



MASSACHUSETTS GAMING COMMISSION MEETING

August 7, 2014
10:30 a.m.

Boston Convention and Exhibition Center
415 Summer Street, Room 107-B
Boston, MA



Massachusetts Gaming Commission



NOTICE OF MEETING and AGENDA

August 7, 2014

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:

Thursday, August 7, 2014

10:30 a.m.

Boston Convention and Exhibition Center

415 Summer Street, Room 107B

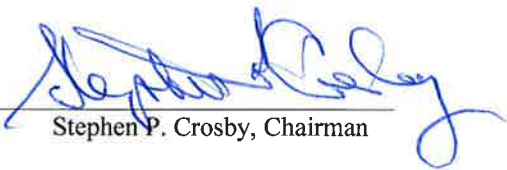
Boston, MA

PUBLIC MEETING - #131

1. Call to order
2. Approval of Minutes
 - a. July 24, 2014
3. Administration – Rick Day, Executive Director
 - a. General Update
 - b. Penn National Gaming Floor Plan Layout - J. Pinck, Pinck & Co.
4. Ombudsman Report – John Ziemba
 - a. Region C Update
5. Workforce Development and Supplier Diversity - Jill Griffin, Director
 - a. General Update
 - b. Penn National Gaming Operations Diversity Plan – Goods and Services and Unemployed Opportunities - VOTE
6. Research and Problem Gambling – Mark Vander Linden, Director
 - a. Responsible Gaming Framework Recommendations Discussion - Possible VOTE
 - b. Problem Gambling Solutions Contract - VOTE
7. Region A Discussion
 - a. Extension of Transportation Plans Comment Period
 - b. Charlestown Community Groups and MAPC Review
 - c. Boston Surrounding Community Status – Possible VOTE
8. 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.massgaming.com and emailed to: regs@sec.state.ma.us, melissa.andrade@state.ma.us.

8/4/14
(date)


Stephen P. Crosby, Chairman

Date Posted to Website: August 5, 2014 at 10:30 a.m.



Massachusetts Gaming Commission



Meeting Minutes

Date/Time: July 24, 2014 – 10:30 a.m.

Place: Hynes Convention Center, Room 200
900 Boylston Street
Boston, Massachusetts

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

Call to Order

See transcript page 2-6.

10:30 a.m. Chairman Crosby called to order the 130th public meeting.

Approval of Minutes

See transcript pages 3- 7.

10:31 a.m. Commissioner McHugh stated that there are three sets of minutes for approval

Motion made by Commissioner McHugh to approve the July 2, 2014 minutes with one stated change. Motion seconded by Commissioner Cameron. Motion passed unanimously. Chairman Crosby recused from this vote.

Motion made by Commissioner McHugh to approve the minutes from the July 10, 2014 meeting. Motion seconded by Commissioner Cameron. Motion passed unanimously.

Minutes from July 15, 2015 were not approved and will be brought back before the Commission at the next meeting.

Administration

See transcript pages 8-119.

- 10:37 a.m. Executive Director Day, CFAO Derek Lennon, and Matt Burnham from Accenture presented on a review of the Commission's interim travel policy.
- 10:55 a.m. Executive Director Day, Ed Burke, of North Passage Associates gave an update on the Policy and Accountability Project.
- 11:22 a.m. *Motion made by Commissioner Cameron to accept the new policies to be developed by the Performance Management Team as set forth in their presentation. Motion seconded by Commissioner Stebbins. Motion passed unanimously*
- 11:24 a.m. Russ Meekins gave a presentation on the implementation of a performance measurement framework for the Commission.
- 11:50 a.m. CAFO Derek Lennon and CIO John Glennon, presented on the use of a Central Management System compared to other data managing systems.
- 12:23 p.m. *Commissioner Cameron moved to proceed with a RFR for a Central Management system with the understanding that a final decision will not be made until all new info has been evaluated. Motion seconded by Commissioner McHugh. Commissioner Zuniga opposed. Motion passed 4-1.*
- 12:23 p.m. Commission recessed
- 1:04 p.m. Meeting resumed

Research and Problem Gambling

See transcript pages 120-169

- 1:04 p.m. Mark Vander Linden presented speakers for an update on the research on the social and economical impacts of gaming in Massachusetts (SEIGMA) study.
- 1:05 p.m. Dr. Rachel Volberg presented on the updates with the SEIGMA study and the data that is being collected.

1:23 p.m. Amanda Houpt presented on the website being used for the SEIGMA study and the tools available to see the impacts of casino gaming via the website.

1:45 p.m. Secretary John Polanowicz, Secretary of the Department of Public Services, joined the Commission for the signing of an MOU between the Commission and the Department of Public Services.

1:52 p.m. Signing of MOU.

Administration, cont.

See transcript pages 169-171

1:54 p.m. Director Rick Day gave an update about the Suffolk Downs request to amend the August racing schedule and the approval given by the Director of Racing and the pending legislation regarding the number of racing days required for this racing meet.

Ombudsman Report

See transcript pages 171- 209

1:55 p.m. Ombudsman Ziemba introduced members of MGM to present their monthly report to the Commission

1:58 p.m. Hunter Clayton, Executive Vice President for development at MGM's resort Development LLC; Marty Nastasia, from Brown Rudnick; Jed Nosal, MGM's regulatory attorney; Chuck Irving and Joy Martin from Davenport Company as MGM's development partner; Chris Cignoli, director of Public Works for the City of Springfield; Jim Allen from Alan and Major, MGM's engineer; and Maureen Cavanagh from Epsilon as MGM's environmental consultant presented MGM's first monthly update to the Commission.

2:24 p.m. Commission took a short break

2:33 p.m. Meeting resumed

2:33 p.m. Jack Rauen presented on the Penn Quarterly Report for progress through June 30th at Plainridge Park Casino.

Legal Division

See transcript pages 209- 257

2:42 p.m. General Counsel Catherine Blue presented the Calculation of Capital Investment Regulations

Motion made by Commissioner Zuniga to approve the Calculation of Capital Investment Regulations, 205 CMR 122, to promulgated as emergency regulations as well as promulgated on the normal process. Motion seconded by Commissioner Cameron. Motion passed unanimously.

Motion made by Commissioner Stebbins to delegate the authority to General Counsel Blue to file the appropriate Small Business Impact Statement for 205 CMR 137 and initiate the emergency and permitted regulatory process for that regulation. Motion seconded by Commissioner Cameron. Motion passed unanimously.

Motion made by Commissioner Zuniga to adopt the Small Business Impact Statement for 205 CMR 134. Seconded by Commissioner Cameron. Motion passed unanimously.

Motion made by Commissioner Zuniga to adopt the Amended Small Business Impact Statement for 205 CMR 143, 144, 145, 101, 115, and 116. Motion seconded by Commissioner McHugh. Motion passed unanimously.

CIO John Glennon and Deputy General Counsel Todd Grossman presented on the changes made to the Gaming Device regulations.

Motion made by Commissioner McHugh to adopt the regulations in 205 CMR 143, 144 and 145 as set out in the packet with an amendment in 144 to change the language "48 hours" to "promptly," and with the amendment to the provision 143(o)(1)(4) to insert the words "if required by the gaming commission" at the beginning of that subsection and to insert similar language each time the regulations refer to the Central Management System. Motion seconded by Commissioner Stebbins. Motion passed unanimously.

- 3:20 p.m. Deputy General Counsel Loretta Lillios presented a request for the Commission to delegate authority to the Director of Licensing to issue temporary licenses for certain categories of gaming employee and vendor applicants.
- 3:27 p.m. *Motion made by Commissioner Cameron to delegate authority to the Director of Licensing for temporary licenses with the agreement of the IEB director.*
- 3:28 p.m. General Counsel Blue presented a request that the Commission delegate authority to the General Counsel to represent the commission while attending certain conferences, proceedings or other

meetings required or permitted by state or federal judicial rules or orders.

3:30 p.m. *Commissioner McHugh moved to grant the authority to General Counsel Blue to represent the Commission at judicially required permitted conferences or other proceedings. Motion seconded by Commissioner Cameron. Motion passed unanimously.*

3:30 Recess taken

3:41 Meeting Resumed

Region A – Chairman Crosby Recused

See transcript pages 257-312

3:41 p.m. Ombudsman Ziemba provided an update on Region A. Mr. Ziemba advised the Commission that in regard to matters concerning impacts to the City of Boston from the proposed Wynn project staff has reviewed the comments from the host and surrounding community meetings, reviewed the “best and final offer” submitted by Wynn to the City of Boston, met with the Commission’s traffic consultants to understand potential impacts to the City of Boston from the proposed Wynn project, and requested the Metropolitan Planning Council to provide its input. Staff has further reviewed the statute and the regulations regarding the Commission’s authority in the event that a municipality refuses to participate in the arbitration process. After discussion, the Commission requested that staff reach out to the City of Boston to advise the City of the benefits of surrounding community status, what will occur if surrounding community status is deemed to have been waived and encourage the City to continue negotiations with Wynn. The Commission instructed staff to continue to gather information, to meet with community groups to solicit their thoughts on potential impacts and to develop a mechanism and process for bringing to the Commission’s attention the results of this effort.

4:40 p.m. *The Commission having no further business, a motion was made by Commissioner Zuniga to adjourn the meeting. The motion was seconded by Commissioner Cameron. The motion carried unanimously.*

List of Documents and Other Items Used

1. Massachusetts Gaming Commission July 24, 2014 Notice of Meeting and Agenda
2. Massachusetts Gaming Commission July 2, 2014 Meeting Minutes

3. Massachusetts Gaming Commission July 10, 2014 Meeting Minutes
4. Massachusetts Gaming Commission July 15, 2014 Meeting Minutes
5. Travel Policy Review / Summary Report by Accenture
6. High Performance Status Report
7. Memorandum from Kathy Baertsch, Bruce Band, John Glennon and Derek Lennon.
8. June 14, 2014 Suffolk Downs letter regarding a change in the live racing schedule.
9. July 16, 2014 Letter from Director of Racing, Dr. Durenberger approving Suffolk Downs' request
10. SEIGMA Report
11. Memorandum of Understanding between Massachusetts Gaming Commission and Executive Office of Health and Human Services.
12. MGM Springfield report
13. Penn National Gaming & Plainridge Park Casino Quarterly Report.
14. DRAFT 205 CMR 122.00: Capital Investment amendments
15. DRAFT 205 CMR 137: Gaming School regulations
16. Small Business Impact Statement for 205 CMR 134.00: Licensing
17. DRAFT 205 CMR 101.00: M.G.L. 23K Adjudicatory Proceedings
18. DRAFT 205 CMR 115.00: Phase I and New Qualifier Suitability Determination, Standards and Procedures
19. DRAFT 205 CMR 116.00: Persons Required to be Licensed or Qualified
20. Amended Small Business Impact Statement for 205 CMR 143.00, 144.00, 145.00, 101.00, 115.00, 116.00
21. 205 CMR 143: Gaming Devices and Electronic Gaming Equipment
22. 205 CMR 144: Approval of Slot Machines and Electronic Gaming Equipment and Testing Laboratories
23. 205 CMR 145.00: Possession of Slot Machines
24. Public Comments on draft regulations
25. Memorandum regarding a Delegation of Authority to the Director of Licensing.

/s/ Catherine Blue
Catherine Blue
Assistant Secretary

NO DOCS



PENN NATIONAL
GAMING, INC.



Plainridge Park Casino Project

Floor Plan Review

August 7, 2014

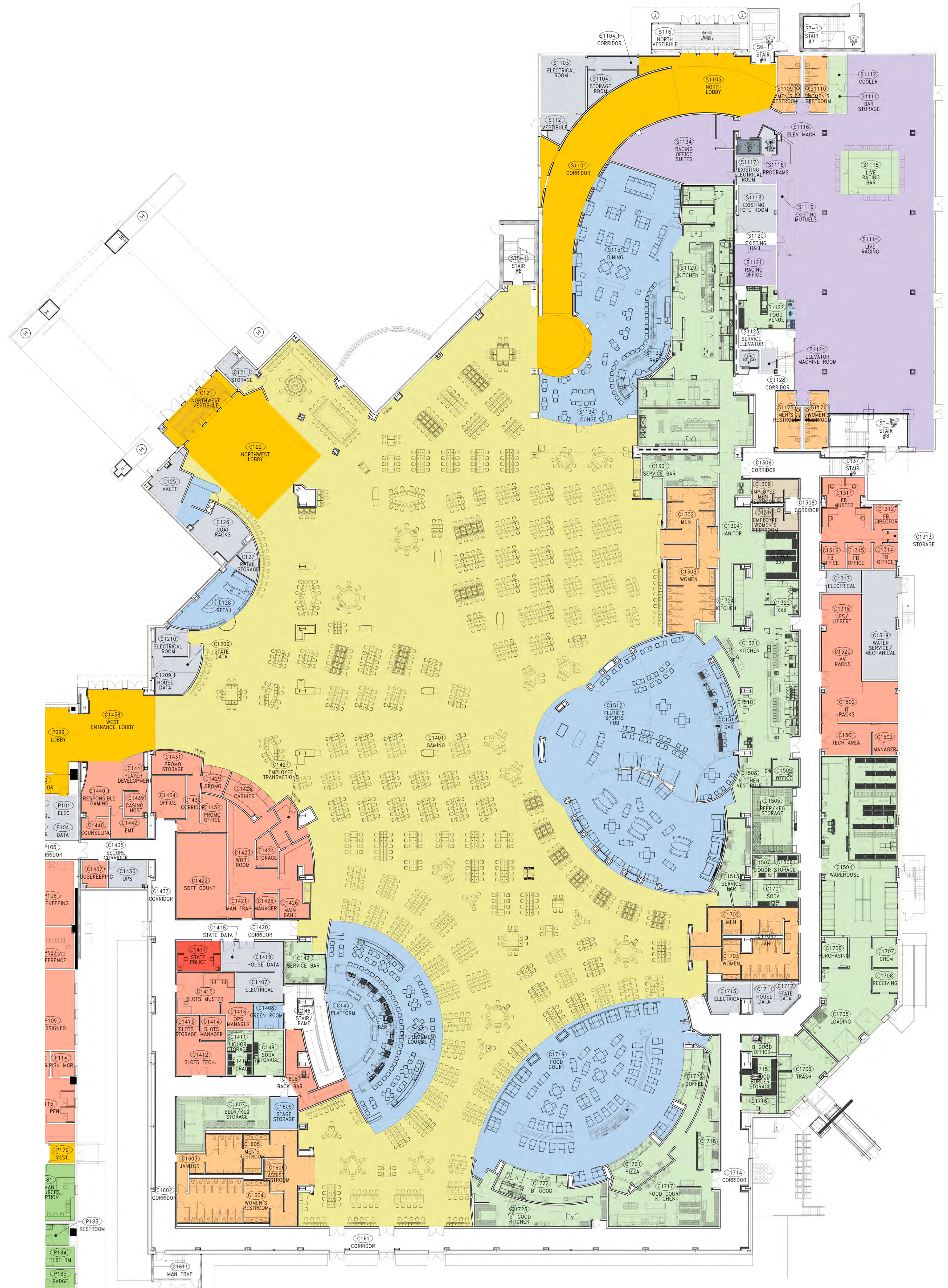
SITE PLAN



FIRST FLOOR PLAN

LEGEND

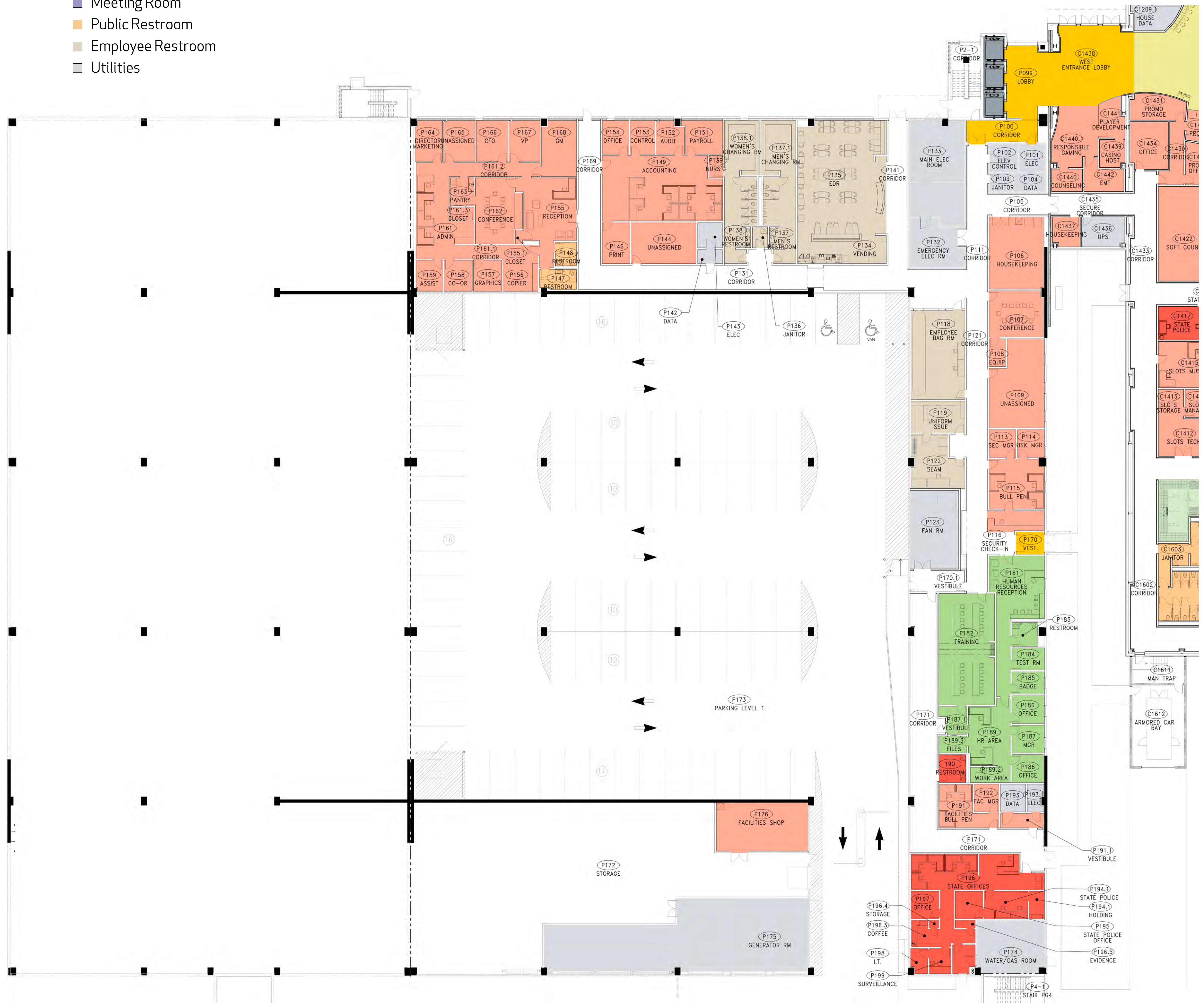
- Gaming Floor
- Lobby
- Office
- State Offices
- Food Service
- Human Resources
- Dining
- Simulcast
- Meeting Room
- Public Restroom
- Employee Restroom
- Utilities



PARKING GARAGE – FIRST FLOOR PLAN

LEGEND

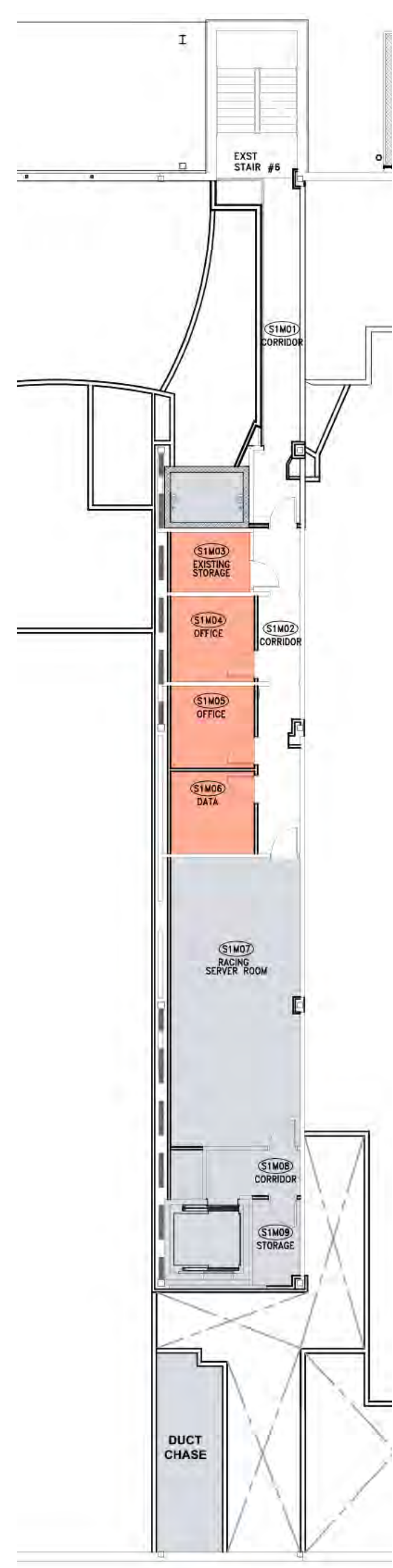
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UPPER FLOOR PLANS – CLUBHOUSE

LEGEND

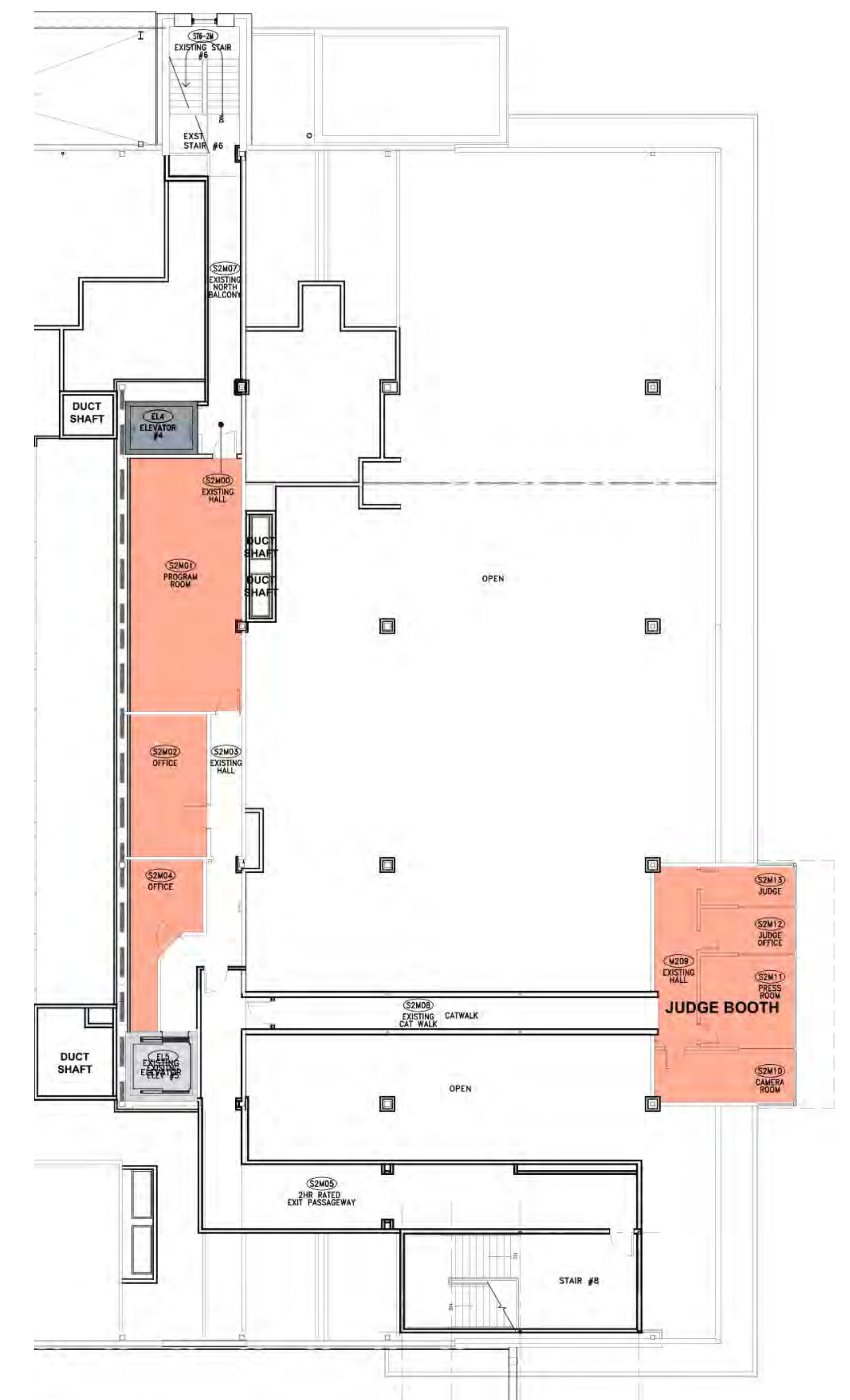
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FIRST LEVEL
MEZZANINE



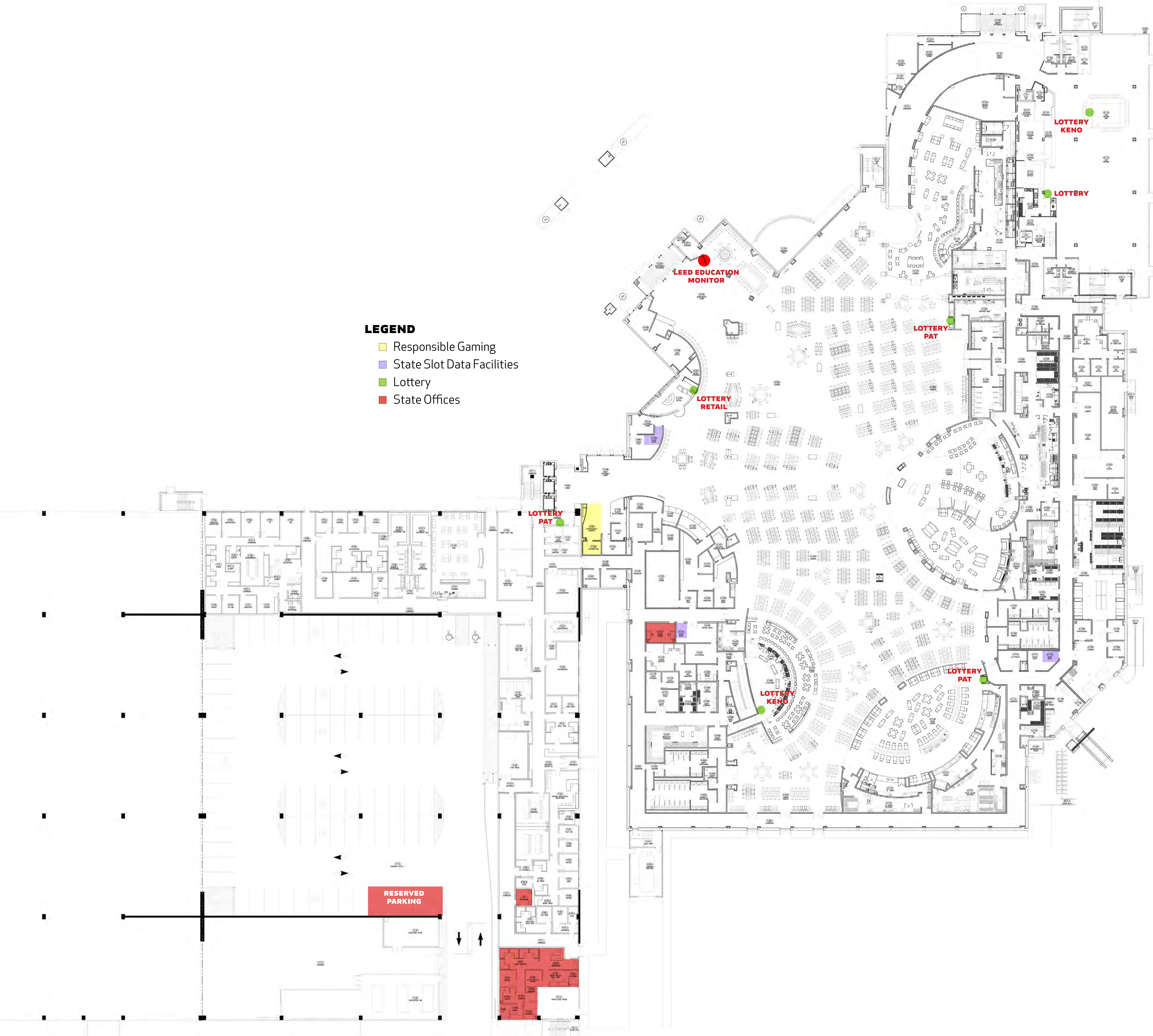
SECOND
LEVEL



SECOND LEVEL
MEZZANINE

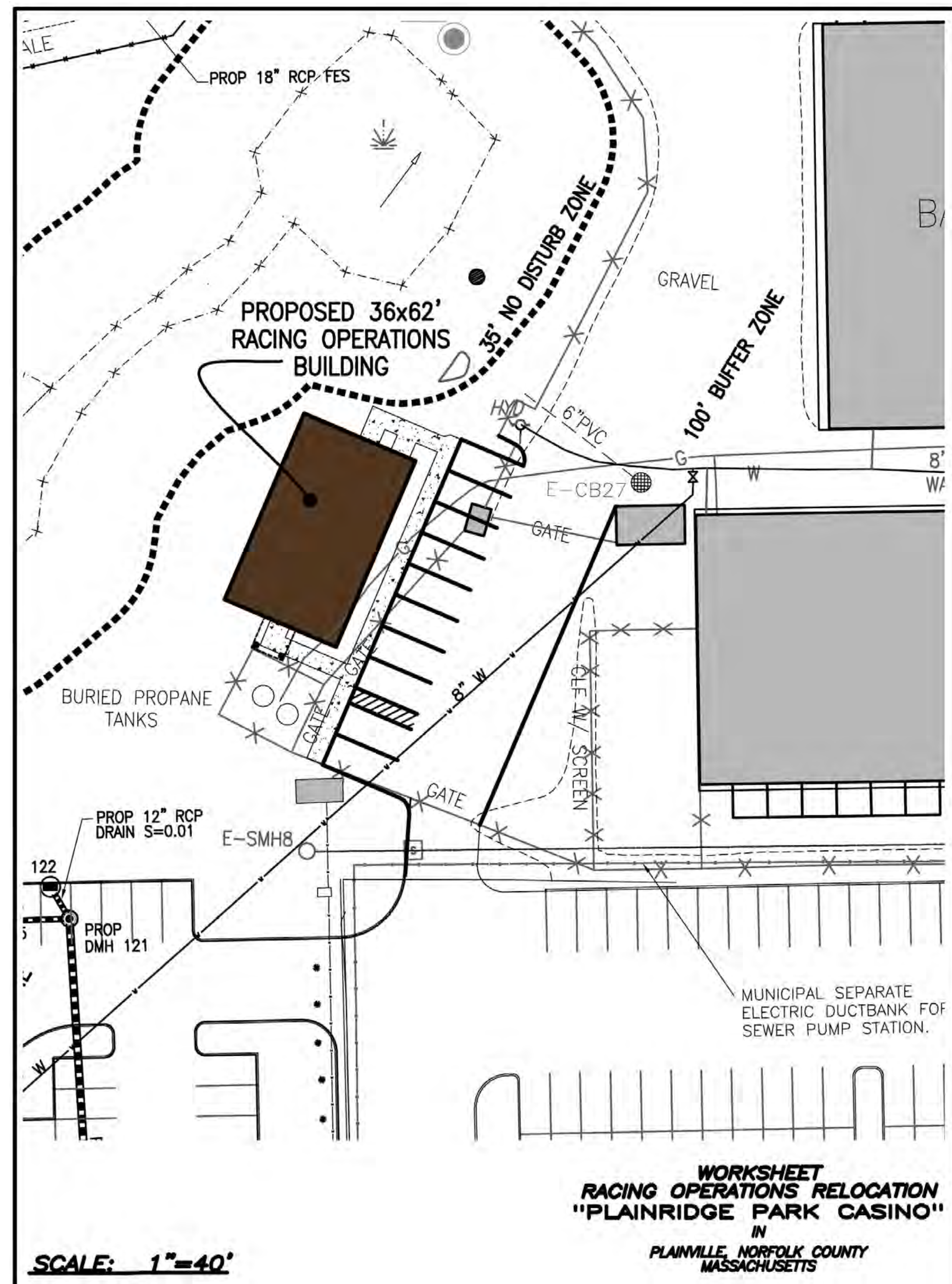


FLOOR PLANS - REGULATORY SPACES

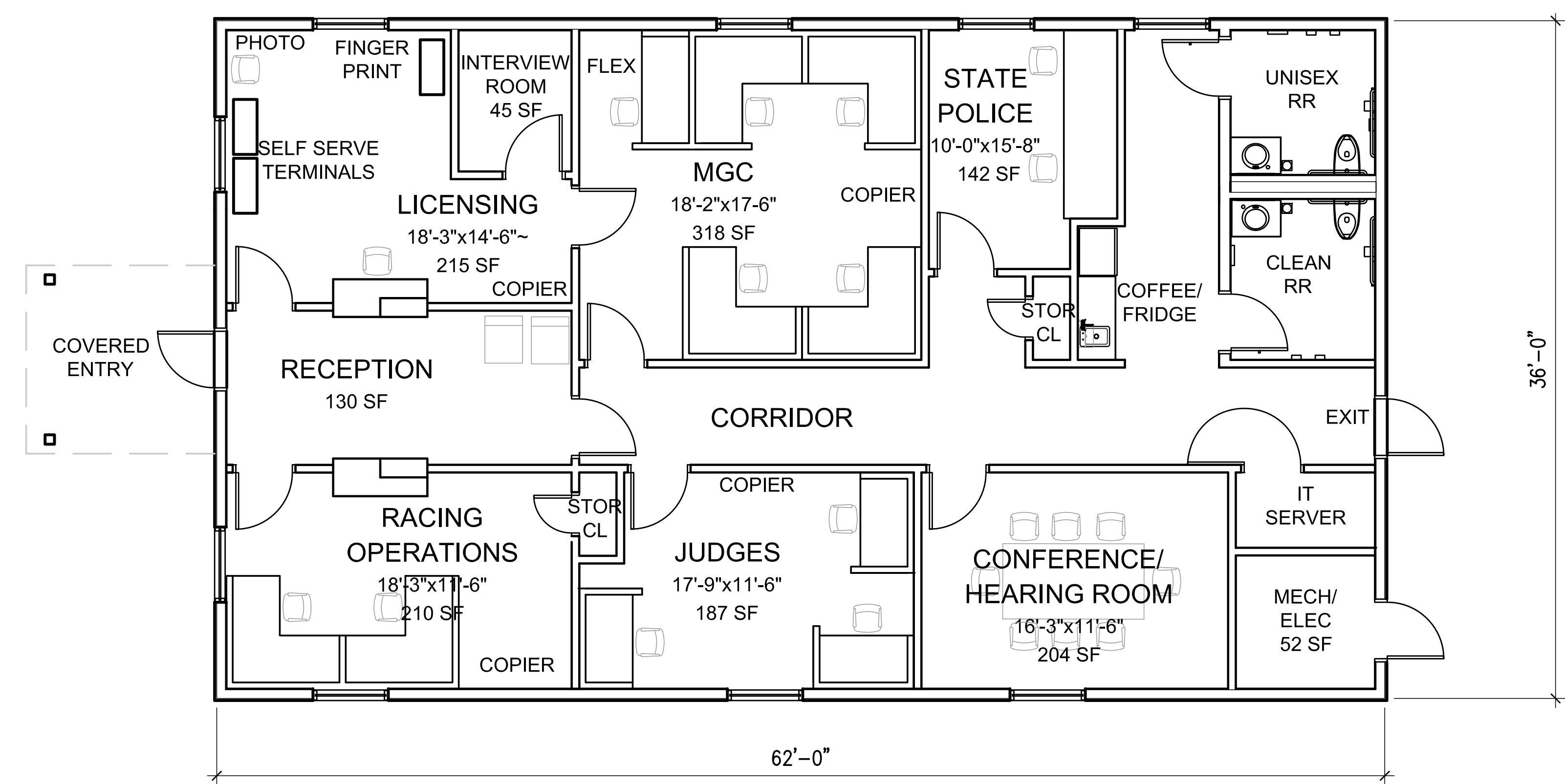


- LEGEND**
- Responsible Gaming
 - State Slot Data Facilities
 - Lottery
 - State Offices

RACING OPERATION AND REGULATORY LICENSING BUILDING



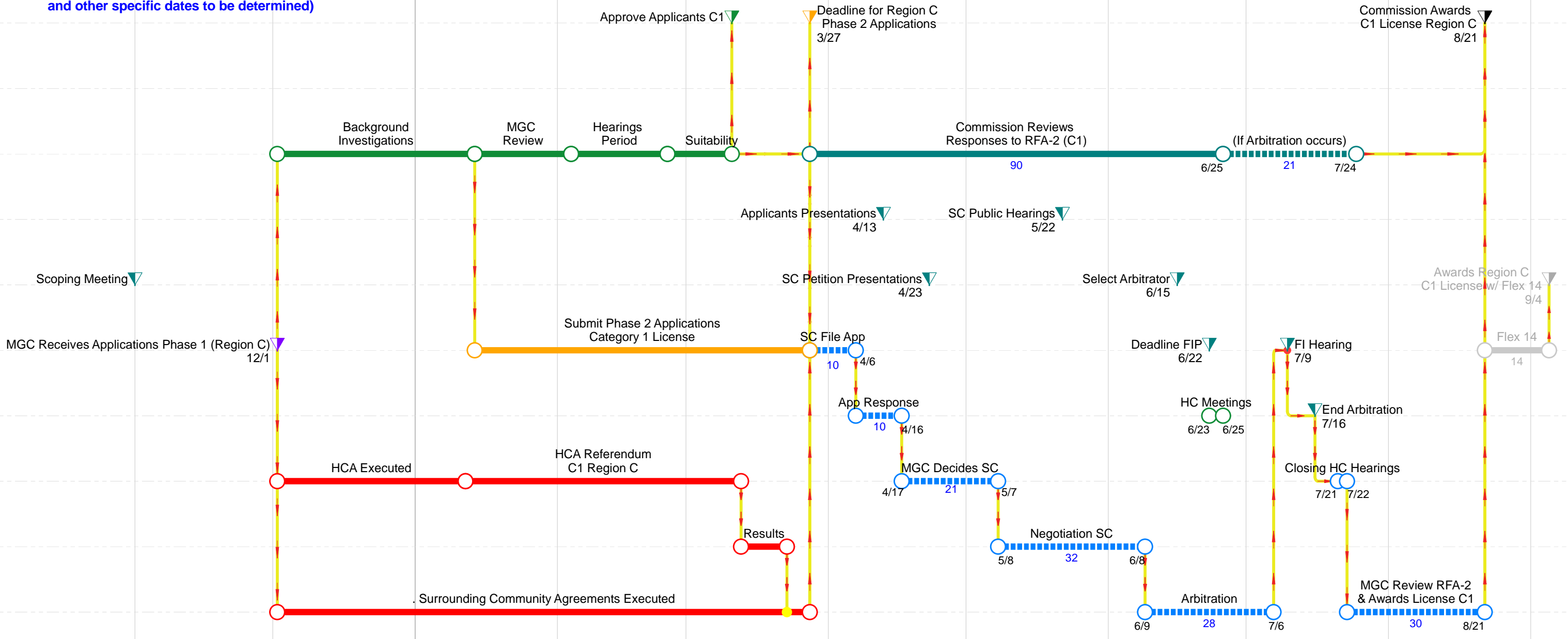
BUILDING
LOCATION



Massachusetts Gaming Commission / 2014-08-01 Licensing Schedule Update

Category 1 License - Region C

CATEGORY 1 LICENSE - REGION C
 (Phase 1 and 2 application dates are identified
 and other specific dates to be determined)



LEGEND

ACT DESCRIPTION (Green line with arrow)

Start Date (Green circle)

End Date (Green circle)

SUMMARY ACTIVITY (Blue dashed line)

Start Date (Blue circle)

End Date (Blue circle)



NO DOCS



**Plainridge Park Casino Strategic Plan
To Engage & Recruit the Diverse, Under & Unemployed
Workforce Population**

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Introduction

Penn National Gaming Inc. (Penn) has developed this comprehensive Workforce Diversity Plan for ongoing development of its workforce at Plainridge Park Casino in Plainville, Massachusetts. The plan is designed not only to provide equal opportunity to individuals identified in traditionally disadvantaged groups but also to promote a workforce that is reflective of our surrounding community. This plan will be implemented by engaging in aggressive outreach, recruitment and training in order to identify motivated and qualified individuals to join our team.

The inclusive diversity philosophy of Plainridge Park Casino is intended to be more far reaching than simply the inclusion of minorities, women and veterans. As part of our commitment to our local host and surrounding communities, we have also set an aggressive local hiring goal that will also serve to address local unemployed and underemployed challenges.

Since the initial draft of this plan, as presented to the MGC on June 26, 2014, Penn's human resources and operations teams have had an active outreach and coordination schedule.

In July we met with and toured two Career Centers, Fall River and Framingham, and are confident that they have the ability to supply us with an applicant pool that meets our needs. We will also be meeting with the New Bedford Career Center in the near future. During our visit, we met with many of the staff, including their veterans reps, and had the opportunity to both learn about the services they provide and educate them on our hiring needs and career paths within the casino industry. We also met with Massasoit and Bristol Community Colleges and continue to believe they will be a tremendous asset as we establish and implement our workforce training programs. We have maintained our communications with the Consortium and August 13, 2014 is our next scheduled Consortium meeting.

Penn National Gaming's Equal Opportunity Policy

To give equal employment and advancement opportunities to all employees and applicants, the Company makes employment decisions based on each person's performance, qualifications, and abilities. We do not discriminate in employment opportunities or practices on the basis of race, color, religion, gender, national origin, age, disability, sexual orientation, or any other characteristic protected by law. In addition, the Company will make reasonable accommodations for qualified individuals with known disabilities.

The Equal Employment Opportunity policy covers all employment practices, including selection, job assignment, compensation, discipline, separation of employment, and access to benefits and training.

Outreach & Communications

Developing relationships with community and state-based organizations is integral in our ability to succeed in hiring a local and diverse workforce that is reflective of the community and region around us.

Penn National's team has already taken an aggressive approach to begin collaboration with several of these organizations and educational institutions. We began this process prior to licensure by hosting an Employment Information Fair on November 13, 2013, and advertised the event in the area publications and via social media. Approximately 200 potential applicants from Plainville and the designated surrounded communities attended the Fair. In addition to this first event, Penn officials (to date) have met with representatives from:

- The Massachusetts Department of Labor and Workforce Development and its related departments including,
 - Department of Career Services
 - Department of Workforce Development
 - Its local career center agencies, including the Greater New Bedford Career Center, Framingham and Fall River
 - In addition, we plan to reach out to the regional Workforce Investment Board(s) relative to our region and explore with them how we can be a productive addition to their efforts.
- Careers Training Institute. Penn was one of the first signatories to their Memorandum of Understanding for gaming operators across the Commonwealth.
- Bristol Community College
- Massasoit Community College
- Veterans, Inc.
- Vet.org
- Employment & Training Resources
- Massachusetts Gaming Commission's Office of Workforce Development & Diversity
- New England Area Conference NAACP
- Hosted an initial meeting with the Consortium at Plainridge Park in April 2014. We have scheduled a second meeting in August and will meet with this group on a quarterly basis until the first full year of operations is complete at the facility. After that, the meeting schedule shifts to a semi-annual basis.

**Submitted to MGC on August 1, 2014: Park Casino Strategic Plan
To Engage & Recruit the Diverse, Under & Unemployed Workforce Population**

We conducted these early meetings with the goal of:

- Identifying existing educational institutions with programs that allow graduate skillsets to transfer to the needs of our facility;
- Identifying educational institutions where we can foster longer term partnerships in existing career training programs (such as culinary programs);
- Identifying organizations in both the education and workforce development communities that have an existing communications portal that can provide job advertising services;
- Engaging organizations that have existing or can create partnering opportunities for events like job information sessions and job fairs;
- Understanding local demographics, available labor pool and challenges with recruiting qualified team members, understanding under and unemployed dynamic in the local area.

We will continue our relationships with these organizations while pursuing relationships with others with the goal of reaching as broad a group of potential employees as possible during our initial hiring phase as well as throughout the ongoing operations at Plainridge Park Casino.

In addition to these communication and professional training partnerships, we will also conduct a broader advertising program for our hiring program that will include paid media advertising in local and minority-specific publications as well as targeted online and social media advertising.

Tapping into the resources available through the MA Department of Labor and Workforce Development will be key for recruiting of our entire workforce, but will be critical for providing opportunities for under and unemployed individuals. In the coming months, we will be conducting workshops with staff from our local career centers educating them on the gaming industry and available opportunities that will exist at Plainridge. These centers will act as a critical talent pipeline for talent for our recruiting needs, particularly for our ability to tap into the under and un-employed populations.

Along with training the staff at the Regional Career Centers, we will be conducting job information sessions/job fairs in all of our host communities, various career centers, as well as Massasoit and Bristol Community Colleges. The goal of these meetings is to educate potential employees on the various positions within the casino and qualifications for employment at the casino.

Penn will also establish an offsite career center for the purposes of creating a central location for our hiring program. Applicants can submit resumes there or online and interviews will be conducted at this office throughout the hiring timeframe. A separate

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career center area will be housed in the permanent facility, allowing ongoing access by interested individuals seeking employment and career opportunities. The Plainridge career center website became operational and available to the public in July and will grow as construction progresses and opening day approaches. The site will remain in operation through the life of the facility's operation. Below is a current timeline for our workforce outreach programs and services:

Updated Timeframe:

| | |
|-------------------|--|
| July: | Career Website Active |
| September 2: | Career Center open |
| September 2: | Jobs posted on Career Site |
| September/October | Job Information Sessions hosted at Community Colleges and Career Centers (dates and time finalized at next consortium meeting) |
| December 1 | Move into expanded Career Center |
| January/February | Career Fairs conducted in our host and surrounding communities |

Goals

Penn National Gaming is a diverse company with twenty-seven operations in eighteen states and Canada. Penn National actively pursues a straightforward workforce diversity philosophy: our workforce should reflect the community around us.

We have incorporated two specific goals for our hiring program at Plainridge Park Casino:

1. To hire 90% of our workforce from our host and designated surrounding communities; and
2. That 10% of our workforce be comprised of individuals from ethnic minority groups.

Approximately 52% of Penn National Gaming's workforce is represented by women. We will also provide additional consideration for members of the veterans community.

Should we, after exhausting all efforts to reach our 90% local hiring goal, fall short of that goal, we would expand our scope in concentric circles, within the Commonwealth of Massachusetts, from our facility location to incorporate neighboring towns and cities, including the Greater Boston area. Additional recruitment focus will be given to towns and cities within these concentric circles that have a higher than average unemployment rate, specifically Attleboro, Fall River and Brockton.

Job Offerings Overview

The following is an overview of our anticipated workforce needs. A more detailed workforce-hiring plan will be developed at a later date, once the regulations and property executive team are in place.

Plainridge Park Casino’s hiring will focus on the departments below. All departments will have leads/supervisors and managers. The anticipated percentage of total new hires for the facility is reflected in the following table.* Our staffing plan will continue to evolve as our Executive Team comes on board.

| | |
|-------------------------|-------|
| Executive/Admin: | <1% |
| Finance/Cage: | 13.6% |
| Gaming: | 11.5% |
| HR and Wardrobe | 2.6% |
| Marketing | 3.2% |
| IT | 1.7% |
| Surveillance | 4.9% |
| Food & Beverage | 40.7% |
| Security | 10.2% |
| Facilities/Housekeeping | 0.5% |
| Valet | 3.2% |

* This does not include PPC’s existing racing employees.

Our staffing/hiring model consists of a gradual ramp time schedule with some of the initial hires starting in November/December growing through May in anticipation of a June 2015 opening date. Below is a snapshot of the current staffing program and the percentage of workforce we anticipate starting employment by month.

| Month - Start Date | % of total workforce to be hired (planned) |
|------------------------|--|
| November/December 2014 | 1% |
| January | 4% |
| February | 6% |
| March | 13% |
| April | 25% |
| May | 51% |

The majority of our positions will be posted on our website in and around the Labor Day weekend. This coincides with the opening of our property’s career center and will be followed up with a series of job information sessions that will be held in late September/early October at our local Career Centers and Community Colleges.

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To Engage & Recruit the Diverse, Under & Unemployed Workforce Population

In the meantime, below is a list of job positions that will be among the first filled at the property.

General Administration

Executive Administrative Assistant
Compliance Manager
Compliance Administrator

VP of Finance

Manager of Planning and Analysis
Financial Analyst
Manager Accounting
Staff Accountant
Payroll/AP Manager
Payroll/AP Clerk/Coordinator
Purchasing Manager
Purchasing Clerk
Purchasing Buyer
Supervisor Warehouse/Receiving
Warehouse/Receiving Attendant
Internal Audit Manager
Internal Auditor
Manager Player Services
Player Services Shift Supervisor
Player Services Cashier
Revenue Audit Supervisor/Manager
Revenue Auditor
Supervisor Count Room
Count Team Lead
Count Room Associate
Player Services Main Banker
Administrative Assistant

VP of Gaming Operations

Manager Gaming Operations
Slot Shift Supervisor
Slot Attendants
Slot Tech Manager
Slot (VLT) Tech Supervisor
Slot Technician
Slot Performance Analyst

VP of Human Resources

Human Resources Business Partner
HR Generalist
Human Resources Coordinator
Wardrobe Supervisor
Seamstress
Wardrobe Attendant

Training and Advancement Opportunities

Penn National Gaming has implemented a successful recruitment and training program throughout the country. For many of our employees, the opportunity they begin with is not just a job but also the start of a very successful career. We believe that our training and advancement programs will be the very catalyst to bolster the Commonwealth's goal to have our industry positively impact the unemployed and underemployed members of our communities.

Education Begins at Career Centers/Community Colleges

As described above, Penn National Gaming officials have already begun their discussions with local career centers in an effort to understand the needs of the un/under-employed community as well as to educate these agencies about the types of jobs we will have available. In order to have a longer-term impact, we don't see each job as just a "job" but as the opportunity for long-term careers in our company and the industry as a whole. Our workshops with local career center staff will include an effort to educate them about the long-term paths available for various skillsets and career goals for individuals seeking employment with our company.

Through the Consortium, we have started to forge a great relationship with both Massasoit and Bristol Community College and will look to partner with them regarding training opportunities for employees. These training opportunities include, but are not limited to programs in culinary, surveillance and slot tech repair.

The CATCH institute at Bristol will not only be a great recruiting source for our culinary talent, but can also serve at a training ground for those who want to advance their careers.

We anticipate this to an ongoing relationship that grows and develops with our workforce.

Red Carpet Service Training

Penn National Gaming is known for its top-notch hospitality and the high quality service of its employees. Each employee undergoes our Red Carpet Service training, starting from the first day and onward throughout his or her employment.

It Doesn't Stop There

It is our goal to develop our team members to take on positions of greater responsibility and promote internally whenever possible. As part of our engagement and performance management strategy, our managers are encouraged to have continued conversations with their team members to discuss training needs as well as potential career pathing opportunities. We help individuals achieve *the next level* through our various supervisory and management training programs. It is our goal to develop bench strength from within

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To Engage & Recruit the Diverse, Under & Unemployed Workforce Population

the existing team member population. All open positions are posted internally first, to identify any internal talent prior to looking externally to fill open positions.

Promoting Education

In addition to our internal training programs, we will also provide a tuition assistance program for interested and eligible employees. This program offsets the costs associated with our team members who seek to pursue two-year, four-year or even graduate degrees. We also will explore, based on workforce needs and demand, the option of bringing classes onsite to Plainridge in partnership with Bristol and Massasoit.

COMMITMENT

Plainridge Park Casino and Penn are committed to developing a high performance, inclusive work environment that reflects the diversity of our community. We will strive to create a company culture where all ideas and all contributions are valued no matter how or from whom they may originate. We will actively seek out team members from traditionally disadvantaged groups to build an entertainment facility our community and the Commonwealth will be proud of. Our commitment to making inclusiveness the foundation for our culture is driven not only from our desire to enhance our community, but also because such commitment supports a sound business strategy.



**Plainridge Park Casino
Purchasing Practices Plan for Local and Traditionally
Disadvantaged & Diverse Businesses**

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Introduction

In accordance with license conditions #8 and 15, Penn National Gaming Inc. (Penn) has developed this comprehensive diversity and local purchasing plan for the ongoing procurement of goods and services for the operations of Plainridge Park Casino in Plainville, Massachusetts. The plan is designed not only to provide equal opportunity to traditionally disadvantaged groups but also to promote the support of local businesses within the Commonwealth of Massachusetts. This plan will be implemented by engaging in aggressive outreach, recruitment, and training to identify qualified local and minority, women's, and veteran owned businesses, and will provide them the opportunities to apply for contracts with us.

While the Plan refers frequently to Minority Business Enterprise ("MBE"), Women Business Enterprise ("WBE") and Veteran Business Enterprise ("VBE") companies, the inclusive diversity philosophy of Plainridge Park Casino is intended to be more far reaching than simply the inclusion of minorities, women and veterans. We will have an equal focus on the use of local businesses from our host community of Plainville, our designated surrounding communities, and throughout the Commonwealth.

Setting realistic goals are important benchmarks for gauging the success of our affirmative action efforts. The Commonwealth of Massachusetts' own procurement goals for state agencies are 6% minority, 12% WBE and 3% VBE as set forth in the Operations Services Division (OSD) memo dated October 1, 2013, "Changes to Supplier Diversity Program Policies and Plan Effective October 1, 2013." We feel that these goals are appropriate for Plainridge Park Casino as well, based in part on the research we completed in the process of developing this plan. That research included:

- The 2010 disparity study titled, "Race, Sex and Business Enterprise: Evidence from the Commonwealth of Massachusetts: Volume II," prepared for the Division of Capital Asset Management;
- The American Gaming Association's ("AGA") industry guidelines for inclusion and exclusion of goods and services procurement; and
- The American Gaming Association's "Gaming Industry: Spend Diversity Snapshot 2008.

Timely, effective and continuing outreach efforts are critical to our ongoing program. As a result, Penn has already begun its outreach efforts, including:

- Participating in multiple meetings with the Massachusetts Gaming Commission's (MGC) Vendor Advisory Team;
- Outreach to the Massachusetts Supplier Diversity Office (SDO) and the Greater New England Minority Supplier Development Council (GNEMSDC) to develop a communications network to alert their members to specific opportunities;

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- Outreach to the Massachusetts Small Business Development Center Network Southeast Regional Office;
- Communication with the Veterans Business Owners Initiative in both Bedford and Worcester;
- Communication with the United Regional Chamber of Commerce, the leading business organization in our immediate community;
- Communication with the NAACP New England Area Conference;
- Communication with the Boston Minority Business Development Agency (MBDA) Business Center;
- Hosted Vendor Information Fairs on November 13, 2013 and March 25, 2014;
- Attended United Regional, Taunton Area, and Cranberry County Chambers of Commerce Business to Business Expo on October 19, 2013;
- Attended the 5th Annual supplier Diversity Best Practices Forum, sponsored by the Boston MBDA, GNEMSDC, and Center for Women and Enterprise, on November 21, 2013;
- Committed to participate in the Center for Women & Enterprise 2014 Women Business Leaders Conference on September 12, 2014;
- Scheduled a reverse vendor fair for September 25, 2014 at Plainridge Race Course. This event will be an informational session for prospective vendors that will include one on one interviews with Penn's purchasing team representatives;
- We have also begun the dialogue with interested veterans organizations, government and non-profit, seeking their assistance in identifying VBEs. Representatives from the MA Department of Veterans' Services, the MA branch of the Small Business Administration, Veterans Inc., and Veterans with Vision have been part of these conversations related to the focused recruitment of veteran businesses; and
- We are in the process of creating a new vendor tool will allow our purchasing department to post RFPs on the Penn National and Plainridge websites. Our goal is to have this function live on the websites in October 2014.

EXECUTIVE SUMMARY

Purpose

This Plan describes Plainridge Park Casino's strong commitment to ensure diversity and opportunity for local businesses in the ongoing procurement of goods and services for the facility operations. The Plan emphasizes our commitment to diversity and local purchasing as it relates to our vendors, our business partners and our community. In sum, we appreciate and respect diversity in all aspects of our business operations and we look forward to supporting and participating in the local community as we build a regional and statewide engine of economic growth.

Diversity Committee

Penn and its corporate and property management team will establish a diversity committee for the purposes of this plan's implementation. The diversity committee will include, but not be limited to, the following:

- Lance George (General Manager, Plainridge Park Casino)
- Michael Randazzo (Corporate Vice President of Purchasing for Penn)
- The property's purchasing officer, to be named at a later date

In addition to our internal team, we will also invite two members, on a rotating basis, to represent any of the following: local business organizations, minority business organization, veteran business organizations and/or women business organizations. Our desire is for these two members to serve as the following:

- Resources to identify businesses within these categories to apply for contract opportunities with Plainridge Park Casino,
- To assist in developing remedial plans should we find ourselves falling short of the goals set forward in this document; and
- Provide expertise and guidance on how we can better assist these businesses in doing business with us as well as future casino industry members in the Commonwealth.

A designated member of the internal diversity committee will also be the liaison to the MGC's Vendor Advisory Committee and the primary contact for the MGC's Director of Workforce, Supplier and Diversity Development will be Michael Randazzo until a property-level person is identified to fulfill this ongoing role. Member(s) of the committee will also participate in the meetings of the MGC's Vendor Advisory Committee on a regular basis and will also look to source diverse and local businesses from these members as well.

DEFINITIONS

Diversity refers to the variety of backgrounds and characteristics found in society today; thus it embraces all aspects of human similarities and differences. While we support diversity as an inclusion concept, reality compels us to focus considerable attention on addressing issues related to those individuals and groups that have historically been adversely affected. For purposes of the Plan, diversity specifically focuses on differences among people with respect to age, sex, culture, race, ethnicity religion, color, disability, national origin, ancestry, sexual orientation and veteran status.

Operations-related Procurement Program

The operations-related procurement program applies to the purchasing of the fixtures, furniture and equipment to outfit the facility and non-excluded (see definition of “exclusion” below) goods and services following the completion of construction.

Definition of Minority

A *minority* is an individual whose cultural heritage is African, American Indian, Asian, Hispanic (Central/South American or Caribbean), Eskimo or Aleut or of the original peoples of the Cape Verde Islands. is a member of the following ethnic groups: African American, Asian American, Hispanic American, and Native American.

Definition of Women

Women are persons who are identified or who identify as being of the female gender. Participation goals are set for all women, regardless of race or ethnicity.

Definition of Veteran

A *veteran* is anyone who has served in the United States Armed Forces and has been honorably discharged.

Definition of Minority Business Enterprise (“MBE”)

Minority business enterprise or “MBE”, for the purpose of receipt of services from SDO, means a business enterprise that is owned and controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to, African Americans, Cape Verdeans, Western Hemisphere Hispanics, Asians, American Indians, Eskimos, and Aleuts. For purposes of section 61 and of section 40N of chapter 7, the term “minority owned business” shall have the same meaning as “minority business enterprise”^{*} and as defined by the certifying agencies listed on page 8 of this document.

^{*} As defined in the Commonwealth of Massachusetts General Laws, Part I, Title II, Chapter 7, Section 58. <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter7/Section58>

Definition of Women Business Enterprise (“WBE”)

Women business enterprise or “WBE”, for the purpose of receipt of services from SDO means a business enterprise that is both owned and controlled, by one or more women who have invested in an ongoing business free of conversion rights. For purposes of section 61 and of section 40N of chapter 7, the term “women owned business” shall have the same meaning as “women business enterprise”^{*} and as defined by the certifying agencies listed on page nine of this document.

Definition of Veteran Business Enterprise (“VBE”)

Veteran business enterprise or “VBE”, a business enterprise that is both owned and controlled by 1 or more veterans, as defined in section 7 of chapter 4, who has invested in an ongoing business free of conversion rights.^{*}

Exclusion Spend

The *Exclusion Spend* is defined by the American Gaming Association’s “Diversity in Spending” as the total spend in goods and services minus:

| | <i>Example</i> |
|--|---|
| Where a monopoly in a particular market or industry exists | Slot machines because there isn’t a minority-owned slot machine vendor in the United States. |
| Is not and never will be a biddable option for the gaming industry | Services related to the testing of slot machines or regulatory oversight of the gaming operation by a third party vendor per the state’s direction but at the cost of the gaming operator(s). |
| The good or service is government regulated | Aircraft fuel, postage, taxes, liquor licenses, etc. |

The AGA’s “Diversity in Spending” document contains the full list of exclusion and inclusion spend categories and is attached to this document as “Exhibit A.”

Definition of Vendor

A vendor is an individual or business that provides goods and services to the project but are not considered design and construction trades. These goods and services include but are not limited to, couriers, printers, waste management, office and janitorial supplies, janitorial services, food and beverage services, etc.

^{*} As defined in the Commonwealth of Massachusetts General Laws, Part I, Title II, Chapter 7, Section 58. <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter7/Section58>

^{*} As defined in the Commonwealth of Massachusetts General Laws, Part I, Title II, Chapter 7, Section 58. <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter7/Section58>

Definition of Local Vendor

A local vendor is any business located within the Commonwealth of Massachusetts with preference given to businesses located within our host and designated surrounding communities.

Certifying Agencies

This project will recognize and accept certifications from the following certifying bodies:

- Massachusetts Supplier Diversity Office (SDO);
- Greater New England Minority Supplier Development Council (GNEMSDC);
- Women’s Business Enterprise National Council (WBENC);
- Vendor Information Pages Verification Program located at www.VetBiz.gov
- And, when applicable, as verified by the MGC’s Division of Licensing

Implementation of the Plan

The following is a snapshot of the purchasing schedule leading up to the anticipated opening in June 2015.

| Commodities | 3rd Qtr 2014 | 4th Qtr 2014 | 1st Qtr 2015 | 2nd Qtr 2015 |
|--|-------------------|-----------------|-------------------|--------------------|
| Schedule to be purchased in the | July to Sept 2014 | Oct to Dec 2014 | Jan to March 2015 | April to June 2015 |
| AI Conveyor system | 3rd Qtr 2014 | | | |
| Easy Bar Liquor Systems | 3rd Qtr 2014 | | | |
| Interiors / Exteriors Signs | | 4th Qtr 2014 | | |
| Surveillance | | 4th Qtr 2014 | | |
| IT Equipment PC, printers copiers | | 4th Qtr 2014 | | |
| Furniture Fixture & Equipment buyout (Genesis Design) | | 4th Qtr 2014 | | |
| Gaming Machines (Selected by Penn Gaming Slot Committee) | | | 1st Qtr 2015 | |
| Coca Cola | | | 1st Qtr 2015 | |
| Watchman Key Lock System | | | 1st Qtr 2015 | |
| Uniforms (Penn National Gaming, standard and approved Corporate program) | | | 1st Qtr 2015 | |
| Vehicle and Grounds Keeping Supplies | | | 1st Qtr 2015 | |
| VLT (Slot) Base | | | | 2nd Qtr 2015 |
| VLT (Slot) Stools | | | | 2nd Qtr 2015 |
| Gaming Machine Locks | | | | 2nd Qtr 2015 |
| Gaming Technicians Supplies | | | | 2nd Qtr 2015 |
| TITO Tickets | | | | 2nd Qtr 2015 |
| Office Furniture | | | | 2nd Qtr 2015 |
| Trash / Ash Receptacles | | | | 2nd Qtr 2015 |
| Office supplies | | | | 2nd Qtr 2015 |
| China Glass Silver | | | | 2nd Qtr 2015 |
| Kitchen Supplies | | | | 2nd Qtr 2015 |
| Disposable Paper Supplies | | | | 2nd Qtr 2015 |
| Maintenance Supplies | | | | 2nd Qtr 2015 |
| Housekeeping Supplies | | | | 2nd Qtr 2015 |
| Housekeeping Inventory | | | | 2nd Qtr 2015 |
| Restaurant Supplies | | | | 2nd Qtr 2015 |
| Retail Inventory and Supplies | | | | 2nd Qtr 2015 |
| Food Inventory | | | | 2nd Qtr 2015 |
| Beverage Inventory | | | | 2nd Qtr 2015 |
| Subject to change based on the construction schedule | | | | |

Supplier Selection Criteria

Suppliers will be considered based on the following criteria, as adopted from the AGA’s standards for the gaming industry:

- Ability for the supplier to meet specifications and standards
- Product and service quality
- Competitive prices
- Dependable delivery
- Quality control methods and practices
- Technical abilities and leadership
- Financial reliability
- Compatibility with existing products
- Adequate facilities and resources
- Spare parts availability
- Warranty, insurance, and bonding provisions
- Proven performance and experience

In addition to our aggressive outreach and recruitment activities, we will also implement two additional policies regarding minority, women, veteran and local business opportunities with Plainridge Park Casino:

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1. Any contract put out to bid that is equal to or exceeds \$5,000 must include at least one MBE/WBE/VBE bid and at least one bid from a Massachusetts-based vendor.
 - a. If one or both of these groups is absent from the bid process, Plainridge Park Casino will provide, in writing, an accounting of efforts made to seek these companies for the bid opportunity to the MGC's Vendor Advisory Committee and why a bid was not received from one or both of these groups.
2. MBE/WBE/VBE and local, Massachusetts-based will be eligible to participate in Penn's fast pay program. This program provides payment to these vendors within 7 to 10 days upon completion of services or upon delivery of goods.

A copy of the AGA's "Diversity in Spending" document is attached to this document as Addendum 1.

Communications Strategy

The project will use multiple avenues of communications to advertise vendor opportunities on an ongoing basis. We will use a combination of traditional paid media, earned media, social media and partner organizations to advertise vendor opportunities with the casino. To date, we have hosted vendor information fairs prior to and post granting of the Category 2 Gaming License, and advertised for each appropriately. We will work with and communicate through partner organizations (such as The Massachusetts Supplier Diversity Office, The Greater New England Minority Supplier Development Council, the local office of Minority Business Development Agency Center, the local office of the United States Small Business Administration, the Veteran Business Owner's Initiative, the Town of Plainville and our designated surrounding communities, the United Regional Chamber of Commerce, the NAACP New England Area Conference, MGC Vendor Advisory Team members and through the MGC's communications team and their online and social media portals) to advertise vendor fair events and contract opportunities with the casino.

Reporting Schedule

As required pursuant to License Condition #8 and Chapter 23K, Subsection 21 of the Massachusetts Gaming Statutes, Penn is required to provide an annual report on performance of the facility's procurement program as it compares to the goals set in this document once the facility is open for business. However, we will provide these reports on a quarterly basis for the first full year of operations to ensure that the program is on track. These reports will track progress with the goals established in this plan.

COMMITMENT

Plainridge Park Casino and Penn are committed to developing a high performance, inclusive work environment that reflects the diversity of our community. We will strive to create a company culture where all ideas and all contributions are valued no matter how or from whom they may originate. We will actively seek out contractors and vendors from traditionally disadvantaged groups to build and supply the facility. Our commitment to making inclusiveness the foundation for our culture is driven not only from our desire to enhance our community, but also because such commitment supports a sound business strategy.



Responsible Gaming Framework

Massachusetts Gaming Commission

The Responsible Gaming Framework is designed to provide structure for responsible gaming practices of Massachusetts Gaming Commission licensees and is based on the commitment by the Massachusetts Gaming Commission and their licensees to the guiding value of ethical and responsible behavior.

Version 1
August 4, 2014

Acknowledgements

The preliminary development of the MGC Responsible Gaming Framework consisted of an extensive research process involving the review of a broad range of academic papers and studies, policy papers, investigative reports, jurisdictional reviews, corporate reporting documents, and legislation relating to gambling issues in Massachusetts, other United State jurisdictions, and abroad. From this review, materials produced by the following entities most notably informed the Framework:

- American Gaming Association
- Australian Government Productivity Commission
- British Columbia Lottery Corporation
- New Zealand Department of Internal Affairs
- Nova Scotia Government (multiple agencies)
- Ontario Problem Gambling Research Centre
- Responsible Gambling Council
- Queensland Government Office of Liquor and Gaming Regulation
- Wellington Ministry of Health

Scholarly papers of notable significant to the development of the Framework include:

- Blaszczynski, A., Collins, P., Fong, D., Ladouceur, R., Nower, L., Shaffer, H. J., & Venisse, J. L. (2011). Responsible gambling: General principles and minimal requirements. *Journal of Gambling Studies*, 27(4), 565-573.
- Hancock, L., Schellinck, T., & Schrans, T. (2008). Gambling and corporate social responsibility (CSR): Re-defining industry and state roles on duty of care, host responsibility and risk management. *Policy and society*, 27(1), 55-68
- Williams, R.J., West, B.L., & Simpson, R.I. (2012). Prevention of Problem Gambling: A Comprehensive Review of the Evidence, and Identified Best Practices. Report prepared for the Ontario Problem Gambling Research Centre and the Ontario Ministry of Health and Long Term Care. October 1, 2012.

Key to the refinement of the Framework was input and information gathered from the Massachusetts Department of Health, Massachusetts Council on Compulsive Gambling, participants of the Massachusetts Partnership for Responsible Gaming, Problem Gambling Solutions, Inc., and other stakeholders from government agencies, the gambling industry, advocacy groups, academicians, not-for-profit organizations, and concerned citizens of Massachusetts.

Responsible Gaming Framework

Massachusetts Gaming Commission

Introduction

The Responsible Gaming Framework provides an approach through which Massachusetts Gaming Commission (MGC) licensees can ensure their general gaming practices are consistent with the Commission’s expectations that the licensed business will be conducted in a responsible manner to minimize harm caused by gambling to individuals, families and communities. The Responsible Gaming Framework draws upon a shared commitment to best practice in the provision of responsible gaming.

The MGC Responsible Gaming Framework supports the implementation of the expanded gaming law (chapter 194 of the Acts of 2011, M.G.L. chapter 23K, or “the Gaming Act”) of the Commonwealth of Massachusetts. The legislation includes a number of key mandates to ensure the successful implementation of expanded gaming including, protection for host and surrounding communities and mitigation for social impacts and costs.

Rationale

The Responsible Gaming Framework is intended to inform gaming regulation in Massachusetts, provide an overall orientation to responsible gaming practice and policy adopted by licensees, and provide the public with a concise description of measures taken by the MGC and their licensees designed to mitigate unwanted consequences of expanded gaming. The Responsible Gaming Framework is based on the commitment by the Massachusetts Gaming Commission and their licensees to the guiding value of ethical and responsible behavior.

Key Terms:

Responsible gaming



Responsible gaming is the provision of gambling services in a way that seeks to minimize the harm to customers and the community associated with gambling.

Problem gambling



Problem gambling is characterized by difficulties in limiting money and/or time spent on gambling which leads to a continuum of adverse consequences for the gambler, others, and the community.

Guiding Values & Approach

The Responsible Gaming Framework is guided by the values expressed in the mission statement of the Massachusetts Gaming Commission:

The Massachusetts Gaming Commission will strive to ensure that its decision-making and regulatory systems engender the confidence of the public and participants, and that they provide the greatest possible economic development benefits and revenues to the people of the Commonwealth, reduce to the maximum extent possible the potentially negative or unintended consequences of the new legislation, and allow an appropriate return on investment for gaming providers that assures the operation of casino-resorts of the highest quality.

To this end, the MGC Responsible Gaming Framework's aim is to create a sustainable, measurable, socially responsible, and accountable approach to gaming where efforts to reduce the potential harms that can be associated with gambling are balanced with generating the greatest possible revenues.

The Responsible Gaming Framework has adopted an evidence-based approach to responsible gaming measures where sound research or evidence is available. Where evidence is lacking, uncertain or ambiguous, and there is reasonable concern that gambling related harm may occur, a precautionary approach has been applied. The precautionary approach rejects the notion that risks are acceptable until harm has been proven or that risks can continue unmitigated until such time as the effectiveness of a harm minimization measure is proven. While all responsible gaming measures will be evaluated and continually improved upon, measures driven by a precautionary approach will be subject to more rigorous evaluation. Responsible gaming efforts in their entirety will retain flexibility to respond to emerging evidence, and the evolving technological and cultural environment.

As gaming regulators, the MGC Responsible Gaming Framework's focus is on gaming licensees' practices. However, the MGC believes licensees do not have an isolated role in minimizing the potential harm of gambling. Government, science, industry, and gaming consumers must all take part to most effectively minimize harm caused or exacerbated by gambling.

Goal & Objectives

Goal: To create a sustainable, measurable, socially responsible and accountable approach to gaming.

Regulatory Objectives:

- Minimize harm from gambling to individuals, families, and communities commensurate with the good of the Commonwealth and gaming licensees.
- Promote best and promising responsible gaming practices in all aspects of licensee activities.
- Utilize principles of responsible gaming to all new and emerging technologies

Research Objectives¹:

- Inform best practice in responsible gaming strategies and methods, problem gambling treatment and prevention, and responsible gaming messaging.
- Create and translate knowledge to support evidence-informed decision making about gambling policy and regulation.

Education Objectives:

- Provide accurate and balanced information to enable informed choices to be made about gaming activities.
- Provide patrons adversely affected by gambling to timely access and appropriate information on problem gambling and where assistance in dealing with such matters can be obtained.
- Create a shared understanding of responsible gaming practices among Individuals, communities, the gambling industry and the Government.

¹ Gaming licensees will be participants in meeting research objectives; they will not be solely responsible. The Gaming Act requires that the Commission establish an “annual research agenda” in order to understand the social and economic impacts of expanded gaming in the Commonwealth. Research grantees will collaborate with gaming operators, governmental agencies, and others to meet research objectives.

Strategies

The Responsible Gaming Framework commits the MGC licensees to implement and adhere to responsible gaming strategies, with a particular focus on prevention and customer protection practices.

The Responsible Gaming Framework is organized into the following broad strategies:

1. Commit to corporate social responsibility
2. Encourage personal responsibility
3. Provide protections within the physical environment
4. Limit high-risk financial transactions
5. Engage the community

Each strategy contains a number of related responsible gaming practices. MGC licensees are responsible for ensuring their commitment with the relevant practices and compliance to related regulations. Each licensee will maintain records relating to the practices in the Responsible Gaming Framework.

The Responsible Gaming Framework, strategies and practices, will be monitored and evaluated regularly for effectiveness and fidelity. Where appropriate, policies and practices will be codified into regulation.

Responsible gaming strategies and practices will continue to evolve in response to innovation and new evidence related to problem gambling and responsible gaming. Correspondingly, the MGC Responsible Gaming Framework strategies and practices will be periodically reviewed and revised.

Strategy 1: Commit to Corporate Social Responsibility

- 1.1 The aim of Corporate Social Responsibility (CSR) is to minimize the negative environmental and social impacts and maximize the positive impacts. Social responsibility, sustainability, consumer protection and product safety are central to public confidence and therefore need to constitute a core business approach driven from the top, by strong corporate leadership, built into business purpose and strategy, and woven into the organization's culture.
- 1.2 To demonstrate a commitment to promoting responsible gaming and addressing problem gambling, each MGC licensee will include responsible gaming policies within their code of ethics and implement a Responsible Gaming Plan.

These documents will be specific to licensee operations in order to:

- Educate employees about responsible gaming and their role in promoting a responsible gaming environment inclusive of the requirement that all employees participate in MGC approved responsible gaming employee training programs.
- Reduce the risk of employee gambling related problems through policies and practices inclusive of educational programs and resources for employees in need of assistance.
- Assist in creating an environment that meets the needs of all customers, including individuals and their family members who are adversely affected by problem gambling behavior.
- Ensure that an appropriate level of awareness relating to responsible gaming is maintained throughout the licensed organization and key contractors, so that responsible gaming is made an integral part of daily operations.
- Provide employees with clear statements of expectations and responsibilities including an emphasis on the importance of employees in promoting responsible gaming and creating a healthy gaming environment.
- Designate responsible gaming duties for senior management and other leadership positions.
- Give consideration to the needs of their local communities with a particular focus on any geographic and cultural issues.
- Assure effective implementation of policies and practices property-wide, conducting internal audits, surveying employees, and reviewing relevant data, on a regular basis, with a responsible gaming committee.
- Detail a systematic approach to measuring and reporting on the licensee's commitments, actions and progress on responsible gaming practices.

Strategy 2: Enhance Personal Responsibility

2.1 Informed Decision Making

Licensees have a responsibility to ensure that patrons have the information they need to make decisions and to minimize the risk that patrons will lose control of their gambling. Licensees will implement programs and practices guided by the Responsible Gaming Council's Informed Decision Making Framework (see Appendix A for a fuller description of the IDM Framework).

The Informed Decision Making (IDM) framework consisting of 3 separate information programs aimed at 3 different types of gamblers:

- **Casual Gamblers** (occasional / new gamblers) need programs that enhance their gambling literacy – i.e., how gambling works, what the key safeguards and main risk factors are.
- **Frequent Gamblers** (at least once per month but not weekly) need a deeper understanding of how gambling works as well as the dispelling of common myths.
- **Intensive Gamblers** (weekly or more often) need to be informed of their play activity and offered self-assessment tools that draw attention to the consequences of their actions and the options available for help in addressing problems

Information guided by the Informed Decision Making Framework will be made available through a variety of practices and methods including displaying materials throughout the property (see Appendix B for guidelines), utilization of Play Information and Management Systems, and within the Responsible Gaming Information Centers (RGIC).

2.2 Play Information and Management Systems

Patrons will be incentivized to voluntarily enroll in and stay engaged with a responsible gaming program that utilizes a play information and management system. Within this system, play management tools will be incorporated into player card software and gaming devices to enable players to more easily keep track of their play, manage their gambling decisions, and obtain individualized play feedback. Most of the tools will be preventative, meaning the intent is to assist recreational players maintain awareness of their play and keep it non-problematic.

- **Play management features** will include limit setting where players can voluntarily choose to set time limits, loss limits, win limits, and receive pop-up reminders to help them stay within their pre-determined limits.
- **Play information features** will provide patrons with access to: educational quizzes; cost of play messaging and monthly statements including the patrons total bets, wins, and losses; tips on keeping play manageable; and information on how to access assistance.

2.3 Responsible Gaming Information Center

Each gaming establishment is required by statute to provide complimentary on-site space for player education services staffed by third-party vendors contracted through the MGC. The Responsible Gaming Information Center (RGIC) will be proximally located to the gaming area of the casino and serve as the patrons' central point of contact for inquiries and enrollment into voluntary responsible gaming programs and services, including self-exclusion programs, play information and management systems, and educational tools to assess play risks, provide responsible gaming tips, and increase players knowledge of how games work while dispelling common gambling myths. Within the RGIC patrons will have access to privacy controlled environments where they can log into their responsible gaming accounts, and access computer assisted information and services. A responsible gaming professional will be available so speak with during peak hours and patrons will have access to a phone were they can call the 24 hour Massachusetts Problem Gambling Helpline.

2.4 Self-Exclusion

Self-exclusion programs will be established to assist patrons who recognize they have experienced a loss of control and desire to invoke external controls related to their gambling. Licensees will inform the public and make available to patrons three forms of self-exclusion: the ability to opt-out of marketing lists; the option to be banned from receiving house-credit and/or checking cashing privileges and; the voluntarily barring of oneself from entering MGC licensed gambling venues state-wide. The self-exclusion process will incorporate an engaged approach where a priority is placed to ensure the patron obtains the assistance they need, is responded to in a respectful, timely, discreet manner, and feels supported. Licensees will set mechanisms and procedures in place to enforce agreements, assist individuals attempting to break their ban, and transfer gaming wins and losses by banned individuals to the MGC Gaming Revenue Fund.

Individuals utilizing the casino self-exclusion program will select the minimum duration of their ban. At any time after the expiration of the selected duration of exclusion, an individual may request that their name be removed from the voluntary self-exclusion list by submitting a petition for removal and participating in an educational session with an agent designated by the MGC.

Strategy 3: Provide Protections within the Physical Environment

3.1 Restrict Access to Gambling by Underage Persons

Licensees must implement policies and practices designed to prevent legally underage persons from gambling and from entering designated gambling areas. Licensees must take all reasonable steps to ensure that staff understands their responsibilities for preventing underage gambling. Licensees shall transfer all wins and losses by underage persons to the Gambling Revenue Fund.

3.2 Monitor Premises for Unattended Children

Licensees will establish policies and practices to safeguard children from neglect or abandonment when a child is brought to the licensee's property by a casino patron, including monitoring premises and motor vehicles parked within licensee's grounds.

3.3 Disallow Tobacco Use in Gaming Establishments

In order to reduce the well-known health risks associated with smoking and second-hand smoke, licensees will disallow the smoking of tobacco products in gaming establishments.

3.4 Minimize Alcohol Abuse

Alcohol has a disinhibiting effect on gambling behavior. Licensees will incorporate policies and practices to prevent intoxicated persons from gambling, including:

- Remove visibly intoxicated persons from the gaming area;
- Train of beverage servers, security, valet attendants and other personnel to minimize the hazards of potentially intoxicated patrons;
- Prohibit the distribution of alcoholic beverages to visibly intoxicated persons and to all persons between the hours of 2:00 a.m. and 8:00a.m..

3.5 Assist Customers in Need

Licensees will develop customer assistance policies and practices to appropriately respond to customers asking for assistance, exhibiting behaviors disruptive to others, displaying emotional distress, and showing symptoms of fatigue or medical needs. Customer assistance programs will be designed to offer aid to all patrons in need with emphasis placed on developing training, procedures, and evaluation methods for assisting those with a suspected gambling problem.

3.6 Encourage Breaks in Play

Licensees shall implement practices to ensure that customers are discouraged from participating in prolonged play including offering hospitality services and non-gaming forms of entertainment in areas where gambling is provided.

3.7 Third Party Exclusions

In an effort to protect individuals who manifest a severe gambling disorder and are unable or unwilling to ban themselves from an MGC licensed gaming facility, third party exclusions will be made available. Licensees will enforce the exclusion of individuals who are banned from gaming properties by an entity other than the banned individual.²

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² The MGC will establish detailed regulations and processes for third party exclusion at a later date.

Strategy 4: Ensure Responsible Marketing

Licensees are to develop and implement strategies to ensure advertising and promotions are delivered in a responsible manner to ensure contemporary standards are reflected, responsible gaming messaging is well integrated into casino marketing materials, advertising is sensitive to concerns over youth exposure to gambling promotion, and marketing efforts do not target vulnerable groups, such as minorities, the elderly, and the poor. As a minimum standard for casino advertising and marketing, youth advertising protection guidelines found in Appendix C and the below excerpt from the American Gaming Association's Code of Conduct are to be followed.

For the purposes of this code, advertising and marketing includes, among other media, radio and television ads print, direct mail, social media, billboards and Internet promotions.

4.1 Casino gambling advertising and marketing will:

- Contain a responsible gaming message and/or a toll-free help line number where practical.
- Reflect generally accepted contemporary standards of good taste.
- Strictly comply with all state and federal standards to make no false or misleading claims.

4.2 Casino gambling advertising and marketing will not:

- Contain images, symbols, celebrity/ entertainer endorsements and/or language designed to appeal specifically to children and minors.
- Feature anyone who is or appears to be below the legal age to participate in gambling activity.
- Contain claims or representations that gambling activity will guarantee an individual's social, financial or personal success.
- Be placed before any audience where most of the audience is ordinarily expected to be below the legal age to participate in gambling activity.
- Imply or suggest any illegal activity of any kind.

Strategy 5: Limit High-Risk Financial Transactions

5.1 Financial Transactions

Licensees shall develop policies that ensure all legislative requirements relating to check cashing, payment of winnings and financial transactions are implemented.

5.2 House Credit

Gambling on borrowed money is considered a high-risk practice that necessitates consumer protections. However, casino house credit may be offered as a customer service to qualified individuals as a cashless means to gamble. To assure that risks associated with issuing house credit are minimized; the following safeguards shall be adopted by licensees:

- Credit worthiness of an applicant must be verified using MGC approved procedures.
- House credit will only be extended to patrons who qualify for a minimum threshold and will not exceed the amount requested by the patron.
- Credit applications must include an MGC approved problem gambling self-assessment.
- Credit officers must obtain verbal verification from credit applicants that they are comfortable losing up to the amount of credit requested and granted.
- House credit will not be offered to persons who self-identify as a problem gambler, place themselves on a voluntary credit suspension list, or is a recipient of public assistance.
- Increases in credit will be restricted by frequency and amount.
- Credit requests, including extensions, may not be accepted from patrons who are visibly intoxicated or exhibiting behaviors suggestive of impaired mental competency.

5.3 Bank Card Transactions

Using credit cards to finance gambling results in high fees and interest rates charged by credit card institutions may lead to serious, unmanageable debt problems. For these reasons, bank card transactions may not be offered in the gaming area. ATM services shall not be located within 15 feet of gaming areas.

5.4 Check Cashing

Licensees shall implement a system of internal controls relative to the acceptance of checks presented by patrons for gaming purposes. These controls shall prohibit cashing third party checks other than bank issued cashier's checks or travelers checks.

Strategy 6: Engage the Community

Licensees shall actively engage with the community, which includes local problem gambling service organizations, treatment centers and/ or health professionals in order to understand how to better help individuals experiencing gambling problems access treatment and sustain recovery. Licensees shall:

- 6.1 Establish policies and practices to gather customer comments and to respond to customer complaints.
- 6.2 Develop relationships with relevant community organizations that provide support and information for individuals experiencing problems and their families.
- 6.3 Regularly engage with problem gambling and responsible gaming stakeholders formally and informally and include activities in reporting mechanisms to the MGC.
- 6.4 Provide opportunities for stakeholders to voice relevant concerns or questions. Licensees shall integrate the results of stakeholder engagement into their strategic-decision making processes and shall offer feedback to relevant stakeholders.
- 6.5 Designate space within the casino property for a Responsible Gaming Information Center (RGIC). Within the RGIC, designate an office for private meetings between patrons with concerns related to their gambling and counselors or other staff trained in crisis intervention, mental health triage, and/or the facilitation of a self-exclusion process.

Appendix A: Informed Decision Making³

Using the data and extensive analysis from the Insight 2010 project, the Ontario Responsible Gambling Council's Centre for the Advancement of Best Practices elaborated an Informed Decision Making (IDM) framework, designed to assist decision makers in their efforts to promote informed decisions among patrons and to reduce the risk that patrons will develop problems related to their gambling.

The resulting report identifies a framework consisting of 3 separate information programs aimed at 3 different types of gamblers:

- Casual Gamblers (occasional / new gamblers) need programs that enhance their gambling literacy – i.e., how gambling works, what the key safeguards and main risk factors are.
- Frequent Gamblers (at least once per month but not weekly) need a deeper understanding of how gambling works as well as the dispelling of common myths.
- Intensive Gamblers (weekly or more often) need to be informed of their play activity and offered self-assessment tools that draw attention to the consequences of their actions and the options available for help in addressing problems

If an individual moves from casual, to frequent, to intensive gambling, these changes have important implications for information objectives, content and delivery. The objective for the casual gambler is to promote basic gambling literacy, for the frequent gambler self-awareness of one's gambling and for the intensive gambler to provide cautionary information and to raise awareness of options to reduce risk. The way information is delivered also changes with increased level of risk, moving from population-based strategies with more broad-based messaging, to more personalized delivery methods using individualized communications between patrons and staff members. The more personalized and targeted delivery reflects the more critical need for exposure to the information.

| | | | |
|------------------------|--------------------------------------|--------------------------------|-------------------------------------|
| TARGET AUDIENCE | Casual | Frequent | Intensive |
| OBJECTIVE | Gambling literacy | Self-awareness | Options |
| CONTENT | How gambling works Key safeguards | Deeper understanding Skills | Cautionary information Help Options |
| INFORMATION TECHNOLOGY | Population-based → Personalized | | |

³ Excerpts from: Responsible Gaming Council, Centre for the Advancement of Best Practices, INSIGHT, Informed Decision Making, 2010. The full report is available at: <http://www.responsiblegambling.org/docs/default-source/research-reports/informed-decision-making.pdf?sfvrsn=17>

Appendix B: Display of Responsible Gaming Material Guidelines

DISPLAY OF RESPONSIBLE GAMING MATERIAL GUIDELINES

Responsible gaming signage and information must be available at each location where gambling is taking place, must prominently publicize the Massachusetts Problem Gambling Helpline and promote the use of responsible gaming and state subsidized problem gambling treatment and counselling services. Consideration in messaging should be given to ensure people from linguistically diverse backgrounds have access to messaging.

Method:

- Responsible gaming posters must be displayed in full view of gambling customers, as well as in staff areas as applicable.
- Video systems, where applicable, must periodically display the relevant information with regard to the helpline.
- Responsible gaming and problem gambling treatment messaging must be available in guestrooms, lounges, and other public areas.
- Responsible gaming and problem gambling treatment messaging must be available at the gambling point of sale, being casino tables, racing cashier desks, and so on.
- Problem gambling helpline details must appear on all gaming machines, including slot machines, either on a sticker or displayed on the machine screen.
- Responsible gaming and problem gambling treatment messaging must be available at all cash desks, information desks, and club desks, and anywhere else at a gambling establishment where guests and customers are to be found.
- ATM machines proximal to gaming areas should have problem gambling helpline signage affixed to the machines, periodic on-screen responsible gaming messages, and problem gambling assistance information printed on each transaction receipt.

Appendix C: Advertising and Marketing Underage Guidelines

ADVERTISING AND MARKETING GUIDELINES TO PROTECT YOUTH

- Casino advertising and marketing materials directed to or intended to appeal to persons below the legal age are prohibited.
- Casino advertising and marketing materials should not contain cartoon figures, symbols, celebrity/entertainer endorsements, and/or language designed to appeal specifically to children and minors.
- Gambling activities should not be advertised or promoted by anyone who is or appears to be below the legal age to participate in gambling activity. Models or actors should appear to be 25 years of age or older.
- Gambling should not be advertised or promoted in media specifically oriented to children and/or minors.
- Casino advertising and marketing should not be placed in media where most of the audience is reasonably expected to be below the legal age to participate in gambling activity.
- Where reasonably possible, casino advertising and marketing materials should not appear adjacent to or in close proximity to comics or other youth features.
- Gambling activities should not be advertised to or promoted at any U.S. venue where most of the audience is normally expected to be below the legal age to participate in gambling activity.
- Unless in response to a charitable request, clothing, toys, games, or other materials that appeal primarily to children or minors should not be given away at events where most of the audience is reasonably expected to be below the legal age to participate in gambling activity.
- Participation in gambling activities should not be promoted on college or university campuses or in college or university publications. Gambling activities should not be advertised or promoted on billboards or other outdoor displays that are adjacent to schools or other primarily youth-oriented locales.





MASSACHUSETTS GAMING COMMISSION

MEMORANDUM

To: Chairman Crosby and Members of the Gaming Commission
From: Mark Vander Linden, Director of Research and Problem Gambling
Date: August 7, 2014
Re: Proposed amendment to contract with Problem Gambling Solutions, Inc.

The Massachusetts Gaming Commission currently holds a consulting agreement with Problem Gambling Solutions, Inc. The initial agreement was executed in September, 2013 as a “rate contract” not to exceed \$10,000 and expire on June 30, 2014. In April, 2014 the agreement was amended and the amount increased to \$22,000 and term extended to June 30, 2015. The Scope of Services (Section 3) are under the direction of the MGC Director of Research and Problem Gambling and includes the following:

- Assist in the establishment of a MGC Responsible Gaming Framework for the Commission,
- Evaluate Section 5 (Mitigation) of RFA-2 applications submitted for Category 2 Gaming license.
- Evaluate Section 5 (Mitigation) of RFA-2 applications submitted for Category 1 Gaming licenses.
- Participate in the Commission’s Forum on Responsible Gaming on October 28, 2013
- Participate in the Community Forum on Problem Gambling on April 11, 2014 in conjunction with the Annual Conference of the Massachusetts Council on Compulsive Gambling.

I propose to amend the contract with Problem Gambling Solutions, Inc. to increase the total budget amount from \$22,000 to \$55,000. The scope and term for the contract will remain unchanged.

Rational for the increase: The work to draft a Responsible Gaming Framework (RGF) for the MGC has been more time intensive than anticipated. Several of the proposed measures in the RGF required extensive research. Additionally, it was decided in May, 2014 to seek further comment and dialogue with MGC licensees, applicants and other stakeholders in a collaborative discussion of the framework through the Massachusetts Partnership for Responsible Gaming. Dr. Marotta assisted in preparing for these meetings as well as attending via conference call.



Massachusetts Gaming Commission

NO DOCS



*Charlestown Waterfront Coalition
P.O. Box 290533
Charlestown, Massachusetts 02129*

Maeve Valleley Bartlett
Secretary, EOEEA
100 Cambridge Street
Boston, MA 02108

Attention: Ann Canaday

EEA# 15060

August 5th, 2014

Dear Madam Secretary:

The Charlestown Waterfront Coalition is a community based advocacy organization whose mission is to protect and enhance the Charlestown waterfront including the Mystic and Charles Rivers and the Harbor shore. As such, we have been an important voice in many shoreline development projects. Over the years, as development opportunities in the Navy Yard were fulfilled and the build out completed, we turned our attention to the two rivers. CWC has participated for years in the Charles River Basin Advisory Committee meetings and is a charter member of EPA's Mystic River Watershed Steering Committee.

CWC has serious concerns about the Wynn Massachusetts FEIR, particularly in three areas: the absence of detailed plans for site remediation and construction management, and in regard to insufficient traffic analysis. Remediation and build activities will seriously impact Charlestown and air quality, noise and traffic flows, as excavation materials must go out of state, and supplies and materials must come in from disparate sources, many presumably on Rt. 93.

Furthermore, these activities will affect both the air and water quality on and in the Mystic River, a river long neglected by state and local environmental activism.

Wynn forecasts dredging 12,700 CY for the proposed marina, 1300 CY for the proposed living shoreline, and 2300 CY of clean fill coming in for the area below the MHW line. That work will all be done within 2/15 and 9/30 so as not to interfere with spawning fish.

Wynn's FEIR also anticipates digging to 35 to 40 feet for garage construction which has been expanded under the restaurant and retail section, requiring 765,000 CY to be removed for the entire construction. The FEIR indicates remediation will take 6 months, with additional contamination to be removed during construction of site roadways, landscape improvements and during the installation of new utilities. Clean up will cost between 14 and 20 million dollars, and will include a Licensed Site Professional.

Construction is to begin in late 2014, and be completed in 2017, predicted to be a 30-month duration. The waterfront work has no timeline, while the casino and resort are anticipated to take 16 to 24 months, with the possibility of on site material crushing. The Wynn team will notify local authorities and DEP if this crushing is required.

The FEIR states "Information regarding construction conditions and impact mitigation will be distributed to project site abutters," but not to Charlestown. In addition, there will be no public participation process under Chapter 21 E, unlike Charlestown's experience with Harborview Apartments' clean up of Parcel 4, and Spaulding Rehabilitation Hospital's clean up of Parcel 6, both in the Charlestown Navy Yard. Spaulding's clean up also took 6 months, requiring constant truck traffic on Chelsea Street. CWC believes the absence of a public process is a major shortcoming in the FEIR and illustrates graphically Wynn's failure to recognize his responsibility to this surrounding community.

Curiously, the FEIR recognizes that increased noise of approximately 35 decibels during construction will impact Charlestown, but the FEIR has no acknowledgement that the prevailing wind in the area is out of the northwest, and that particulates will be air born over the Mystic River and into Charlestown, affecting air and water quality. In addition, there is no discussion on trucking or Mystic River based barge routes to be taken to transport soil from the site to accredited disposal sites.

The FEIR storm water quality analysis states only "storm water runoff will be carefully managed during construction in accordance with state and federal regulations." There is no discussion of how the dredging for the marina or the remediation removal will impact Mystic River water quality.

And finally, the air quality analysis comes up equally short. The FEIR states, "the air quality impacts from the operation of the project subsequent to completion of construction will be limited to operational emissions" for generating heat and hot water. It states further that "increased vehicular traffic volume will slightly increase regional emissions of motor pollutants" due to project mitigation of impacts with improved signalization and an aggressive TDM program. Any analysis of remediation and construction impact on air quality is missing.

CWC considers the absence of air and water quality analysis on remediation strategies and construction management to be a critical shortcoming. Charlestown

and the river are south east of the Monsanto site and with the prevailing wind coming out of the northwest, will be the recipient of air born releases. CWC requests that the Secretary withhold the award of a certificate, and require Wynn to submit a supplemental EIR with a detailed analysis of air and water quality during marina & shore restoration activities, and remediation and construction.

In summary, we urge the Secretary to require a Supplemental EIR to address the shortcomings outlined above. The current submission's inadequacy is substantial, and an affront to our common sense.

Sincerely,

Pamela Daly

Maureen Donovan

Guy Maccarone

Ivey St John

Bruce Swanton

Paul Sullivan

Jean Tochterman

Jean Wilson

CWC Steering Committee

CC

John Ziemba, Massachusetts Gaming Commission



Commissioner James McHugh
Commissioner Gayle Cameron
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga
Commissioner Rick Day, Executive Director
Ombudsman John Ziemba

Dear Madam & Sirs:

August 4th, 2014

During the last three years, RCIC members have been active participants in the Boston Transportation Department's five year Redesign Study of Rutherford Avenue and Sullivan Square. When Congressman Capuano halted the Redesign implementation because of his concern that enough Charlestown residents were informed about the Redesign Plan, RCIC members coordinated and lead an 18 month effort to educate a broad spectrum of Charlestown residents about the details of the Plan in small, geographically dispersed meetings.

In the end, the Congressman agreed with those involved that, indeed, many in Charlestown were informed and there were significant numbers in favor of the Plan. In fact, 600 Charlestown residents signed on to support the Redesign Plan on the RCIC website, and on Monday, July 14th those six hundred names were given to Mayor Walsh. Of those original 600 from December, 2012, 400 emails remain active and are regularly used to update on the Redesign status, and issues resulting from the Wynn Massachusetts license application.

Sullivan Square's seriously overburdened, dangerous and deteriorated condition necessitated a rebuild of the Sullivan Square interchange. Hence the BTM lead community process to develop a new design not only for Sullivan Square, but including all of Rutherford Avenue. Now that Redesign is threatened by the Wynn Massachusetts proposal for a resort casino license award.

RCIC members were anticipating a more forthcoming FEIR from Wynn, one with considerably more reporting on their marketing program and trip generation numbers. Their absence makes evaluation of Wynn proposals very frustrating. As an example, Wynn's FEIR Figures 4-140 and 4-141 for year 2023 show just fewer than 1000 incremental vehicle trips on Friday afternoons between 4:30 and 6:00PM moving through Sullivan Square's two-lane corner where Cambridge Street, Maffa Way and Rutherford Avenue converge. The FEIR details these numbers as typical of evening rush hour conditions.

We are deeply concerned that Wynn's traffic analysis of the current SS configuration is superficial, as it does not provide data on the Wynn traffic entering SS from Main, Bunker Hill and Medford Streets. Traffic, like water, takes the easiest route, and Wynn traffic will search for alternative routes through Charlestown.

The Sullivan Square circle at the Cambridge Street, Maffa Way and Rutherford merge currently operates at near LOS F. The thousand additional vehicles, including those not accounted for in the Wynn analysis, will exacerbate existing conditions, reconstruction of Cambridge Street, new traffic lights and signalization notwithstanding.

The Wynn FEIR proposes the modest vehicle count at Sullivan Square by reductions resulting from a combination of water transportation, premium park and ride busses, an aggressive shuttle program, and regular use of Orange Line and MBTA bus route resources. Wynn promises a well-managed Transportation Demand Management Program, and regular monitoring of its effectiveness. However, the FEIR lacks enough marketing and trip generation data to evaluate whether Wynn's projected 29% off load is realistic.

Although currently on hold, the Redesign Plan is innovative and visionary, and could handle the additional Wynn traffic, including anything not calculated in their FEIR exhibits. This is presuming Wynn vehicle generation numbers are indeed realized through an effective and active TDM Program. Should the numbers prove understated,

or if the TDM Program is not implemented, marketed or managed well, it will be imperative to build to the Redesign Plan in order to create a roadway system which can provide travelers with alternative pathways, and thus disperse vehicles to disparate routes around SS pressure points.

The FEIR promises “the proponent will continue to work with the City of Boston to help advance a long term vision for Sullivan Square and Rutherford Avenue that will improve safety and functionality.” The long-term vision is in place and it is the RA/SS Redesign. The reconstruction of Rutherford Avenue and Sullivan Square will assure Charlestown of its long-term goal of a safe, family oriented neighborhood without artificial barriers created by traffic queues and congestion.

Wynn’s representative has testified before the Commission, applauding Wynn’s financial resources and financing plan. The Wynn Resort Casino is over three million square feet, and anticipates a very successful and profitable enterprise. Other casino proponents have agreed to sufficient surrounding community agreements with other communities, and we believe Wynn should be held to the same standard.

We urge the Commission to require Wynn Massachusetts to provide the equivalent to the City to support the full reconstruction of Sullivan Square and the narrowing of Rutherford Avenue. The Rutherford Avenue/Sullivan Square Redesign Plan, once implemented, perhaps with minor modifications, will handle Wynn’s incremental traffic and allow for an exciting redevelopment of Sullivan Square into a mixed-use neighborhood based on the Community’s visioning effort conducted by the BRA in 2013. However, we also urge the Commission to put in place oversight measures to insure long-term accountability for the traffic impact on Charlestown and other surrounding communities.

We urge the Commission to require Wynn to fund a major portion of the Redesign construction and allow Charlestown to enhance its safety and environment, while safely accommodating the Wynn impact.

We thank you for your careful consideration.

Sincerely,

Nathan Blanchet Gerald Robbins Karen Dean-Smith Carl Blesius William Lamb
Jay Konieczka Nicolas Kraman & Ivey St John

Cc

Mayor Marty Walsh, City of Boston
State Representative Dan Ryan
City Councilor Sal LaMattina
Mauve Valley Bartlett, MEPA
Marc Draisen, MAPC
Anthony Gallager, City of Boston
Vineet Gupta, City of Boston
Allison Felix, MAPC



Design Review

John Benson
Peggy Bradley
Jack Glassman
Dan Kovacevic
Nick Kraman
Bill Lamb
Mark Spaulding
Annette Tecce

Charlestown Preservation Society Design Review Committee
P. O. Box 290201
Charlestown, MA 02129

Maeve Vallely Bartlett, Secretary, EOEEA
Attn: MEPA Office
100 Cambridge Street, Suite 900
Boston, MA 02114

James McHugh, Commissioner
Gayle Cameron, Commissioner
Bruce Stebbins, Commissioner
Enrique Zuniga, Commissioner
Rick Day, Executive Director

Massachusetts Gaming Commission
84 State Street, 10th Floor
Boston MA 02109

Re: EOEEA # 15060 - Wynn Everett FEIR

4 August 2014

COMMENTS ON THE WYNN EVERETT, JUNE 30, 2014 FEIR

Dear Secretary and Commissioners:

The Charlestown Preservation Society Design Review Committee (CPSDRC) appreciates this opportunity to comment on the Wynn Everett, June 30 2014 FEIR.

We believe that the traffic plans presented in the FEIR for the mitigated I-93N off-ramp and Cambridge Street/Maffa Way intersections leading into the existing badly functioning Sullivan Square traffic rotary present an inadequate traffic solution for Rutherford Avenue/Sullivan Square for the following reasons:

- The 2014 FEIR assumes that the long planned roadway reconfiguration designed to serve the development of a new pedestrian friendly smart growth community in Sullivan Square will not be implemented by the time the Wynn casino is opened. In accordance with an EOEEA request, we have been told, the drawings and analysis in the earlier DEIR that included the Sullivan Square redesign were dropped from the FEIR. The FEIR now retains the existing traffic rotary in all its traffic projections, a completely unsatisfactory solution to Charlestown's traffic problems.

CPSDRC comments on EOEEA #15060

- In response to a comment by the Charlestown Neighborhood Council, the FEIR (page 15-139) says that “The proponent is committed to working with the neighborhood and the City of Boston to mitigate potential traffic impacts and will participate in the development of plans to improve Sullivan Square”. If the proponent is truly committed to this, why has he altered the DEIR so that the FEIR makes no recognition of the plans for the Sullivan Square area redesign which have been honed by the City and the neighborhood in a multi-year process? On the contrary, this change indicates that this statement by the proponent is not in good faith and that its expressed commitment cannot be expected to be sincere or effective.

We ask that the EOEEA decide that this Final Environmental Impact Report is inadequate for the licensing of the Wynn Everett Casino.

Sincerely,

William P. Cal

Rutherford Avenue/Sullivan Square Advocacy Group
P.O. Box 029533
Charlestown, Massachusetts

Commissioner James McHugh
Commissioner Gayle Cameron
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga
Commissioner Rick Day, Executive Director
Ombudsman John Ziemba

Dear Madam & Sirs:

August 4th, 2014

The RA/SS Advocacy Group of 53 members is an ad hoc assemblage which first gathered in December, 2013 with the Menino administration's legal staff to gain an understanding of the City's activities in regard to the proposed casinos, and to improve the communication flow between the City and the Charlestown community. Since its first meeting, the RA/SS Advocacy Group steering committee has scheduled additional meetings, provided updates, reports and information on casino issues.

At the June Commission hearing in Everett, the RA/SS Group expressed frustration regarding limited analysis and information from the Wynn Massachusetts team. Despite five separate meetings, Charlestown residents and businesses lack comprehensive information about the full traffic impact on all of Charlestown's streets, both shortly after opening, and in the longer term. We are particularly surprised and disappointed that Wynn's FEIR does not present analysis on traffic impact on the RA/SS Redesign, and does not recognize that casino traffic will seek out alternative routes on Main, Bunker Hill, Medford and Chelsea Streets.

In addition, the Wynn FEIR does not provide a work around for the current failing corner at SS where Cambridge Street, Maffa Way, and Rutherford Avenue merge and meet Main Street. That corner at peak times is presently close to an LOS F, and the proposed short-term mitigation by Wynn does not adequately document how that corner can be improved or modified. Moreover, the Transportation Demand Management Program proposes a 29% reduction in vehicle trips. Yet, the FEIR provides no detailed mechanism to evaluate whether or not Wynn achieves its transportation demand management objectives.

Therefore, the RA/SS Advocacy Group urges the Commission to require Wynn:

To analyze the casino impacts as if the RA/SS Redesign plan were in place

To make a major contribution to the construction of the RA/SS Redesign

To considerably strengthen the monitoring and enforcement of the Transportation Demand Management Program, to include the requirement to engage annually a consultant to provide a comprehensive and thorough analysis of Wynn's marketing strategy and its likely impact on trip generation, including projected modal split among casino, hotel, and retail, and to evaluate whether or not Wynn is meeting its objectives.

To make the examination results public, and in the event that objectives are not met, Wynn should be required to provide additional funding for the RA/SS Redesign. Any modifications to that Redesign must be carried out in concert with Boston Transportation and the Charlestown community.

The Advocacy Group was formed to protect Charlestown, and to maintain a safe and livable environment for residents and businesses. The community has spent the better part of ten years creating a blueprint to reclaim Rutherford Avenue and Sullivan Square as community streets from their roles as regional transportation corridors. The Group has consistently worked to protect Charlestown, and to safeguard family safety and the quality of our environment from the creation of traffic barriers and congestion.

We urge the Commission to hold Wynn Massachusetts accountable for the recognition of and necessary mitigation for its impact and to adequately fund an effective reconstruction of Rutherford Avenue and Sullivan Square.

Thank you for your consideration,

Evelyn Addante

William Lamb
Jennifer Rossi

Elizabeth Levin
Ivey St John

Marc Older

Cc

Mayor Marty Walsh, City of Boston
State Representative Dan Ryan
City Councilor Sal LaMattina
Maive Valley Bartlett, MEPA
Marc Draisen, MAPC
Anthony Gallager, City of Boston
Vineet Gupta, City of Boston
Allison Felix, MAPC

Evelyn Y. Addante
54 Baldwin St.
Charlestown, MA 02129
617 242-5335

August 4, 2014

Executive Director Rick Day
Commissioner Gayle Cameron
Commissioner James McHugh
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga
Ombudsman John Ziemba

Re: Wynn Everett Casino

Dear Commissioners:

I have been living on Baldwin Street in Charlestown for 22 years and travel through Sullivan Square on a daily basis. The Sullivan Square rotary is one of only two critical gateways to the Charlestown community, essentially making the community an 'island'. On an average week, the access roads of Rutherford Ave., Main St., and Bunker Hill St. leading to Sullivan Sq. from the community are routinely congested with vehicles and queues that severely limit residents mobility. The Wynn casino development will increase the number of vehicles using Sullivan Sq. and add to an already congested roadway system.

As stated in the Wynn Everett FEIR, EOEEA #15060, the proponent has committed to a transportation demand management program with the goal of 29% of casino patron trips by alternative transportation modes in order to reduce the impact of traffic on local roads serving the Charlestown community. This goal is optimistic and if it is not achieved there will be significant impacts on the operation of the Sullivan Sq. rotary and the mobility of Charlestown residents. In the FEIR discussion of the data collection program (4.17.1), there is no detail about how the mode share goal will be measured except to say that it will be measured annually (page 4-133). The following points outline a methodology for ensuring the stated goal is measured at appropriate intervals and that traffic mitigation efforts are supported by the proponent should these goals not be met.

1. The transportation demand management (TDM) program proposed by the Wynn casino project has a target goal of no more than 71% patron trips by automobile/taxi and 29% of patron trips by alternative transportation. This goal should be achieved by the end of three years of casino operation.
2. Measurement of the mode choices of casino patrons should be completed by a survey to be conducted by an independent market research company. The minimum sample size should be such that the mode choices of average daily and peak daily casino patrons (both gaming and non-gaming) can be measured with reasonable accuracy. Additional data to be collected via this survey should include the starting point of the local access trip of casino patrons at the zip code

Evelyn Y. Addante
54 Baldwin St.
Charlestown, MA 02129
617 242-5335

level of aggregation, residence location of casino patrons, demographic data (age, gender, education, auto ownership, income, etc.), and other such information needed for transportation management planning purposes.

3. The casino patron survey proposed in this letter should be conducted at a minimum of every 3 years, the first of which will be completed and published within 6 months of the 3 year milestone of the casino's operation. This survey is in addition to the annual travel mode measurement proposed in the FEIR, page 4-133.

4. The results will be published and the data made publicly available from the casino web site.

5. If the stated goal of 29% alternative transportation is not met at the end of three years, then the proponent will provide a significant contribution towards Sullivan Sq. infrastructure improvements to mitigate the increased traffic congestion caused by the operation of the casino.

6. Thereafter, for each year the alternative transportation goal is not met, the proponent will provide the city with the additional funds necessary for policing, and other traffic mitigation elements to ease the impact of congestion on Charlestown until such time longer term improvements to Sullivan Sq. can be completed. The congestion payment will decrease in proportion to the increase in advancement towards the 29% alternative transportation goal.

Thank you for the opportunity to present this information to you.

Sincerely,



Evelyn Y. Addante

From: ML Older <marcolder@gmail.com>
Sent: Sunday, August 03, 2014 5:25 AM
To: Ziemba, John S (MGC)
Cc: Ivey St John; Elizabeth Levin
Subject: Re: Meeting with Massachusetts Gaming Commission Monday, August 4

Dear Mr. Ziemba,

Thank you for your invitation. Unfortunately, I will not be in Charlestown for the meeting on the 4th.

I would like the Commission to set as conditions:

1. That traffic models be run with the inclusion of an 8 minute interruption to simulate one or more boats requiring the Alford St. bridge to raise and lower.

Winn's transportation consultants will say that the bridge has and can restrict opening during rush hour, but casino and "ordinary" rush hours do not necessarily coincide. Traffic circles, such as Sullivan Square, are well known for failing when fully congested, as I believe could happen following a bridge opening.

2. That the traffic models be run with either a lane redesign or a traffic light that allows traffic to flow from Main St. Charlestown into Sullivan Square. Traffic improvements proposed by the Casino to move more vehicles from I-93 Northbound into Sullivan Square will cause a continuous flow of traffic past the Main St. entrance to the circle. For most of the day vehicles using this exit must enter the traffic circle illegally because the traffic from I-93, Washington St. and Rutherford Ave. already in the circle have the legal right of way.

This illegal move is required today and would get worse as the traffic flow is improved by Casino funded improvements. In my opinion, Charlestown residents and businesses must have a legal way of exiting their own community.

Thank you.

Marc Older
marcolder@gmail.com

LIZ LEVIN
& COMPANY MANAGEMENT CONSULTING

August 3, 2014

Gayle Cameron, Commissioner
James McHugh, Commissioner
Bruce Stebbins, Commissioner
Enrique Zuniga, Commissioner
Rick Day, Executive Director

Massachusetts Gaming Commission
84 State Street, 10th Floor
Boston MA 02109

Re: Wynn Casino

Dear Gaming Commission Members,

I am a Charlestown Resident who lives on Bunker Hill St. near Sullivan Square. My Charlestown neighbors and I have devoted countless volunteer hours to help the City of Boston develop the Rutherford Ave./Sullivan Square Redesign Plan (Redesign Plan). The Redesign Plan improves traffic flow and makes our community more transit, pedestrian and bicycle friendly. When the Redesign Plan is built, my neighbors and I will finally be able to walk safely to the Orange Line and to drive safely through Sullivan Square without fear of an accident.

I appreciate that the Wynn proposal will create jobs, generate tax revenues, remediate a badly contaminated site and activate the Mystic River waterfront with water and open spaces uses. I also appreciate the work that the Wynn Casino has done in developing a more Sustainable Transportation Plan, particularly the Premium Park and Ride Service and the Ferry system. There are still, however, unanswered questions about the transportation impact of the casino on our Charlestown neighborhood and more mitigation is required. Here is what I see as the "common sense" mitigation that should be a condition of any Casino License issued to Wynn Casino

Specifically it is common sense that Wynn Casino:

1) Fund the Sullivan Square Phase of the Redesign Plan.

The FEIR shows the transportation impact of the Wynn Casino assuming that the Sullivan Square Rotary continues to be in place in 2023. The FEIR was silent on the impact of the Wynn Casino on the Redesign Plan except to say that the transportation mitigation improvements proposed by Wynn Casino would dovetail with the City's future roadway options for the area. We all know that today's Sullivan Square rotary no longer works. It doesn't work for the traffic; it doesn't

work for safe access to the MBTA and it doesn't work for encouraging new development at Sullivan Square. **Therefore, mitigating an antiquated traffic system that doesn't work makes no sense!!** The DEIR wisely assumed that in the "No Build Condition" that the approved Redesign Plan would be in place. This assumption should have been carried forward in the FEIR, but wasn't. Wynn Casino should now be asked to prepare and submit to MEPA and GMC the detailed traffic analyses for the project assuming the Redesign Plan is in place. If selected for a Casino license, the Wynn Casino license conditions should require that Wynn Casino fund the Sullivan Square Phase of the Redesign Design improvements including changes to the plan as result of the Casino. It should also require that the Sullivan Square street network should be built as soon as possible. The Rutherford Ave. phase of the Redesign Plan could follow subsequently and be more traditionally funded and/or funded by capture of some of the increased tax revenues at Sullivan Square made possible by the new street network.

It should be noted that the analyses of the Redesign Plan to be submitted to MEPA and MGC should cover not only the intersections in the FEIR but those on the south side of Sullivan Square that were modeled in the DEIR. The intersection with Main Street has been particularly troublesome for the community.

2) Reduce the Parking Garage to 2900 parking spaces.

The FEIR Wynn Casino program now includes a robust transportation demand management program. That program reduces trip generation, which is excellent. However, the FEIR Wynn Casino program now also includes a far larger garage than previously (3,700 spaces versus 2,900 spaces). This sizeable increase is most likely not warranted. As Cambridge MA has shown, smaller garages are an integral element of transportation demand management programs. My suggestion is that GMC license conditions include the original garage size of 2,900 and require that any subsequent increase in the size of the garage be done only after the project is operational and the traffic works well.

3) Strengthen the Transportation Monitoring Program and Enforcement

The FEIR transportation mitigation includes a transportation coordinator, the setting of annual transportation goals, an annual monitoring program and annual public report on the goals and the monitoring. The dollars devoted to this effort are \$30,000 annually. The program elements and costs should be strengthened. The labor and data collection elements of the program particularly should be strengthened to make sure that the transportation coordinator is a professional and that critical traffic, pedestrian and bicycle count information as well as mode share information are adequately captured and shared with the community. Funds should also be available for enforcement by the City and State. In addition, there should be an option to extend the monitoring program for an additional five years if the traffic goals aren't met and/or traffic conditions are worse than predicted.

4) Fund a Transit Study of the Orange Line.

The Orange Line is a workhorse of the MBTA system. The MBTA is buying new Orange Line cars. With these new cars there is an opportunity to make power and track improvements that collectively would make the customer trips more comfortable and convenient all along the line. The study proposed here would contribute to moving forward important Orange Line improvements. It would help Wynn Casino's employees and customers who may choose to ride the Orange Line as well as residents of Charlestown, Everett, Somerville, Malden and Medford.

5) Fund a Visioning Program for Charlestown.

Charlestown residents do not have an overall master plan for future development along the south side of Rutherford Ave., the entire Sullivan Square and Mystic waterfront area. Many of us have been requesting that the BRA undertake a community visioning effort for that purpose. It would be appropriate for Wynn Casino to fund that study since Wynn Casino will impact development potential in the area. The study will help the community have a unified vision and provide the appropriate land use and zoning controls to attract development it wants and to discourage development it doesn't want.

6) Fund Public Engagement in the Construction & Remediation Management Program
Remediation & Construction of the Wynn Casino will be a major effort. There should be a well thought out public engagement program. Of particular interest to Charlestown residents will be traffic and public safety issues associated with construction traffic, closure of streets and site remediation.

We all have an interest in making Sullivan Square work.

- The City of Boston owns valuable property in the area that could be developed.
- The MBTA has an Intermodal Orange Line Station and Bus Station as well as the Charlestown Maintenance/Repair Facility as well as other property.
- Route 99 is a State Road.
- The residents and workers of Charlestown and Everett drive regularly through Sullivan Square and are often riders of the Orange Line and buses at that location.
- Wynn Casino needs good access through Sullivan Square for customers and employees.

We have watched this area languish for many years. It is our collective responsibility to fix it. The license conditions suggested here will assure that if the Wynn Casino is built we aren't just putting "lipstick on the pig of Sullivan Square" but are establishing a street network and neighborhood for the future.

Thank you for your leadership.

Sincerely,

Elizabeth K. Levin
Elizabeth Levin

Cc:

Mayor Marty Walsh, City of Boston
State Representative Dan Ryan
City Councilor Ayanna Pressley
City Councilor Sal LaMattina
Richard Davey, Secretary of Transportation
Beverly Scott, CEO/General Manager MBTA
John Ziemba, Gambling Commission
Mauve Valley Bartlett, MEPA
Marc Draisen, MAPC
Anthony Gallagher, City of Boston
Vineet Gupta, City of Boston
Allison Felix, MAPC
Keri Pyke, HSH
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MEMORANDUM

TO: James McHugh, Commissioner
Gayle Cameron, Commissioner
Bruce Stebbins, Commissioner
Enrique Zuniga, Commissioner

FROM: Catherine Blue, General Counsel
Todd Grossman, Deputy General Counsel

RE: Waiver of surrounding community designation

DATE: August 4, 2014

This memorandum addresses the effect that maintaining the City of Boston's ("City") status as a surrounding community would have on the pending Region A licensing proceedings in light of the July 10, 2014 letter from the City to the Commission advising that it was declining to participate in the arbitration process with Wynn MA, LLC ("Wynn"). Upon review, it is our opinion that if the City is allowed to maintain its surrounding community status and the Commission awards the Region A license to Wynn the award would be subject to a viable legal challenge.

I. Governing statutes

The law sets out a number of conditions precedent to making an applicant eligible to receive a gaming license. See G.L. c.23K, §15. The provision applicable in the present matter is G.L. c.23K, §15(9) which provides:

No applicant shall be eligible to receive a gaming license unless the applicant meets the following criteria and clearly states as part of an application that the applicant shall:

(9) provide to the commission signed agreements between the surrounding communities and the applicant setting forth the conditions to have a gaming establishment located in proximity to the surrounding communities and documentation of public outreach to those surrounding communities; provided, however, that the agreement shall include a community impact fee for each surrounding community and all stipulations of responsibilities between each surrounding community and the applicant, including stipulations of known impacts from the development and operation of a gaming establishment;

If the City maintains its surrounding community designation a strong argument can be made that Wynn, which will not have entered into a surrounding community agreement with the City, would not be eligible to receive a gaming license in accordance with G.L. c.23K, §15(9). Similarly, G.L. c. 23K, §17(a) provides with reference to surrounding community agreements that “no action shall be taken on its application prior to the execution of that agreement.” Accordingly, an application is not complete until all surrounding community agreements are executed, and the Commission cannot take action on an incomplete application. In an effort to prevent a municipality from leveraging these two provisions into use as a *de facto* veto power over a particular application, the last sentence of §17(a) was included. That provision will be discussed further below. As things presently stand, however, if the City were to be allowed to maintain its surrounding community status, and if Wynn were to be awarded the license, a challenge could be advanced on the grounds that the Commission did not follow G.L. c.23K, §§ 15(9) and 17(a).¹

An argument can be made that if the Commission imposes a community impact fee and other mitigation measures as conditions on a gaming license issued to Wynn that this could be the equivalent of a surrounding community agreement and would thus satisfy G.L. c.23K, §§15(9) and 17(a). This argument, even when factoring in the discretion afforded the Commission to interpret its own statute, would be far weaker on its face than the argument described above. Further, the argument is undercut by the Commission’s process for determining surrounding community agreements when the parties cannot reach an agreement on their own. In accordance with G.L. c.23K, §17(a) “[n]otwithstanding clause (9) of said section 15, in the event that an applicant and a surrounding community cannot reach an agreement within the 30-day period, the commission shall have established protocols and procedures for ensuring the conclusion of a negotiation of a fair and reasonable agreement between an applicant and a surrounding community in order to allow the applicant to submit a timely and complete application.” (emphasis added). The Commission established such protocols and procedures in accordance with the statute by promulgating 205 CMR 125.01(6). The regulations do not suggest that a surrounding community agreement could be conferred upon a party without their participation. Instead, the regulations simply serve to provide a method to break a stalemate between two participating parties. Additionally, by mandating that the parties engage in an arbitration process to break a deadlock in negotiations the regulations prevent a municipality from exercising a *de facto* veto over the applicant by refusing to negotiate and effectively blocking the applicant from satisfying G.L. c.23K, §15(9).

¹ Any defense asserted by the Commission grounded in G.L. c.23K, §17(g) would likely be unsuccessful. The challenge in this scenario would not be premised on the Commission’s denial of a gaming license or even based on the merits of its decision. Instead, it would be based on the Commission’s failure to follow a material statutory provision in awarding a license. (G.L. c.23K, §17(g) provides: “The commission shall have full discretion as to whether to issue a license. Applicants shall have no legal right or privilege to a gaming license and shall not be entitled to any further review if denied by the commission.”)

In accordance with the last sentence of G.L. c.23K, §17(a) the Commission created a mechanism so that once the process is followed, as a matter of law there is a fair and reasonable agreement between the parties for purposes of §15(9).² In recognition of the undesirability of allowing a surrounding community to effectively veto an application, the statute carves out an exemption, via the *notwithstanding* language, from the requirement that a signed surrounding community agreement be submitted by allowing for an agreement reached as part of the Commission's process to satisfy the requirement that surrounding community agreements be submitted to the Commission in order for an application to be deemed complete. In promulgating the regulations governing the process to reach a surrounding community agreement, the Commission did not create, nor does the statute allow for, a mechanism for creating an agreement in the event that a party does not participate in the process at all. Imposition of an impact fee and any mitigation conditions imposed by the Commission were intended to be license conditions, not a substitute for a surrounding community agreement. Because an applicant could never comply with G.L. c.23K, §15(9) if a surrounding community refused to participate in the process, to allow a municipality to maintain its surrounding community status and not participate in the process would be to grant it the *de facto* veto power that G.L. c.23K, §17(a) and 205 CMR 125.01(6) were designed to prevent.

If the Commission were to deem the City to have waived its surrounding community designation, the City could advance an argument that it is entitled to the designation as a matter of law under the definition of "surrounding communities" contained in G.L. c.23K, §2. The definition states that 'surrounding communities' are "municipalities in proximity to a host community which the commission determines experience or are likely to experience impacts from the development or operation of a gaming establishment, including municipalities from which the transportation infrastructure provides ready access to an existing or proposed gaming establishment." A finding that the City is entitled to the designation, though, would lead to a standoff between §17(a) and §2, an illogical result. That is, the last sentence of §17(a) would be rendered meaningless as there would be no way to prevent a surrounding community from exercising a *de facto* veto over an applicant by entirely withdrawing from the surrounding community agreement process. Furthermore, by use of such phrases as "which the commission determines" in §2 and "the commission shall identify which communities shall be designated as the surrounding communities" in §17(a), in conjunction with the Commission's plenary powers (see G.L. c.23K, §1(10))("the power and authority granted to the commission shall be construed as broadly as necessary for the implementation,

² In an effort to guard against any assertion by a party that it was being forced to participate in this process and unwilling to accept the results, the Commission promulgated this provision: "[u]pon being designated a surrounding community by the commission in accordance with 205 CMR 125.01(1)(a) or 125.01(2) *the community and the applicant shall be bound by this procedure.*" 205 CMR 125.01(6)(a) (emphasis added).

administration and enforcement of this chapter.”)) it is clear that the Commission retains discretion to determine whether a municipality is a surrounding community. For these reasons, to the extent that there is tension between §17(a) and §2 in this situation, a more compelling argument can be made that §17(a) should take precedence.

II. History of the regulations

Use of the word ‘may’ in 205 CMR 125.01(6)(a)(2) was not intended to give the Commission an option as to whether it was required to remove a surrounding community designation in the event that a municipality refuses to participate in the negotiation process. The regulatory provision states:

In the event a community designated a surrounding community fails or refuses to participate in the arbitration process set forth in 205 CMR 125.01(6)(c), the commission *may* deem the community to have waived its designation as a surrounding community. Provided, however, the commission may nevertheless impose as a condition on any a Category 1 or 2 license a community impact fee and any requirements it deems appropriate requirements for mitigation of impacts from the development or operation of a licensed gaming establishment.

The word ‘may’ was used instead of ‘shall’ to provide the Commission with flexibility in resolving any conflict so as not to require an immediate finding that the designation had been waived. By using the word ‘may’ the Commission gave itself the ability to work through the situation without being forced to immediately deem the surrounding community status waived. The provision itself was designed to be the remedy in the event a designated surrounding community sought to exercise a *de facto* veto over an applicant by blocking its ability to submit a complete application in accordance with G.L. c.23K §§15(9) and 17(a). That is, the provision provides for a waiver of the surrounding community status and a tool to address mitigation issues.

III. Past practice

It is the Commission’s practice to leave open a host community public hearing conducted in accordance with G.L. c.23K, §17(c) and (d) and 205 CMR 118.05 until the surrounding community proceedings for all surrounding communities to the related applicant have been completed. The Commission has to take action on the application between 30 to 90 days from when it concludes a host community public hearing. See G.L. c.23K, §17(e). If it were to conclude the hearing prior to the completion of all surrounding community agreements a situation could arise in which it was statutorily required to take action, but could not because the applicant would not have submitted a completed application. To avoid that, the host community hearings were held open until the agreements were concluded. The alternative to

this approach would have been not to commence the host community public hearings until all surrounding community proceedings were complete. For a variety of reasons this approach was not pursued.

IV. Conclusion and recommendation

For the aforementioned reasons, deeming the City to have waived its surrounding community status is a necessary step under the gaming laws in order to preserve the unassailability of the ultimate licensing decision, should the license be awarded to Wynn. To be clear though, the Commission should of course continue to remain mindful of the proximity of the project to the City, recognize that the decision does not in any way affect the Commission's responsibility to ensure that known impacts on the City are satisfactorily mitigated, and make clear that interested representatives and citizens of the City will continue to have a voice before the Commission. Further, the Commission could make clear that it would welcome the City to either petition for reinstatement at a later date or would at any time be willing to accept an agreement between Wynn and the City to reinstate the status for purposes of negotiating an agreement.