking garages and the casino. The Tribe has proposed that these shuttle vehicles be powered by compressed natural gas (CNG) or use hybrid technologies. Preferential parking for employees who carpool or vanpool, or drive hybrid or clean fuel vehicles will be provided, along with the installation of electric vehicle charging



stations in the parking garage. Finally, the Tribe will designate an on-site TDM coordinator to oversee implementation and maintenance of the TDM program.

### Construction Period

It is anticipated that the Tribe will prepare a Stormwater Pollution Prevention Plan (SWPPP) in accordance with the NPDES Construction General Permit requirements to manage erosion and sedimentation during the construction process. Demolition and excavation contracts will include specific requirements to ensure construction procedures allow for the necessary segregation, reprocessing, reuse, and recycling of materials. The Tribe will also implement measures to limit air emissions during the construction period including: idling restrictions, use of low-sulfur diesel fuel, and encouraging contractors to use off-road diesel equipment retrofitted with an USEPA-approved diesel retrofit devices, or similar emissions control technology.

## **SCOPE**

### General

The DEIR should follow Section 11.07 of the MEPA regulations for outline and content, as modified by this scope.

### Project Description and Permitting

The DEIR should include a detailed description of the proposed project and describe any changes to the project since the filing of the ENF. The DEIR should include updated site plans for existing and post-development conditions at a legible scale, clearly identifying access roadways and internal driveways, wetland resource areas, surface and structured parking, stormwater, wastewater, and water supply infrastructure. The DEIR should describe anticipated project phasing, components of each phase (i.e., buildings, uses, parking), and timelines for construction. The DEIR should identify what existing uses within the LUIP will remain, whether they will be modified in any way as part of the project, and how ongoing industrial park uses will be accommodated during casino construction (on a per phase basis), and upon completion of full project build-out.

The DEIR should include a discussion of future permitting requirements associated with the project. This project cannot be completed in the absence of the land being placed into trust by the BIA. Certain sovereign rights pertaining to environmental laws and regulations may be conveyed to the Tribe upon placement of the project site in trust. The DEIR should describe the BIA's land in trust process and identify the lands the Tribe has requested for placement into trust. The DEIR should clarify the applicability of Federal, State, and local environmental laws both during construction and under future operations. The DEIR should discuss how the applicability of these Federal, State and local environmental laws may differ between land taken into trust and land not placed in trust. In the analysis of potential impacts as outlined in the scope below, the DEIR should address how certain State-jurisdictional environmental performance standards or regulatory requirements may (or may not) be met by the proposed

project design given the applicability of Federal and State environmental laws when land is taken into trust by the BIA. Furthermore, the DEIR should outline the anticipated future Federal, State and local review/permitting processes that must be completed prior to opening of Phase IA of the project. This may include, but not be limited to, the National Environmental Policy Act (NEPA) and the BIA land in trust approval process. A timeline and discussion of progress made to date for these reviews and approvals should also be provided in the DEIR.

### Alternatives Analysis

The ENF noted that the Tribe previously considered alternative sites for the proposed project in both the Town of Middleborough (2008) and the City of Fall River (2010). While I am not directing the Tribe to investigate additional alternative sites for the proposed project, the DEIR should include an alternatives analysis associated with the current project site to demonstrate that Damage to the Environment has been avoided, minimized or mitigated. The DEIR should provide an alternatives analysis that provides conceptual site layout plans, a summary of potential environmental impacts associated with each of these alternatives, preferably in tabular format, and a supporting narrative for each of the following alternatives:

- A No-Build Alternative (i.e., permitted LIUP full build-out);
- A Reduced Build Alternative (i.e., overall casino complex programming is reduced throughout the project site, but the water park component remains);
- A Southern Parcel Development Alternative (i.e., the area north of the railroad tracks remains in its existing condition; no Phase II is constructed); and
- A Preferred Alternative.

As noted later in this Certificate, the DEIR will also be required to include an evaluation of various access and transportation alternatives associated with the Route 24/Route 140 interchanges and project-related service access onto Stevens Street.

I encourage the Tribe to continue to explore on-site alternatives to reduce impacts to environmental resources through design modification or the addition of features to further mitigate potential impacts. Additional recommendations provided in this Certificate may result in a modified design that enhances the project's ability to avoid, minimize, or mitigate Damage to the Environment. The DEIR should discuss steps the Tribe has taken to further reduce the impacts of the project since the filing of the ENF, or, if certain measures are infeasible, the DEIR should discuss why these measures will not be adopted.

### Traffic and Transportation

Project-related impacts to the local and regional roadway network were a significant concern to many commenters on the ENF. State and regional transportation planning agencies and Towns expressed a number of traffic and transit issues that the DEIR will be required to investigate further to ensure that appropriate mitigation measures will be implemented by the Tribe. Specifically, MassDOT raised a number of concerns related to the scope of the TIA, in terms of the geographic area covered and the analysis executed; some of the findings of the TIA; and the proposed transportation system improvement commitments made by the Tribe. The DEIR

should include a revised and updated TIA prepared in conformance with the *EOEEA/MassDOT Guidelines for EIR/EIR Traffic Impact Assessment*. The TIA should reevaluate the Study Area and identify appropriate mitigation measures for areas where the project will have an impact on traffic operations. I strongly encourage the Tribe to meet with MassDOT, the Southeastern Regional Planning and Economic Development District (SRPEDD), the Old Colony Planning Council (OCPC), GATRA, the Brockton Area Transit Authority (BAT), and communities located within the revised Study Area proposed below prior to the preparation of the TIA to discuss concerns and anticipated areas of study within the TIA.

The project is expected to add traffic in the surrounding communities of Berkley, Lakeville, Middleborough and Raynham. The MassDOT comment letter has recommended an expanded Study Area beyond those intersections evaluated in the ENF. Additional concerns regarding certain State-jurisdictional roadways were also raised by surrounding communities. The DEIR should include a TIA that analyzes all the intersections reviewed within the ENF and the following additional interchanges and intersections associated with State-jurisdictional roadways:

*Berkley:*

- Interchange of Route 24 and Padelford Street (Exit 11)

*Lakeville:*

- Intersection of Route 18 and route 79 (signalized); and
- Intersection of Route 18 and Taunton Street (unsignalized).

*Middleborough:*

- Ramps on Route 44 at the interchange with I-495 (unsignalized);
- Intersection of Route 18, Route 28, and Route 44 (Middleborough Rotary);
- Ramps on Route 18 at the interchange with I-495 (unsignalized); and
- Ramps on Route 105 at the interchange with I-495 (unsignalized).<sup>2</sup>

*Raynham:*

- Interchange of Route 24 and Route 44;
- Interchange of Route 24 and I-495 (part of this interchange is also within the Town of Bridgewater);
- Intersection of Route 44 and Orchard Street (signalized);
- Intersection of Route 44 and Hill Street (unsignalized);
- Intersection of Route 44 and Church Street (signalized) and
- Interchange of Route 138 and I-495.

*Bridgewater:*

- Interchange of Route 24 and Route 104

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<sup>2</sup> This intersection is currently unsignalized, and is proposed to be signalized under MassDOT Project #602603. It is currently under construction.

*Taunton:*

- Intersection of Route 44 and Richmond Street/Vernon Street (unsignalized)

The Tribe should discuss with SRPEDD the further expansion of the Study Area to include the Route 24/Route 79 merge in Fall River.

The revised Study Area should also include an analysis of the Route 24 mainline corridor between the interchange with Route 140 (Exit 12) and the interchange with I-495 (Exit 14). As noted by MassDOT, this corridor is already at or near capacity during the peak period, particularly the southbound mainline during the PM peak period. The DEIR should analyze project-related additional impacts to this corridor, including a study of the need for a third travel lane in each direction.

Based on the mitigation proposed, the project will be subject to design review by MassDOT and may be reviewed by the Federal Highway Administration (FHWA). MassDOT indicated that while the ten-year horizon period analysis considered in the ENF is acceptable for use in the majority of the DEIR Study Area, the DEIR should use a 20-year horizon for analysis of the Route 24/Route 140 interchange and related improvements. MassDOT noted that the general methodology to determine project trip distribution appears valid and that the different percentages of trips assigned to the major corridors of the roadway network seem reasonable.

The DEIR should include revised trip generation calculations as directed in the MassDOT comment letter. The DEIR should include a sampling and comparison of multiple comparable casinos and water parks and present a clear methodology for selecting an appropriate trip generation rate for the project. The DEIR should also include average daily traffic and morning peak hour traffic for the proposed water park. The MassDOT comment letter also identified discrepancies between the traffic volumes included in the ENF's TIA and a MassDOT transportation study recently conducted for the Route 24/Route 140 interchange. Prior to preparation of the revised TIA, the Tribe should work with MassDOT to ensure consistency between MassDOT study volumes and those used by the Tribe for this interchange. The DEIR should also show comparable traffic volumes for a typical weekday evening peak hour and justify the use of the Friday PM as the design peak hour to conduct the capacity analysis for the project.

The DEIR should present capacity analyses and a summary of average and 95<sup>th</sup> percentile vehicle queues for each intersection within the revised Study Area. The DEIR should also present a revised merge and diverge analysis for each ramp junction, and a weaving analysis for all the interchanges along the Route 24 interchanges identified in the Study Area. The DEIR should include a freeway segment analysis between the interchanges in the Route 24 corridor. The ENF has proposed a series of new traffic signals, as well as several intersections that may be signalized pending further study. The DEIR should include a traffic signal warrant analysis according to the Manual of Uniform Traffic Control Devices (MUTCD). The DEIR should describe how proposed mitigation improvements will be consistent with, or modify, future long-term transportation improvements under consideration by MassDOT for this area, particularly the Hart's Four Corners improvements. The DEIR should address how project-related traffic

improvements will be coordinated with anticipated MassDOT or local roadway projects to reduce overall construction-related impacts in the Study Area.

Given the proximity of the Route 24/Route 140 and Route 140/Stevens Street interchanges, MassDOT expressed concern that the short distances between these intersections may have a significant impact on traffic operations. The DEIR should include a traffic simulation of the Study Area network using VISSIM or other approved MassDOT simulation software, to allow MassDOT to effectively evaluate the adequacy of proposed improvements at the Route 24/Route 140 interchange. As directed by MassDOT, the Tribe should also conduct video recordings of traffic operations at the Route 24/Route 140 interchange during critical peak periods in order to facilitate appropriate calibration of the simulation.

The DEIR should include sufficiently detailed conceptual plans (preferably 80-scale) for the proposed roadway improvements in order to verify the feasibility of constructing such improvements. The conceptual plans should clearly show the proposed lane widths and offsets, layout lines and jurisdictions, land uses (including access drives), existing and proposed traffic signals, and wetland resource areas adjacent to areas where improvements are proposed. Any proposed measures within the State highway layout, as well as internal circulation, must be consistent with a Complete Streets design approach that provides adequate and safe accommodation for all roadway users, including pedestrians, bicyclists, and public transit riders. The DEIR should identify the location of existing and proposed connections for pedestrians and bicycles; analyze existing and future bicycle and pedestrian conditions based on the project's impacts; and commit to making improvements to increase usage of those modes. Guidance on Complete Streets design guidelines is included in the MassDOT *Project Development and Design Guide*. Where these criteria cannot be met, the Tribe should provide the justification as to the reason why, and should work with the MassDOT Highway Division to obtain a design waiver.

The DEIR should provide conceptual plans at a reasonable scale that clearly identify lane widths and offsets, proposed turning movements, geometric improvements, and signage/crosswalks for both the main entrance to the project site and the proposed service entrance on Stevens Street. These plans should identify key nearby land uses such as the East Taunton Elementary School and Christ Community Church. The DEIR should describe how casino-related service trucks, as well as those associated with the Crossroads Commerce Center, will enter and exit the project site and safely navigate the proposed internal roadway network. The DEIR should describe existing available truck routes to the project site, discuss how these truck routes may be modified or eliminated, and propose mitigation measures (such as physical barriers to prevent illegal turns onto unapproved roadways, designation of truck exclusions, signage, etc.) to reduce impacts to the Stevens Street corridor from truck traffic.

The DEIR should clarify the proposed mitigation measures for local-jurisdictional roadways within the City of Taunton, particularly the Stevens Street corridor, which contains a number of residences, the Christ Community Church, and the East Taunton Elementary School. The IGA identifies specific improvements to local roadways in Taunton, whereas the ENF provides a more general list of possible improvements and traffic calming measures collectively known as the "East Taunton Neighborhood Improvements". It is unclear from documents

reviewed if the proposed mitigation measures (notably modern roundabouts or additional turning lanes) are feasible given potential right-of-way and/or wetlands constraints. I encourage the Tribe to commit to specific traffic mitigation measures for these local roadways to allow for an improved assessment of the project's impacts on the roadway network.

The DEIR should discuss necessary easement requirements to facilitate access to the northern portion of the project site (Phase II). Based upon the site plans in the ENF, it appears that the project site does not consist of contiguous property crossing the existing freight rail tracks. The DEIR should clarify how legal access to the northern portion of the project site will be achieved. Additionally, the DEIR should describe the frequency with which freight train traffic will bisect the proposed development areas. The DEIR should discuss if easements are necessary, the status of obtaining these easements, and describe proposed safety measures to be implemented to facilitate safe crossing of the CSX tracks by the proposed project roadway.

#### *Public Transportation*

As indicated in the ENF, the project site currently has limited access to public transportation options. To mitigate the significant increase in traffic trips associated with the project, the Tribe should commit in the DEIR to making improved availability and access to public transportation a core component of its mitigation program. The DEIR should include a comprehensive analysis of existing and future conditions of transit services within the expanded Study Area. As directed by MassDOT, the DEIR should identify existing frequency and capacity; provide a realistic projection of future demand; propose a comprehensive transit mitigation plan to reduce site vehicular traffic; and commit to key investments that will attract both employees and patrons to public transportation.

The DEIR should describe the Tribe's plans to provide seamless access for patrons and employees arriving by over-the-road-coach, urban transit buses, and shuttle buses. The Tribe should work with GATRA, OCPC, BAT, area Transportation Management Associations (TMAs), councils on aging, and other transit providers in the South Coast region to provide new services or extensions of existing services to the facility and to discuss physical design features that could be incorporated into site design, as well as possible service models to assist in improving potential public transit ridership to the site. The Tribe should evaluate the potential for private shuttle services with connections to key transportation hubs and activity centers that could supplement these public transit and private bus carrier services. Finally, while the South Coast Rail project has not yet finished permitting and design, upon completion, it will provide another means of public transit access to the City of Taunton. The Tribe should commit to providing public transit connections (i.e., shuttle bus, modified bus routes) between the proposed Taunton Depot South Coast Rail station and the casino upon completion of the South Coast Rail project.

#### *Parking/Drop-Off*

The DEIR should clarify how the parking needs of the project were determined and explain the methodology used to determine the total parking demand. The Tribe should seek to provide adequate parking based upon validated need and implement measures to reduce overall

parking demand. The DEIR should include a summary of parking demand and supply for comparable casino and water park facilities based on multiple data sources. The DEIR should commit to providing preferred parking for hybrid or alternatively-fueled vehicles, carpool or vanpools, and electric car charging stations for both employee and patron parking areas. The DEIR should commit to providing automated pay stations for the parking garage to reduce queuing times for exiting vehicles and thus reducing vehicle idling time and air pollution. Finally, the DEIR should clarify if off-site employee parking may be required, and if so, identify its location and means to provide shuttle service for employees to and from the casino and off-site parking area.

It is anticipated that the casino and/or water park will draw public and private buses, shuttle services, limousines, and taxis to the project site. MassDOT has suggested that improved access to public or chartered transit options could be possible through the construction of an on-site Intermodal Transportation Center (ITC). An ITC should be visible, fully integrated with the casino facility and other elements of the project, and outfitted with ample accommodation for public transit vehicles and attractive amenities. The DEIR should identify and describe the location of proposed ITC or drop-off/pick-up area, discuss how it will be integrated into the internal roadway network, identify the location and/or availability of extended parking or temporary layover areas for buses and chartered vehicles, and demonstrate that access to the facility by transit modes will have accommodations at least equivalent to those arriving by private automobile.

#### *Aviation*

The project site is located less than one and one-half miles southwest of Taunton Municipal Airport (TAN), and in particular, southwest of the approach end of Runway 04-22. TAN is a general aviation airport with two runways to accommodate their approximate 50,000 annual operations: Runway 12-30 is a paved 3,500-foot runway, while Runway 04-22 is a 1,900 turf runway. According to the MAC comment letter, the project site appears to be located within protected airport approach and/or transitional airspace areas as defined by State law (M.G.L. c.90 §35B) and Federal regulations (Federal Aviation Regulation Part 77, Objects Affecting Navigable Airspace). State and Federal notice is required for several aspects of the proposed project, as identified in the MAC comment letter.

The DEIR should address how the proposed project will meet the recommendations or requirements outlined in the MAC comment letter with regard to lighting glare and construction activities. The DEIR should also discuss the likelihood of casino patrons arriving at the facility via aircraft to TAN. If the project will result in a substantial increase in traffic to TAN, the DEIR should discuss these potential impacts on airport operations. The DEIR should include a commitment by the Tribe to coordinate with MAC, the FAA and the TAN Airport Manager to ensure that no adverse impacts to aviation will occur as a result of this project.

#### *Traffic Mitigation Plan*

As noted previously, the ENF included a commitment to a series of transportation improvements to mitigate project-related traffic impacts. The MassDOT comment letter noted

several concerns with some of the proposed mitigation measures. The DEIR should respond to these concerns and use the MassDOT guidance provided to modify the proposed transportation mitigation program. This revised transportation mitigation program should be presented in the DEIR and identify each proposed mitigation measure, when this mitigation measure will be implemented, the responsible party for constructing or implementing this measure, and the estimated cost of constructing or implementing the measure. The DEIR should discuss how proposed mitigation measures will not preclude the ability of others (i.e., MassDOT) to construct non-project related traffic improvements that have already begun design or are under construction. MassDOT raised concerns about the ability of the proposed improvements to the Route 24/Route 140 interchanges and the proposed on-ramp to Route 140 from the project site to meet American Association of State Highway and Transportation Officials (AASHTO) design standards; as well as possible unsafe weaving maneuvers and excessive queue lengths associated with these proposed improvements. The DEIR should include an alternatives analysis for the proposed Stevens Street to Route 140 northbound on-ramp, as the data presented in the ENF suggests that this mitigation measure will have significant impacts to wetland resource areas. The DEIR should present alternative locations, design features and construction methodologies to demonstrate that environmental impacts have been avoided, minimized, or mitigated.

The Route 24/Route 140 interchange has been listed as structurally deficient and needs to be replaced. According to MassDOT, the interchange ramps are substandard by AASHTO design criteria, and the Route 24 southbound ramp queue frequently extends to the Route 24 southbound mainline, creating unsafe conditions. MassDOT undertook a feasibility study that led to the current Preferred Alternative for interchange improvements. Approximately \$15.7 million of Federally-earmarked funding is available for the implementation of improvements. The Tribe's proposed mitigation plan presented in the ENF indicated that the permitting and funding of the MassDOT Route 24/Route 140 interchange project is unlikely to meet the anticipated schedule for casino opening, and therefore interim improvements were presented in anticipation of future reconstruction of this interchange. The MassDOT comment letter opines that the Tribe's proposed mitigation plan is significantly deficient in terms of geometric design and traffic operations, and only represents a short-term fix that would need to be rectified at a later date. Furthermore, MassDOT has noted that the reconstruction of the interchange after the opening of the casino would complicate constructability of the interchange project, while also negatively impacting travel to and from the casino, associated shops, restaurants and attractions.

I support MassDOT's strong preference for a permanent fix that would include the implementation of the Route 24/Route 140 interchange project's Preferred Alternative as part of the package of improvements required to mitigate the casino project's traffic impacts. The DEIR should include a revised evaluation of this design option based on the additional traffic volumes generated by the casino project. The DEIR should also include a commitment by the Tribe to work with MassDOT to find ways to advance State and Federal environmental permitting for the interchange project, and to develop a mitigation implementation plan commensurate with the phasing of the casino. I encourage the Tribe to make a mitigation commitment that may entail constructing an element of the interchange or providing a funding contribution towards a permanent solution for the interchange's deficiencies, and work with MassDOT on how best to achieve such a permanent solution.



I note that in accordance with M.G.L. c.23K, Section 62, there shall be established and set up on the books of the Commonwealth a fund to be known as the Transportation Infrastructure and Development Fund (TIDF). The Expanded Gaming Act requires that 15 percent of revenue from the Gaming Local Aid Fund be transferred to the TIDF. Information provided on behalf of the Tribe estimates annual contributions to the TIDF upon full operation of the casino complex at \$12,900,000. Furthermore, Section 9.2.3 of the Compact requires that a minimum of fifty percent of the monies transferred from the project to the TIDF be segregated and utilized for the purposes of transportation and related infrastructure improvements in Region C. As part of the anticipated commitment by the Tribe to work with MassDOT to advance design, permitting and funding of the Route 24/Route 140 interchange, or implement proposed mitigation measures identified in the DEIR on State-roadways, the Tribe and MassDOT should consider the role future contributions to the TIDF may play in constructing planned improvements, or in prioritizing future transportation improvements within Region C.

#### *Transportation Demand Management*

The DEIR should include a revised TDM program that acknowledges the expanded TIA Study Area and the guidance provided by commenters. The Tribe should investigate TDM measures implemented by similar facilities, and explore additional measures to maximize usage of existing and proposed pedestrian, bicycle, and transit facilities. The DEIR should evaluate the various TDM recommendations provided by MassDOT, MassDEP, OCPC, and SRPEDD, identify those measures that will be adopted, and for those measures that will not be adopted, provide justification for their dismissal. The Tribe should consult with MassRIDES to identify additional TDM measures applicable to the project. The DEIR should explore the use of financial incentives or priority treatments for employees and patrons to reduce SOV trips. The Tribe should provide ample bicycle parking; on-site showers, lockers, and changing facilities; and financial incentives to encourage employees and patrons to walk, bicycle, or ride public transit to the site.

#### *Transportation Monitoring*

The DEIR should include a commitment to the implementation of a transportation monitoring program (TMP) to be conducted upon occupancy of the project. This monitoring program should be consistent with, and as necessary expand upon, the monitoring commitments included in the IGA. The TMP's goals should be to evaluate the assumptions made in the TIA and the adequacy of the proposed transportation mitigation measures, as well as to determine the effectiveness of the TDM program. The Tribe should work with MassDOT to determine appropriate frequencies and timeframes for implementation of the monitoring program. The DEIR should provide a draft of the TMP proposing how monitoring will be tied to project phasing and overall project occupancy and operations, as well as anticipated intersections/interchanges/roadway segments for future monitoring. The draft TMP should discuss how deficiencies determined by future monitoring efforts may be rectified. The Tribe will be responsible for identifying and implementing operational improvements at constrained locations updating the TDM program as necessary to ensure that mitigation commitments are met.

### Air Quality

The project triggers MassDEP's review threshold requiring the Tribe to conduct an air quality mesoscale analysis comparing project Build and No-Build conditions. The Tribe should conduct this mesoscale analysis and present its results in the DEIR. The Tribe should consult with MassDEP regarding modeling protocol prior to conducting this analysis, with particular attention paid to the phasing of the project and anticipated air quality impacts. The current emission model should be used for this effort.<sup>3</sup>

The purpose of the mesoscale analysis is to determine whether and to what extent the proposed project will increase the amount of volatile organic compounds (VOCs) and nitrogen oxides (NOx,) emissions in the project area. The mesoscale analysis should be used to meet the GHG Policy requirement to quantify project-related CO<sub>2</sub> emissions and identify measures to avoid, minimize, and mitigate these emissions. The mesoscale analysis will also be used to determine if the project will be consistent with the Massachusetts State Implementation Plan (SIP). Emission increases due to the project must be mitigated and any subsequent environmental impact analysis should include the Tribe's commitment to implement these mitigation measures. Implementation of a TDM program on-site will provide an opportunity for additional air quality improvements through a reduction in trips. TDM measures and their ability to reduce trip generation rates will be evaluated in the DEIR as part of the transportation analysis.

### Greenhouse Gas Emissions

Section 14 (Green Construction) of the IGA directs the Tribe to use sustainable development and construction principles and environmentally friendly construction methods with a goal of constructing a building that is both economically feasible and substantially compliant with the Leadership in Energy and Environmental Design (LEED) program. Many sustainable design measures consistent with the LEED program facilitate a reduction in project-related GHG emissions through improved energy efficiency, water use and wastewater generation reductions, and air quality improvements. In addition to the Green Construction requirements of the IGA, the term "Damage to the Environment" as defined by the MEPA regulations (301 CMR 11.00) includes the emission of GHGs caused by projects subject to MEPA.<sup>4</sup> Therefore, the DEIR should include an analysis of GHG emissions and mitigation measures in accordance with the standard requirements of the MEPA GHG Policy and Protocol ("the Policy"). I note that this project is a tremendous opportunity for the Tribe to implement cutting edge energy efficiency technologies, renewable energy sources, and "green" operations practices. I encourage the Tribe to consult with State environmental and energy programs, including the Clean Energy Center, to identify possible participation in energy-efficiency or environmental technology pilot programs as part of the project.

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<sup>3</sup> At the time of issuance of this Certificate the emissions model was MOBILE 6.2. The Tribe should use the effective model in effect at the time of submission of the DEIR, if different from MOBILE 6.2.

<sup>4</sup> On November 5, 2008, pursuant to the Global Warming Solutions Act of 2008 (Chapter 298 of the Acts of 2008) the MEPA statute (M.G.L. c.30, §§ 61-62I) was amended to provide that: *In considering and issuing permits, licenses and other administrative approvals and decisions, the respective agency, department, board, commission or authority shall also consider reasonably foreseeable climate change impacts, including additional greenhouse gas emissions, and effects such as predicted sea level rise.* (M.G.L. c30, §61).

The DEIR should quantify the direct and indirect GHG emissions associated with the project's energy use and transportation-related emissions. Direct emissions include on-site stationary sources, which typically emit GHGs by burning fossil fuel for heat, hot water, steam and other processes. Indirect emissions result from the consumption of energy, such as electricity, that is generated off-site by burning of fossil fuels, and from emissions associated with vehicle use by employees, vendors, customers and others. The DEIR should outline and commit to mitigation measures to reduce GHG emissions. I refer the Tribe to the Policy for additional guidance on the analysis. The Tribe must meet with representatives from MEPA, MassDEP, and the Department of Energy Resources (DOER) prior to preparation of the DEIR to discuss the GHG analysis, assumptions and methodology.

The DEIR should include a GHG emissions analysis that calculates and compares GHG emissions associated with two alternatives as required by the Policy including 1) a Base Case corresponding to the current edition of the Massachusetts State Building Code with all associated amendments and 2) a Preferred Alternative which includes energy efficiency design measures. The Policy requires proponents to use energy modeling software to quantify projected energy usage from stationary sources and energy consumption and mobile source modeling software to predict transportation-related emissions. The DEIR should clearly state the types of modeling software used, the Building Code in effect at the time of the modeling, and emissions factors applied to GHG calculations. As an additional measure to confirm modeling accuracy, I encourage the Tribe to compute the Energy Use Index (EUI) for the proposed buildings, to compare the values obtained against EUIs calculated in the Commercial Building Energy Consumption Survey (CBECS) database for the applicable climate zone. The benefits and limitations of the CBECS database can be discussed at the required GHG analysis pre-filing meeting.

The GHG analysis should clearly demonstrate consistency with the objectives of MEPA review, one of which is to document the means by which the Tribe plans to avoid, minimize, or mitigate Damage to the Environment to the maximum extent feasible. The DEIR should state modeling assumptions and explicitly note which GHG reduction measures have been modeled and those that cannot be modeled due to the constraints of the modeling software. The DEIR should include the modeling printout for each alternative and emission tables that compare Base Case emissions in tons per year (tpy) with the Preferred Alternative showing the anticipated reduction in tpy and percentage by emissions source (direct, indirect and transportation). The DEIR should include a clear and complete listing of modeling inputs (e.g., R-values, U-values, efficiencies, lighting power density, etc.) for items such as equipment, walls, ceilings, windows, lighting, HVAC units, etc. for both the Base Case and Preferred Alternative. The DEIR should also reference the occupied and unoccupied thermostat levels assumed in the modeling for both heating and cooling processes. Other tables and graphs may also be included to convey the GHG emissions and potential reductions associated with various mitigation measures as necessary.

The Policy includes an appendix of suggested mitigation measures to achieve reductions in project-related GHG emissions. The DEIR should analyze the feasibility of these mitigation measures (i.e., higher-efficiency boilers, higher-efficiency hot water heaters, energy efficient windows, higher-insulated roof and walls, and glazing treatments), and if feasible, these

measures should be included within the modeling inputs, as applicable. The MassDEP comment letter also highlights some key energy efficiency measures that the DEIR should analyze, many of which are also referenced in the Policy. Some measures, such as the use of solar photovoltaics (PV) may require a separate calculation to document the GHG emissions reduction potential associated with their implementation. The DEIR should explain, in reasonable detail, any measure not selected- either because it is not applicable to the project or is considered technically or financially infeasible- that would result in a significant reduction of GHG emissions.

It is reasonable to assume that casino complex and hotel uses will contain higher-than average plug loads due to lighting and equipment requirements (i.e., gaming machines, etc.). The DEIR should evaluate additional measures to reduce project plug loads, including the use of more efficient equipment (such as Energy Star), reductions in equipment used, use of control equipment to limit use, and other power management techniques.

The DEIR should include an analysis of the technical and financial feasibility of a combined heat and power (CHP) system for the casino complex. Given the 24-hour nature of the various project uses at similar facilities I strongly encourage the Tribe to consider the benefits of a CHP system for the project. The DEIR should also evaluate the use of renewable energy on-site (wind, PV, and geothermal). It appears that while large-scale wind and geothermal uses may not be feasible due to the proximity of the project to Taunton Municipal Airport and site conditions, there are ample opportunities for PV. The DEIR should include details regarding the potential output of one or multiple rooftop PV systems, identify areas suitable for ground-mounted solar arrays, an economic analysis associated with a first-party or third party installation, and for potential rooftop systems, how mechanicals can be arranged to maximize the area that could be dedicated to PV uses. This analysis of both roof-mounted and ground-mounted PV systems should include assumptions about available rooftop or land areas, potential system outputs, and installation costs (\$/watt). I recommend that the Tribe use data available from the Massachusetts Clean Energy Center to obtain current data on average \$/watt installation costs for PV systems in Massachusetts (*Commonwealth Solar Installers, Costs, Etc.*, available at <http://www.masscec.com/index.cfm/page/Downloads-and-Resources/pid/11163>). If PV is not financially feasible, I request that the Tribe commit in the DEIR to revisit the PV financial analysis on a regular timetable and to implement PV when the financial outcomes meet specified objectives. The DEIR should include a feasibility analysis of implementing a solar hot water system to meet some or all of the demand for the hotel uses or water park. This evaluation should be compared to the opportunities afforded by the installation of roof-top systems solely to offset electricity usage.

I encourage the Tribe to evaluate energy-efficiency measures adopted by other tribal casinos in both building design and operation to identify potential GHG reduction measures for this project. In the process of advancing project design, I encourage the Tribe to consider design options that will allow for cost-effective integration of efficiency or renewable energy measures in the future when such measures may become more financially or technically feasible. Furthermore, the Tribe should consider the implementation a variety of mitigation measures such as solid and food waste management, recycling of construction and demolition debris, use of renewable/recycled-content building materials, use of water conservation features (e.g., low-flow

plumbing fixtures, graywater reuse, and low impact landscaping and irrigation design) despite the limitations in quantifying associated GHG reductions. The MassDEP comment letter includes additional guidance on these qualitative GHG reduction measures. According to MassDEP, the Commonwealth has also announced its intent to institute a ban on the direct disposal of food waste into landfills and incinerators in 2014 for large scale food waste generators; the ban might include casinos, particularly if large quantities of food are served. I encourage the Tribe to implement measures consistent with MassDEP food waste goals such as separation and non-disposal options. The DEIR should include a feasibility study of the construction of an on-site anaerobic digestion facility. This technology may allow for a unique on-site energy source to reduce project-related GHG emissions, while managing food waste in a manner consistent with MassDEP goals.

As outlined in the Policy, if the revised water and/or wastewater estimates for the project exceed 300,000 gpd, the DEIR should include an analysis of potential GHG emissions related to the treatment and conveyance of wastewater or withdrawal, treatment and conveyance of potable and/or non-potable water. To assist in calculation of potential GHG impacts associated with water and wastewater treatment, the MEPA office and MassDEP have provided average energy use data for treatment facilities and posted these data on the MEPA website. At the Tribe's discretion, actual data from project community treatment plants may be used in lieu of statewide average data to perform these calculations, so long as supporting documentation is included in the MEPA filing.

It is unclear from the ENF if all elements of the project will be owned and operated by the Tribe. Given the proposed development program, it is conceivable that certain portions of the facility may be leased out or operated by separate vendors. If space will be leased or owned/operated by parties other than the Tribe, the DEIR should include a draft Tenant Manual to influence tenants to fit-out and operate their spaces with sustainable and energy efficient designs and operating practices to reduce overall energy demand and GHG emissions. The Tenant Manual could be used as the basis for all third-party lease agreements associated with the project. The Tenant Manual should contain a set of guidelines that will in some cases require, or in other cases encourage, tenants to adopt appropriate sustainable design, energy efficiency, water use, water pollution control, and TDM commitments to the extent feasible as part of their respective lease agreements. The DEIR should describe technical and/or financial assistance Tribe may provide in order to motivate potential future tenants to reduce GHG emissions.

The GHG analysis should include an evaluation of potential GHG emissions associated with mobile emissions sources. The DEIR should follow the guidance provided in the Policy for *Indirect Emissions from Transportation* and use data gathered as part of the mesoscale analysis to determine mobile emissions for Existing Conditions, Full-Build 2022 Conditions, and Full-Build 2022 Conditions with Mitigation. Given the large volume of traffic anticipated by the project, the Tribe is expected to thoroughly explore means to improve traffic operations and reduce overall single occupancy vehicle trips. Improvements in traffic operations that reduce idling time and an overall reduction in vehicle trips can reduce overall project-related mobile source GHG reductions. The DEIR should also identify TDM measures proposed for each of the alternatives and the corresponding emission reductions expected.

It is unclear from the ENF, if casino and water park operations will include the use of fleet vehicles. For the purposes of the Policy, fleet vehicles are generally considered to be a source of direct GHG emissions from vehicles used by a project proponent in the everyday operation of a facility. In this case, these may include shuttle buses for employees, landscaping or catering vehicles, etc. The Tribe should consult the Policy for further direction on how to estimate direct mobile source GHG emissions and contact the MEPA office to discuss appropriate assumptions and methodology prior to conducting the analysis.

### Wastewater

The project is estimated to generate a total of 220,000 GPD of wastewater. Wastewater disposal is proposed by construction of a sewer extension and connection to an existing municipal sewer main. The City of Taunton has a design capacity of 8.4 MGD and currently receives an average flow of 7.6 MGD. The existing Route 140 pump station has a capacity of 2.3 MGD and currently receives an average of 0.11 MGD with a peak flow rate of .076 MGD. This pump station has the capacity to meet the average wastewater flows associated with the project. The Tribe has proposed a new pumping station and force main, approximately 3,600 feet in length, to discharge project wastewater to the existing gravity sewer that supplies the Route 140 pump station.

The DEIR should quantify wastewater discharges and cite relevant data sources associated with each projected use on-site. The DEIR should include a discussion of technologies or operational modifications that will be adopted by the Tribe to minimize water usage (and therefore reduce wastewater generation), and employ methods of water reuse consistent with 314 CMR 20.00. As detailed later in this Certificate, the DEIR should evaluate opportunities to use recycled wastewater (i.e., greywater) as a non-potable water supply source on-site. While this process will require additional infrastructure and permitting, overall benefits with regard to water supply and wastewater costs may provide both fiscal benefits in addition to environmental ones.

The DEIR should summarize existing permitting requirements and limitations associated with the City of Taunton's WWTF. As noted previously, the City of Taunton is preparing an FEIR for its CWMP. The MassDEP comment letter indicates that the City has recently reviewed the proposed needs areas and flow allocations for communities outside of Taunton identified in the CWMP. Recently, capacity allocations identified in the CWMP for the Town of Easton (400,000 GPD) were eliminated due to decisions made by the Town of Easton in their separate CWMP process. The DEIR should address this anticipated change to the CWMP, how it potentially impacts the ability of the City of Taunton to provide wastewater service to both the casino as well as meet current and future wastewater treatment obligations by the City of Taunton. The DEIR should analyze downstream capacity to demonstrate that sufficient capacity is available. The City of Taunton will be required to establish justification for the project site as a "needs area" within its CWMP process. The DEIR should also address how the proposed flows from the casino may impact the ability of the City of Taunton to meet requirements to eliminate ongoing combined sewer overflow (CSO) conditions, and confirm that the project will not exacerbate existing plans in place to remedy CSOs. According to MassDEP, the NPDES permit regulating effluent from the WWTF expired on March 27, 2006, but is still in effect

pending issuance of a new permit. MassDEP noted that it anticipates that enhanced nutrient limits will be included in the new permit that will likely require an expansion of treatment. The DEIR should discuss technologies or mitigation measures that the Tribe may implement on-site, or off-site mitigation measures directly related to casino wastewater flows, to reduce nutrient flows in wastewater discharges, thereby assisting the City of Taunton in meeting these anticipated enhanced nutrient limits.

As directed by MassDEP, the Tribe should coordinate with the City of Taunton to address the three issues identified in the MassDEP comment letter with regard to planning level review of an on-site wastewater solution, an analysis of downstream capacity, and commitments to reasonable conservation measures to minimize wastewater production. The Tribe should work with the City to determine when the City's CWMP FEIR will be submitted. If the CWMP FEIR will be submitted ahead of the Tribe's DEIR, then the Tribe should coordinate with the City to include the analysis of the three aforementioned issues in the City's FEIR/CWMP. The DEIR should provide an update on the City's CWMP FEIR, and how the Tribe has assisted the City in meeting its CWMP goals and FEIR requirements.

The DEIR should include site plans that show the proposed locations and sizes of new wastewater mains (both within the site and off-site), indicate who will own and operate these wastewater mains, identify the location of the proposed pump station, describe any environmental impacts associated with the construction and operation of the pump station and discuss how these improvements may be incorporated into roadway improvements proposed as part of the project. The DEIR should quantify any wetland impacts associated with these proposed wastewater improvements, and identify erosion and sedimentation control (Best Management Practices (BMPs) during the construction period. The DEIR should clarify if the proposed pump station will be constructed to service only the casino project, or whether it will have benefits to other existing or future users in the project area. The ENF also indicated that the Tribe intends to comply with the City of Taunton's existing I/I removal policy. This commitment should be reflected in the draft Section 61 Findings to be included in the DEIR.

The IGA indicates that the Tribe will connect to the City of Taunton's municipal sewer system. However, the IGA also states that "the Tribe shall investigate developing on-site wastewater reclamation capacity to reduce sewage flows to the City's publicly owned treatment works facility" (Section 10C). I strongly encourage the Tribe to make a firm commitment in the DEIR to only use City of Taunton's sewer system and WWTF if adequate capacity is demonstrated in the DEIR. If this commitment cannot be made, the DEIR should include an analysis of options for on-site wastewater disposal. This analysis should evaluate the potential impacts of groundwater discharge to the local aquifer including nearby potable water supply wells, and ecological resources such as the Cotley River and associated wetlands. The analysis should estimate discharge volumes and rates, the location of potential discharge fields, suitability of the site to accommodate additional groundwater discharges, and the project's ability to meet MassDEP performance standards and applicable setback requirements. The Tribe should consult the MassDEP comment letter with regard to potential permitting requirements associated with wastewater connection and/or discharge and applicable performance standards.

### Water Supply

The projected water supply demand for the project is 220,000 GPD. I received numerous comments suggesting that these projected water demand volumes have been underestimated in the ENF. Under the Massachusetts Water Management Act (WMA), the City of Taunton is authorized to withdraw an average daily volume of 7.49 MGD. According to data provided by MassDEP, Taunton's 2011 Annual Statistical Report indicates that Taunton withdrew an average daily volume of 5.79 MGD. Based on the 2011 withdrawal volume, under the existing WMA authorization, Taunton can withdraw an additional 1.7 MGD before a new WMA permit is required. MassDEP noted that Taunton's five-year (2007-2011) average withdrawal was 6.51 MGD, with the highest withdrawal of 7.22 MGD in 2008. Taunton's water supply is provided from the Assawompsett Pond Complex (APC) and the Dever Wells. The APC provides potable water for the Cities of Taunton and New Bedford.

The DEIR should quantify estimated potable and non-potable water demand for the project including: water demands for each individual project phase, data sources for these estimated water demands, and a breakdown of estimated water demand by type (i.e., potable, irrigation, ornamental (fountains, etc.), water park, and any significant other uses). The DEIR should include an estimation of outdoor water use and identify the demand volumes to be provided by the City of Taunton's water supply system versus those to be provided alternative sources (e.g., stormwater collection, on-site irrigation wells, etc.). The DEIR should describe how operations of the water park will influence overall water demand (i.e., frequency of water turnover in pools, etc.). The DEIR should breakdown daily water demand for the pool/park facilities itself, sanitary facilities, and restaurant or concession space for the water park. This water demand analysis should analyze how servicing the casino project may affect the ability of the City of Taunton to supply water for current and future needs. According to MassDEP, future needs can be estimated using DCR – Water Resources Board water use projections. This future needs analysis should also consider other known development projects that may have large water demands including the Myles Standish Industrial Park, redevelopment of Taunton State Hospital, full occupation of the Silver City Galleria Mall, and other potential large water users. The DEIR should summarize the existing permitted withdrawals by all users of the APC, the anticipated demand of the casino, the relationship of the casino water demand to the City of Taunton's current WMA withdrawal limits, and future projected water demand by City of Taunton users. If the proposed project will impact the ability of the City of Taunton to comply with its current WMA permit, or its ability to supply future needs given available supply sources and treatment and distribution infrastructure, the DEIR should include mitigation measures to offset these impacts.

The DEIR should include site plans that show the proposed locations and sizes of new water mains (both within the site and off-site), indicate who will own and operate these water mains, and discuss how these water main improvements may be incorporated into roadway improvements proposed as part of the project. As noted in the ENF, historically Stevens Street has experienced colored water complaints. The DEIR should quantify any wetland impacts associated with these proposed water main improvements, identify erosion and sedimentation control BMPs during the construction period, and describe how these improvements will benefit service within the Stevens Street area.



The DEIR should describe water conservation measures to be implemented on-site and steps to be taken by the Tribe to meet the applicable *Massachusetts Water Conservation Standards*. Hotel uses provide numerous opportunities to reduce daily water demand by guests including the use of low-flow fixtures, modifications or the use of BMPs associated with laundry and food services, and guest education. The DEIR should explore opportunities to reduce overall water demand through the use of greywater recycling for sanitary facilities, irrigation, or ornamental uses. The DEIR should provide an analysis of potential water supply demand reductions achievable through the implementation of greywater recycling infrastructure, feasibility of implementing such a system, and if feasible, outline a commitment to include greywater recycling in final project design. If greywater recycling infrastructure is not adopted as a mitigation measure, the DEIR should provide an explanation of why it will not be implemented by the Tribe.

The IGA indicates that water supply for the project will be provided from the City of Taunton's existing water supply system. However, the IGA also states that "the Tribe may explore the potential for on-site water supply for potable consumption and/or irrigation as a means to reduce the project's demands on the City's water supply system" (Section 9C). I strongly encourage the Tribe to make a firm commitment in the DEIR to only use City of Taunton water service to supply potable water demand. I also strongly encourage the Tribe to limit exploration of on-site water withdrawals to non-potable sources (with withdrawal volumes under MassDEP permitting thresholds), as a means to reduce the amount of potable treated water used for non-potable purposes. If this commitment cannot be made, the DEIR should include an analysis of potential water supply and groundwater impacts associated with withdrawals (potable or non-potable) by the Tribe from a surface or groundwater source. As requested by MassDEP, this analysis should include the potential impacts to the local aquifer including other existing water supply sources (i.e., adjacent private wells) and ecological resources such as the Cotley River and associated wetlands. The analysis should estimate withdrawal volumes and rates, the location of potential wells, the ability of these wells to meet MassDEP performance standards, and applicable setback requirements. The Tribe should consult the MassDEP comment letter with regard to potential permitting requirements associated with on-site water sources and applicable performance standards.

### Land

The DEIR should characterize the current land uses, topography, and vegetation types on the project site. Conceptual development plans included in the DEIR should clearly depict portions on the project site that will remain undeveloped, identify the current tree line and proposed areas of clearing, and indicate if areas of fill or excavation will be required to construct the Preferred Alternative. The DEIR should also use graphics to conceptually identify and estimate the square footage (or acreage as applicable) of those areas that will remain unchanged, impervious areas dedicated to roadways or parking, impervious streetscape elements (i.e., courtyards, patios, etc.), areas that will be actively landscaped (i.e., gardens, lawns), and those vegetated areas that may be less formally maintained (i.e., seasonally mowed, open field).

I acknowledge that the Preferred Alternative includes structured parking to reduce the overall footprint of proposed parking accommodations. The DEIR should describe the rationale for providing only a portion of projected parking demand as structured parking, how the location and size of surface parking lots were determined, and explore opportunities to reduce impervious areas dedicated to surface parking through either the creation of a reasonable number of compact parking spaces, use of pervious or gravel parking lots for spaces that may be used less frequently (i.e., only during major events at the proposed entertainment venue), or other design measures. The DEIR should also demonstrate that internal roadways have been appropriately designed to convey the proposed traffic volumes, but not over-designed creating excessive amounts of pavement within the project site. The Tribe should strive to site impervious areas as far as feasible from wetland resource areas and associated buffer zones. The DEIR should demonstrate how the Preferred Alternative design layout avoids or limits land impacts, and describe relevant design measures to be implemented to mitigate potential impacts.

The DEIR should also discuss if the proposed off-site mitigation improvements will require large areas of tree clearing, grading, export or import of fill, or blasting. The DEIR should describe any necessary temporary or permanent easements (either on-site to cross the railroad tracks), or off-site associated with roadway improvements. Finally, the DEIR should acknowledge if private land transactions or easements are anticipated to complete the proposed off-site traffic mitigation measures and commit to future efforts to work with land-owners as necessary to acquire these properties.

### Wetlands

The DEIR should identify and characterize on-site wetland resource areas, provide a clear representation of which wetland resource areas are regulated under federal wetlands regulations, and those that are solely regulated by the Massachusetts Wetlands Protection Act (WPA). The MassDEP comment letter has recommended that these wetland resource areas be surveyed, delineated, and confirmed either through the filing of an Abbreviated Notice of Resource Area Delineation (ANRAD), or through the filing of a Notice of Intent. The DEIR should quantify the estimated permanent and temporary impact to each Federal and State-jurisdictional wetland resource area identified on-site, as well as those wetland resource area impacts associated with proposed off-site mitigation measures to alleviate traffic impacts related to the project.

Site plans should clearly identify the extent of on-site wetland resource areas to allow for the evaluation of the relationship of proposed development activities (i.e., vegetative clearing, placement of fill, stream crossings, stormwater outlet structures, impervious areas) to these wetlands. The DEIR should describe how development activities (both on-site and off-site traffic improvements) will meet the performance standards in the Massachusetts Wetland Protection Regulations (310 CMR 10.00) for all identified wetland resource areas (e.g., Bordering Vegetated Wetlands (BVW), Bordering Land Subject to Flooding (BLSF), Land Under Water, Bank, and Riverfront Area).

The Cotley River flows north from its headwaters in the Town of Berkley, crosses the project site, and joins the Taunton River about 2,000 feet north of Middleboro Avenue. The Taunton River is a federally-designated National Wild and Scenic River. The Cotley River is

currently impounded by the Barstowe's Pond Dam. As part of the analysis of on-site wetland resource areas, the DEIR should pay specific attention to the existing conditions and potential impacts of the proposed project to the Cotley River and the Taunton River downstream. This analysis of potential project impacts to the Cotley River must also consider the potential implications of the removal of Barstowe's Pond Dam (EEA No. 14750) on the types and scope of wetland resource areas on-site, improvements to water quality, aquatic habitat and fish passage. The Division of Marine Fisheries (DMF) noted that previous fish passage surveys have not documented any anadromous fish species in the Cotley River. However, the catadromous American eel (*Anguilla rostrata*) uses this system for foraging and nursery habitat. The removal of Barstowe's Pond Dam will remove an impediment to fish passage, improving access to available habitat for anadromous fish. According to DMF, subsequent to dam removal, Barstowe's Pond will become a candidate for restoring river herring (alewife (*Alosa pseudoharengus*) and blueback herring (*Alosa aestivalis*)) populations.

The DEIR should include an update on the status of this dam removal project, summarize the project's overall restoration goals, and describe how on-site wetland resource area delineations and potential project-related impacts and mitigation measures have been determined based upon these anticipated changes to the Cotley River and Barstowe's Pond wetlands subsequent to dam removal. Specifically, the DEIR should demonstrate that stormwater runoff and nutrient loading will be minimized and riparian vegetation preserved in efforts to maintain water quality and habitat suitability for diadromous fish resources.

The comment letter from the Department of Conservation and Recreation (DCR) indicates that the project site is partly within the 100-year floodplain (unnumbered A zone). As the project is located within an unnumbered A zone, no base flood elevations have been determined; base flood elevation data should be determined by engineering calculations. Because of its location in the 100-year floodplain, compliance with the requirements of several State, Federal and local measures related to floodplain development are required, including building standards and design requirements, to prevent structural and environmental damage from future flooding. The DEIR should identify those areas of on-site development that will be located within the 100-year floodplain, if applicable, and describe measures to be implemented to meet National Flood Insurance Program (NFIP) requirements. Finally, the project must comply with federal Executive Order 11988 – Floodplain Management.

The DEIR should identify the location of, and provide conceptual design plans at a legible scale, for any proposed wetland crossings associated with project development (including proposed off-site traffic improvements). The DEIR should demonstrate that impacts to wetland resource areas have been avoided, minimized or appropriately mitigated consistent with WPA regulations. If stream crossings or culverts are proposed, the DEIR should discuss how these activities will be designed to meet the standards found in the *Massachusetts River and Stream Crossing Standards: Technical Guidelines* (March 12, 2012).

As noted by MassDEP, if impacts to BVW cannot be avoided, at least 1:1 wetlands replication is required. Additionally, if BLSF will be filled, replication of flood storage areas at commensurate elevation increments must be provided. The DEIR should quantify direct impacts to BVW and BLSF and identify the location of potential replication areas on-site. The ENF

indicated that impacts to BVW will be proposed under the Limited Crossing provisions at 310 CMR 10.53(3)(e). It remains unclear if off-site BVW alteration (particularly in conjunction with the construction of the new Route 140 northbound on-ramp) is required. For Limited Projects, alternatives that would avoid, minimize, and mitigate impacts should be explored. According to MassDEP, alteration of more than 5,000 sf of BVW, except for Limited Projects such as roadway access projects, would require a Variance (310 CMR 10.05(10)). If proposed on or off-site improvements will require a Variance in accordance with the WPA, the DEIR should: describe how the project will meet the regulatory standards for a variance provided in 310 CMR 10.05(10), including the need to demonstrate that there are no reasonable conditions or alternatives that would allow the project to proceed in compliance with 310 CMR 10.21 through 10.60; that mitigating measures are proposed that will allow the project to be conditioned so as to contribute to the protection of the interests identified in M.G.L. c. 131 § 40; and that the variance is necessary to accommodate an overriding community, regional, state or national public interest. Furthermore, an alteration of more than 5,000 sf of BLSF or 50 lineal feet of Bank requires a Wildlife Habitat study (310 CMR 10.60). If estimated wetland impacts will require the preparation of a Wildlife Habitat study, I recommend that the DEIR include the results of this study to provide additional information on how project development can effectively avoid or mitigate impacts to wildlife habitat.

The dredge or discharge of fill material into wetlands or waters of the Commonwealth is regulated under the Massachusetts Clean Water Act, M.G.L. c.21, §§ 26-53, and its regulations at 314 CMR 9.00. These authorities require that such activities meet the Surface Water Quality Standards at 314 CMR 4.00. As requested by MassDEP, where such activities are proposed in conjunction with the project and related off-site improvements, the DEIR should identify the location of the activity, quantify the estimated amount of dredging or discharge, describe the potential impacts, and identify the measures proposed to meet the performance standards at 314 CMR 9.00 and/or 314 CMR 4.00, as applicable (e.g., alternatives analysis, anti-degradation provisions, maintenance of designated uses of the water body, best management practices, and appropriate minimization and/or mitigation measures).

The Public Waterfront Act (M.G.L. c.91) and its implementing regulations at 310 CMR 9.00 regulate activities within navigable streams and waterways and Great Ponds. The DEIR should identify structures, including water and wastewater distribution systems, proposed to be located within, over, or beneath water bodies. According to its comment letter, the MassDEP has preliminarily concluded that the Cotley River is a c.91 jurisdictional waterway pursuant to the Waterways Regulations at 310 CMR 9.04. Based on that jurisdictional assumption, any component of the project located in or crossing the waterway would require a c.91 License. The DEIR should clarify whether there is any project-related activity (including the construction of the new Route 140 northbound on-ramp) subject to c.91 jurisdiction. If so, the DEIR should propose a water dependency classification for the activities or structures, discuss how applicable performance standards will be met, and how impacts have been minimized and/or mitigated. Finally, the DEIR should discuss how proposed c.91 jurisdictional activities meet the proper public purpose requirement at 314 CMR 9.31(2).

Stormwater

To ensure the feasibility of meeting the required local, State and Federal stormwater management requirements, the DEIR should include a conceptual stormwater master plan and calculations to verify that source controls, pollution prevention measures, erosion and sediment controls, and the post-development drainage system can be accommodated on-site and achieve anticipated performance standards. Therefore, the DEIR should include stormwater calculations (sources, volumes, and quality), stormwater system design plans at a readable scale, BMP designs, and additional supporting data to demonstrate conformance with MassDEP's Stormwater Management Regulations, Stormwater Management Policy and *Stormwater Handbook*. The DEIR should describe the types of stormwater BMPs proposed on-site, with a specific focus on the use of Low Impact Development (LID) methods and technologies. Myriad LID technologies are available for effective and sustainable stormwater management and should be strongly considered as the primary stormwater treatment method for site development. These include, but are not limited to, pervious pavement, rain gardens, vegetated swales and green roofs. The DEIR should consider groundwater recharge opportunities on-site, as feasible based upon site conditions. If subsurface infiltration is proposed, the DEIR should demonstrate that soils and groundwater conditions are suitable for such discharges. The DEIR should discuss how the proposed stormwater management system will work in conjunction with, or be incorporated into, the existing on-site stormwater management system associated with the LUIP and adjacent properties.

The site development plan in the ENF indicates the location of several large surface parking areas near the Cotley River. As part of the alternatives analysis process, the Tribe should consider either the consolidation of surface parking into structured parking, a reduction in overall parking, or relocation of surface parking areas further away from the Cotley River Riverfront Area, wetland resource areas and their respective buffer zones. These efforts may have demonstrable effects on reducing stormwater runoff water quality and quantity. The DEIR should identify the location of any stormwater discharge outfalls, particularly those to the Cotley River or adjacent wetland resource areas. Water quality runoff BMPs and mitigation measures should consider the potential impact of stormwater runoff temperature and pH prior to discharge to the Cotley River given the ongoing restoration efforts associated with the removal of Barstowe's Dam and the downstream confluence with the Taunton River. The project site includes structured parking. The DEIR should identify specific stormwater BMPs associated with managing stormwater runoff from the parking garage.

The Proponent will be required to prepare a SWPPP in accordance with the NPDES Stormwater Permit for Construction Activities issued by the USEPA. The DEIR should describe specific BMPs to be employed for erosion and sedimentation control for all phases of the project (including off-site improvements) and proper construction sequencing to avoid and minimize potential impacts to wetland resource areas and waters of the Commonwealth. The DEIR should discuss if off-site roadway improvements may contribute to existing stormwater management issues associated with MassDOT drainage infrastructure and propose appropriate mitigation measures as necessary. The proposed landscape design should minimize the need for fertilizers, pesticides, and irrigation and strive to use only native vegetation.

### Rare Species

The ENF did not identify any *Estimated* or *Priority Habitat* within the project site, as determined by the most recent Natural Heritage Atlas issued by the Division of Fisheries and Wildlife Natural Heritage and Endangered Species Program (NHESP). The DEIR should review the current Natural Heritage Atlas and confirm that both on-site development and proposed off-site mitigation improvements will not occur within designated *Estimated* or *Priority Habitat* areas. If work will occur in these designated areas, the DEIR should describe how the project will comply with the Massachusetts Endangered Species Act (MESA, M.G.L. c. 131A) and its implementing regulations (321 CMR 10.00). Finally, if *Estimated* or *Priority Habitat* will be impacted by this project, a copy of the DEIR should be provided to the MEPA review staff at NHESP.

### Hazardous Materials

The MassDEP comment letter indicates that there are two current oil and/or hazardous waste sites (Sites) and four former Sites identified pursuant to the Massachusetts Contingency Plan (MCP) (310 CMR 40.0000) located within or adjacent to areas of proposed roadway improvements. There are no Sites or release notifications reported in the areas of the proposed development. The Tribe should review the MassDEP Bureau of Waste Site Cleanup (BWSC) database and report in the DEIR any additional Sites based upon identification of additional off-site mitigation areas, or refinement of proposed off-site mitigation conceptual plans.

I remind the Tribe that, if oil and/or hazardous material is identified on the project site or within areas of the proposed roadway improvements during the implementation of this project, notification to MassDEP pursuant to the MCP may be required. A Licensed Site Professional (LSP) may be retained to determine if notification is required and, if necessary, to render appropriate opinions regarding environmental conditions and evaluate whether risk reduction measures are necessary or prudent if oil and/or hazardous material is present in areas impacted by the project. The Tribe should consult the guidance provided in the MassDEP comment letter with regard to owners and operators of Underground Storage Tanks (USTs).

### Historic Resources

The project is subject to review under Section 106 of the National Historic Preservation Act (36 CFR 800) as the project involves the taking of land into trust by the BIA. The project is also subject to State Register Review (950 CMR 71.00) as the project requires permits from MassDOT and MassDEP. Submission of the ENF initiated the Section 106 review process and State Register Review regulations allow its process to be undertaken concurrently with Section 106 review. The Tribe should continue consultation under Section 106 to address the project's potential effects to cultural resources.

The Tribe has committed to contracting with an archaeological firm to undertake an archaeological site examination of site no. 19-BR-500. The MHC comment letter has also noted that the proposed project includes three additional areas considered archaeologically sensitive that were not examined in the 2002 intensive (locational) archaeological survey. One of these

areas is located within the impact area for Phase I-A, I-B, and I-C and two areas are within the Phase II project area. As recommended by MHC, the Tribe should consult with MHC with regard to adding these archaeologically sensitive sites to their agreed upon survey of site no. 19-BR-500 to determine an appropriate scope of work to ensure compliance with M.G.L. c.9, §§ 26-27C and Section 106, as applicable.

The DEIR should include a general narrative describing the nature of any additional archaeological surveys conducted since the filing of the ENF, significant results or conclusions of these surveys, and a description of how the project will avoid or mitigate any project-related adverse effects to the significant archaeological sites in the project impact areas. In preparing the DEIR, specific archaeological site locational information should not be disclosed in documents prepared for public review. Technical reports of archaeological surveys should not be included in the DEIR. Archaeological site locational information is not a public record to protect the sites (M.G.L. c.9, §§ 26-27C).

### Construction Period

The project must comply with MassDEP's Solid Waste and Air Pollution Control regulations, pursuant to M.G.L. c.40, §54. The Tribe should consult the MassDEP comment letter with regard to regulatory requirements and potential mitigation measures to be implemented during the construction period. Specifically, the MassDEP comment letter has provided significant information with regard to solid waste management during the construction period, recycling of construction and demolition (C&D) waste, asbestos removal requirements, and handling of asphalt, brick and concrete (ABC) associated with demolition activities. The ENF indicated that the Tribe will prepare a Construction Waste Management Plan with a goal of diverting at least 75-percent of project-generated waste from landfills. The DEIR should explore opportunities to reuse ABC on-site as base material for surface parking areas, as allowed by MassDEP regulations.

The DEIR should discuss potential project site construction period impacts (including but not limited to noise, vibration, dust, and traffic flow disruptions) and analyze and outline feasible measures that can be implemented to eliminate or minimize these impacts. The DEIR should include a draft (or final, if available) Construction Management Plan (CMP) to demonstrate how construction period impacts will be mitigated. Specifically, the DEIR should identify truck traffic routes associated with construction traffic, staging areas and how access to remaining LUIP uses will be maintained throughout the construction period for each proposed project phase. The CMP should also incorporate erosion and sedimentation control measures consistent with those required for the NPDES Construction General Permit. I strongly encourage the Tribe to commit to the selection of project contractors that have installed retrofit emissions control devices and to participate in the Clean Air Construction Initiative (CACI) in an effort to reduce emissions of volatile organic compounds (VOCs), CO and PM from diesel-powered equipment. Off-road vehicles will use ultra-low sulfur diesel fuel (ULSD). Selected mitigation measures should be memorialized in the CMP and DEIR.

The project will also require extended work at a number of off-site intersections and roadways to mitigate project-related traffic impacts. The DEIR should present a conceptual plan

with a list of BMPs that could be selected by project contractors to reduce construction related environmental impacts for these roadway improvement projects. These BMPs should focus on erosion and sedimentation controls, staging areas, traffic management, and air/noise pollution.

### Mitigation

The ENF did not include draft Section 61 Findings for each anticipated State Agency Action. The DEIR should include a separate chapter summarizing proposed mitigation measures. This chapter should also include draft Section 61 Findings for each State Agency that will issue permits for the project (i.e., MassDEP, MassDOT permits, etc.). The DEIR should contain clear commitments to implement these mitigation measures, estimate the individual costs of each proposed measure, identify the parties responsible for implementation, and a schedule for implementation. The DEIR should clearly indicate which mitigation measures will be constructed or implemented based upon project phasing, either tying mitigation commitments to overall project square footage or traffic/wastewater demand or thresholds, to ensure that measures are in place to mitigate the anticipated impact associated with each development phase.

In order to ensure that all GHG emissions reduction measures adopted by the Tribe in the Preferred Alternative are actually constructed or performed by the Tribe, I require proponents to provide a self-certification to the MEPA Office indicating that all of the required mitigation measures, or their equivalent, have been completed. Specifically, I will require, as a condition of a Certificate approving an FEIR (or Supplemental FEIR if necessary), that following completion of construction for each project phase, the Tribe provide a certification to the MEPA Office signed by an appropriate professional (e.g., engineer, architect, transportation planner, general contractor) indicating that the all of the mitigation measures adopted by the Tribe as the Preferred Alternative have been incorporated into the project. Alternatively, the Tribe may certify that equivalent emissions reduction measures that collectively are designed to reduce GHG emissions by the same percentage as the measures outlined in the FEIR, based on the same modeling assumptions, have been adopted. The certification should be supported by plans that clearly illustrate where GHG mitigation measures have been incorporated. For those measures that are operational in nature (i.e. TDM, recycling) the Tribe should provide an updated plan identifying the measures, the schedule for implementation and how progress towards achieving the measures will be obtained. The commitment to provide this self-certification in the manner outlined above should be incorporated into the draft Section 61 Findings included in the DEIR.

### Responses to Comments/Circulation

The DEIR should contain a copy of this Certificate and a copy of each comment letter received. In order to ensure that the issues raised by commenters are addressed, the DEIR should include direct responses to comments to the extent that they are within MEPA jurisdiction. This directive is not intended to, and shall not be construed to, enlarge the scope of the DEIR beyond what has been expressly identified in this certificate.

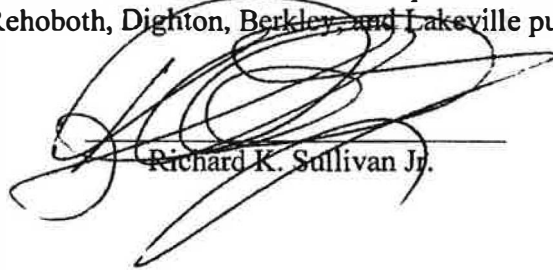
In accordance with Section 11.16 of the MEPA Regulations and as modified by this Certificate, the Tribe should circulate a hard copy of the DEIR to each State and City agency from which the Tribe will seek permits or approvals and to each of the surrounding



municipalities that submitted comments. I also request that the Tribe provide hard copies of the DEIR to the MEPA review coordinator at the Department of Energy Resources. The Tribe must circulate a copy of the DEIR to all other parties that submitted individual written comments. To save paper and other resources, the Tribe may circulate copies of the DEIR to these other parties in CD-ROM format, although the Tribe should make available a reasonable number of hard copies, to accommodate those without convenient access to a computer to be distributed upon request on a first come, first served basis. The Tribe should send a letter accompanying the CD-ROM indicating that hard copies are available upon request, noting relevant comment deadlines, and appropriate addresses for submission of comments. I recommend that the DEIR be posted in an online format either through the City of Taunton website, or on a dedicated Tribe-affiliated website. In addition, a copy of the DEIR should be made available for public review at the Taunton, Easton, Raynham, Norton, Rehoboth, Dighton, Berkley, and Lakeville public libraries.

August 24, 2012

Date



Richard K. Sullivan Jr.

Comments received:

07/21/2012	David E. Barney
07/21/2012	Veronica Casey
07/22/2012	David Littlefield (2 letters)
07/23/2012	Anthony L. LaCourse
07/23/2012	Diane Place
07/24/2012	Francis R. Lagace (5 letters)
07/24/2012	Phillip Trombly
07/24/2012	David E. Lewry
07/24/2012	Carol LaCourse
07/24/2012	Mary Tufts
07/24/2012	Representative Patricia A. Haddad (5 <sup>th</sup> Bristol District)
07/24/2012	Town of Berkley Board of Selectmen
07/24/2012	Michelle Littlefield
07/24/2012	Carol Kelley (2 letters)
07/24/2012	Paula Morrison
07/24/2012	Kathleen Lewry
07/24/2012	Brian Kennedy
07/24/2012	Leman W. Padelford (3 letters)
07/25/2012	Anne Albanese
07/25/2012	Maria Luna
07/25/2012	Richard B. Faulkner
07/25/2012	Town of Freetown Board of Selectmen
07/25/2012	Town of Rehoboth Board of Selectmen
07/26/2012	Town of Berkley Board of Selectmen (2 <sup>nd</sup> letter)
07/26/2012	Town of Easton Department of Planning and Community Development
07/27/2012	Dominic Tigano
07/28/2012	Representative Shaunna L. O'Connell (3 <sup>rd</sup> Bristol District)

07/29/2012 Cheryl McCaffrey  
07/30/2012 Representative David B. Sullivan (6<sup>th</sup> Bristol District)  
07/31/2012 Southeastern Regional Planning and Economic Development District  
08/05/2012 Susan J. McGrath  
08/06/2012 Jessie A. Powell  
08/06/2012 Representative Robert M. Koczera (11<sup>th</sup> Bristol District)  
08/07/2012 Town of Raynham Selectmen  
08/08/2012 Commonwealth of Massachusetts Division of Marine Fisheries  
08/09/2012 Tracey A. Desmarais  
08/09/2012 Massachusetts Historical Commission  
08/09/2012 Town of Norton, Michael Yunits – Town Manager  
08/10/2012 Representative William M. Straus (10<sup>th</sup> Bristol District)  
08/10/2012 Brockton Area Transit Authority  
08/10/2012 Town of Lakeville, Rita Garbitt – Town Administrator  
08/10/2012 Save the Bay  
08/13/2012 Town of Middleborough Board of Selectmen  
08/13/2012 Jeffery C. O'Neill, CONDYNE, LLC  
08/13/2012 The Nature Conservancy  
08/13/2012 Mass Audubon and the Taunton River Watershed Alliance, Inc.  
08/14/2012 Cora Peirce  
08/14/2012 Representative Keiko Orrall (12<sup>th</sup> Bristol District)  
08/14/2012 Old Colony Planning Council  
08/14/2012 Massachusetts Department of Conservation and Recreation  
08/14/2012 Massachusetts Department of Environmental Protection – SERO  
08/14/2012 Massachusetts Department of Transportation  
08/17/2012 Massachusetts Aeronautics Commission

RKS/HSJ/hsj

# A Statewide Initiative Addressing the Workforce Needs of the Gaming Industry in Massachusetts



*Prepared by the*  
**Massachusetts Community College System  
Casino Career Training Institute**

***September 12, 2012***

## **Table of Contents**

- I. Summary – Initial Recommendations
- II. Having a Ready Workforce
- III. Commission's Role – Licensure and Certification
- IV. Licensed Occupations
- V. Criteria for Licensed Occupations
- VI. Skills Assessment – Career Readiness Certificate
- VII. The Instruction
- VIII. Gaming Training Program Instructors
- IX. Career Pathways
- X. Community College Capacity
- XI. Casino Operator Relationships

# I. Summary – Initial Recommendations

The primary workforce issue related to the establishment of the Casino Gaming industry in Massachusetts is to scale up the effort in order to meet the large demand for qualified employees in a timely fashion. Recruitment, screening and skill matching will require that a statewide pool of at least 30,000 applicants be created to meet the estimated 10,000+ job openings.

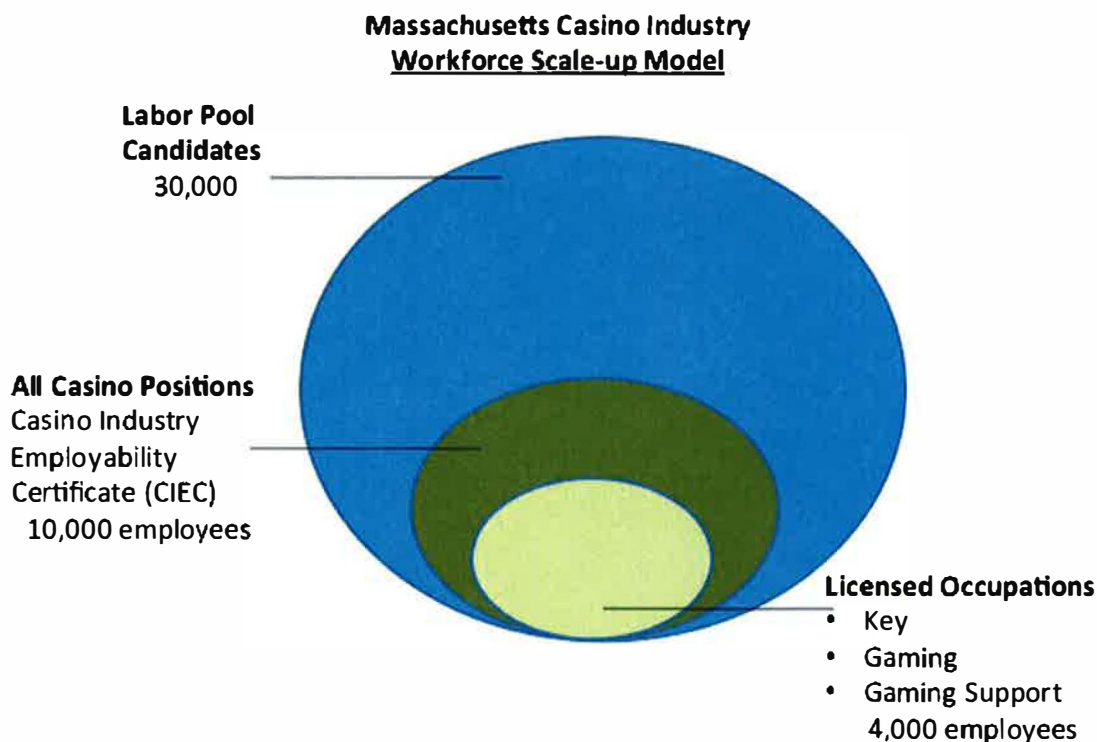
Therefore we recommend the following steps in order to meet this requirement:

- a) That the Massachusetts Gaming Commission enter into a Memorandum of Agreement/Understanding with the Massachusetts Community College System Casino Career Training Institute (Institute – a collaboration of the community colleges and various workforce development agencies) to design and implement the workforce program including recruitment, screening, career counseling, training, and job placement for licensed positions;
- b) That the Institute (colleges and workforce partners) in collaboration with the Commission, work with all potential Casino Developers/Operators to create a Memorandum of Understanding that will create a workforce relationship with the Casino Career Training Institute in order to enable the workforce scale up to begin as soon as possible;
- c) That the Commission define the pre-employment screening requirements and process such as residency, drug testing, CORI/SORI review, and basic educational requirements;
- d) That the Commission create a certification for all potential casino workers i.e. Casino Industry Employability Certificate (CIEC), and a License for gaming related occupations called the Gaming Employability License (GEL) which would have three license levels: Key, Gaming or Gaming Service; and,
- e) That the commission work with Governor, the Legislature and various secretariats to identify funding options for the initial training and for the eventual training of incumbent workers. (Some of the options include employer contributions, individual fee-based payments, workforce set aside from casino operations, workforce training fund, WIA vouchers, etc.)

## II. Having a Ready Workforce

In November of 2011, Governor Deval Patrick signed into law legislation establishing the Casino Industry in Massachusetts. The focus of the legislation was to create jobs while also enhancing the existing business climate in the Commonwealth, specifically the hospitality/entertainment/tourism sector and the small business sector. At the same time the legislation charges the Gaming Commission with the responsibility for maintaining the integrity of gaming and gaming operations.

To build the workforce for this new-to-Massachusetts industry it will require recruiting, screening, training and placing a large number of workers for or in the construction, hospitality, business operations and gaming industries. It is estimated that well over 30,000 applicants will need to be recruited to fill approximately 10,000+ positions at the three new casino locations alone. An immediate task for the Gaming Commission is the drafting of regulations for the selection of training vendors for gaming related positions, the identification of occupations which will be licensed and the resulting requirements, including screening and training, for each gaming occupation. These decisions will help the Commission create an environment, which will maintain the integrity of gaming operations in Massachusetts. However, the high level of screening of applicants and the specific licensure training will require a large planning effort and a fast scale up effort that needs to begin now in order meet the needs of the industry for openings, which may occur within 18 months to 2 years.



In addition each gaming region faces a variety of workforce challenges, including but not limited to:

- An aging workforce population
- Shortages of technically skilled workers
- Multiple-language consideration at entry level
- Lack of “professional” customer service employees

- Low educational attainment levels of unskilled and currently unemployed
- Shallow hospitality and restaurant supervisor and mid manager labor pools
- Fears of major labor force cannibalization from other service oriented and technical trade skilled dependent industry sectors

It is clear that the State and its workforce development system need a unified training response to the establishment of this new industry. A collaborative workforce effort will comprehensively address these issues, create an efficient and effective response to the workforce needs, utilize the specific strengths of various workforce partners, provide a single point of contact for the Commission and the Casino developers/operators and provide a high quality training program.

In light of the new law, on April 13, 2012, the presidents of the 15 Massachusetts Community Colleges (System) signed a Memorandum of Agreement (MOA-- Attachment 1) endorsing a statewide initiative to address the workforce needs of the new gaming industry in Massachusetts. The MOA provides for coordinated approach to working with state agencies, the Massachusetts workforce system, educational institutes and designated casino operators to:

- Provide for the **recruitment, screening, training and placement of Massachusetts residents** in positions related to the gaming industry and the associated development project;
- Provide coordination and linkages between all shareholders and stakeholders involved in identifying and developing the necessary human capital for the gaming facilities in the Commonwealth – i.e. **establish regional workforce collaborations within the gaming regions**;
- Establish the **Casino Career Training Institute (Institute)** a collaboration by and between the 15 community colleges and the regional workforce leadership within each gaming region of the Commonwealth;
- Plan to meet the gaming related occupation training needed by leasing curriculum, technical assistance, and train-the-trainer services from **Atlantic Cape Community College (ACCC)** in New Jersey; and,
- Develop **educational pathways** (aka 2+2+2) from high school through grade 16 that are aligned to the career pathways in the gaming industry

The presidents affirmed that the 60+ year history of the community colleges to provide appropriate and effective career/licensure training could be applied to the workforce needs related to the casino industry, specifically in relation to positions requiring licensure. Realizing that this is a new initiative for a new industry, that the size of projected workforce is significant and that there are a variety of workforce-related tasks that need to be done in a short period of time, the presidents recognized the need for a systematic statewide (with regional teams) workforce approach. No one organization has the ability to achieve this task alone. In addition they noted that each member of the workforce system has distinct strengths. The roles of the various workforce partners, including but not limited to:

- **Workforce Investment Boards** (Regional Employment Boards) can help define the regional workforce pool, provide data management, facilitate regional responses to grants and other funding opportunities and engage and maintain business input in the workforce development process.
- **One-stop Career Centers** provide a visible entry point for many job seekers with the ability to recruit, screen and direct individuals to the appropriate career pathways and related training. The Centers also provide a significant level of support services regarding job readiness, e.g. interview preparation, resume writing, job matching and more.
- **Community based organizations, labor unions, and other public and private vendors** provide a variety of training offerings in the construction, hospitality, and related industries. It is estimated that over 65% of the new jobs will not be related to gaming.
- **Four-year higher education and graduate programs** provide a number of educational pathways, which will enable individuals to enhance their knowledge for positions requiring advanced skills. (2+2+2 transfer options)
- **Local School Districts and Vocational Schools** provide the opportunity to develop career pathways in culinary, hospitality, information technology and numerous other areas.

### III. Commission's Role Regarding Licensure and Certification

There are a variety of items, which require decisions from the Massachusetts Gaming Commission, such as:

- Adoption of a system, which will create the casino industry labor force needed for the startup phase and for the sustainability of the workforce (It is recommended that the Massachusetts Gaming Commission execute a Memorandum of Agreement with the MA Community College System Casino Career Training Institute (MOA) on behalf of the State's Workforce Development System to design and implement the workforce program.);
- Define residency as well as other hiring requirements such as drug testing and CORI/SORI review;
- Identification of occupations requiring licensure or certification as well as the requirements and process for licensure or certification of individual workers for those specific jobs;
- Adoption of rigorous and reliable certification and licensure curriculum;



- Confirmation of the workforce training infrastructure regarding but not limited to enrollment, confidentiality, documentation, support services, staffing and reporting compliance.
- Creation of reciprocal agreements or test-out provisions for workers from other states with previous experience; and,
- Determining the business model (i.e. source of funding for the equipment, assessments, job coaching, training, placement, etc.)
- Insuring affordable access to the pathway to employment to individuals who may have fiscal challenges.

At the same time there are a number of other workforce concerns, which will need to be addressed:

- The protection of MA citizens from training operations which are not sanctioned by the commission and that will place a financial burden on the job seeker;
- Eradication of potential fly-by-night training providers who do not meet the Commission's guidelines and may be committing unlawful gaming acts;
- Confirm with casino operators the workforce certification and licensure program so they can the necessary workforce planning by the Casinos will be part of the RFP process;
- Limit misinformation related to casino jobs as well as the licensure and certification process;
- Creating policy, procedures, technology and other infrastructure requirements; and,
- The timing of the workforce scale up.

## IV. Licensed Occupations

As the legislation states, the Gaming Commission will develop the regulations that will identify the licensed occupations and licensing requirements for the gaming industry. Those decisions, combined with the additional requirements of the casinos, will dictate the direction the workforce system shareholders will undertake in employee recruitment, screening and training. In reviewing the decisions of the gaming oversight agencies (commissions/gaming control boards/lottery commissions) in New Jersey, Delaware, West Virginia, and Pennsylvania, it is clear that licensed positions are identified as those positions that have contact with or which can influence the gaming activities in the casinos.

At a minimum, those positions typically include employees involved in table games, slot machine repair/maintenance, and security/surveillance. Delaware probably has

one of the most comprehensive licensing protocols of the four states and it is also aligned with Section 20 of the Massachusetts law. Their licensing system is the following:

- **Key Licensees** are persons acting in a supervisory capacity or empowered to make discretionary decisions regarding operations which include Pit Managers, Cage Managers, floor supervisors, cage or cashier managers and officers/upper management of the Casino.
- **Gaming Licensees** are persons involved in security, maintenance, servicing, repair, or operation of VLTs (slots) and table games. They include Dealers, VLT Technicians, Cage Cashiers, Security/Surveillance Officers, among others. Roughly eighty percent of their licensees have Gaming licenses.
- **Gaming Service Licensees** are persons who have access to the gaming or restricted gaming area but are not Key or Gaming employees. They include Bartenders, Cocktail Servers (who work the casino floor), EVS – anyone who works on the gaming floors, but doesn't work on machines/tables and can't influence game play or access sensitive information.

All three-license levels are required to complete their licensing procedures; cost of application fee and scope of investigation vary by level. Employees who work in hotels, restaurants, back-of-house, etc. are not required to be licensed.

## V. Criteria for Licensed Occupations

The System recommends that the Casino consider adopting the following policies:

- That through the Casino Training Institute all casino industry employees obtain the basic Casino Industry Employability Certificate (CIEC) indicating that they have successfully completed the background check (CORI/drug testing) and have the basic educational requirements for employment; and,
- That those employees involved in gaming operations (30 to 40%) will obtain a Gaming Employability License (GEL) which would have three levels: Key, Gaming or Gaming Service licenses (using the names from the Delaware system) demonstrating that they have completed the required training or its equivalent and have met all the criteria for licensed occupations.

Recommended License Criteria:

- Drug Testing
- CORI/SORI
- Pre-employment skills assessment (Reading for Information, Applied Mathematics, and Locating Information)
- Training Completion Certificate (or appropriate experience)
- Post-training assessment – Career Readiness/Employability Certificate
- License Application
- License Fee
- MA Gaming Commission issued license

## VI. Skills Assessment – Career Readiness Certificate

In discussion with the community colleges in the four aforementioned states, applicants' inability to pass a CORI, to speak/read/write English effectively, and/or possess the required education levels and/or baseline skills has caused them to recruit far more individuals than the number of needed employees. This information is consistent with the experiences of the System's community colleges that have run industry-specific workforce training that has training and job prerequisites. These efforts dictate that approximately 3 individuals must be recruited and screened for every one eligible individual. Between 25,000 and 35,000 individuals will have to apply in order to fill all the positions. Therefore this will be a large number of individuals who will not be hired by the Casinos.

The regional workforce systems have experience in recruiting and screening individuals for jobs and training. With the colleges as partners it also has the education system in place to provide a safety net to individuals who do not currently possess all of the requirements for employment. Through the screening and career advising process available through the One Stop Career Centers and the training center staff, those applicants who do not meet basic education, English language, or education/skill level requirements will be referred to education and training services where they can obtain those skills and reapply for gaming training and/or employment once they have attained the additional skills or education.

It is important to note that the intent of the law is to result in a net increase in new jobs. While every attempt will be made to provide employment to the unemployed, underemployed, and dislocated workers, there will be current employees in other industries who desire employment in the casinos. The regional workforce partners will have a system in place to assist current employers in order to backfill their vacated jobs with qualified employees.

The System and its workforce partners will utilize the ACT WorkKeys assessment system to evaluate each applicant's existing workplace skills in Reading for Information, Applied Mathematics, and Locating Information. These three assessments are the foundation of many statewide Career Readiness Certificates (CRCs) endorsed across the country. Holyoke Community College has had several conversations with the Massachusetts Department of Labor and Workforce Development about adoption of the CRC, and while the Department is in agreement on the CRC's use in the Commonwealth's workforce system, its use has not yet been funded. The CRC has been used by a number of the community colleges in grant-funded programs and private company contracts to design appropriate customized training curriculum for companies and for screening program participants. The CRC assessments can be administered both at the colleges and at the One

Stop Career Centers in order to provide assessments in as many locations as possible.

The community colleges will evaluate appropriate WorkKeys skill level scores for each of the occupations that will be recruited for the casinos. Through the screening and advising process, each individual's scores will be compared to the benchmark scores of the casino occupations, and the individual will be made aware of which occupations for which they would currently qualify. Those who desire a position requiring a higher score will be enrolled into a short-term developmental course that will assist them in raising their scores to an appropriate level so they will qualify to apply for those positions or, in the case of licensed positions, will allow them to enroll into the gaming training for those positions.

It is anticipated that public funding will be identified to fund the training costs for unemployed, underemployed, and dislocated workers. Those applicants who are in need of training but who do not qualify for public funding but must be certified through completion of gaming training must self-pay their program costs.

## VII. The Instruction

### ***Gaming Training:***

As previously noted, any instruction for licensed gaming positions (table games, slot technicians, and surveillance) will be through the community colleges utilizing ACCC's curriculum, and additional casino-specific training topics will be infused into the training programs. The following is a sample of the curriculum – a more detailed summary is attached.

- a) Sample Courses for Gaming Training (See next page):

## MA Casino Industry Certification Training

Training	Prerequisite:	Number of Training Hours	Training Schedule of Delivery	Number of Weeks
Introduction to Casino Games - Blackjack	Not Required	80	5 hours per day, 4 days per week	4
Craps	Introduction to Casino Games.	160	5 hours per day, 4 days per week	8
Baccarat	Introduction to Casino Games.	80	5 hours per day, 4 days per week	4
Poker	Introduction to Casino Games.	80	5 hours per day, 4 days per week	4
Pai Gow Tiles	Introduction to Casino Games.	80	5 hours per day, 4 days per week	4
Roulette	Introduction to Casino Games.	80	5 hours per day, 4 days per week	4
Pai Gow Poker	Introduction to Casino Games.	80	5 hours per day, 4 days per week	4
Surveillance Training	Introduction to Casino Games.	96	5 hours per day, 4 days per week	4.8
Slot Technology Technicians		96	5 hours per day, 4 days per week	4.8
Skills Assessment Program	Introduction to Casino Games.	2	1 Session	

Using this sample curriculum the following estimated cost model was developed. It gives an initial assessment of the cost of the training start up expense. It attempts to identify all the variables involved in determining the cost.

b) Estimated Cost Model for Gaming Training:

**MA Casino Industry Certification Training –  
Start Up Phase Labor Pool Development  
Sample Expense Estimate - September 12, 2012**

<b>Training Focus Area</b>	<b>Hours of Training</b>	<b>Est. Cost</b>	<b>No. of Employees Needed to be Trained *</b>	<b>Gross Expense</b>
Recruitment - TBD **				
Casino Career Advisement	2	\$50	6,000	\$300,000
Casino Employability Certification	6	\$235	13,000	\$3,055,000
Work Readiness and ESL Training/Casino Industry	24	\$250	3,900	\$975,000
Intro to Casino Games - Blackjack*	80	\$650	1,950	\$1,267,500
Craps	160	\$1,085	750	\$813,750
Baccarat	80	\$650	750	\$487,500
Poker	80	\$650	750	\$487,500
Pai Gow Tiles	80	\$650	750	\$487,500
Roulette	80	\$650	750	\$487,500
Pai Gow Poker	80	\$650	750	\$487,500
Surveillance Training	96	\$835	375	\$313,125
Slot Machine Repair	96	\$835	94	\$78,490
Skills Assessment Program	2	\$50	300	\$15,000
<b>Total</b>				<b>\$9,255,365</b>

\* Total number of employees to be trained includes projected turnover for each position for the initial 2-year startup period.

\*\* Costs of Recruitment (Advertising, CORI/SORI, Drug Testing, Basic Educational Assessment) are not included in this estimate.

### c) Additional Gaming-related Cost Factors:

Another cost factor to be considered is training space build-out and the fitting up of space with the necessary equipment. Through discussions and negotiations with the selected casino operators, the training center locations will be determined by the casinos' availability of appropriate training space or a mutually agreed upon location. It is anticipated that, as has occurred in the four aforementioned states, the casinos will provide the equipment necessary for hands-on instruction and practice in the training programs.

#### ***English for Speakers of Other Languages (ESOL):***

Those applicants who are determined to be in need of English language training in order to meet the requirements of their desired positions or to enroll into gaming training will be referred to the many Massachusetts Department of Education or Department of Public Welfare ESOL programs available at a number of the workforce development partner organizations including the colleges. The ESL program is designed to help individuals improve their English skills and thereby be able to reapply for positions at a future date.

#### **GED Preparation and/or Testing:**

Those who have not earned a high school diploma or GED that may be required of their desired occupations will be provided with a list of available programs and testing sites. Again, many of the workforce development partners, including the colleges already offer these services. Once they have earned their GED, they may reapply for appropriate positions or gaming training.

#### ***CRC Skills Development:***

Currently, two recognized providers of ACT WorkKeys-aligned curriculum exist—Worldwide Interactive Network (WIN), and Key Train. Both companies provide curriculum that is skills-based and adult-oriented. Either of these curriculums will be utilized to improve applicants' reading, math and locating information skill levels and subsequent WorkKeys scores.

#### ***Non-Gaming Training:***

Through the various workforce partners workforce skills training in non-gaming occupations will be provided. By maximizing the strengths of various training partners, including the college, a high-level of workforce training will be offered to job seekers.

## VIII. Gaming Training Program Instructors

The lease between the System and ACCC includes the training of the System's gaming instructors in the teaching of the classroom and hands-on laboratory

portions of the ACCC curriculum. Once trained in the curriculum, the trainers will be certified as authorized to teach ACCC's gaming programs. As has occurred in every state that utilizes ACCC's curriculum, many of the trainers are also employees of the casino for which the training is being held. This gives the casino additional leverage in including unique casino-related topics into the curriculum, and in ensuring that program graduates have the highest technical skill levels possible so they will be effective employees once hired. ACCC has established qualifications for their trainers. The System will apply those qualifications to anyone that is hired as a gaming program trainer. Trainers will be monitored and evaluated by System staff to ensure adherence to ACCC's core curriculum, and effective adult teaching methodology.

## IX. Career Pathways

Job seekers, with varying skills and with different levels of educational attainment, will seek out these new casino employment opportunities. In order to successfully match individuals to jobs and career pathways it will be important to have a multiplicity of training options and the proper support services in place. The Massachusetts Community Colleges are uniquely situated and qualified to assist the gaming industry with the development of formal career pathways within the casinos, and to develop education pathways that are aligned to their career pathways. With solid relationships with virtually all high schools and four-year colleges in the Commonwealth through Career and Technical Educational Linkages, School To Career, and a variety of articulation agreements, the System will work with these educational institutions to develop 2+2+2 education and training opportunities that will provide casino employees with the opportunity to continue their education and thereby qualify for advancement within the industry.

Initially, the System is developing an inventory and matrix of all credit and non-credit programs amongst the 15 community colleges. The System has developed a generic Occupational List and Career Cluster document (see Attachment 6) for the gaming industry. Using that document, the System will develop a career pathway document that will show the potential career ladders and lattices for each cluster. For definition purposes, ladders designate upward mobility opportunities, and lattices designate crossover occupations where one may use their transferable skills from one career ladder to move to another.

Once the three casino operators are selected by the Gaming Commission, staff from the Lead Community Colleges in the three regions will meet with the casino operators to review and refine the Occupational List/Career Cluster and Career Ladder documents to reflect the actual occupations and ladders within each of the casinos. Once those are refined, the Lead Colleges will align the education and training programs to the actual career ladders at each casino and will then meet with representatives from each casino to review the education pathways and attempt to gain agreement from the casinos to adopt the educational pathways and pay or



reimburse the tuition of any of their employees who enroll into the pathways for career advancement purposes.

Using the final pathways, the System will work with high schools and vocational schools to advise them of the pathways within the community colleges in order for high school guidance counselors to be able to recommend course selection for high school students that would begin the students' pathways to casino industry careers. System representatives would also meet with four-year institutions to develop 2+2 programs that would take students graduating community college degree programs as third-year students into bachelor degree programs.

This grade 9-16 approach will satisfy the intent of the Massachusetts gaming law of ensuring careers, not just jobs, for casino employees who want to participate in lifelong learning experiences and advance within the industry.

## X. Community College Capacity and Capabilities

The following describes the initiative's key elements that we believe will meet the needs and expectations of the Gaming Commission in fulfilling its workforce related duties described in the legislation. As the Commonwealth's training vendor the community colleges are uniquely positioned to provide the necessary training as well as help build the workforce collaboration, which is imperative in order to have a ready workforce in a timely fashion.

- a. **Appropriate and Effective Training:** The Community College System has a standing Letter of Agreement with Atlantic Cape Community College (ACCC) for a long-term lease of its internationally recognized gaming training curriculum, technical assistance, and train-the-trainer services. ACCC's curriculum, utilized by the State's community colleges, is the training curriculum approved by the states of New Jersey, Delaware, West Virginia, and Pennsylvania for training its licensed gaming employees. No other existing curriculum in the nation can compare to ACCC's 30+ years experience in providing effective training for the gaming industry. The System's agreement with ACCC provides for exclusive access to their curriculum and services in Massachusetts and potentially in contiguous states that may fall within a 100-mile radius of any approved Massachusetts casino.

Use of the ACCC curriculum and services, combined with the System's 60+ years of providing high-quality workforce and industry sector training for businesses, employees and job seekers in the Commonwealth, will ensure that graduates of the training programs will be able to access career opportunities while also meeting and exceeding all the skill expectations of the Commission and the casino operators.

- b. **The System's Qualifications as a Training and Licensure Organization:** The System has the longest history in the Commonwealth as a provider of workforce and industry training of any organization in Massachusetts. The System's longevity and stability bring a huge value to the training organization selected for the gaming industry in Massachusetts. Community colleges in the state have a long history and currently provide licensure for healthcare, information technology, hospitality, public safety, trade and many other occupations that require documented and demonstrated skills and abilities, and the corresponding knowledge. The Gaming Commission's approval of the System as the licensure provider for the industry will ensure that the training received by those interested in working in licensed occupations in the industry will be prepared when employed. Such training will also stand the test of time, and will provide for future career advancement in the industry.
- c. **Creating Standardized Industry Certifications:** Generally, there has been growing national conversations and movement toward standardized industry certification and transportability of those certifications, starting with the USDOL SCANS Report in 1991. Since that time, organizations like the National Association of Manufacturers and over 24 states have adopted certifications that document individuals' skills and abilities in the workplace. The System brings a tremendous advantage to the Commission, the potential gaming employees, and the casino operators, in that it is a statewide system. I.e. training that takes place in any of the 3-4 casino training centers established under this initiative will provide a consistent core of skills training. This ensures that not only will each graduate have baseline employability and work-related skills but also that a graduate of any of the training centers will be able to be licensed to work in any of the Massachusetts gaming facilities without further training.
- d. **A Collaborative Approach:** To fulfill all of the human capital needs of the Massachusetts casinos, there must be a coordinated effort of all of the workforce system shareholders in the Commonwealth. Activities must include recruitment, screening, career advising, training (as necessary for licensing and to meet minimal skill levels in all occupations), job placement, employee retention, and further education and training for career advancement. Because of its existing long-term relationships with all of the workforce system shareholders in the Commonwealth and the standing regional Memorandums of Understanding with those workforce partners, the System is uniquely qualified to coordinate the full array of organizations to meet the workforce needs of the gaming industry employees. Not only those Massachusetts residents entering into licensed occupations, but also into all other positions including support, culinary, hospitality, office, management, customer service, etc. The Regional Workforce Coordinating Teams will meet with the selected casino operators to identify their hiring needs and the

qualifications of the positions, and will develop a timeline and processes that will ensure their needs are met.

- e. **Financial Management:** We assume that the Commonwealth, through the Gaming Commission, Department of Labor and Workforce Development, or other avenue, will dedicate funding for training unemployed and underemployed individuals for the gaming industry. This will require that the training organization providing the training will give assurance of appropriate accounting and management to the Commonwealth in order to guarantee appropriate use of public funds. All of the 15 community colleges in Massachusetts have a long history of receiving and appropriately accounting for federal and state funds. The Chief Financial Officers of the community colleges meet on a regular basis, and are capable of developing a statewide accounting model that will ensure both consistent regional accounting for each of the training centers, and a statewide system that will collapse the three regional accounts into a statewide account that the funding authority can audit. Further, the colleges have a long history of tracking and reporting data on non-credit training to the Department of Higher Education. For this initiative, the System will work with the funding authority to identify the desired data elements on student participation, completion/graduation, placement, retention, and any other elements that need to be captured and reported, and will design regional and a comprehensive statewide reporting system.

## XI. Casino Operator Relationships

Representatives from the statewide and/or regional initiatives have been meeting with potential casino operators to provide an orientation to the initiative, and to inform the operators of the benefits of the initiative to the casinos. Benefits include:

- Time-savings by coordinated communications between the casino operators and the workforce system;
- Development of an effective timeline for recruitment, screening, education/training, and employment referral that will meet the casinos' human capital needs on time;
- Access to a qualified workforce;
- Use of internationally recognized training curriculum for gaming-related occupations as well as accredited curriculum in numerous non-gaming occupations, e.g. hospitality management, culinary, information technology and security, criminal justice, accounting and many more. While the training curriculum will set a standard it also will allow for flexibility reflecting the needs of individual casino operators;
- The opportunity to have the casinos' employees become certified trainers and to participate in the training of the future gaming employees;
- The opportunity to have additional unique training topics infused into the core curriculum, thus saving employee post-hire orientation time; and,

- Long-term educational and training relationships to prepare employees for career advancement

Feedback from the potential operators that have met with System representatives has been extremely positive. It is our goal to have the Gaming Commission, in recognition of these benefits and benefits to the Commonwealth and its residents, approve the System as the training arm for training of licensed gaming positions. In collaboration with the Commission, the System will work with the potential casino operators to develop Memoranda of Agreement that the casinos will agree to one or more of the following:

- To adopt the System as its licensed position training partner:
- To provide space for a training center if possible:
- To provide equipment necessary for hands-on training;
- Participate in the development of an inventory of positions and qualifications for their casinos;
- Participate in the screening process:
- Refer appropriate employees to become trained as certified trainers in the ACCC curriculum and to participate as trainers in the training centers;
- In collaboration with the System establish formal Career Pathways for their employees; and,
- To assist in the review and final development of Education and Training Pathways that are aligned to the casinos' Career Pathways, and to provide tuition assistance to employees to participate in the Pathways.

It is important to note that one or more unions will be associated with the construction and the operation of the casinos. The colleges have experience providing education and training services in union environments. In deed the most effective training environment is one in which collaboration with management and the union(s) is emphasized. What we have overwhelmingly found in such situations is that both management and unions have welcomed involvement of the community colleges alike. There are two very important reasons for this:

- As a third party the colleges are not influenced by the unions or by management. Therefore any findings and recommendations for processes and training are those that will be in the best interest of all parties, specifically those seeking the training; and,
- The colleges' recommendations will be based on interactions with management and unions, thereby gaining information and objectives from both parties. The unions, in particular, appreciate the fact that their members are part of any final recommendations from the colleges.

**DRAFT**  
**Memorandum of Understanding for**  
**Western Massachusetts**

By and Between

**Massachusetts Community College System**  
**Casino Career Training Institute**

And

**(Developer)**

In November of 2011, Governor Deval Patrick signed legislation, which established Casino Gaming in Massachusetts. The primary purpose of the legislation was to stimulate economic development, i.e. job creation, private investment and new state and local tax revenue. With the potential development of three resort-style casinos and one slots facility the workforce need is significant, approximately 10,000 workers statewide. In addition there will be workforce challenges related to construction of the facilities and the needs of existing businesses working with the casino operators. In order to scale up the workforce and the related training requirements the effort needs to begin as soon as possible.

In order to effectively respond to this workforce need, in partnership with the Workforce Investment Boards/Regional Employment Boards (WIB/REB) the Massachusetts Community Colleges have established the Casino Career Training Institute, which includes a collaboration with the various workforce development partners in each gaming region within the Commonwealth. Through the Institute recruitment, screening, career counseling, training, job placement and more will be provided by the colleges and the workforce partners.

Therefore to recruit and train the labor force necessary to supply the new-to-Massachusetts casino industry in Western Massachusetts, the Massachusetts Community College System Casino Careers Training Institute (Institute) representing the workforce development partners of the region, with a principle place of business at 303 Homestead Avenue, Holyoke, Massachusetts 01040 and the \_\_\_\_\_ (casino developer) \_\_\_\_\_ (Casino) with a principal place of business at \_\_\_\_\_ now enter into this Memorandum of

Understanding (MOU) for the casino development in Western Massachusetts on this the 26th day of October, 2012.

And now therefore the parties jointly agree to the following:

- The Casino agrees to collaborate with the Institute in regard to workforce training and related workforce services;
- The casino and the institute will work jointly to comply with the regulations of the Gaming Commission regarding training vendor criteria, certification and/or licensure, the training location, the supply of gaming equipment, and other requirements;
- The Institute will seek assistance from the Casino in order to develop an inventory of positions and the related qualifications/skill levels for each occupation while also being in compliance with the standards of the individual operator;
- The Institute has entered into an agreement with Atlantic Cape Community College to exclusively use its casino training curriculum in Massachusetts, or within 100 miles of the Casino, and will work collaboratively with the Casino to customize and/or contextualize the training to meet the needs of the facility;
- The Institute will provide a program/system to appropriate Casino employees to become trained as certified trainers in the ACCC curriculum and to participate as trainers within the training centers;
- The Institute through its various partners will provide recruitment, screening, assessment, training development, training, job placement and other related workforce services in consultation with the Casino;
- The Institute will develop training modules (and related certificate programs) for incumbent workers designed to meet the training needs of the Casino;
- The Institute and the Casino will work together to create Career Pathways for the Casino employees;
- The Institute and the Casino will jointly market these pathways to the community specifically to the unemployed and underemployed in the region; and,
- The Institute and the Casino will work together to review and implement Educational and Training Pathways that are aligned to the casinos'

Career Pathways, and explore ways to encourage employees to participate in these pathways.

- The parties agree that the announcement of the execution of this MOU is the sole responsibility of the Massachusetts Community College System Casino Careers Training Institute. In the event that any casino developer/operator or their agents announces this agreement then said MOU will be void.

It is understood that upon publication of the relevant workforce development and certification/licensure regulations by the Commission and the awarding of a casino operator/developer license that the Institute and the Casino will enter into a Memorandum of Agreement which will replace this document and provide specific detail regarding the development and implementation of the workforce training and related services.

In recognition of these joint agreements, both parties freely sign this MOU:

For the Institute:

For the Casino:

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William F. Messner

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(Casino Representative)

My name is Jason Garand and I am the Business Manager for Carpenters Local 108 of the New England Regional Council of Carpenters. I represent over 900 crafts men and women in the 101 cities and towns of Western Mass.

Before I start my comments I want to thank the Gaming Commission for allowing me to speak on the issue of job opportunity and job creation.

Casino gaming is a new endeavor in the Commonwealth. Its presences brings both immediate and long term opportunities for this state, the communities that will host them, and of course, to the businesses and people that reside here.

With that said, every opportunity has not been defined nor is everyone completely clear. While the intention of this legislation was always to help the State as a whole, there are only some things that will truly benefit the entire state while others will do more for one area than another.

One place that we have to be conscious of is in the creation of jobs. We are here at Holyoke Community College were that conversation has already begun on how to best educate people in the jobs that will be available when these facilities are open and ready for business.

But what about the opportunities from the first shovel in the ground to the very last light bulb that is put in and the doors are open? Who will do that work? Has there been any thought to the capability of the local business community and to the local workforce to be able to meet the demands of this significant project?

We need to understand that the location of a destination resort casino in Boston or Eastern Mass is different than one located in Western Massachusetts. The Boston area is a significant economic engine with projects of a similar scale and timeline. The concentration of population in and around Boston creates a comfortable level of experienced and qualified businesses and workforce to meet the demands these casinos will place on a given area. This is not such any easy answer to give here in Western Mass.

The math is simple, this will be the largest single project in the history of this area by potentially 4 fold. Three years ago Baystate Medical Center began their



Hospital of the Future project, a \$250 million expansion. At that point in time, this was the largest construction project the Pioneer Valley had ever experienced. Today, MGM has presented a complex that is estimated to be around \$800 million.

Because of the size and complexity of this construction project it will be difficult to impossible to find local companies that have the financial and operational ability to be qualified to do this work.

What does that mean? Well, it is important to look at the Baystate project to see how that quarter billion project was built and how it impacted the community. BMC wanted local companies to be part of the job. They were also totally committed to creating job opportunities for the people that lived in and around Springfield.

Two things happened; only a few local companies ended up being qualified and then selected to do the work. Why, for the bigger scopes of work the job was simply too big. As for the job creation, they set minimum goals of 25% which were pushed but meet. The down side was that in many trades most of the workers ultimately came from out of the area. I applaud BMC for implementing standards to support the community.

We have to be realistic that most of the vendors that will work on this facility will not be from this area. Companies already have a set crew. The location of those employees are based on where the company is located and where most of the work they do is performed. It is not a stretch to think that if a contractor is based in Boston or Providence that the bulk of their workforce will be from their as well.

The goal of the legislation was to locate up to three casinos throughout this Commonwealth in order to maximize the impact to the whole state. That same consideration needs to be placed on not just creating jobs but by who those jobs get filled by. Unemployment is as high here as it is anywhere else in Massachusetts. Holyoke and Springfield are often on the top of the toughest statistics we track.

The manpower exists re. Skilled trades men and women are ready to go to work but they need a training Commission to set minimum requirements that ensure a percentage of the workforce comes from the host and surrounding communities.

The people are there waiting and if they don't have the skills we can train them. Union Apprenticeship programs can give someone the opportunity to learn a craft that will last the length of this one job but for a career.

We know that the size and complexity of this job it will bring contractors from outside the area. Ok, but that doesn't mean we can't ensure that the people that live here don't go to work.

I ask that you seriously consider setting a minimum percentage of 50% local residence on the contract.

Thank You

**DRAFT**

October , 2012

Dr. Aaron Wernham  
Health Impact Project  
Pew Charitable Trusts  
901 E. Street N.W., 10th Floor  
Washington, D.C. 20004

Dear Dr. Wenham:

The Massachusetts Gaming Commission is pleased to provide this letter of support for the Partners for a Healthier Community's Health Impact Assessment proposal for Western Massachusetts. The information that will be gathered by Partners for a Healthier Community would be beneficial to the commission's ongoing work, as well as during the important licensing process.

Expanded gaming in the Commonwealth was signed into law in November 2011. Currently, the Massachusetts Gaming Commission is charged with licensing two regional resort-style casinos and one slots parlor. The four Western Massachusetts counties comprise one of the designated gaming regions. This region is the focus of the HIA being proposed by Partners for a Healthier Community. As we work to staff our organization and draft regulations to establish casino gaming in Massachusetts, we recognize that we also have a goal to mitigate the unintended consequences from expanded gaming. This goal is included in our mission statement approved at our very first meeting.

In addition to our regulatory obligations, the legislation requires the commission to create a research agenda each year to review the impacts of gaming across the Commonwealth and within the particular gaming regions. A Gaming Policy Advisory Committee will be established to recommend an annual research agenda and any findings can be used to make regulatory changes or prompt the commission to seek legislative changes. The commission has noted that there is relatively little recent research done on the impacts of expanded gaming. We also recognize that there is no baseline information available in Massachusetts to help us understand the subsequent impact of gaming. By November 2014, the commission will need to send to the legislature a report on baseline research data even before we expect a casino to be fully constructed and operational. As you can see, any baseline research and assessments being proposed by this HIA project would greatly enhance our work and allow us to focus on the impacts in this particular region.

Before a casino license is awarded in Western Massachusetts, the Massachusetts Gaming Commission will be hosting public meetings within the communities where a casino has been approved by local referendum. The purpose of these public hearings is to solicit feedback and opinions from local residents and interested groups. By approving this HIA application, Partners for a Healthier Community could have access to critical information to assist us during the licensing process and highlight for the Commission the health issues a resort casino could bring to Western Massachusetts.

The commission strongly encourages you to support this application and wants the Robert Wood Johnson Foundation and The Pew Charitable Trusts leadership to know that the information collected as a result of this HIA will be extremely beneficial to the Commission's work.

Sincerely,

Stephen P. Crosby  
Chairman