



**MASSACHUSETTS GAMING COMMISSION  
PUBLIC MEETING #283**

December 5, 2019  
10:00 a.m.

**Massachusetts Gaming Commission  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, MA**



Massachusetts Gaming Commission

101 Federal Street, 12<sup>th</sup> Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | [www.massgaming.com](http://www.massgaming.com)



**NOTICE OF MEETING and AGENDA  
December 5, 2019**

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, December 5, 2019  
10:00 a.m.  
Massachusetts Gaming Commission  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, MA**

**PUBLIC MEETING - #283**

1. Call to order
2. Approval of Minutes
  - a. November 21, 2019 – **VOTE**
3. Finance Division – Derek Lennon, Chief Finance and Accounting Officer
  - a. Massachusetts Gaming Commission Vendor Diversity Update - VeraCloud
4. Administrative Update – Ed Bedrosian, Executive Director
  - a. General Update
  - b. Draft Region C RFI Questions
5. Legal Division – Todd Grossman, Interim General Counsel
  - a. Tribal Litigation and Federal Legislation Update – J. Stempeck, Staff Attorney
6. Investigations and Enforcement Bureau – Karen Wells, Director
  - a. MGM Springfield Qualifiers – **VOTE**
  - b. Modification of Vendor Independent Director Application – **VOTE**
7. Ombudsman – John Ziemba
  - a. Final Community Mitigation Fund Guidelines – **VOTE**
  - b. Horse Racing Legislation Update – A. Lightbown, Director of Racing
8. Workforce, Supplier and Diversity Development – Jill Griffin, Director
  - a. Workforce Development RFR – Small Business Technical Assistance



**Massachusetts Gaming Commission**

9. Racing Division – Dr. Alex Lightbown, Director

- a. Suffolk Downs Request for Approval of Simulcast Import Locations – **VOTE**
- b. Suffolk Downs Request for Approval of Account Wagering Providers – **VOTE**
- c. Suffolk Downs Request for Promotional Fund Consideration – C. Bourque, Financial Analyst – **VOTE**
- d. Suffolk Downs Request for Promotional Fund Reimbursement – C. Bourque, Financial Analyst – **VOTE**
- e. Plainridge Park Casino Request for Capital Improvement Fund Consideration – C. Bourque, Financial Analyst – **VOTE**

10. Commission Matters

- a. Massachusetts Gaming Commission’s 2019 Annual Report Review – Commissioner Zuniga

11. 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 “Massachusetts Gaming Commission Meeting” at [www.massgaming.com](http://www.massgaming.com) and emailed to: [regs@sec.state.ma.us](mailto:regs@sec.state.ma.us), [melissa.andrade@state.ma.us](mailto:melissa.andrade@state.ma.us).

12.02.19  
Date

Cathy Judd-Stein  
Cathy Judd-Stein, Chair

**Date Posted to Website:** December 2, 2019 at 5:00 p.m.



Massachusetts Gaming Commission

101 Federal Street, 12<sup>th</sup> Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | [www.massgaming.com](http://www.massgaming.com)



## Massachusetts Gaming Commission Meeting Minutes

**Date/Time:** November 21, 2019 – 10:00 a.m.

**Place:** Massachusetts Gaming Commission  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, MA 02110

**Present:** Chair Cathy Judd-Stein  
Commissioner Eileen O'Brien  
Commissioner Bruce Stebbins  
Commissioner Enrique Zuniga  
Commissioner Gayle Cameron

Time entries are linked to the  
corresponding section in the  
Commission meeting video.

### Call to Order

[See transcript](#) page 1

[10:04 a.m.](#) Chair Cathy Judd-Stein called to order public meeting #282 of the Massachusetts Gaming Commission.

### Approval of Minutes

See transcript page 1

[10:04 a.m.](#) *Commissioner Stebbins moved to approve the minutes from the Commission meeting of November 7, 2019, subject to correction for typographical errors and other nonmaterial matters. Commissioner Cameron seconded the motion. The motion passed unanimously.*

### Administrative Update

See transcript pages 1 – 3

### [10:05 a.m.](#) General Update

Ed Bedrosian highlighted recent meetings that have taken place recently that both staff and commissioners attended. He stated that the Gaming Policy Advisory



Committee (GPAC) meeting met on Tuesday, November 12<sup>th</sup> at the statehouse, where sports gambling, the status of Region C, and the Community Mitigation Fund were discussed. Also, the Public Health Trust Fund executive committee meeting took place on Monday, November 18<sup>th</sup> where there was a presentation on the Boston Chinatown study, as well as a gap analysis on gaming treatment services from the Cambridge Health Alliance, as well as a Department of Public Health (DPH) communications campaign presentation. Lastly, Mr. Bedrosian reported that both Local Community Mitigation Advisory Committee (LCMAC) meetings for Region A and Region B took place this week, where there were robust discussions about the guidelines for next year.

Mr. Bedrosian stated that the monthly [Gross Gaming Revenue \(GGR\)](#) was posted on the Commission's website on Friday the 15<sup>th</sup>. He then noted that he is working with Ombudsman John Ziemba on a letter to the legislature regarding both the Commission's bill for racing as well as the upcoming statutory deadline.

Due to the upcoming holiday, next week's Agenda Planning meeting will move from Wednesday morning to Tuesday afternoon, the notice of which will be posted in compliance with the Open Meeting Law.

Next, Mr. Bedrosian stated that next week is the last week of harness horse racing at Plainridge Park Casino (PPC). He noted the racing schedule for the Commission. He also recognized the seasonal staff and commended them on their performance.

Mr. Bedrosian made note that the eighth anniversary of the Expanded Gaming Law will be tomorrow, November 22, 2019.

Commissioner Stebbins stated that he would like Mr. Bedrosian's letter to the legislature on the Commission's racing bill be on the agenda for the next meeting for all of the commissioners to sign.

The Chair noted a change to the order of today's agenda. Encore Boston Harbor will present their report first, and MGM Springfield will follow once they arrive.

## **Ombudsman**

See transcript pages 3 – 35

[10:12 a.m.](#)

### **Encore Boston Harbor Quarterly Report**

Construction Project Oversight Manager Joe Delaney noted that he is filling in for Ombudsman Ziemba today. He introduced Encore Boston Harbor's first Quarterly report that deals solely with operations (instead of construction). Mr. Delaney also introduced the new president of Encore Boston Harbor, Brian Gullbrants, and Encore's Senior Vice President of Communications and Public Affairs Eric Kraus. He noted for the Commission that Encore will be providing some additional, supplementary information regarding vendor spending that was

not available at the time the [Commissioner's Packet](#) was in production for this meeting.

The Chair and commissioners welcomed Mr. Gullbrants and Mr. Kraus, who then introduced themselves to the Commission and briefed them on their backgrounds and credentials. Mr. Gullbrants also noted another new addition to Encore's marketing team, Jenny Holaday.

He then reported changes that Encore is making to accommodate customers with parking, transportation, changes to the gaming floor, and other hospitality level adjustments. Encore Boston Harbor is positioning itself to become "Greater Boston's hometown casino."

[10:16 a.m.](#) The Commission reviewed a slide presentation, first describing the year's gaming revenue and taxes. Mr. Gullbrants stated that Encore will begin to bring in high-level and international customers that will grow revenues.

The Chair asked for an update on any potential business hosting conventions. Mr. Gullbrants stated that they are anticipating significant activity for 2021 and that there is substantial interest in booking catering and holiday parties currently.

[10:25 a.m.](#) Next, the Commission reviewed Encore's lottery sales. Encore added Keno in August, and they continue to work with the state lottery regarding Keno. Ms. Krum reported on compliance, describing security measures and adjustments that can be made. She also described a new system for verifying identification to avoid guests being carded multiple times in a night.

[10:26 a.m.](#) Ms. Krum then reported on initiatives that have been implemented to keep minors from entering the gaming floor. Commissioner O'Brien asked for the shortest, longest, and median time period that any minors were able to game, if and when they did make it onto the gaming floor. Ms. Krum stated that Encore has a full, segmented breakdown of that information, which she will supplement her filing to the Commission this week.

Detecting false identification presented by minors was also discussed. Encore is considering different technology to identify false IDs better.

The Commission then reviewed slides that illustrated marketing and entertainment statistics, and Mr. Gullbrants described Encore's current marketing programs.

[10:32 a.m.](#) Ms. Krum then reported on employment and spending statistics. She reviewed employment numbers with the Commission, stating that they recently held a two-day orientation and are continuing to recruit and hire. She also reported Encore's minority, veteran, women, and local employee numbers.

[10:38 a.m.](#) The Chair asked if there have been any financial barriers reported that may have deterred potential recruits from enrolling in Encore's training programs. Mr. Delaney stated that this has occurred in the western region of Massachusetts, but not in the eastern region at this time. Ms. Krum then stated that Encore is now offering leadership programs for managers and that they are focusing on women and minorities for available leadership roles.

[10:41 a.m.](#) Ms. Krum reported that Encore Boston Harbor has received their certificate of occupancy on the daycare center last week and are currently in the final stages of preparations to open at the beginning of the new year.

Mr. Gullbrants then reported on public promotions and marketing efforts, concerts, special public events, and invited special events. He emphasized that the new marketing initiative will be to present Encore as Boston's hometown casino, to shed any image of Encore being a Las Vegas casino that is situated in Boston.

[10:48 a.m.](#) Ms. Krum reviewed slides that highlighted initiatives that have had an impact on the local community. She described donations and other community relations efforts. Mr. Kraus stated that Encore is going to transition into a more strategic focus in areas throughout greater Boston instead of being exclusive to Everett. Commissioner Zuniga noted that he will be interested to see how much of the market is being re-captured, as well as overall market growth.

[10:53 a.m.](#) The Chair asked what Encore's anticipated number of employees was upon the time of their initial application. Mr. Delaney stated that the RFA2 listed approximately 4,300. The Chair then asked for any current or foreseeable numbers in terms of hotel and meal taxes. Ms. Krum will provide this information to the Commission as soon as the City of Everett submits their quarterly data on this as well.

[10:57 a.m.](#) **MGM Springfield (MGM) Quarterly Report**  
President of MGM Springfield Mike Mathis opened with a slide presentation, first reporting on MGM's first-anniversary celebration that took place on Saturday, August 24, 2019. He went on to report on the stadium gaming section of MGM that is now open. Customers have responded very well to the stadium gaming, and it is doing well. Next, he reported on the VIP lounge and hotel lobby where there was a grand opening event this past weekend. He also reported that Wahlburger's is currently in the construction and permitting phase, and is scheduled to open in the summer of 2020.

He made specific note that in the third week of January 2020, MGM will host the Boston Red Sox Winter Weekend that is anticipated to have a significant impact on the community in terms of revenue, interest, and opportunity. This event, along with others that he described will have a region-wide impact in 2020.

[11:09 a.m.](#) Mr. Mathis reported MGM's figures for the meals and occupancy tax brought in from FY17 to FY18. Next, Mr. Mathis reported on the Q3 2019 gaming revenue and taxes and lottery performance.

[11:18 a.m.](#) Mr. Mathis confirmed for the Chair that Keno sales are calculated into the lottery numbers that are reported to the Commission. He will verify whether lottery tickets that MGM buys themselves as a customer (for promotional giveaways) are included. The Chair asked Mr. Delaney to ensure that all casinos are uniformly measuring lottery revenues.

MGM's Director of Compliance Daniel Miller reported on compliance statistics, specifically regarding minors on the gaming floor and false identification. He described the new Veridocs system that is now installed in all the podiums at the main entrances to the gaming area that is used for scanning identification cards.

[11:21 a.m.](#) Commissioner O'Brien asked for the shortest, longest, and median time that any minors were able to game, if and when they did make it onto the gaming floor, as she had asked of Encore earlier. Mr. Miller replied that he will provide this specific information to the Commission.

[11:24 a.m.](#) MGM's Director of Finance Operations Ryan Geary presented slides illustrating the Q3 2019 Operating Spend with diverse suppliers. Commissioner Stebbins offered to help MGM in their effort to re-engage stakeholders that would assist with more spending with Minority Business Enterprises (MBE's). Commissioner Zuniga suggested that Ms. Griffin make a list available of all certified MBEs and WBEs that have done business with any of the licensees.

Next, Mr. Geary reported on local supplier spend, and western Massachusetts supplier spend. He introduced Rebeca Merigian, Owner and President of Park Cleaners for the Supplier Spotlight section of the presentation. Ms. Merigian provided the history of her company and described her working relationship with MGM. She reported that her sales have doubled and that her company has grown. Park Cleaners is in the process of registering as a WBE. Ms. Merigian said that it took her about 30 days to complete the application process and that she was very impressed with how simple it was.

Lastly, Mr. Geary reported on vendor outreach efforts, such as an annual expo and a vendor fair that generated interest in and highlighted local vendors.

[11:39 a.m.](#) MGM's Human Resource Director Jason Randall reviewed MGM's progress on hiring goals, employment numbers, recruitment efforts, workforce development initiatives, MGM's Hospitality Internship program, and open job positions.

Mr. Mathis then reviewed MGM's current marketing and promotions, as well as jackpot winners. He also reported on entertainment, stating that the plaza is closed due to the change in seasons, and the Armory is now open and preparing

for a skating rink that will open this weekend. Mr. Mathis stated that the skating rink will remain open for Red Sox Winter Weekend. He then reviewed a calendar of upcoming events scheduled through to the end of the year.

MGM's Director of Government Affairs Jose Delgado reported on community engagement efforts made by MGM to engage with Springfield and western Massachusetts. He highlighted some opportunities that MGM had during the third quarter with employees to involve them in the community by volunteering.

[11:58 a.m.](#) Commissioner Zuniga asked if there was increased volume at MGM due to the Big E shuttle. Mr. Mathis stated that opportunities lie rather in cross-marketing efforts and that they are currently looking for a different way to engage customers.

Mr. Mathis then updated the Commission on the residential development at 31 Elm Street, stating that MGM has been distributing a master agreement between involved parties, and coordination of signing will begin next week. They are also expanding free valet parking in the garage. Lastly, Mr. Mathis reported that MGM continues to have good meetings with the legislature regarding sports wagering.

#### **Investigations and Enforcement Bureau (IEB)**

See transcript pages 35 – 45

[12:13 a.m.](#) **Clarification of Regulation 205 CMR 134.09 Re: Sealed Records**  
IEB Director Karen Wells requested input and clarification from the Commission regarding a provision in 205 CMR 134.09(1) relating to sealed adult criminal records.

Ms. Wells presented hypothetical examples that highlighted circumstances where information that may be relevant to suitability is obtained during the course of an investigation, apart from any sealed record. She then posed questions that arise from these examples for the Commission to consider. She then recommended that the Commission allow Ms. Griffin to contact community groups after this meeting to solicit feedback on the issue. This would ensure that the Commission has sufficient information to consider.

The IEB is requesting clear direction from the Commission that can be applied during investigations both fairly and consistently to ensure that similarly situated individuals are treated the same during the process.

[12:21 p.m.](#) The Chair asked that Chief Enforcement Counsel Loretta Lillios explain the process regarding sealed records to the Commission, for the record. Counsel Lillios summarized that generally, there are statutory provisions that allow individuals who have been charged and/or convicted of criminal offenses to have their records sealed. Convictions may be sealed in an administrative process that

does not go through a court, and there are time constraints and measures set out within the administrative sealing statute. She then provided examples of when an individual is entitled to having their records sealed, and stated that law enforcement agencies and courts have access to sealed records.

[12:26 p.m.](#) There was discussion around information becoming public through various mediums (i.e., social media) in connection to a sealed court record for an applicant. The IEB is also seeking clarity on what the regulation allows investigators to consider sealed records under these circumstances.

[12:33 p.m.](#) There was a discussion around the IEB having access to sealed records, and if the records should be used to analyze risk, as the IEB could then consider the totality of an applicant's record (i.e., identifying patterns of criminal behavior). There was also consideration given as to how the regulation's language should be interpreted.

[12:46 p.m.](#) Commissioner O'Brien stated that it would also be helpful for the discussion if the IEB clarifies the distinction between the processes and standards that need to be reached for expungement versus sealing of records.

[12:47 p.m.](#) Commissioner Zuniga stated that he would like to hear from the workforce development world on this issue, as it has the potential to affect different applicants in different ways, depending on the position applied for and what it requires.

Ms. Wells stated that the IEB will move forward with the plan to collect feedback, and tentatively report back at the next Commission meeting. The Chair stated that once the Commission receives input from the public regarding today's discussion, it can be used to provide options to further clarify the discussion without necessarily making a formal recommendation. The Chair noted that one of the options could also be to amend the regulation.

## **Finance Division**

See transcript pages 45 – 51

[12:51 p.m.](#) **Massachusetts Gaming Commission FY20 1<sup>st</sup> Quarter Report**  
CFO Derek Lennon reported on spending for the first quarter of FY20 by department. He stated that staff does not recommend any changes to the budget at this time. Staff will continue to monitor all spending and revenue activity with a focus on litigation and Gaming Enforcement Unit (GEU) overtime costs.

[12:55 p.m.](#) Commissioner Cameron will be examining policy considerations around granting overtime for the GEU. She asked if the Commission should ask the nightclub to consider their staffing levels. The Chair then asked if Commissioner Zuniga and Mr. Bedrosian would look into this issue further and report back to the

Commission. Mr. Bedrosian replied that in connection to this issue, there also needs to be a conversation regarding Memoir's staffing levels.

The Chair asked Mr. Lennon to return to the Commission with a subreport on this issue. She clarified that she is asking for information regarding overtime cost, not regarding the amount of security staff that the licensee is providing.

[1:03 p.m.](#)

Finance and Budget Office Manager Agnes Beaulieu reviewed with the Commission the Finance Division's discretionary budget and spending benchmark calculations. She explained that the staff is working diligently to raise VBE and WBE numbers. Ms. Beaulieu noted that the Finance Division has engaged the services of VeriCloud, who will be present at the next Commission meeting.

Revenue Manager Doug O'Donnell updated the Commission on a new methodology that the division is using to ease accounting procedures regarding taxes. The division returned to working directly with licensees, which has alleviated the issue. The finance division is working with the bank to formulate a lower cost for the licensee to process transactions.

#### **Legal Division**

See transcript pages 51 – 54

[1:44 p.m.](#)

Associate General Counsel Carrie Torrisi stated that the Commission will not be voting on agenda item D, which is 205 CMR 138.05. This regulation will be voted on at a future meeting with proper notice.

#### **Final Draft Versions of 205 CMR 134.01 and 134.06 Re: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations; and Amended Small Business Impact Statement**

Ms. Torrisi stated that 205 CMR 134.01 requires self-employed junket representatives to be licensed as gaming vendors. No public comments were received on this regulation. 205 CMR 134.06 also received no public comments; however, it does include one change from the IEB that would require that license applications include proof that the junket operator has a business relationship with the gaming licensee, and this is standard for all vendor applications.

[1:47 p.m.](#)

*Commissioner Stebbins moved that the Commission approve the amended small business impact statement for 205 CMR 134.01: Key Gaming Employee Licenses and 205 CMR 134.06: Junket Enterprises and Junket Representatives as included in the Commissioners' Packet. Commissioner Cameron seconded the motion. The motion passed unanimously.*

*Commissioner Stebbins further moved that the Commission approve the version of 205 CMR 134.01: Key Gaming Employee Licensees and 205 CMR 134.06: Junket*



*Enterprises and Junket Representatives as included in the Commissioners' Packet and authorize the staff to take all steps necessary to finalize the regulation promulgation process. Commissioner Zuniga seconded the motion. The motion passed unanimously.*

**Final Draft Version of an amendment to 205 CMR 133.05: Voluntary Self-Exclusion (VSE); and Amended Small Business Impact Statement**

The Commission reviewed this companion change to the junket regulations. Ms. Torrisi described that the amendment is to notify people involved in the VSE program that their information would be given out on an aggregated no-marketing list by the licensees. She further explained that the legal division is also updating the VSE application to include this language, as well.

[1:48 p.m.](#)

*Commissioner O'Brien moved that the Commission approve the amended small business impact statement for 205 CMR 133.05: Maintenance and Custody of the List as included in the Commissioners' Packet. Commissioner Stebbins seconded the motion.*

*The motion passed unanimously.*

*Commissioner O'Brien further moved that the Commission approve the version of 205 CMR 133.05: Maintenance and Custody of the List as included in the Commissioners' Packet and authorize the staff to take all steps necessary to finalize the regulation promulgation process. Commissioner Stebbins seconded the motion.*

*The motion passed unanimously.*

**Final Draft Version of several amendments to 205 CMR 134.00: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations; and Amended Small Business Impact Statement**

The Commission then reviewed administrative changes throughout 205 CMR 134.00. Ms. Torrisi noted that this final draft version is unchanged from the initial approval. She clarified for the Commission that the amended small business impact statement does still include a reference to the stricken item 205 CMR 138.05 and that the reference will be removed for the final filing upon approval.

[1:51 p.m.](#)

*Commissioner O'Brien moved that the Commission approve the amended small business impact statement for 205 CMR 134.00, specifically sections 134.07, 134.09, 134.10, 134.11, 134.13, and 134.14: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations as included in the Commissioners' Packet. Commissioner Stebbins seconded the motion.*

*The motion passed unanimously.*



*Commissioner O'Brien further moved that the Commission approve the version of 205 CMR 134.00, specifically sections 134.07, 134.09, 134.10, 134.11, 134.13, and 134.14: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations as included in the Commissioners' Packet and authorize the staff to take all steps necessary to finalize the regulation promulgation process. Commissioner Stebbins seconded the motion.*

*The motion passed unanimously.*

## **Commission Matters**

See transcript pages 54 – 67

[1:53 p.m.](#)

### **GameSense Procurement Report**

Commissioner Zuniga presented on the procurement of the GameSense program manager. The Commission's present contract with the Massachusetts Council on Compulsive Gambling is set to expire on November 30, 2019. Accordingly, an RFR seeking a program manager to continue the program was posted. After a procurement process in which the Council submitted the sole bid, the procurement review team recently elected to pass that bid along to the Commission for review as the presumptive successful bidder. The Commission is now being asked to ratify the review team's selection.

The Chair stated that the commissioners all became aware that there was only one respondent and that it was the council. All five commissioners have made a Conflict of Interest disclosure with respect to this contract. Those disclosure statements are public documents and available through Elaine Driscoll, the Communications Director, and are also on file with the commissioner's appointing officials.

Next, Commissioner Zuniga and Ms. Beaulieu explained the timetable and the process for the procurement as well as the financial details of the contract.

[2:05 p.m.](#)

Commissioner Cameron asked if there has been any staffing analysis conducted for the program. Executive Director of the Massachusetts Council on Compulsive Gambling Marlene Warner responded that they are still working on this analysis as they determine the efficiencies of the program that may include increasing community outreach efforts and presence outside the casino.

[2:08 p.m.](#)

Concerning the terms of the contract, Commissioner O'Brien asked how the three-year option to extend will work. Ms. Beaulieu replied that it is at the Commission's discretion to handle as it sees fit. The initial contract will be for three years, with the budgets appropriately set aside, giving the Commission the option to consider whether to allow all three years at once or allow one year at a time. Ms. Beaulieu recommended that the Commission review six months before the expiration.

There was discussion around how the program will work, with regard to data collection, surveys, research, and salary. Commissioner Stebbins then nominated Ms. Beaulieu to serve as a contract manager, and Commissioner Zuniga to execute the contract.

2:38 p.m.

*Commissioner Stebbins moved that the Commission award a three-year contract to manage the GameSense program with an option to renew for up to three years as discussed here today, to the Massachusetts Council on Compulsive Gambling. Commissioner Cameron seconded. The motion passed unanimously.*

*Commissioner Stebbins further moved to designate Agnes Beaulieu, Finance and Budget Office Manager, as the contract manager on behalf of the Commission. Additionally, Commissioner Stebbins recommended that Commissioner Zuniga is authorized to execute the contract on behalf of the Commission after consultation with the Office of the General Counsel. Commissioner O'Brien seconded the motion. The motion passed unanimously.*

2:40 p.m.

#### **“Fostering Partnerships” Networking Forum**

Commissioner Stebbins directed the commissioners to a memo included in the Commissioners’ Packet that described the Fostering Partnerships program. He stated that last week, there was a networking forum of stakeholders who were excited about the future development opportunities focusing on MBE’s WBEs and VBEs as part of the casino projects. He discussed comments received early on from several these stakeholders asking with the Commission to explore additional development opportunities for these target business groups. He added that licensees and host communities made presentations at the forum and are on board.

2:45 p.m.

The Chair stated that she attended the recent Gaming Policy Advisory Committee (GPAC) meeting, and wanted to recognize Karen Sawyer-Conard, the chair of that committee who has stepped down to become the city manager of Portsmouth, New Hampshire. The Chair thanked her for her service on the GPAC.

#### **Workforce, Supplier and Diversity Development**

See transcript pages 67 – 76

2:47 p.m.

#### **Build a Life That Works Campaign – 2<sup>nd</sup> Anniversary**

Ms. Griffin announced that today is the second anniversary of the Build a Life That Works campaign. Presenting with her was Mary Vogel from Building Pathways and Kate Harrison Leon of the Northeast Center for Tradeswomen’s Equity (NCTE).

Ms. Vogel described the organizations that worked with them so that they could work with the Commission to launch this campaign. She noted another summit

that took place in western Massachusetts recently contributed to this campaign as well. She thanked the Commission for hosting that summit.

Ms. Leon described the components of the Build a Life That Works campaign. She went through a slide presentation that explained why the program is essential, how it is advertised, how the website is utilized. She also described an outreach event called Tradeswomen Tuesday and discussed statistics gathered on women's interest in trade careers.

Next, Ms. Leon reviewed a slide that described how Massachusetts is leading the nation with women in apprenticeship for construction. She noted that as they create contacts, they need more staff, so they are hiring a new pipeline navigator.

3:21 p.m.

*With no further business, Commissioner Zuniga moved to adjourn the meeting. Commissioner Cameron seconded the motion. The motion passed unanimously.*

### **List of Documents and Other Items Used**

1. Notice of Meeting and Agenda dated November 21, 2019
2. Draft Commission Meeting Minutes dated November 7, 2019
3. MGM Springfield Q3 2019 Presentation dated November 21, 2019
4. Encore Boston Harbor Quarterly Report Presentation dated November 21, 2019
5. Memo Re: Clarification on 205 CMR 134.09 dated October 3, 2019
6. Memo Re: Fiscal Year 2020 (FY20) First Budget Update dated November 21, 2019
7. Attachment A: Actuals Spending and Revenue dated October 1, 2019
8. Worksheet 1: Discretionary Budget and Spending Benchmark Calculation
9. Draft Amended Small Business Impact Statement for 205 CMR 134.01 and 205 CMR 134.06
10. Cover Sheet for Final Version of 205 CMR 134.01
11. Final Draft Version of 205 CMR 134.01
12. Cover Sheet for Final Version of 205 CMR 134.06
13. Final Draft Version of 205 CMR 134.06
14. Amended Small Business Impact Statement for 205 CMR 133.05
15. Cover Sheet for Final Version of 205 CMR 133.05
16. Final Draft Version of 205 CMR 133.05
17. Amended Small Business Impact Statement for 205 CMR 134.00 and 205 CMR 138.00
18. Cover Sheet for Final Version of 205 CMR 134.00
19. Final Draft Version of 205 CMR 134.07
20. Final Draft Version of 205 CMR 134.09
21. Final Draft Version of 205 CMR 134.10
22. Final Draft Version of 205 CMR 134.11
23. Final Draft Version of 205 CMR 134.13
24. Final Draft Version of 205 CMR 134.14
25. Cover Sheet for Final Version of 205 CMR 138.05

- 26. Final Draft Version of 205 CMR 138.05
- 27. Memo Re: GameSense Program Manager Procurement dated November 21, 2019
- 28. Memo Re: “Fostering Partnerships” Networking Event
- 29. Build a Life That Works Celebrates 2-Year Anniversary Presentation dated November 18, 2019

/s/ Bruce Stebbins  
Secretary



# MASSACHUSETTS GAMING COMMISSION

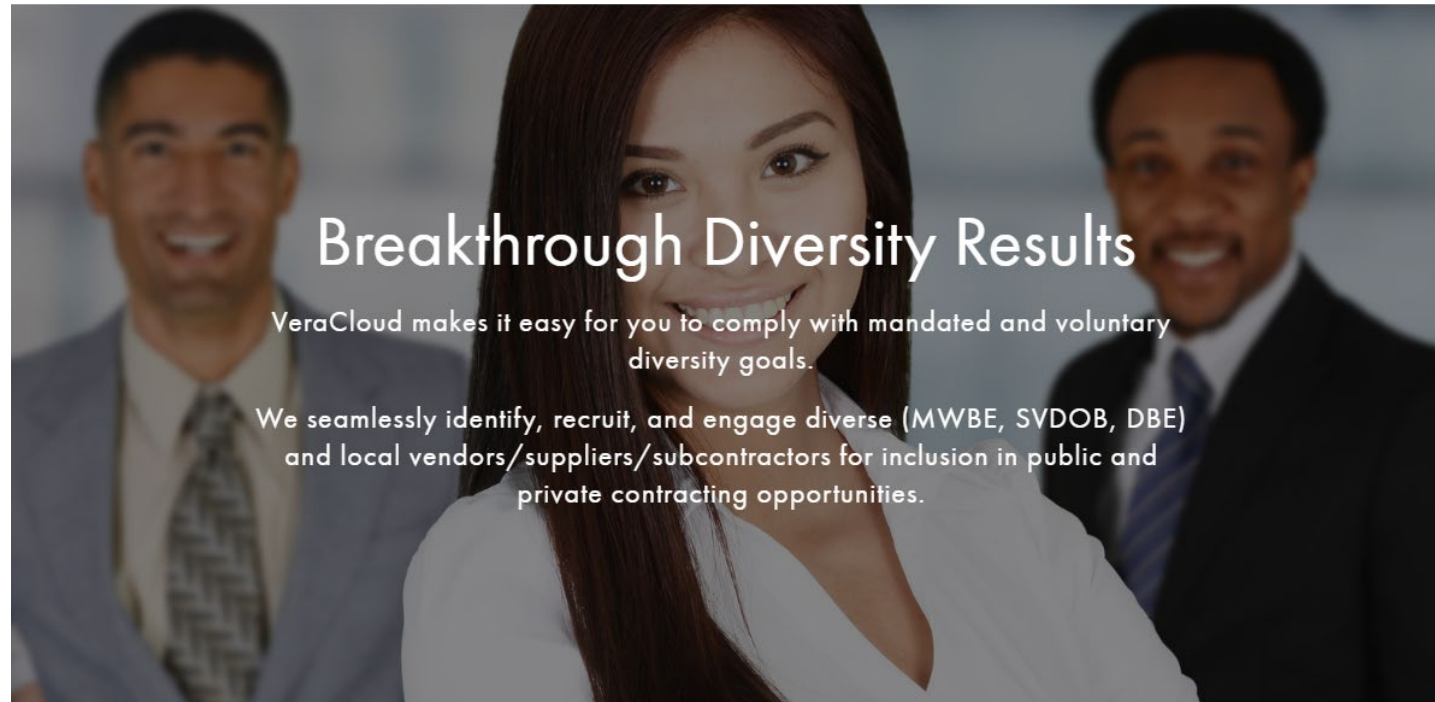
## ADVANCING SUPPLIER DIVERSITY AND INCLUSION

December 2019

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# WHO WE ARE

VeraCloud is a Boston-based company focused on identifying, recruiting, and engaging Diverse (MWBE, SVDDB, DBE) and/or Local vendors for inclusion in public contracting opportunities to meet and exceed diversity goals.



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# WHY WE ARE HERE

## MAKING THE GAMING ACT WORK FOR EVERYONE: ENSURING INCLUSION OF DIVERSE VENDORS

**The Massachusetts Gaming Commission recognizes the need and embraces creating access and opportunities for diverse vendors across the Commonwealth.**

- **Since 2017:** VeraCloud started working with MGC after VeraCloud was accepted into the Commonwealth of Massachusetts, OSD IT Small Business Incubator Pilot, an initiative launched by OSD with the goal of making Statewide Contracting more streamlined and accessible to Massachusetts businesses.
- **Serve MGC Mission:** VeraCloud has been working for the Commission to help ensure that the state's expanded gaming industry is inclusive and provides contracting opportunities that reflect the diversity of the Commonwealth.
- **How:** VeraCloud identifies, activates, and engages Diverse vendor marketplaces on behalf of the Commission for participation in MGC contracting opportunities: creating access to opportunity for everyone.



# WHAT WE DO

## Procurement Optimization Experts

VeraCloud identifies, recruits, and engages Diverse and/or Local vendors for inclusion in public procurement.

- **REAL TIME:** During open period of selected procurements, VeraCloud ensures that every diverse vendor capable of participating is made aware, included, and supported throughout the procurement lifecycle.
- **DOCUMENTED EFFORTS:** VeraCloud's detailed Marketplace Assessment specifies the diverse and local vendor marketplaces for each selected procurement.
- **POSITIVE IMPACT:** VeraCloud delivers increased diverse and local vendor awareness, stronger participation, more bids, lower costs, better value, and more effectively addressed inclusion requirements for each selected procurement.

### discover



Identify and define the entire diverse marketplace for the contracting opportunity.

### connect



Directly connect every capable diverse vendor to the contracting process to fully engage the entire marketplace.

### collaborate



Directly support and invite conversations with every diverse vendor expressing interest in the opportunity to maximize participation.



# WHY IT WORKS

## VERACLOUD'S SEAMLESS SERVICE ENABLES THE MGC TEAM TO MAINTAIN FOCUS ON ITS OPERATIONAL RESPONSIBILITIES

VeraCloud streamlines, accelerates, and optimizes performance on MGC's diversity and inclusion goals with:

- No Incremental Demands On Personnel
- No Changes To Existing Technology
- No Changes To Processes

*"VeraCloud removes barriers to enable 100% inclusion."*

*"VeraCloud ensures every vendor capable of participating is included and supported in public procurement opportunities."*



*"The Massachusetts Gaming Commission maintains a commitment to DIVERSITY in its core values. We value a diverse workforce and supplier base and expect that our partners in the gaming industry will embrace these same values."*

# SUCCESS WITH MGC: Optimizing Procurements

MGC'S COMMITMENT TO DIVERSITY IS UNLOCKING \$MILLIONS IN VALUE FOR DIVERSE VENDORS AND THEIR COMMUNITIES

## Metrics of Success: 2018 Travel Services

- **AWARENESS:** Increased by 12X the number of certified diverse firms aware of and evaluating the opportunity
- **PARTICIPATION:** Increased by 9X the number of certified diverse firms who participated in the RFR
- **BIDS:** Increased by 4X the number of certified diverse firms who chose to submit bids
- **NEW COMMBUYS ACCOUNTS:** Added 5 new COMMBUYS account holders to the Commonwealth's Travel Services category, opening the door to their involvement in future COMMBUYS opportunities
- **INCLUSION:** Enabled Travel Leaders Framingham, a WBE (SDO-certified since 2009) to create a COMMBUYS account, submit their first bid, and win their first-ever contract with the Commonwealth.
- **FEEDBACK:** Direct feedback channel with diverse vendors to inform future public procurement opportunities.



# SUCCESS WITH MGC: Plainridge Park Casino

## VERACLOUD EXPANDS ACCESS TO CONTRACTING OPPORTUNITIES FOR VETERAN VENDORS

**VeraCloud introduces PPC to new vendors. Not every outreach results in diverse participation, but with VeraCloud's ongoing cultivation of marketplaces, vendors are made aware of PPC opportunities and PPC is made aware of viable vendors in the marketplace for future opportunities.**

### Identifying, recruiting, and engaging diverse vendors

1. **IDENTIFY:** VeraCloud helped Plainridge Park Casino address its veteran diversity goals by optimizing the Casino's efforts to identify, recruit, and engage Veteran general contractors for a casino renovation project.
2. **RECRUIT:** VeraCloud increased the number of certified veteran general contractors (VBE, SDVOBE) aware of the opportunity from 0 to 20 through the VeraCloud outreach campaign (Including 1 firm that was in the host community)
3. **ENGAGE:** As a result, 13 Veteran general contractors submitted requests for project documents and scheduled site visits



# SUCCESS WITH MGC: Cultivating marketplace for future RFP's

## VERACLOUD EXPANDS ACCESS TO CONTRACTING OPPORTUNITIES FOR MULTIPLE DIVERSE VENDORS

**VeraCloud introduces MGC to new vendors. Not every outreach results in diverse participation, but with VeraCloud's ongoing cultivation of marketplaces, vendors are made aware of MGC opportunities and MGC is made aware of viable vendors in the marketplace for future opportunities.**

Example: MGC Promotional Items RFP

VeraCloud identified, outreached, and engaged the MA marketplace of 78 Certified Diverse firms (some with multiple certifications), capable of participating. MGC selected a Women Business Enterprise already on a statewide contract.

- Minority Business Enterprise (MBE) (17)
- Women Business Enterprise (WBE) (58)
- Veteran Business Enterprises (VBE, SDVOBE) (4)
- Disadvantaged Business Enterprise (DBE) (16)
- Disability Business Enterprise (DOBE) (3)



# SUCCESS WITH MGC: Establishing a Teaming Marketplace

## VERACLOUD ENABLES MGC TO UNLOCK LARGE RFR'S FOR EXPANDED INCLUSION

### Process Evolution, by the numbers:

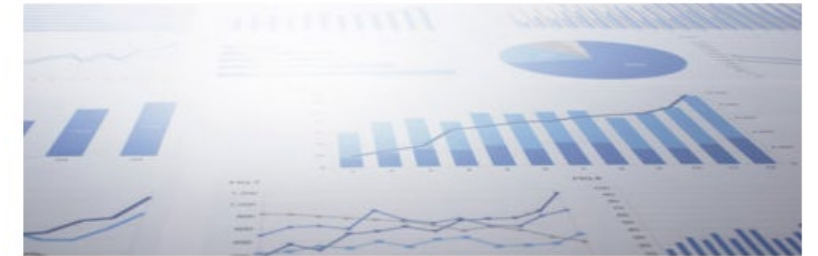
- 1. FEEDBACK CAPTURED:** VeraCloud optimization of Gaming Research RFR reveals 11 diverse vendors with an interest in Teaming/Subcontracting on MGC's Summer 2019 Gaming Research RFR with another vendor.
- 2. RECOMMENDATIONS PRESENTED:** Process improvements framed so MGC Leadership can react quickly to augment RFR on COMMBUYS to include a Teaming/Subcontracting provision.
- 3. MGC LEADERSHIP INNOVATES:** Barriers to inclusion recognized and bridged with updated RFR. VeraCloud informs all 11 interested diverse vendors that the RFR had been changed to further promote diverse vendor inclusion by enabling Teaming/Subcontracting.

**Impact and Results to pave the way:** MGC unlocked a new opportunity for diverse vendors to participate as part of a team to produce and submit a comprehensive proposal.

**Through real-time implementation,** informed by real-time diverse vendor feedback, MGC has identified, created, and unlocked an effective process for advancing inclusion in large RFR's.

MASSACHUSETTS GAMING COMMISSION » ABOUT »

### RESEARCH AGENDA



### What You Need to Know

The Expanded Gaming Act requires MGC to establish “an annual research agenda” to understand the social and economic effects of casino gambling in Massachusetts.



# NEXT UP: Unlocking MGC Utilization on Statewide Contracts

## OPENING MGC'S DOORS TO NEW DIVERSE VENDORS FOR MGC STATEWIDE CONTRACTS

### Unlocking Statewide Contracts, by the numbers:

1. **RESEARCH APPROVED VENDORS:** VeraCloud will research all Statewide Contracts utilized by MGC for diverse vendor listings, to optimize the diverse impact of MGC's Statewide Contract spending.
2. **IDENTIFY UTILIZATION OPPORTUNITIES:** Do the SWC's regularly used by MGC contain diverse vendors? If so, who are they? If not, what are the potential marketplaces of diverse vendors?
3. **INNOVATE AND INCLUDE:** Activate the potential marketplaces, recruit diverse vendor participation, and support interested vendors in accessing and becoming listed on SWC's.

**Impact and Result Objectives:** Create transparency and evolve process to inform MGC on category-by-category opportunities to open more MGC Statewide Contracts for diverse vendors.



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# WHAT IT MEANS TO YOU

## GREATER DIVERSITY AND INCLUSION

With VeraCloud, MGC continues to measurably overcome the most significant barriers limiting diverse vendor participation and inclusion.

- Activating diverse marketplaces to get diverse vendors exposure to all opportunities
- 100% Inclusion of Diverse Vendors
- Vibrant and Transformed Marketplaces

VeraCloud is grateful for the opportunity to serve the Massachusetts Gaming Commission and the diverse supplier base of the Commonwealth.

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# VERACLOUD WORKS FOR THE PRIVATE AND PUBLIC SECTORS

## HIGH IMPACT TOOLS AND SERVICES THAT DELIVER GREATER DIVERSITY AND INCLUSION TO PRIVATE AND PUBLIC CONTRACTING

### veracloud services

**VeraCloud solves the issues and barriers most impacting municipalities, government agencies, and contractors seeking to satisfy vendor/supplier/subcontractor diversity and inclusion mandates.**

We design and deploy two primary programs for public-sector and private-sector customers to enable you to streamline, accelerate, and optimize diversity performance — all without putting demands on your personnel or changing established processes. Both programs can be customized to meet your specific needs and challenges:

#### **VeraCloud's Procurement Optimization Program**

VeraCloud's Procurement Optimization Program is custom designed for cities, counties, and state agencies, and is implemented in real-time during the open period of a selected procurement.

VeraCloud works closely with government customers to ensure that every diverse vendor capable of participating is made aware, included, and supported throughout the procurement lifecycle.

#### **VeraCloud Diversity Works Program**

VeraCloud Diversity Works Program is custom designed for contractors looking to satisfy diversity goals.

VeraCloud works closely with companies to implement the Program both in advance of upcoming contracting needs, and in real-time during bid solicitation windows. We seek to ensure that every diverse and/or local vendor capable of participating is identified, recruited and engaged, directly connecting interested vendors to the contracting process.



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## we make diversity work for you

Our mission is to enable public-sector and private-sector customers to streamline, accelerate, and optimize diversity performance — all without putting demands on your personnel or changing established processes.

**Doug Rutnik**  
**Founder**  
**VeraCloud Technologies, Inc.**  
**745 Atlantic Ave, Boston, MA 02111**  
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<https://twitter.com/veracloudtech>



**DATE:** December 2, 2019

**TO:** Chair Cathy Judd Stein  
Commissioner Gayle Cameron  
Commissioner Eileen O'Brien  
Commissioner Bruce Stebbins  
Commissioner Enrique Zuniga

**FROM:** Edward Bedrosian, Executive Director

**RE:** Potential Questions for a Request for Information Concerning a Region C Procurement

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### Background

The Commission has asked staff to help develop appropriate questions for a potential request for information ("RFI") concerning region C.<sup>1</sup> In addition to proposed staff questions; attorneys for Rush Street Entertainment have also submitted proposed questions for an RFI. (See included letter from Attorneys David Apfel and Roberto Braceras, dated November 29, 2019)

If the Commission decides an RFI is an appropriate next step to help determine whether or not or when to issue a new RFA-1 for region C, agreement upon which questions to include in the RFA-1 would be necessary.

### Potential Questions

#### **1. Market Study:**

- a. What obligation under the Expanded Gaming Act does the Commission have to consider market conditions just in region C or in the overall Commonwealth or, even, in the northeast region?

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<sup>1</sup> A request for information (RFI) is a process to collect information from various potential suppliers that can help inform next steps in a procurement process. [https://en.wikipedia.org/wiki/Request\\_for\\_information](https://en.wikipedia.org/wiki/Request_for_information)



Massachusetts Gaming Commission

- i. Given that Massachusetts is in the introductory time of casino gambling, when would be the appropriate time for a market study?
- ii. What impact, if any, would the introduction of sports betting have on either a region C specific or Commonwealth wide analysis?
- iii. What impact, if any, would any of the pending legislative proposals, including changing the Commission's discretion to issue a second category 2 license in region C or the expansion of table games at Plainridge Park Casino, have on any market study?
- iv. What impact, if any, would the current status of the Mashpee Wampanoag's tribal casino in region C have on any market study?

**2. Impact on Region C:**

- a. Is there a way to measure the economic impact of a casino in region C without a specific proposal?
  - i. If so, is there a way to measure a region C casino's ability to recapture gaming revenue from neighboring states?
- b. Is there a way to measure the economic impact of the absence of a casino in region C or the impact on the Commonwealth without a specific proposal?

**3. Potential Mitigation in Region C:**

- a. Does the Expanded Gaming Act allow for the Commission to mitigate the "absence" of a category 1 casino in Region C?
- b. If not, how would the Expanded Gaming Act need to be changed to allow the Commission to mitigate the "absence" of a category 1 casino in region C?

Next Steps

If the Commission decided an RFI is the appropriate next step, staff would work with the legal division and a potential procurement team to put an RFI together. It would be the intent of the RFI that a respondent to the RFI would not be precluded from responding to any subsequent procurement as a result of the RFI.

The Commission could also decide it is premature to issue an RFI and/or decide to issue any questions purely for "public comment" versus a formal RFI process.



Massachusetts Gaming Commission



# TRIBAL LITIGATION UPDATE

*A SUMMARY OF THE CURRENT STATE OF AFFAIRS*

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TODD GROSSMAN- ACTING GENERAL COUNSEL

JUSTIN STEMPECK- ASSOCIATE GENERAL COUNSEL

DECEMBER 5, 2019

# MGC OBLIGATIONS CONCERNING TRIBAL MATTERS

**Chapter 23K, Section 67** provides in pertinent part:

“The commission shall continue to evaluate the status of Indian tribes in the commonwealth including, without limitation, gaining federal recognition or taking land into trust for tribal economic development.”

# BACKGROUND OF RELEVANT EVENTS

**June 18, 1934:** *Indian Reorganization Act* enacted.

**February 15, 2007:** Mashpee Wampanoag Tribe obtain federal recognition from BIA.

**February 24, 2009:** Carcieri v. Salazar, 555 U.S. 379 (2009) decided.

**November 22, 2011:** *An Act Establishing Expanded Gaming in the Commonwealth* (Chapter 194 of the Acts of 2011) enacted.

**March 19, 2013:** Compact between Commonwealth and Mashpee Wampanoag Tribe executed.

**September 18, 2015:** DOI grants Tribe's fee-to-trust application.

**January 8, 2016:** Land in Mashpee and Taunton was taken into trust by Secretary of Interior.

**February 4, 2016:** Local residents challenge grant of fee-to-trust decision in U.S. District Court in Massachusetts.

**July 28, 2016:** District Court (Young, J.) held that DOI Secretary lacked authority under the IRA to acquire land in trust for the tribe and remanded to DOI.

**December 12, 2016:** Parties appeal District Court decision to U.S. Court of Appeals for the First Circuit.

**September 7, 2018:** DOI issues remand decision that Tribe was not "under federal jurisdiction" as of 1934.

**September 27, 2018:** Tribe files complaint in U.S. District Court in D.C. challenging DOI decision.

**May 15, 2019:** *Mashpee Wampanoag Tribe Reservation Reaffirmation Act* passed in U.S. House of Representatives.

# THE INDIAN REORGANIZATION ACT (IRA)

\* The IRA was a piece of what has been referred to as the "Indian New Deal." At the time (in and around 1934) efforts were being made to assimilate Indians into American society to the detriment of preserving their culture and history. The IRA was a recognition that this was not the proper policy direction for the country. So the law set out to strengthen, encourage, and perpetuate Indian tribes and their historic traditions and culture.

\* "The overriding purpose of [the IRA] was to establish machinery whereby Indian tribes would be able to assume a greater degree of self-government, both politically and economically." Morton v. Mancari, 417 U.S. 535, 542 (1974).

\* "The Indian Reorganization Act (IRA) was adopted in 1934 to change 'a century of oppression and paternalism' in the relationship of the United States and its native Indian tribes. Its purpose was to create the mechanisms whereby tribal governments could be reorganized and tribal corporate structures could be developed, as well as to make the acquisition of lands easier, to be held in trust by the United States to enlarge or create new Indian reservations. The United States Secretary of the Interior is delegated the authority to acquire land in trust for Indian tribes. The Secretary's authority under the IRA is cabined by whether a tribe meets the statute's definition of "Indian," found in Section 19 of the statute and codified at 25 U.S.C. § 5129 . . . ." Mashpee Wampanoag Tribe v. Zinke, 2019 WL 2569919 (2019)(Collyer, J.).



# CARCIERI v. SALAZAR, 555 U.S. 379 (2009)

- This case addressed the authority of the Secretary of the Interior to take land into trust on behalf of a tribe based on the IRA definition of 'Indian.' Prior to the decision, it appears that the BIA's position was that the IRA applied to all federally recognized Indian tribes.
- The IRA defines the term "Indian" as follows:

“The term 'Indian' as used in this Act shall include [1] all persons of Indian descent who are members of any recognized Indian tribe **now under Federal jurisdiction**, and [2] all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include [3] all other persons of one-half or more Indian blood.”



# CARCIERI v. SALAZAR, 555 U.S. 379 (2009) CONT'D

- The Supreme Court held that the authority of the BIA to take Indian land into a trust hinged on the phrase "now under Federal jurisdiction." The Court held "that the term 'now under Federal jurisdiction' [] unambiguously refers to those tribes that were under the federal jurisdiction of the United States when the IRA was enacted in 1934." (Six Justices in the majority, two concurred in part and dissented in part, one dissented.). The majority did not address the timing under which a tribe had to be 'recognized' under the definition, nor how it should be determined whether the 'under Federal jurisdiction' standard is met.
- On March 12, 2014, five years after Carcieri was decided, the Solicitor of the DOI issued a memorandum (M-37029) to the Secretary entitled "The Meaning of 'Under Federal Jurisdiction' for Purposes of the Indian Reorganization Act" (known as the 'M Opinion'). The M Opinion noted that neither the IRA itself, nor the BIA, had defined the term 'under Federal jurisdiction.' Therefore, the M Opinion concluded, where there was no clear and unambiguous meaning to the term, Congress had left an interpretative gap for the DOI to fill. It further noted that while Carcieri clearly requires a tribe to be 'under Federal jurisdiction' as of 1934, it did not similarly tie federal 'recognition' to that date.

# THE MASHPEE WAMPANOAG TRIBE CASES

Littlefield *et al.* v. United States Department Of the Interior  
199 F.Supp.3d 391 (2016)  
U.S District Court, Massachusetts (Young, J.)

Littlefield, *et al.* v. Mashpee Wampanoag Indian Tribe  
U.S. Court of Appeals for the First Circuit

Mashpee Wampanoag Tribe v. Bernhardt  
U.S. District Court, District of Columbia (Collyer, J.)

# LITTLEFIELD v. U.S. DEP'T OF INTERIOR – D. MASS

- Citizen group challenge to land in trust status of Mashpee Wampanoag Tribe.
- Plaintiffs challenged the Tribe's ability to qualify as "Indian" under the second definition in the IRA.
- 'The term 'Indian' as used in this Act shall include [1] all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and [2] **all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation**, and shall further include [3] all other persons of one-half or more Indian blood.

# LITTLEFIELD v. U.S. DEP'T OF INTERIOR – D. MASS CONT'D

- Contrary to the BIA rationale, Judge Young interpreted the term “such members” to refer back to the first definition in the IRA of “all persons of Indian descent who are member of any recognized Indian tribe now under Federal jurisdiction.” Since the Tribe was not under federal jurisdiction in 1934, it could not qualify as “Indian” under the IRA and thus the secretary lacked the authority to acquire land in trust.
- Remanded to DOI for further proceedings on July 28, 2016.
- Notably, the factual question of the whether the Tribe was under federal jurisdiction in 1934 was not before Judge Young and in an order on a motion for Reconsideration/Clarification he explained that on remand, the DOI could analyze the Tribe’s eligibility under the first definition of “Indian.”

# LITTLEFIELD v. U.S. DEP'T OF INTERIOR – D. MASS CONT'D

- DOI accepted the clarification decision and reconsidered the Tribe's eligibility under the first definition of "Indian."
- DOI requested evidence and briefing by the parties before determining in September 2018 that the Tribe did not meet the first or second definition of 'Indian' in the IRA.

# LITTLEFIELD v. MASHPEE WAMPANOAG INDIAN TRIBE

- Appeal to U.S. Court of Appeals for the First Circuit (MA) by Tribe and DOI of Judge Young's decision. The DOI subsequently voluntarily dismissed its appeal.
- Court requested that the parties (within their appeal briefs) show cause as to why the case is not mooted by the lawsuit filed in D.D.C. challenging the BIA decision or precluded where the DOI dropped its appeal and accepted the final judgment of the District Court.
- Recently, the Tribe filed its appellate brief challenging the reasoning of Judge Young and his interpretation of the phrase "such members" from the IRA.
- This case remains pending.

# MASHPEE WAMPANOAG TRIBE v. BERNHARDT

- Tribe challenged the DOI record of Decision from 2018 in the U.S. District Court for the District of Columbia. (Collyer, J.)
- Tribe asserts that the Secretary failed to properly consider the extensive factual evidence it submitted in evaluating whether it was “under federal jurisdiction” in 1934 as required in the IRA definition.
- DOI asserts that it properly considered all evidence in reaching its conclusion.
- Littlefield plaintiffs moved to intervene, and are now part of this case. They moved to transfer the case back to Massachusetts, but that motion was denied. They have also argued in support of DOI decision.
- This case is pending with multiple current summary judgment motions.



# FEDERAL LEGISLATION

- In January 2019, Representative Keating (along with 35 co-sponsors including the MA delegation) introduced a bill in the U.S. House of Representatives (H.R. 312)(a refile), titled the “Mashpee Wampanoag Tribe Reservation Reaffirmation Act.”
- The bill would:
  - ✓ Reaffirm the Tribe’s trust land;
  - ✓ Ratify and confirm the Secretary’s actions taking the land into trust; &
  - ✓ Preclude filing of further matters, and dismiss pending federal litigation concerning this matter.
- The bill was passed/agreed to in the House on May 15, 2019 (275-146).
- The bill was received in the Senate and placed on the Legislative Calendar on May 20, 2019. No further activity has been reported. An identical bill was filed last session by Senator Markey (S.2628). It was referred to the Committee on Indian Affairs without any further action prior to the end of the session.

# TRIBE'S POSITION

- In a November 30, 2018 letter to the Commission, Cedric Cromwell, Chairman of Mashpee Wampanoag Tribe, asserted: “Unless and until the land is taken out of trust, pursuant to a plain reading of the Massachusetts Gaming Act, MGC lacks authority to award a Category 1 license in Region C in the absence of a determination that the United States will not take land in trust for the Tribe.”
- He appears to be referring to Section 91, paragraph (e) of Chapter 194 of the Acts of 2001 which provides:

“Notwithstanding any general or special law or rule or regulation to the contrary, if a mutually agreed-upon compact has not been negotiated by the governor and Indian tribe or if such compact has not been approved by the general court before July 31, 2012, the commission shall issue a request for applications for a category 1 license in Region C pursuant to chapter 23K of the General Laws not later than October 31, 2012; provided, however, **that if, at any time on or after August 1, 2012, the commission determines that the tribe will not have land taken into trust by the United States Secretary of the Interior, the commission shall consider bids for a category 1 license in Region C under said chapter 23K.**”



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November 29, 2019

**VIA EMAIL AND HAND DELIVERY**

Chairman Cathy M. Judd-Stein and Commissioners  
Massachusetts Gaming Commission  
101 Federal Street, 12th Floor  
Boston, MA 02110

**Re: Mass Gaming & Entertainment LLC and Region C**

Dear Chair Judd-Stein and Commissioners Cameron, O'Brien, Stebbins, and Zuniga:

We write on behalf of our clients, Neil Bluhm, Rush Street Gaming, and Mass Gaming & Entertainment, in anticipation of this coming Thursday's public meeting of the Commission at which you are scheduled to discuss two items bearing on the future of Region C: (i) the current status of the Mashpee Wampanoag Tribe's (the "Mashpee" or the "Tribe") litigation and legislation efforts; and (ii) the so-called "RFI" or Request for Information that Executive Director Bedrosian and his staff have been drafting, and that you apparently intend to disseminate publicly at some point soon. Most fundamentally, our clients remain interested in and committed to their plan to develop a resort casino in Brockton. But as we have previously indicated, our clients are concerned with the pace and lack of urgency with which the Commission has approached Region C. Our clients are ready to begin development and provide thousands of well-paying jobs, and tens of millions of dollars in licensing fees and tax revenues to Brockton and the Commonwealth today. In the meanwhile, while the Commission deliberates, Rhode Island and Connecticut continue to obtain a monthly windfall of millions of dollars in gaming revenue from Commonwealth residents, at the direct expense of the Commonwealth. With all this in mind, we ask that whatever else you do with Region C, you recognize that ongoing delay comes at a tremendous human and financial cost. We ask that you move the process forward quickly.

With respect to the anticipated RFI, we request that you ask the following questions, all of which are designed to determine under what circumstances, if any, suitable developers other than our clients would be prepared to apply for a Category 1 gaming license in Region C:

1. If the Commission issued a new Request for Application ("RFA") for a Category 1 gaming license in Region C would you submit an application? In answering this question, please take into account that per statute and the Commission's regulations, the minimum eligibility requirements for applicants for Category 1 gaming licenses in the Commonwealth include: (i) paying an initial non-refundable application fee of \$400,000; (ii) paying an \$85 million licensing fee; (iii) investing a minimum of \$500 million in the resort-casino project; and (iv) submitting all company officers, directors, beneficial owners, and key employees to a rigorous and thorough suitability and background investigation.

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2. If your answer to question #1 was “no,” please explain why, and please explain what would need to change before you would entertain submitting an application for a category 1 gaming license in Region C.
3. Do you believe that the Massachusetts Gaming Commission should conduct a new market study of gaming in the state and the region before proceeding with a RFA for a commercial resort casino license in Region C? Please explain.
4. At least one resort casino developer has very recently commissioned a market research team to conduct an analysis of the gaming market in Massachusetts and the region. The market study that was conducted indicates that there has been a softening in the local gaming market over the past several years, and that the development of a resort-casino in Region C would not be as profitable as experts thought several years ago, but that it would still be quite profitable, while also producing significant net gaming revenues for the Commonwealth, and significant revenue, economic development, and jobs for the host community and the region more generally. The developer who commissioned this recent study is prepared to put over \$700 million of its own money at risk on the basis of the results of the study it commissioned. Is there any reason why the Commission should not rely on the results of this study? Please explain.

With regard to pending tribal litigation and legislation, there are two ongoing litigation matters and two proposed Congressional bills to consider. The first of the two litigation matters is pending in the U.S. Court of Appeals for the First Circuit and is captioned *David Littlefield, et al. v. Mashpee Wampanoag Indian Tribe*, Case No. 16-2484 (the “Massachusetts Litigation”). The other litigation matter is an Administrative Procedure Act (“APA”) case that is pending in U.S. District Court in the District of Columbia. That matter is captioned *Mashpee Wampanoag Tribe v. David Bernhardt (in his official capacity as Sec. of the Interior) and the U.S. Department of the Interior, and David Littlefield, et al. (as intervenor-defendants)*, Civil Action No. 18-2242 (the “DC Litigation”). The two legislative initiatives are: (i) H.R. 312 which is titled the “Mashpee Wampanoag Tribe Reservation Reaffirmation Act”; and (ii) H.R. 375 which has been dubbed the “Carcieri Fix,” as it is intended to undo the Supreme Court’s decision in *Carcieri v. Salazar*, 555 U.S. 379 (2009) which held that the only Native American tribes that could benefit from the government’s land-into-trust process are those that were “under federal jurisdiction” in 1934.

This letter is not the time or place to discuss the parties’ legal arguments in the pending litigation matters or to discuss the current procedural posture of either the litigations or the legislative initiatives. We trust that the Commission’s staff will provide you with accurate, neutral and disinterested information in this regard. Here, we simply note certain indisputable facts that should lead any reasonable, objective observer to conclude that: (i) there is virtually no chance that the Tribe will ever succeed in gaining land-in-trust status or qualifying to develop a tribal casino in Region C; (ii) although the Tribe’s current efforts will all inevitably fail, it will be years before all such efforts are finally and fully resolved; (iii) any further delay by the Commission to act on Region C in deference to the Tribe will invite litigation on constitutional equal protection grounds – see, e.g., *KG Urban Enters., LLC. v. Patrick*, 693 F.3d 1, 25 (1<sup>st</sup> Cir. 2012) (expressly noting that the defense against an equal protection constitutional claim brought by parties interested in developing a commercial casino in Region C “would

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become weaker with the passage of time"); and (iv) allowing the status of the Tribe's litigation and legislative efforts to in any way dictate the timing of a Commission decision to move forward with a commercial RFA process in Region C would be tantamount to a decision to abandon this region, and confirm its status as the forgotten step-child of the Commonwealth.

The indisputable facts that we ask the Commission to consider in its deliberations regarding what role, if any, the Tribe's ongoing litigation and legislative efforts should play in the Commission's decision-making regarding Region C include the following:

- In the district court decision that led to the Tribe's current appeal in the Massachusetts Litigation, U.S. District Court Judge William Young, reversed the U.S. Department of the Interior's earlier decision to grant the Mashpee land-in-trust status, holding that Interior's decision was clearly wrong, indeed, "not a close call." *Littlefield v. U.S. Dep't of the Interior*, 199 F. Supp. 3d 391, 396 (D. Mass. 2016).
- After appealing Judge Young's decision in the Massachusetts Litigation, the United States, which had originally joined the Tribe in the appeal, withdrew from the case, and acquiesced to Judge Young's opinion.
- The Tribe has repeatedly moved to stay the appeal in the Massachusetts Litigation. In fact, for three years the Tribe did nothing in the Massachusetts Litigation other than maneuver to stay the matter. After noticing its appeal in 2016, the Tribe first filed substantive papers this past summer (August 2019) when it was forced to do so after the First Circuit, on the Court's own initiative, questioned whether or not the Court even had jurisdiction to consider the Tribe's appeal. The question of the Court's jurisdiction remains a live issue, and will be decided by the First Circuit in conjunction with the Court's consideration of the merits (or lack thereof) of the Tribe's substantive appeal in 2020.
- After the Tribe's effort to obtain land-in-trust status was remanded by Judge Young to the U.S. Department of the Interior, the Department agreed with Judge Young's decision, and in a lengthy 2018 opinion, which took nearly a year and one-half to issue, it rejected the alternative ground for land-in-trust status advanced by the Tribe. See U.S. Dep't of the Interior, Record of Decision, Letter from Tara Sweeney, Assistant Secretary for Indian Affairs, to The Honorable Cedric Cromwell, Chairman, Mashpee Wampanoag Tribe (Sept. 7, 2018).
- The DC Litigation is the Tribe's appeal of Interior's September 7, 2018 decision rejecting the Tribe's alternative land-in-trust theory. The Tribe has brought its case under the APA. Independent of the merits, which we believe are squarely on the side of Interior, there can be no dispute that APA appeals always stand a steep uphill fight given the deference accorded to agencies as a matter of law. See, e.g., *Wyandot Nation of Kan. v. United States*, 858 F.3d 1392, 1401 (Fed. Cir. 2017) (noting that Interior has "primary jurisdiction" to which courts defer on issues of tribal recognition); *Confederated Tribes of Grand Ronde Cmty. of Or. v. Jewell*, 830 F.3d 552, 563 (D.C. Cir. 2016) (explaining that the court is "bound to defer to the [Interior Board of Indian Appeals'] reasonable interpretation of" the Indian Reorganization Act).



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- In a September 3, 2019 submission to the First Circuit in the Massachusetts Litigation, the Tribe candidly stated that its efforts to overturn Interior's September 7, 2018 decision through the DC Litigation "could possibly require additional years of litigation."
- The Tribe currently owes its casino partner, the Genting Corporation of Malaysia, over \$500 million. See, e.g., Tanner Stening, "Allegations Against Mashpee Wampanoag Tribal Leaders Come to Head" (Taunton Gazette, Sept. 9, 2019), <https://www.tauntongazette.com/news/20190909/allegations-against-mashpee-wampanoag-tribal-leaders-come-to-head>.
- It has been widely reported that there is an ongoing extensive federal grand jury investigation into the financial workings of the Mashpee, including how, in the absence of any actual building development, it has spent the hundreds of millions of dollars that it has received in loans from Genting. See, e.g., Tanner Stening, "Current, Former Mashpee Wampanoag Tribe Treasurers Subpoenaed" (SouthCoast Today, Sept. 5 2019), <https://www.southcoasttoday.com/news/20190905/current-former-mashpee-wampanoag-tribe-treasurers-subpoenaed>; "FOLLOW THE MONEY – 3<sup>rd</sup> tribal financial officer subpoenaed," <http://reelwamps.com>, dated August 7, 2019.
- Tribal members are actively engaged in an effort to remove Chairman Cedric Cromwell, Vice Chairwoman Jessie "Little Doe" Baird, and Treasurer Gordon Harris from office, based on allegations of wrongful conduct concerning the Tribe's debt of over \$500 million to Genting.
- On the legislative front, although both H.R. 312 and H.R. 375 received favorable votes in the House back in May 2019, neither bill has advanced at all in the Senate. Even Tribal proponents of the bills have acknowledged that the "road ahead is difficult." See Memo from Chairman of the National Indian Gaming Association ("NIGA") to NIGA Member Tribes, dated May 16, 2019. Other, more independent, observers have noted the impossibility of either bill passing in the Senate in either 2019 or 2020, especially given the context of substantial bipartisan opposition and a presidential election cycle. See, e.g., Bill Prognosis Analysis, GovTrack.us. 2019 (both bills have a "3% chance of being enacted"); Brittany Webb, "A Clean Carcieri Fix: The Legislation Congress Will Not Pass" (Legislation and Policy Brief, Nov. 25, 2019) (senate action on H.R. 375 "unlikely to occur during a Presidential election cycle"); Phillip Conneller, "Mashpee Wampanoag Tribe Treasurers Subpoenaed by Federal Grand Jury" (Casino.org, Sept. 5, 2019) (H.R. 312 has a "slim chance of success in the Senate"). Indeed, the existence of substantial Democratic opposition in the Senate has led many to opine that even if the Democrats were to retake the White House and the Senate in 2020 (two very big "ifs"), even then there would not be sufficient Senate support to enact either H.R. 312 or 375. See, e.g., Letter from Senators Reed and Whitehouse to Minority Leader Schumer, dated July 11, 2018 (copy attached as Ex. A); Letter from Rhode Island Governor Gina Raimondo to Representative Bishop, Chairman of the House Committee on Natural Resources, dated July 30, 2018 (copy attached as Ex. B). And, of course, even if somehow either H.R. 312 or 375 were to find traction following the 2020 elections (with both bills, of course, needing to be re-drafted and re-filed, and with the legislative process beginning afresh in the new Congress), at least another year and a half would be lost

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followed by additional years in the inevitable litigation that would follow any conceivable enactment of either bill.

- H.R. 312 has even been criticized by the Mashpees' sister-tribe, the Aquinnah Wampanoag, which, in a January 2019 letter to the Commission, expressed its "serious concerns" with the bill.

In sum, the indisputable facts make clear that the chance of the Tribe prevailing in either of its current court actions is nearly impossible, and, if anything, the Tribe's prospects for legislative "progress" in the Senate is even more remote. In fact, there would appear to be a greater likelihood that Tribal leaders who have pushed for land-in-trust status and tied their fortunes to Genting and the development of a casino in Region C, will face criminal charges, and/or that they will be recalled or demoted by their own constituency, than there is any chance of a tribal casino in Region C ever being developed.

Any decision by the Commission to wait and see how the tribal litigation and legislation play themselves out over time would appear to be the equivalent of a decision never to take action in Region C. Simply put, the sliver of a chance, if any, that the Tribe may ever ultimately prevail in court or in Congress should not be used as an excuse not to move forward promptly in Region C.

If the Commission is concerned with the risk of oversaturation of the New England gaming market, it should conduct a market study, but there is no reason to use the Tribe and the Tribe's circumstances as a reason for delay. As for a market study, we have previously provided you with several such studies that have been performed by the Innovation Group, the most recent having been completed within the past three months. We are happy to have the most recent study updated, and to provide you with copies of other studies that Rush Street and its business partners have commissioned. Likewise, our clients would be happy to cooperate however you see fit in a new study or in updating its most recent study using whatever parameters or criteria the Commission might request. At bottom, our clients' interests are very much aligned with the Commission's in not wanting to invest many hundreds of millions of dollars in a resort casino development project unless the project is going to be profitable, and produce meaningful net revenue for the Commonwealth, and significant revenue, economic development and jobs for the host community and surrounding communities in Region C. If the market were oversaturated, our clients would not have an interest in pursuing its investment in Massachusetts. Our clients are just as interested in answering the question of oversaturation as the Commission. If that is the Commission's real concern, we would support moving forward with another study notwithstanding the studies that have been done to date.

As always, if you have questions regarding any of the above, please feel free to reach out directly to either of us.





Chairman Cathy M. Judd-Stein and Commissioners  
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Very truly yours,

A handwritten signature in blue ink that reads 'David J. Apfel'.

David J. Apfel

A handwritten signature in blue ink that reads 'Roberto Bracerias' followed by a large, stylized 'AOA' in parentheses.

Roberto M. Bracerias

cc: Ed Bedrosian, Executive Director, MGC  
Catherine Blue, General Counsel, MGC  
Neil Bluhm

# Exhibit A

United States Senate  
WASHINGTON, DC 20510

July 11, 2018

The Honorable Charles E. Schumer  
Minority Leader  
United States Senate  
322 Hart Senate Office Building  
Washington, DC 20510

Dear Minority Leader Schumer:

We write to express our serious opposition to S. 2628, the Mashpee Wampanoag Tribe Reservation Reaffirmation Act. This legislation, introduced by Senator Markey and Senator Warren, would reaffirm a decision by the Department of the Interior to take land into trust for the Mashpee Wampanoag Tribe in Massachusetts. In doing so, the legislation would circumvent the 2009 Supreme Court decision in *Carcieri v. Salazar*, a case involving the Narragansett Tribe in Rhode Island in which the Court held that the Secretary of the Interior could not take land into trust for tribes that were not under federal jurisdiction in 1934.

If signed into law, S. 2628 would allow the Mashpee Wampanoag Tribe to construct and operate a Malaysian-backed Indian casino in Taunton, Massachusetts. As a result, federally-recognized tribes in Rhode Island would argue that they hold the same standing as the Massachusetts tribe and request that similar legislation be introduced on their behalf. As you know, we have long opposed doing so due to potential conflicts with the 1978 Rhode Island Indian Claims Settlement Act, which ensures that settlement lands remain subject to Rhode Island state law.

We respectfully request that this legislation not advance to the Senate floor for consideration. We will be obliged to use all avenues to block this legislation if there is an attempt to move it.

Sincerely,

  
Jack Reed  
United States Senator

  
Sheldon Whitehouse  
United States Senator

# **Exhibit B**

DAVID N. CICILLINE  
1ST DISTRICT, RHODE ISLAND

2244 RAYBURN BUILDING  
WASHINGTON, D.C. 20515  
(202) 225-4911  
(202) 225-3290 (FAX)

1070 MAIN STREET, SUITE 300  
PAWTUCKET, RI 02860  
(401) 729-5600  
(401) 729-5608 (FAX)



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

CO-CHAIR, DEMOCRATIC POLICY AND  
COMMUNICATIONS COMMITTEE

COMMITTEE ON THE JUDICIARY

RANKING MEMBER, SUBCOMMITTEE ON  
REGULATORY REFORM, COMMERCIAL  
AND ANTITRUST LAW

SUBCOMMITTEE ON  
IMMIGRATION AND BORDER SECURITY

COMMITTEE ON FOREIGN AFFAIRS

SUBCOMMITTEE ON  
EUROPE, EURASIA, AND EMERGING THREATS

SUBCOMMITTEE ON MIDDLE EAST  
AND NORTH AFRICA

August 9, 2018

The Honorable Robert Bishop, Chairman  
House Committee on Natural Resources  
123 Cannon House Office Building  
Washington, DC 20515

Chairman Bishop,

My governor, Gina Raimondo, has asked me to deliver the attached letter expressing her strong opposition to H.R. 5244, the Mashpee Wampanoag Trip Reservation Reaffirmation Act. Thank you for your attention to this issue and your consideration of her concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Cicilline".  
David N. Cicilline



State of Rhode Island and Providence Plantations

State House  
Providence, Rhode Island 02903-1196  
401-222-2080

Gina M. Raimondo  
Governor

July 30, 2018

The Honorable Robert Bishop  
U.S. House of Representatives  
Chairman, House Committee on Natural Resources  
1017 Federal Building  
324 25<sup>th</sup> Street  
Ogden, UT 84401

Dear Mr. Bishop:

On behalf of the State of Rhode Island, I write to express serious concerns regarding H.R. 5244, the “Mashpee Wampanoag Tribe Reservation Reaffirmation Act” (the Act). If passed, the Act would allow the Mashpee to by-pass the well-settled Indian Reorganization Act (the IRA) and have land taken into trust for purposes of operating a resort casino in Taunton, Massachusetts. The Act would directly undermine decisions of the United States Supreme Court, the United States District Court for the District of Massachusetts and the current view of the Department of the Interior (the “Department”) that the Secretary of the Interior is not authorized to take land into trust for the Mashpec or any other tribe that was not under federal jurisdiction as of 1934. The Act would also require that any federal lawsuit challenging this trust acquisition – including an action pending right now – be “promptly dismissed.”

The IRA was enacted almost a century ago to allow the Secretary to acquire property and take that property into trust “for the purpose of providing land for Indians.” 25 U.S.C. § 5108. Prior Secretaries took the position that IRA’s grant of authority to take land in trust was virtually unlimited. Rhode Island successfully fought a ten-year legal battle with the Department to limit the Secretary’s power to take land in trust under the IRA. *Carcieri v. Salazar*, 555 U.S. 379, 382 (2009) (limiting the Secretary’s authority to take land in trust only for those tribes under federal jurisdiction as of 1934). The IRA applies only to three specifically-defined categories: “[1] all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and [2] all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include [3] all other persons of one-half or more Indian blood.” 25 U.S.C. § 5129. Under the first definition of “Indian,” trust applicants must show that they are of Indian descent and are members of a recognized Indian tribe that was under federal jurisdiction as of the date of passage of the IRA, June 18, 1934. The second definition of Indian refers back to the first, meaning applicants must be “descendants of . . . members [of any recognized Indian tribe now under Federal jurisdiction].”

*Littlefield v. U.S. Dep’t of the Interior*, 199 F. Supp. 3d 391, 396, 398 (D. Mass. 2016), *appeal pending*, No. 16-2481 (1st Cir. 2016). Thus, the IRA only authorizes the Secretary to convert land to trust for

Indians under federal jurisdiction at the time of passage, along with any other Indians who were at least one-half Indian descent. U.S. Dep't of the Interior, Office of the Solicitor. Letter to the Secretary of the Interior re: "The Meaning of 'Under Federal Jurisdiction' for Purposes of the Indian Reorganization Act" (Mar. 12, 2014) ("M-Opinion") at 12.

Recognizing this, in 2016, a Massachusetts federal district court overturned a 2015 Department decision to take land into trust for the Mashpee. The court instructed the Department that the second definition of "Indian" was not ambiguous and that the Mashpee clearly did not fit within it. *Littlefield*, 199 F. Supp. 3d at 396 (rejecting the Secretary's claim that she was authorized to take land in trust for the Mashpee as "not a close call"). The court further held that, despite their subsequent acknowledgement by the federal government, the Mashpee do not fall under the IRA because they were not "under federal jurisdiction in 1934." *Id.* at 396-97. Since the Mashpee are not eligible under IRA, the Secretary lacked the authority to take land into trust for their benefit. *Id.* at 397. The court overturned the Department's decision and remanded the matter back for further review of the Mashpee's application. *Id.* at 400. In June 2017, the Department shared a draft revised decision with the Mashpee and the citizens who had brought the *Littlefield* action denying the Tribe's land-in-trust request.

Undercutting the plain language of the IRA and clear precedent has the potential of creating chaos and conflict for state governments.

If enacted, the Act would undercut the Supreme Court's decision in *Carcieri*, reverse the federal district court's decision in *Littlefield*, and affirm the former Secretary's illegal decision-making process in the Mashpee case. Worse, Interior's discredited rationale could form the basis for other illegal fee-to-trust conversions by the Secretary in the future. Codifying the Secretary's wrongful interpretation of the IRA poses real problems for many jurisdictions. It could open the door to other fee-to-trust conversion in states, like Rhode Island, whose tribes are excluded from the trust provisions of the IRA.

Federally recognized tribes in these states will argue that they stand in no different position from the Mashpee and that the Secretary's discredited rationale should apply to them as well. Federal trust acquisitions strip the states of their jurisdiction over land, encourage tax free and tax-advantaged sales on trust property and give rise to complex jurisdictional "checkerboarding" problems. The acquisition of land in trust is often a necessary precondition to the establishment of a federal Indian casino. Trust acquisitions should, therefore, strictly conform to the plain language of, and limitations set forth in, the IRA. They should not be based on a firmly discredited legal rationale to which even the current Secretary of the Interior does not adhere.

I understand that a subcommittee hearing was held to review this legislation on Tuesday, July 24, 2018. However, the following questions were not addressed during the hearing:

- 1) If the Act passes, would not every tribe that is excluded from the trust provisions of the IRA seek passage of a similar bill?
- 2) Does this Act not throw out the well-settled eligibility criteria determined appropriate by Congress under the IRA for tribes to receive land in trust?
- 3) Doesn't the Act violate the U.S. Supreme Court's decision in *Carcieri v. Salazar* since it dispenses with the requirement that the Mashpee be under federal jurisdiction as of 1934?



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4) The Act seeks to reinstate a decision of the Department of the Interior that a federal court overturned. What public policy is served by overturning the well-reasoned decision of a federal court that is based on Supreme Court precedent?

5) The Act prohibits the filing or maintenance of any legal action relating to the Department's decision to acquire land in trust for the Mashpee and requires the dismissal of pending actions, including the *Littlefield* case now pending in the First Circuit. How is it that the Act does not violate the U.S. Supreme Court's precedent that Congress may not pass a law that directs the outcome of a single case?

Thank you for your consideration.

Sincerely,



Gina M. Raimondo  
Governor

November 12, 2019

Massachusetts Gaming Commission  
Chairwoman Cathy Judd-Stein  
Commissioner Gayle Cameron  
Commissioner Eileen O'Brien  
Commissioner Bruce Stebbins  
Commissioner Enrique Zuniga  
101 Federal Street  
Twelfth Floor  
Boston, MA 02110

**Re: Summary and Status of Litigation Regarding the Trust Status of the  
Mashpee Wampanoag Tribe's Reservation**

Dear Chairwoman Judd-Stein and Commissioners, Cameron, O'Brien, Stebbins, and Zuniga:

We represent the Mashpee Wampanoag Tribe. In connection with the Commission's recent inquiry about the litigation regarding the trust status of the Mashpee Wampanoag Tribe's reservation, we provide the following update on the Tribe's behalf.<sup>1</sup>

As you know, in 2015, the Department of the Interior (Interior) acquired land in trust as a reservation for the Mashpee Wampanoag Tribe under the Indian Reorganization Act (IRA). The Tribe's land is still in trust and Interior has confirmed orally to the Tribe and to the press that the land will remain in trust unless a court orders it to take action to alter the status of the land. We note that if Interior were to take the extraordinary step of taking the land out of trust and disestablishing the reservation, it would be the first time that has happened, to our knowledge, since the termination era.

Interior's 2015 decision relied on the IRA's second definition of "Indian," which authorizes Interior to put land into trust for "all persons who were descendants of such members [of a recognized Indian tribe] who were, on June 1, 1934, residing within the present boundaries of any Indian reservation." 25 U.S.C. § 5129. A small group of local residents (the "Littlefield plaintiffs"),

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<sup>1</sup> This letter supplements the Tribe's prior November 30, 2018 letter (enclosed), which was submitted in response to Mass Gaming and Entertainment's a June 6, 2018 request to the Commission to reopen Region C discussions.

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challenged Interior's 2015 decision in the U.S. District Court in Massachusetts. In July 2016 that court rejected Interior's interpretation of the second definition of "Indian," and remanded the case back to Interior to consider whether the Tribe met the first definition of Indian or to "reassess its eligibility under the second definition consistent with the Court's ruling on the proper interpretation of that definition." *Littlefield v. U.S. Dep't of the Interior*, Case No. 16-CV-10184, Order dated October 12, 2016 (D. Mass. 2016) (ECF 121).

Both the Department and the Tribe filed an appeal to the U.S. Court of Appeals for the First Circuit. After the Trump Administration took office, however Interior dismissed its appeal (although it remains a party to the appeal). On May 15, 2017, the appeal proceedings were stayed.

In December 2016, Interior requested briefing from the Tribe and the Littlefield plaintiffs regarding whether the Tribe met the first definition of "Indian," i.e., whether the tribe was a "recognized Indian tribe now [meaning in 1934] under Federal jurisdiction." 25 U.S.C. § 5129. After extensive briefing, in June 2017 Interior provided a copy of a draft negative decision to the Tribe and the Littlefields, unilaterally requesting briefing on question neither had raised, i.e., whether State jurisdiction could be considered a surrogate for federal jurisdiction under the IRA. This additional briefing continued through November 2017.

On September 7, 2018, the Department issued a decision finding that the Tribe was not "under federal jurisdiction" as of 1934 for purposes of the IRA's first definition. That decision ignored or failed to adequately consider hundreds of pages of evidence regarding federal actions demonstrating federal jurisdiction over Mashpee before and continuing through 1934 (federal reports addressing Mashpee, Mashpee attendance at Carlisle Indian School, Mashpee listing on federal and Indian census rolls, federal actions in connection with Mashpee land and natural resources, and federal control of Mashpee member funds and other services provided to Mashpee members), and failed to follow case law and Interior's own administrative precedent. *See, e.g., Carcieri v. Salazar*, 555 U.S. 379, 399 (2009) (Breyer, J., concurring); *Confederated Tribes of the Grand Ronde Cmty. of Oregon v. Jewell*, 75 F. Supp. 3d 387, 402-05 (D.D.C. 2014); *Confederated Tribes of the Grand Ronde Cmty. of Oregon v. Jewell*, 830 F.3d 552, 564-566 (D.C. Cir. 2016), *cert. denied sub nom. Citizens Against Reservation Shopping v. Zinke*, 137 S. Ct. 1433 (2017); *Stand Up for California! v. U.S. Dep't of the Interior*, 204 F. Supp. 3d 212, 278 (D.D.C. 2016), *aff'd*, 879 F.3d 1177, 1183-86 (D.C. Cir. 2018), *cert. denied*, 139 S. Ct. 786 (2019); *No Casino in Plymouth v. Jewell*, 136 F. Supp. 3d 1166, 1184 (E.D. Cal. 2015), *vacated and remanded sub nom., No Casino in Plymouth v. Zinke*, 698 F. App'x 531 (9th Cir. 2017) (vacated based on standing); *County of Amador v. U.S. Dep't of the Interior*, 136 F. Supp. 3d 1193, 1200, 1208-10 (E.D. Cal. 2015), *aff'd*, 872 F.3d 1012 (9th Cir. 2017), *cert. denied*, 139 S. Ct. 64 (2018); *Cent. N.Y. Fair Bus. Ass'n v. Jewell*, No. 6:08-cv-0660 (LEK/DEP), 2015 WL 1400384 (N.D.N.Y. Mar. 26, 2015), *aff'd*, 673 F. App'x. 63 (2d Cir. 2016), *cert denied*, 137 S. Ct. 2134 (2017); *Citizens for a Better Way v. U.S. Dep't of the Interior*, No. 2:12-cv-3021-TLN-AC, 2015 WL 5648925, at \*21-22 (E.D. Cal. Sep. 24,

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2015), *aff'd sub. nom.*, *Cachil Dehe Band of Wintun Indians v. Zinke*, 889 F.3d 584 (9th Cir. 2018); *Village of Hobart v. Acting Midwest Reg'l Dir.*, 57 IBIA 4, 20, 24-25 (May 9, 2013); *Shawano County v. Acting Midwest Reg'l Dir.*, 53 IBIA 62, 74 (Feb. 28, 2011); *Grand Traverse Cty. Bd. of Comm'rs v. Acting Midwest Reg'l Dir.*, 61 IBIA 273, 280-81 (Sept. 25, 2015); *State of New York v. Acting Eastern Reg'l Dir.*, 58 IBIA 323, 332-33 (June 11, 2014); *see also, e.g.*, M-37029, Memorandum on the Meaning of "Under Federal Jurisdiction" for Purposes of the Indian Reorganization Act (Mar. 12, 2014) at 19; BIA NW Regional Director's Letter to The Honorable Tom Wooten, Chairman, Samish Indian Nation re: Trust Acquisition of Campbell Lake South Property, Attachment 1, NW Regional Director's Analysis of Whether Samish Were Under Federal Jurisdiction in 1934, 22-23 (Nov. 9, 2018); Dep't of the Interior, Bureau of Indian Affairs, Record of Decision, Trust Acquisition of, and Reservation Proclamation for the 151.87-acre Cowlitz Parcel in Clark County, Washington, for the Cowlitz Indian Tribe (April 2013) at 95, 98-101; Letter from Bureau of Indian Affairs Acting Director Eastern Region to the Honorable Earl Barbry, Sr., Chairman Tunica Biloxi Tribe of Louisiana (Aug. 11, 2011); Solicitor's Opinion, Status of the Ottawa Tribe of Oklahoma as "under federal jurisdiction" on June 18, 1934, at 4-6 (Sept. 28, 2010).

On September 27, 2018, the Mashpee Tribe filed a complaint against the United States in the U.S. District Court for the District of Columbia, alleging that Interior's decision was arbitrary, capricious and not in accordance with law under the Administrative Procedure Act (APA), and requesting that the decision be set aside and that Interior be ordered to issue a new decision. The case has been assigned to U.S. District Judge Rosemary Collyer. On the same date (September 27, 2018), Mashpee also filed a status report in the First Circuit, requesting that the appeal continue to be stayed pending the outcome of the D.C. District Court action. The Littlefields filed a response in opposition.

In January 2019, the Federal Government filed an answer to the Tribe's complaint in the D.C. District Court, after some delays due to the federal government shutdown that occurred during that time period. In February 2019, the Littlefield plaintiffs filed a motion to intervene, which the Tribe did not oppose. The Littlefield plaintiffs also filed a motion to transfer the case to the District of Massachusetts; the Tribe opposed the transfer motion because the issues before the two courts involve separate legal issues and because all of the relevant decision-making relating to Interior's 2018 decision took place in Washington, D.C. In June 2019, Judge Collyer denied the Littlefield's motion to transfer, so the case remains in the District Court for the District of Columbia.

In early July 2019 the parties agreed to a litigation schedule based upon an agreed administrative record. On August 16, 2019, Mashpee filed its motion for summary judgment asking the Court to find that Interior's September 2018 decision violated the APA because it was arbitrary, capricious and contrary to law, as it ignored both substantial evidence and precedent demonstrating that Mashpee was under federal jurisdiction in 1934 under the IRA's first definition. Interior and

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the Littlefield Intervenor filed Cross Motions and Oppositions on September 13th arguing that Interior's 2018 decision was reasonable under the APA. The Tribe filed its Opposition and Reply on September 30th, underscoring *inter alia* that Interior had not provided a reasonable explanation for its departure from judicial and administrative precedent. The Federal Defendants and Littlefield Intervenor filed their replies on October 15th. It is our hope that the court will issue a decision in the next 6 to 9 months.

While the parties were briefing the summary judgment motions in the D.C. litigation, in August 2019, the First Circuit issued an Order to Show Cause that the Tribe's appeal (relating to Judge Young's decision based on IRA definition 2) is not moot and was properly certified by Judge Young. The Tribe and the Littlefield plaintiffs filed responses to the Order in early September. The Tribe argued that the new Decision issued by Interior in September 2018 and the related action filed by the Tribe in D.C. federal district court do not moot the First Circuit action, and that Judge Young properly certified the appeal under F. R. Civ. P. Rule 54(b). The Tribe also requested a briefing schedule. The First Circuit has retained the appeal and set a briefing schedule, including further briefing on whether the appeal is moot and whether the First Circuit has jurisdiction to hear the case. The Tribe's opening brief was filed on November 4, 2019. The Littlefields must file a response by December 4, and a reply is due from the Tribe on December 26.

We strongly believe in the rectitude of the Tribe's legal position -- and so do nearly 50 other tribes and tribal organizations from across the United States that have advocated that Congress enact legislation to put an end to this senseless litigation.

The Mashpee Wampanoag Tribe is committed to working with the southeastern Massachusetts community to bring lasting economic development to the region. The Tribe appreciates the Commission's interest in obtaining an update in connection with its continued discussion regarding casino licensing in Region C. We are happy to answer any questions or provide any further information that the Commission may require. Please do not hesitate to contact me at 202-408-6439.

Sincerely,



V. Heather Sibbison

Enclosure



**Mashpee Wampanoag Tribe**  
483 Great Neck Road, South  
Mashpee, MA 02649  
Phone 508.477.0208 Fax 508.477.1218

November 30, 2018

Massachusetts Gaming Commission  
101 Federal Street  
Twelfth Floor  
Boston, MA 02110

**Re: Written Response to the Massachusetts Gaming Commission concerning  
the 6.6.18 MGE Request**

Dear Massachusetts Gaming Commission,

On behalf of the Mashpee Wampanoag Tribe, we hereby submit these comments in response to the Commission's recent request for comment relating to the June 6, 2018 request from Mass Gaming & Entertainment's (MG&E) urging the Commission to re-open Region C (Southeastern Massachusetts) and to award a Category 1 gaming license to MG&E despite the Commission's earlier rejection of MG&E's bid. The Tribe reserves all comment on the series of questions issued by the MGC and deems any response on these items to be premature given the fact that the Tribe's reservation remains in trust. Unless and until the land is taken out of trust, pursuant to a plain reading of the Massachusetts Gaming Act, MGC lacks authority to award a Category 1 license in Region C in the absence of a determination that the United States will not take land in trust for the Tribe.

Although these questions are premature given that the legal status of the Tribe's reservation has not changed, we do very much appreciate the careful and thoughtful approach that the MGC is taking on issues regarding Region C. As such, the Tribe is fully prepared to engage in a fuller discussion of these matters if and to the extent they become ripe in the future and looks forward to long and cooperative relationship with the MGC once its trust land status is properly reaffirmed by the US Congress and/or the federal courts.

Additionally, given the litany of mischaracterizations and outright falsehoods contained in MG&E's correspondence, as well as the insurmountable economic and legal flaws in its proposal, we would urge you to dismiss its request as a proper basis to re-open discussions regarding Region C for the following reasons:



## **I. MG&E's Petition is Based on a False Premise**

Central to MG&E's rationale for reconsideration is a duplicitous argument; namely the erroneous contention that "in the two years since the Commission's decision (to deny MG&E a commercial license), the Mashpees have not been able to do anything in Taunton – and they will not be able to do anything in the future either." The MG&E letter then goes on to cherry-pick several "facts", without context, in an attempt to misrepresent the status of the Tribe's trust lands and MG&E's role in attempting to undermine this trust status and thwart the Tribe's project.

MG&E's deceit is exemplified by the false assertion that the existence of ongoing litigation somehow means that "there is no land in trust." As the MGC is well aware, the United States accepted land in trust for the Mashpee Tribe in Taunton nearly three years ago, and nothing in this litigation has altered this fact. Not only does the Tribe's land remain trust, MG&E's letter glaringly omits the central fact that it has financed a federal lawsuit and an army of lawyers and lobbyists, and that these efforts are responsible for the delay in the construction of the First Light Resort & Casino in the first place. MG&E's falsehoods are especially ironic given that it was MG&E's own law firm (Nixon Peabody) that petitioned the federal court to consider taking the Mashpee Tribe's land out of trust – a request that the court promptly and unceremoniously denied.

These MG&E-initiated delays have caused great harm to the people of Mashpee, the City of Taunton and the Commonwealth of Massachusetts. If not for the litigation financed by MG&E, the Tribe's \$1 billion resort and gaming facility in Taunton would have already been open. According to a recent analysis completed by the Spectrum Group, which we are happy to provide to the MGC upon request, the delays caused by MG&E and its backers Neil Bluhm and George Carney have deprived the Commonwealth of an estimated \$250 million in revenue. In addition to this lost revenue to the Commonwealth, MG&E's delay tactics have resulted in the loss of thousands of construction jobs; and the continued delay of desperately needed infrastructure improvements to Routes 24 and 140 that have been sought by local, state, regional and federal officials for many years — improvements that are critical to the health of the regional economy.

The City of Taunton has suffered as well. The delays caused by MG&E have needlessly deprived the City of \$30 million worth of important public works; a new and enhanced fire station; additional police officers; and funds set aside to improve municipal services. This has been quite harmful to the people of Taunton, a community that overwhelmingly supported the Tribe's project in a city-wide referendum.

The legal battles have also cost the tribe and placed at risk the Tribe's ability to recover a portion of the \$500 million in soft costs that have already been invested in this development.

In short, MG&E's assertion that it has chosen to "respond in a constructive way" rather than to "pursue litigation" is demonstrably false, and its attack on Southeastern Massachusetts and the Mashpee Tribe is – at best – reckless and dishonorable. Accordingly, the MGC should not give any consideration to MG&E's petition. Doing so would reward MG&E's ongoing efforts to misrepresent the record, to dispossess the people of Mashpee from its ancestral homeland, and to deprive Southeastern Massachusetts of



badly needed economic development. These outrageous maneuvers should not be rewarded by the Commonwealth. They should be condemned.

## **II. The MGC Properly Rejected MG&E's Proposal on its Merits**

A second and equally egregious falsehood perpetuated by MG&E and its backers is their mischaracterization of the myriad reasons why their initial bid for a commercial casino license was rejected. They fail to mention just how divisive their proposal was to the City of Brockton. They ignore how vast sums of money were expended to persuade local residents to support a project that failed to meet not only the standards set by the Expanded Gaming Act, but their own community. The local referendum vote in Brockton was passed by less than 150 votes. Clearly, Brockton residents were less than enthusiastic about the proposal.

More to the point, the casual reader of MG&E's letter would surmise that the sole reason for the MGC's 4-1 vote to reject their bid was due to the Tribe's proposed development. But the Commission and any careful observer know better.

Certainly, the presence of two casinos in same region — cannibalizing the market and thus upending the intent of the state's Expanded Gaming Act — would be reason enough to reject the MG&E proposal. However, after an exhaustive analysis, the MG&E bid was, to borrow Chairman's Crosby's words, a "great disappointment," planted "in the middle of a vast parking lot ... completely isolated from any other operating part of the community, with no links or strategies for broader urban renewal or economic development".

Unlike the other destination resort casino proposals in Springfield and Everett, there was no "wow factor" with the MG&E plan. As Chairman Crosby said at the time, "the approach of the applicant seemed to be: 'We will do good things. Just trust us.'"

In the aftermath of MG&E's failure to win broad local, regional or state support, it has chosen to embark on a sustained effort to sever the Tribe from its ancestral land -- land that the Wampanoag people have occupied for 12,000 years -- and to deprive the region of much needed economic development. These efforts are as sad as they are sordid.

To end the delay and local frustration caused by MG&E's efforts, and to protect the Tribe's reservation from further attack, the Massachusetts Congressional delegation, joined by a broad bi-partisan coalition of lawmakers and supported by communities across Massachusetts and tribes across the country, introduced the Mashpee Wampanoag Tribe Reservation Reaffirmation Act. Contrary to MG&E's contentions, this legislation does not "undo" any court decisions. Rather, it relies on established legislative and legal precedent to authoritatively reaffirm the status of the Tribe's trust land and reflects the United States' solemn trust responsibility to tribes.

### **III. The MGC Should Dismiss MG&E's Petition**

As the Commonwealth approaches the 400<sup>th</sup> Anniversary celebration of the Pilgrims landing—which would not have been possible without the aid of the Tribe's ancestors—we urge the MGC not to reward those who have been actively seeking to take away the Tribe's reservation, thereby undermining the Tribe's ability to timely implement its good faith commitments to the Commonwealth, the City of Taunton, and the Town of Mashpee.

We urge the MGC to dismiss MG&E's petition and join us in calling on Neil Bluhm and George Carney to end their quest and to send their lawyers, architects and lobbyists back to Chicago, so that we can resume the most significant economic revitalization project in southeastern Massachusetts to have come along in decades.

Sincerely,

A handwritten signature in blue ink, reading "Cedric Cromwell". The signature is fluid and cursive, with the first name "Cedric" and last name "Cromwell" clearly legible.

Chairman, Mashpee Wampanoag Tribe

## MEMORANDUM

TO: Chair Cathy Judd-Stein  
Commissioner Gayle Cameron  
Commissioner Eileen O'Brien  
Commissioner Bruce Stebbins  
Commissioner Enrique Zuniga

FROM: Loretta Lillios, Chief Enforcement Counsel/Deputy Dir. – IEB  
Bill Curtis, Licensing Manager

RE: Application Form for Independent (Outside) Directors of Gaming Vendor –  
Primary Companies

DATE: 12/3/2019

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The IEB and the Division of Licensing request that the Commission approve the attached “Independent Director Qualifier Application” to be completed and submitted by independent (outside) directors designated as qualifiers for Gaming Vendor – Primary applicants and licensees. The attached Form is a modified version of the Gaming Employee Licensing (GEL) Form.

Title 205 Code of Mass. Regulations Section 134.07(3)(b) provides as follows:

Every person designated as a qualifier for a gaming vendor under 205 CMR 134.04(4) shall be obligated to complete and submit a disclosure form to the Division of Licensing. Said forms for gaming vendor qualifiers shall be created by the Bureau, subject to the approval of the commission. The Division of Licensing may make non-material changes to the form.

Under 205 CMR 134.04(4)(b)2.b, the Division of Licensing is required to designate inside directors of Gaming Vendor - Primary companies as qualifiers for the company’s application and license. Pursuant to prior Commission authorization, these inside directors submit the “Key Employee – Standard License Application Form.” The Key Employee – Standard Application Form includes, among other things, the submission of a net worth statement and tax returns for the prior five years.

Unlike inside directors, who are automatic qualifiers by virtue of their role as inside directors, only those outside directors who, “[i]n the judgment of the Division of Licensing after consultation with the Bureau . . . [have] significant and substantial responsibility for the applicant’s business under the jurisdiction of the commission” are to be designated as qualifiers for Gaming Vendor – Primary applicants and licensees. See 205 CMR 134.04(4)(b)2.d. Sometimes, independent directors who, for example, serve on the company’s Compliance Committee or Audit Committee, have such “significant and substantial responsibility” to warrant designation as qualifiers. Often, however, Committee membership rotates every year or

every two years, and consequently it may not be prudent to dedicate investigative resources to the type of comprehensive investigation performed pursuant to the Key Employee – Standard Application Form, as the independent director in question is expected to be in the position for which he or she is designated for only one to two years.

Accordingly, the IEB and the Division of Licensing recommend that the Commission approve the use of the attached Independent Director Qualifier Application Form for those independent directors designated as qualifiers for Gaming Vendor – Primary companies pursuant to 205 CMR 134.04(4)(b)2.d. Like the GEL Form, the proposed application form includes sections on:

- identifying and descriptive information,
- citizenship information,
- residence data,
- employment history,
- licensing history,
- antitrust and trade regulatory violations, and
- criminal history (including the submission of fingerprints).

The proposed form omits sections appearing on the GEL Form on marital status and educational data.

The proposed form requires the submission of federal tax transcripts for the prior four years and questions posed to the inside directors regarding settlements, allegations of misconduct, and a general question regarding matters impacting suitability.

It bears noting that all qualifiers have a duty to cooperate and provide any additional information needed for the investigation. See G.L. c. 23K, § 13(b); 205 CMR 134.18(1).

In conclusion, in the IEB’s view, the proposed Independent Director Qualifier Application Form strikes an appropriate balance in light of the independent (outside) status of the directors.



# INDEPENDENT DIRECTOR QUALIFIER APPLICATION

Applicant's Name: \_\_\_\_\_

Company Name: \_\_\_\_\_

## PLEASE NOTE

- Make sure you that are filling out the correct form: **you have been designated as an Independent Director Qualifier for a Gaming Vendor / Gaming Licensee Qualifier Entity.**
- There is no filing fee required for an Independent Director Qualifier Application.
- If you are unable to understand this form fully in English, it is your responsibility to acquire adequate means of translation.

Sí usted no puede entender este formulario completamente en Inglés, es su responsabilidad obtener los metodos necesarios de traducción.

## IMPORTANT INSTRUCTIONS FOR COMPLETING THIS APPLICATION

- Please read each question carefully prior to answering.
- **Answer every question completely and honestly.** Do not omit information and be sure not to leave any question blank.
- This is not an employment application and the Massachusetts State Police will be conducting your background review to determine your suitability.
- Throughout this form, if you have nothing to disclose or if a question does not apply to you, please check “|| **N/A** ☐ ||” where available.
- As part of the application process, you are required to submit a Certificate of Good Standing/Tax Compliance Request Status from the Massachusetts Department of Revenue. Even if you haven't resided in the Commonwealth of Massachusetts, you still must apply for this certificate and submit it with your application. To obtain this certificate go to **MassTax Connect at: <http://mtc.dor.state.ma.us/mtc/>** /
- Ensure that **all attachments required for this application are labeled** with the correct titles and attachment numbers and are attached to the application filed with the Commission.

Initials/Date: \_\_\_\_\_

- **Initial and date** each page where indicated.
- All entries on this form, except signatures, must be **typed or printed in block lettering** using dark ink. If the application is not legible, it will not be accepted. *(Note: the Commission will not accept your application if it is illegible or if you have modified any of the questions or pre-printed information on this application.)*
- Ensure that the Release Authorization has been notarized by a Notary Public.
- Retain a completed copy of this application for your own records.

## FINGERPRINT AND BACKGROUND INVESTIGATIONS

- Along with a completed application, you are required to submit two (2) Massachusetts State Police or FBI Form FD-258 fingerprint cards along with the Massachusetts Gaming Commission's Identity Confirmation Form so the Commission may initiate a criminal record check to determine your suitability.
- You will be required to establish your identity in accordance with 205 CMR 134.14(1), when you are being fingerprinted. To establish your identity, you must present the original document(s) listed below:
  1. A current and valid United States passport; OR REAL ID driver's license; OR a Certificate of United States Citizenship, or a Certificate of Naturalization, issued by the United States Department of Homeland Security: Citizenship and Immigration Services (USCIS); OR a current and valid identification card issued by the USCIS containing a photograph or fingerprints and identifying information such as name, date of birth, sex, height, color of eyes and address;

**OR**

2. A certified copy of a birth certificate issued by a state, county or municipal authority in the United States bearing an official seal, **AND any one of the following authentic documents:**
  - A current and valid Standard driver's license containing a photograph or identifying information such as name, date of birth, sex, height, color of eyes and address; or
  - A current and valid identification card issued to persons who serve in the United States military or their dependents by the United States Department of Defense containing a photograph or identifying information such as name, date of birth, sex, height, color of eyes and address; or
  - A current and valid student identification card containing a photograph, an expiration date, the seal or logo of the issuing institution, and the signature of the card holder; or
  - A current and valid identification card issued by a Federal, state or local government agency containing a photograph or identifying information such as name, date of birth, sex, height, color of eyes and address.

**OR**

3. A current and valid foreign passport with an employment authorization issued by the USCIS, **AND any one of the following authentic documents:**
  - A current and valid Standard driver's license containing a photograph or identifying information such as name, date of birth, sex, height, color of eyes and address; or
  - A current and valid identification card issued to persons who serve in the United States military or their dependents by the United States Department of Defense containing a photograph or identifying information such as name, date of birth, sex, height, color of eyes and address; or
  - A current and valid student identification card containing a photograph, an expiration date, seal or logo of the issuing institution, and the signature of the card holder; or
  - A current and valid identification card issued by a Federal, state or local government agency containing a photograph or identifying information such as name, date of birth, sex, height, color of eyes and address.

Initials/Date: \_\_\_\_\_

## IMPORTANT INFORMATION

- A. All independent director qualifiers shall have the continuing duty to provide any assistance or information required by the Commission or the Investigations and Enforcement Bureau (Bureau) and to cooperate in any inquiry or investigation conducted by the Commission or the Bureau. Refusal to answer or produce information, evidence, or testimony by an applicant or licensee may result in the denial of the application, or affect the qualification of suitability.
- B. No applicant or qualifier shall willfully withhold information from or knowingly give false or misleading information to the Commission or Bureau. If the Commission or Bureau determines that an applicant, or a close associate of an applicant, has willfully provided false or misleading information, such applicant shall not be eligible to receive a license under 205 CMR 134.00. A qualifier who willfully provides false or misleading information may have their suitability conditioned, or revoked by the Commission.
- C. All notices regarding your application will be sent to the email address or home address that you provide on this application. You must notify the Commission immediately of any personal information changes.
- D. An applicant shall be at least 18 years of age at the time of application.
- E. The Massachusetts Public Records Law (Law), <http://www.sec.state.ma.us/pre/preidx.htm> found at Chapter 66, Section 10 of the Massachusetts General Laws, applies to records made or received by a Massachusetts governmental entity. Unless the requested records fall under an exemption to the Law, the responsive documents must be made available to the requester. A list of exemptions may be found at Chapter 4, Section 7(26) of the Massachusetts General Laws.

***If you have any questions regarding this application,  
Please contact the Commission's Division of Licensing  
At 617.979.8400 or [VendorLicensing.MGC@state.ma.us](mailto:VendorLicensing.MGC@state.ma.us).***

Initials/Date: \_\_\_\_\_



### INDEPENDENT DIRECTOR QUALIFIER APPLICATION

PLEASE PRINT OR TYPE THE ANSWERS TO THE FOLLOWING QUESTIONS IN THE SPACES PROVIDED.  
FAILURE TO ANSWER ANY QUESTION ON THIS APPLICATION COMPLETELY AND TRUTHFULLY MAY RESULT  
IN THE DENIAL OF YOUR APPLICATION.

#### REASON FOR FILING APPLICATION

1. Provide the following information about the vendor applicant or licensee with which you are associated:

NAME OF VENDOR / LICENSEE

ADDRESS OF VENDOR / LICENSEE: NUMBER AND STREET

CITY

STATE

ZIP CODE

NATURE OF YOUR POSITION WITH OR INTEREST IN SUCH VENDOR / LICENSEE

#### CONTACT AND IDENTIFYING INFORMATION

NAME: LAST - INCLUDE SR., JR., ETC., IF APPLICABLE

FIRST

MIDDLE

HAVE YOU EVER BEEN KNOWN BY ANY OTHER NAME OR NAMES? YES ☐ NO ☐ IF YES, LIST THE ADDITIONAL NAMES BELOW AND SPECIFY DATES OF  
USE FOR EACH. (INCLUDE MAIDEN NAME, ALIASES, NICKNAMES, OR ANY OTHER NAME)

MAILING ADDRESS: NUMBER AND STREET

APT#

CITY

STATE

ZIP CODE

HOME ADDRESS: IF DIFFERENT THAN MAILING ADDRESS

APT#

CITY

STATE

ZIP CODE

HOME TELEPHONE NUMBER

CELL TELEPHONE NUMBER

EMAIL ADDRESS

SOCIAL SECURITY NUMBER

HEIGHT: FEET INCHES

WEIGHT LBS

DRIVER'S LICENSE INFORMATION:

DATED ISSUED

LICENSE NUMBER

JURISDICTION ISSUED

#### DESCRIPTIVE INFORMATION

DATE OF BIRTH: (MM/DD/YYYY)

PLACE OF BIRTH: CITY/TOWN

STATE/PROVINCE

COUNTRY

##### HAIR COLOR

☐ BLACK ☐ BROWN  
☐ BLONDE ☐ RED  
☐ GRAY ☐ WHITE  
☐ BALD

##### EYE COLOR

☐ BLACK ☐ BROWN  
☐ HAZEL ☐ BLUE  
☐ GRAY ☐ GREEN

##### SEX

☐ MALE  
☐ FEMALE

##### RACE

☐ AMERICAN INDIAN / ALASKAN NATIVE  
☐ HISPANIC ☐ ASIAN / PACIFIC ISLANDER  
☐ BLACK / AFRICAN AMERICAN ☐ WHITE  
☐ OTHER \_\_\_\_\_

Initials/Date: \_\_\_\_\_

## CITIZENSHIP

1. Are you a citizen of the United States? Yes ☐ No ☐

2. If you are a naturalized citizen of the United States, attach a copy of your certificate of naturalization to this form labeled as **attachment to question 2**.

*If you answered "YES" to Question 2 and if applicable provided the certificate of naturalization, please continue to Question 5.*

3. If you are **not** a citizen of the United States, please indicate:

A. The country of which you are a citizen: \_\_\_\_\_

B. Your place of birth: \_\_\_\_\_

C. Your port of entry to the United States: \_\_\_\_\_

D. Name and address of your sponsor upon your arrival:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

4. If you are not a United States citizen, but you are a legally authorized permanent resident alien or you are authorized to be employed in the United States, please provide your USCIS "A" number or other USCIS authorization in the space provided below. Attach to this form a copy of your USCIS identification card and/or any other USCIS document that conditions or restricts your employment labeled as **attachment to question 4**.

USCIS "A" number: \_\_\_\_\_

## RESIDENCE DATA

5. Beginning with your current residence and working backward provide the following information with respect to each place where you have lived (including residences while attending college or while in the military) during the past five years.

DATES (MONTH / YEAR)		ADDRESS (NUMBER, STREET, APARTMENT, CITY, STATE, COUNTRY, AND ZIP CODE)	TELEPHONE NUMBER
FROM:	TO:		

**Note:** Should you require additional space, attach a separate sheet of paper in the same format and label it **attachment to question 5**.

6. List any other residence that you have had in other states or countries since the age of 18.

|| N/A ☐ ||

DATES (MONTH / YEAR)		ADDRESS (NUMBER, STREET, APARTMENT, CITY, STATE, COUNTRY, AND ZIP CODE)	TELEPHONE NUMBER
FROM:	TO:		

**Note:** Should you require additional space, attach a separate sheet of paper in the same format and label it **attachment to question 6**.

Initials/Date: \_\_\_\_\_

## EMPLOYMENT HISTORY

7. In the chart below, provide the information regarding your employment for the past ten (10) years or from age 18, whichever is less. Begin with your present job and work backwards. Give dates of any unemployment between jobs in proper sequence. Include all part-time and full-time employment and any military service. Note by means of an asterisk (\*) any gaming-related employment (e.g. casino gaming, horse racing, dog racing, pari-mutuel operation, lottery, sports betting, etc.).

DATES (MONTH / YEAR)		NAME AND MAILING ADDRESS OF EMPLOYER(S)	TELEPHONE NUMBER	TITLE(S) / POSITION(S) HELD AND DESCRIPTION OF DUTIES	REASON FOR LEAVING
FROM:	TO:				

**Note:** Should you require additional space, attach a separate sheet of paper in the same format and label it **attachment to question 7**.

8. With regard to the previously listed employment:

- (a). Were you ever discharged, suspended or asked to resign from employment? Yes ☐ No ☐
- (b). During the last ten (10) year period, have you been subject to any disciplinary action related to your employment? Yes ☐ No ☐

If you checked yes to either question, provide a detailed explanation below:

## LICENSING HISTORY

9. Have you ever had any interest or employment in a gaming-related permit, registration, certification, or authorization and/or alcoholic beverage license **in Massachusetts or any other jurisdiction**?

Yes ☐ No ☐

If you checked yes, complete the following chart:

NAME AND ADDRESS OF LICENSING AGENCY	TYPE OF LICENSE, PERMIT, REGISTRATION, CERTIFICATION, OR OTHER AUTHORIZATION	LICENSE, PERMIT, REGISTRATION, CERTIFICATION, OR OTHER AUTHORIZATION NUMBER	IDENTIFY GAMING, ALCOHOL OF BOTH

**Note:** Should you require additional space, attach a separate sheet of paper in the same format and label it **attachment to question 9**.

Initials/Date: \_\_\_\_\_

10. Have you ever had any gaming-related application, license, permit, registration, certification, or other authorization restricted, suspended, rejected, revoked, or denied by any governmental agency or gaming regulatory authority?

Yes ☐ No ☐

If you checked yes, complete the following chart:

NAME AND ADDRESS OF GOVERNMENTAL AGENCY OR GAMING REGULATORY AUTHORITY	TYPE OF APPLICATION, LICENSE, PERMIT, REGISTRATION, CERTIFICATION, OR OTHER AUTHORIZATION	TYPE OF ACTION (RESTRICTION, SUSPENSION, REJECTION, REVOCATION, OR DENIAL)	DATE AND DURATION OF RESTRICTION, REJECTION, SUSPENSION, REVOCATION, OR DENIAL	CAUSE(S) OF RESTRICTION, SUSPENSION, REJECTION, REVOCATION, OR DENIAL

**Note:** Should you require additional space, attach a separate sheet of paper in the same format and label it **attachment to question 10**.

11. Have you ever been fined by, penalized by, or entered into any settlement with any governmental agency or gaming regulatory authority regarding a gaming-related matter?

Yes ☐ No ☐

If you checked yes, complete the following chart:

NAME AND ADDRESS OF GOVERNMENTAL AGENCY OR GAMING REGULATORY AUTHORITY	DATE OF FINE, PENALTY, OR SETTLEMENT	TERMS OF THE FINE, PENALTY, OR SETTLEMENT	CAUSE(S) OF FINE, PENALTY, OR SETTLEMENT

**Note:** Should you require additional space, attach a separate sheet of paper in the same format and label it **attachment to question 11**.

12. Do you have any ownership interest, financial interest, or financial investment (**other than through passive investing\***) in any business entity applying to, or presently licensed by, the Commonwealth?

Yes ☐ No ☐

If you checked yes, complete the following chart:

NAME AND ADDRESS OF BUSINESS ENTITY	NATURE AND AMOUNT OF YOUR INTEREST	% OF OWNERSHIP IN THE BUSINESS ENTITY

\*Passive investing means any investment by the applicant by means of a mutual fund in which the applicant has no control of the investments or investment decisions.

**Note:** Should you require additional space, attach a separate sheet of paper in the same format and label it **attachment to question 12**.

### ANTITRUST, TRADE REGULATION AND SECURITY AGREEMENTS - STATUTORY AND REGULATORY VIOLATIONS

13. A. Have you ever had a judgment, order, consent decree or consent order pertaining to a violation, alleged violation of the federal antitrust trade regulation or securities laws, or similar laws of any state, province, or country entered against you?

Yes ☐ No ☐

- B. In the past 10 years, have you had a judgment, order, consent decree or consent order pertaining to a violation, or alleged violation of any state or federal statute, regulation, or code that resulted in a penalty or fine of \$50,000 or more entered against you?

Yes ☐ No ☐

Initials/Date: \_\_\_\_\_

If you checked "YES" to either question, provide the following information for each judgment, order, consent decree, or consent order:

DATE OF OFFENSE	NATURE OF OFFENSE	TITLE OF CASE AND DOCKET NUMBER	NAME AND ADDRESS OF COURT OR AGENCY	NATURE OF JUDGMENT, DECREE OR ORDER	DATE ENTERED

**Note:** Should you require additional space, attach a separate sheet in the same format and label it **attachment to question 13**.

### SETTLEMENTS, ALLEGATIONS, AND ADDITIONAL DISCLOSURES

14. Have you ever reached a settlement or had a settlement reached by another person or entity, on your behalf, prior to or in the absence of litigation or criminal charges being filed?

Yes ☐ No ☐

If you checked "Yes", provide a detailed explanation below:

**NOTE:** Should you require additional space, attach a separate sheet of paper and label it **attachment to question 14**.

15. Have you ever reached a settlement or had a settlement reached by another person or entity, on behalf of a company with which you were/are affiliated, prior to or in the absence of litigation or criminal charges being filed?

Yes ☐ No ☐

If you checked "Yes", provide a detailed explanation below:

**NOTE:** Should you require additional space, attach a separate sheet of paper and label it **attachment to question 15**.

Initials/Date: \_\_\_\_\_

16. Have you participated in any type of sexual harassment, sexual misconduct, or unlawful discrimination?

Yes ☐ No ☐

If you checked "Yes", provide a detailed explanation below:

**NOTE:** Should you require additional space, attach a separate sheet of paper and label it **attachment to question 16.**

17. Have any allegations of sexual harassment, sexual misconduct, or unlawful discrimination been made concerning your behavior (including by employees and/or subordinates)?

Yes ☐ No ☐

If you checked "Yes", provide a detailed explanation below:

**NOTE:** Should you require additional space, attach a separate sheet of paper and label it **attachment to question 17.**

18. In the interest of full disclosure and your obligation to be forthcoming in your application, is there any other information which might reflect adversely in an evaluation of your honesty, integrity, or good character, or otherwise impact a determination on your suitability for gaming licensure/qualification?

Yes ☐ No ☐

If you checked "Yes", provide a detailed explanation below:

**NOTE:** Should you require additional space, attach a separate sheet of paper and label it **attachment to question 18.**

Initials/Date: \_\_\_\_\_

## CIVIL, CRIMINAL AND INVESTIGATORY PROCEEDINGS

The next question asks about any arrests, charges, or offenses you may have committed. Prior to answering this question, carefully review the definitions and instructions which follow:

### DEFINITIONS:

For purposes of this question:

- A. **Arrest:** means being taken into custody by any police or other law enforcement authority.
- B. **Charge:** includes any indictment, complaint, information or other notice of the alleged commission of any "offense," including juvenile charges.
- C. **Conviction:** includes the finding of guilty of any "offense" upon a trial or a plea of guilty. Findings of delinquency from a juvenile court must be disclosed and may be considered by the MGC in determining overall suitability; however, a finding of delinquency will not lead to automatic disqualification of your application.
- D. **Crime or Offense:** includes all felonies, misdemeanors, and juvenile delinquency matters.
- E. **Disposition:** is the way the case was resolved, for example: guilty, not guilty, continued without a finding, dismissed, pending, delinquent, not delinquent.

### INSTRUCTIONS:

- A. Please note, this is not an application for employment. Accordingly, you must answer all questions completely and may not omit information. Answer "yes" and provide all information to the best of your ability **EVEN IF**:
  - 1. You did not commit the offense charged;
  - 2. The charges were dismissed or subsequently downgraded to a lesser charge;
  - 3. You completed a diversionary program or the equivalent thereof;
  - 4. The charge(s) or offense(s) occurred when you were a juvenile;
  - 5. You were not convicted or found delinquent;
  - 6. You were not placed in handcuffs;
  - 7. You did not serve any time in prison or jail;
  - 8. The charge(s) or offense(s) happened a long time ago.
- B. Answer "No" **IF**: You have never been arrested or charged with any crime or offense.
- C. You are **NOT** required to disclose records of criminal appearances, criminal dispositions, and/or any information concerning acts of delinquency that have been sealed.

### IMPORTANT

**The Massachusetts Gaming Commission will make inquiries to establish whether you have had any involvement with law enforcement agencies. Failure to disclose any such involvement will be taken into account in assessing your character, honesty, and integrity.**

19. Have you ever been arrested, charged and/or convicted of **any crime or offense in any jurisdiction (including Massachusetts)**?

Yes ☐ No ☐

If you checked "Yes", complete the following chart below and on the next page:

CHARGE OR OFFENSE (LIST ALL CHARGES ARISING FROM EACH INCIDENT)	DATE OF CHARGE OR OFFENSE	NAME AND ADDRESS OF LAW ENFORCEMENT OR COURT INVOLVED	DISPOSITION (EG: GUILTY, NOT GUILTY, DISMISSED, CONTINUED WITHOUT A FINDING, DELINQUENT, NOT DELINQUENT)	SENTENCE

**NOTE:** Should you require additional space, attach a separate sheet in the same format and label it **attachment to question 19**.

Initials/Date: \_\_\_\_\_



## STATEMENT OF TRUTH and CONSENT

### **Statement of Truth**

I, \_\_\_\_\_, hereby state under the pains and penalties of perjury that:  
Print Name

1. The information contained herein and accompanies this application is true and accurate to the best of my knowledge and understanding.
2. I personally supplied and/or reviewed the information contained in this form.
3. I understand and read the English language or I have had an interpreter read, explain and record the answer to each and every question on this application form.
4. Any document accompanying this application that is not an original document is a true copy of the original document.
5. I am aware that if any of the foregoing statements made by me are false or misleading this application may be denied.

### **Consent**

I, \_\_\_\_\_, hereby consent to fingerprinting, photographing and the supplying of  
Print Name  
handwriting exemplars.

I understand if I have questions regarding this form, I should ask an employee of the Division of Licensing.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

## RELEASE AUTHORIZATION

To: Law Enforcement Agencies, Courts, Probation Departments, Military Organizations, Selective Service Boards, Employers, Educational Institutions, Banks, Financial and Other Such Institutions, All Gaming Regulatory Agencies, and All Governmental Agencies – federal, state and local, without exception, both foreign and domestic (the "issuing entity").

I, \_\_\_\_\_ authorize the  
Print Name

Massachusetts Gaming Commission (Commission) and the Investigations and Enforcement Bureau (Bureau) to conduct a full investigation into my background and activities.

I acknowledge that the Commission and/or Bureau may contract or may have contracted with third parties for the purpose of conducting due diligence suitability investigations on behalf of the Commission and/or Bureau in connection with my application filed with the Commission.

I authorize the release of any and all information pertaining to me, documentary or otherwise, as requested by any employee or agent of the Commission or Bureau, provided that he or she certifies to you that I have an application pending before the Commission or that I am presently a licensee or person required to be qualified.

I release any issuing entity, the Commission, the Bureau and their agents, representatives and employees, both individually and collectively, from any and all liability for damages of whatever kind, which may at any time result because of compliance with this authorization for release of information.

I acknowledge that this authorization shall supersede and replace any prior release authorization executed by me for the Commission and/or Bureau.

**This release shall be valid from the date of signature and, once issued, for the duration of the license.**

A photocopy of this authorization will be considered as effective and valid as the original.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_ (name of document signer), proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he)(she) signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Signature of Notary

Notary Stamp



**CERTIFICATION OF FILING AND PAYMENT OF FEDERAL TAXES  
(KEY GAMING EMPLOYEES and INDIVIDUAL QUALIFIERS OF GAMING VENDORS)**

*The Massachusetts Gaming Commission requires the submission of this Certification in accordance with M.G.L. c. 23K, §§ 12, 30 and 205 CMR 112, 134.10.*

I do hereby certify that (Check all boxes that apply):

1. ☐ I have filed all U.S. Federal tax returns required during the 5 years preceding my application;
2. ☐ I have not been notified of any unpaid U.S. Federal tax assessment for which liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service, and I am not in default;
3. ☐ I have not had any U.S. Federal tax returns that were examined, audited, or adjusted by the Internal Revenue Service in the past 5 years;
4. ☐ On [Click here to enter a date](#), I have requested from the IRS my tax **Account Transcripts** for each of the past four (4) years through <https://www.irs.gov/individuals/get-transcript> (Get Transcript by Mail).

\_\_\_\_\_  
**OR**  
\_\_\_\_\_

5. ☐ I did not file U.S. Federal tax returns; however, I have filed all tax returns required by the applicable (foreign) taxing authority. Please list below the non-U.S. jurisdiction where tax returns were filed.  
\_\_\_\_\_

6. ☐ I have not had any tax returns that were examined, audited, or adjusted by the applicable (foreign) taxing authority in the past 5 years.

\_\_\_\_\_  
Printed Name of Applicant

\_\_\_\_\_  
Date



# 20

## COMMUNITY MITIGATION FUND

TO: MGC Commissioners

FROM: John Ziemba, Ombudsman  
Joseph Delaney, Construction Project Oversight Manager  
Mary Thurlow, Program Manager

CC: Edward R. Bedrosian, Jr., Executive Director

DATE: December 5, 2019

RE: 2020 Community Mitigation Fund Guidelines

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On September 4, 2019, the MGC Commissioners received a set of policy questions regarding the establishment of the 2020 Community Mitigation Fund (“CMF”). These policy questions were forwarded to all the committees and subcommittees under the Gaming Policy Advisory Committee. At the Commission meeting on October 24, 2019, the Commissioners reviewed the discussion draft of the 2020 CMF Guidelines, which was forwarded to host and surrounding communities and Category 1 and Category 2 licensees in addition to the GPAC committees. Since that time, the staff met twice with the Region A Local Community Mitigation Advisory Committee (“LCMAC”), once with the Region B LCMAC (one meeting did not have a quorum present to allow policy discussions) and twice with the Subcommittee on Community Mitigation. Additionally a meeting of the Gaming Policy Advisory Committee (“GPAC”) was held on November 12. The Commission posted a request for public comments on the draft Guidelines and received two. One was received from the City of Chelsea and the other from the Hampden County Sheriff’s Department (attached).

### HIGHLIGHTS OF 2020 CMF GUIDELINES

#### 2020 Target Spending Amounts

For the 2020 funding year, staff recommends that the Commission establish an \$11.5 million target spending amount split between the two regions, Region A and Region B, after accounting for grants that will be made for Category 2 impacts. In these Guidelines, we recommend that the Commission establish \$5M as the target for Region B awards and \$6M as the target award amount for Region A.

#### Regional Target Spending Allocations

The Guidelines propose to continue the Commission’s policy established in 2019 to set the target awards in each Category 1 region based on the revenue received from each Category 1 facility. We have attached a series of spreadsheets [see [Exhibit A](#)] and the below chart showing



Massachusetts Gaming Commission

how the anticipated 2019 revenues from the two Category 1 facilities support the regional spending targets. The Guidelines also propose a 3 year time limit for setting aside unallocated funds in each region. The regional allocation and the deadline for setting aside unallocated funds were discussed extensively within the committees. The committees supported the proposal discussed at the October 24 Commission meeting to count older, prior year unspent funds first in 2020. Therefore, in 2020, the Commission would utilize an approximate \$1.65 million in prior year funds from Region B first. If the total amount of awards in Region B exceeds \$1.65 million in 2020, no 2019 funds would be in danger of reallocation.

We note that, as in the 2019 Guidelines, these Guidelines establish a maximum target of \$500K for Category 2 impacts. In the event that \$500K is not necessary for Category 2 impacts, more target spending would be available for Region A and Region B.

Below is a chart showing the anticipated contributions from each Region, compared to projected target spending levels for Region A and Region B.

**FOR ILLUSTRATION PURPOSES ONLY (SEE NOTE BELOW)**

	<b><u>Region A</u></b>	<b><u>Region B</u></b>
<b>Unutilized 2018 Gaming Tax Contributions</b>	n/a	<b>\$1.65 million<sup>1</sup></b>
<b>Projected 2019 Gaming Tax Contributions</b>	<b>\$5.06 million</b>	<b>\$4.16 million</b>
<b>2019 Fines</b>	<b><u>\$2.31 million</u></b>	<b><u>\$0.01 million</u></b>
<b><u>Total:</u></b>	<b><u>\$7.37 million</u></b>	<b><u>\$5.82 million</u></b>
<b><i>2020 Target Spending Amount<sup>2</sup></i></b>	<b><i>\$6.0 million</i></b>	<b><i>\$5.0 million</i></b>
<b><i>Plus \$500,000 for Category 2 Spending (split equally).</i></b>	<b><i>\$.25 million</i></b>	<b><i>\$.25 million</i></b>

*By the time the Commission receives applications by the February 1, 2020 date, the Commission will know the exact amount of revenues received by December 31, 2019. The estimate is calculated solely by using the average daily tax revenues contributed to date multiplied by the number of remaining days in 2019. This analysis does not account for seasonal impacts (such as some post-summer revenue declines experienced to date). It also does not account for other factors such as the impact of marketing by these facilities or impacts of regional competition.*

**Continuation/Modification of Prior Year Priorities**

As the Commission is aware, the draft Guidelines included renewals, proposed changes, and suggested additional concepts to the 2019 Community Mitigation Fund Guidelines. The below

<sup>1</sup> In the 2019 Guidelines, the Commission included a conservative estimate of \$1.5 million estimate for 2018 MGM Springfield contributions to the CMF. MGM Springfield placed \$1,649,098.02 into the fund in 2018.

<sup>2</sup> Assumes \$500,000 of Category 2 spending (i.e. \$11.5 million in total spending - \$500k category 2 = \$11 million split between the Regions \$6M and \$5M).

chart provides some detail regarding these prior year priorities and one new type of grant, a Transportation Construction Project grant.

### Recommendations and Options for the 2020 Guidelines

Grant Type	Proposed 2020 Per Grant Amounts	Proposed 2019 Per Grant Amounts
Specific Impact Grants	\$500,000	\$500,000
Workforce Development Program	\$300,000 per region plus \$50,000 Regional Incentive Up to \$100,000 for Significant Regional Needs	\$300,000 per region
Transportation Planning	\$200,000	\$200,000
Transportation Construction Project(s)	\$3M Statewide, \$1M maximum per project grant, subject to the Commission's ability to increase such amount, including when other regional awards fall below 2020 regional target spending	No Transportation Construction Authorized except for potential Transit Projects of Regional Significance projects (\$500,000)
Joint Transportation Grants	\$200,000 each community plus incentive	\$200,000 each community plus incentive
Tribal Impact Grant	\$200,000	\$200,000
Non-Transportation Planning Grant	\$100,000 each community plus incentive for regional applications	\$50,000 each community plus incentive for regional applications

### 2020 Community Mitigation Fund Notable Guidelines

#### The Guidelines:

- Authorize specific impact grants for operational impacts at all three licensed facilities, as they are now all operational. The Guidelines are not prescriptive regarding the types of operational impacts that may be funded. However, the Guidelines include evaluation criteria that make it clear that the Commission will only fund impacts that can be demonstrated to result from a casino.
- Establish some additional criteria for public safety related impacts, as funding through host community agreements and from the licensees is already being utilized to mitigate public safety impacts. The Guidelines specify that applications for public safety personnel or other public safety operations costs must demonstrate that CMF funds will supplement and not supplant historical operations funding.
- Continue a target limit of \$200,000 per Transportation Planning Grant with a total allocation target of no more than \$1M, a target of \$500,000 per Specific Impact Grant, limited to one per community; and a target expected to be \$300,000 per Workforce Development Pilot Program region (Region A & Region B) for a total allocation target of up to \$800,000 statewide.

- Authorize the Workforce Development Pilot Program Grants to cover administrative costs (including but not limited to all indirect and other administrative funding) which shall not exceed 7.5% of the total grant allocation. Administrative costs include activities related to management, oversight, reporting and record keeping, and monitoring of the grant program.
- Automatically preserve unused 2015/2016 One-Time Reserve Fund grant for those communities awarded Reserves in 2015 or 2016.
- Continue to support regional approaches to mitigation needs in recognition that some mitigation requires the commitment of more than one community.
- Increase the potential target spending amount for Non-Transportation Planning Grants in 2020.
- Require certain limitations and specific requirements on planning applications. For example, applicants should provide detail regarding consultations with nearby communities to determine the potential for cooperative regional efforts regarding planning activities; and
- Stipulate that the Commission may in its discretion waive or grant a variance from any provision or requirement contained in these Guidelines.

#### Transportation Construction Project(s) Grant

In addition to grants for transportation planning through its transportation planning grants, the staff recommends that the Commission create a new category of grant, the 2020 Transportation Construction Project(s) Grant. The Guidelines specify that the Commission expects that any CMF assistance provided will only be for a percentage of the costs of any such project and that significant other federal, state, local, private or other funding will be available to pay for the costs of any such project. However, based on input received in the Committees, the recommended draft does not include a maximum Commission percentage of funding. Instead, such outside contributions would be utilized to differentiate between eligible applications. Staff recommends that the Commission establish a target spending amount for the grant category of \$3M statewide. Similar to a provision in the 2019 Guidelines, the Commission reserves the ability to determine a funding limit below or above what is detailed in the 2020 Guidelines. The Guidelines note that if total other non-transportation construction awards are below a regional target spending amount, the Commission could weigh this below-target spending as a factor in determining to exceed the \$3 million transportation construction spending target.

#### Workforce Program Spending

At the October 24 Commission meeting, the Commission discussed that a 2020 workforce funding level above the 2019 target spending amount could be considered. The Commission discussed that, in 2019, the final amount of workforce awards of \$813,400 exceeded the \$600,000 award target. Two awards were issued in Region A. These 2020 Guidelines include a Commission recommended incentive for regional cooperation between workforce agencies. This \$50,000 incentive would be funding above the anticipated \$300,000 regional allocation. In



addition to \$100,000 in regional incentives (\$50,000 multiplied by two (2 Category 1 regions)), the Guidelines propose a potential additional \$100,000, which could be awarded to a region that is experiencing significant needs. This proposal to authorize grant awards that reflect different regional needs was also discussed at the October 24 Commission meeting. With the two \$50,000 regional incentives, and the potential for \$100,000 more for a region with significant needs, the recommended 2020 workforce target spending amount (\$800,000 in total potential spending) is closer to the actual amount of awards made in 2019. Again, the Commission retains the ability in these Guidelines to either exceed or reduce spending in comparison to target spending amounts.

## Exhibit A

## Projected Revenue Placed in Community Mitigation Fund Through October 2019

<b>Total Initial License Fees: MGM Springfield, Encore Boston Harbor and Plainridge Park</b>	<b>\$17,500,000.00</b>
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<b>MGM Springfield</b>					
Calendar Year	6.5% of Tax on GGR by Year	Fines	VSE & Underage	Forfeited Funds	Total
2016					
2017					
2018	\$1,649,098.02		\$2,879.22		\$1,651,977.24
2019*	\$3,467,497.78	\$6,500.00		\$4,877.65	\$3,478,875.43
					<u>\$5,130,852.67</u>

<b>Encore Boston Harbor</b>					
Calendar Year	6.5% of Tax on GGR by Year	Fines	VSE & Underage	Forfeited Funds	Total
2016					
2017					
2018					
2019*	\$3,455,106.10	\$2,307,500.00			\$5,762,606.10
					<u>\$5,762,606.10</u>

<b>TOTAL CMF FUNDS</b>	<b><u>\$28,393,458.77</u></b>
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\*through 10/15/19

Projected Remaining 2019 Contributions	\$2,304,647.00
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Projected Total 2019 CMF Funds	\$30,698,105.77
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## Revenue Placed in Community Mitigation Fund through 2019

Calendar Year	Initial CMF Balance	New Awards	New Revenues	Remaining CMF Balance
2015	\$17,500,000.00	\$2,000,000.00		\$15,500,000.00
2016	\$15,500,000.00	\$2,303,150.00		\$13,196,850.00
2017	\$13,196,850.00	\$2,105,503.95		\$11,091,346.05
2018	\$11,091,346.05	\$5,403,642.32	\$1,651,977.24	\$7,339,680.97
2019*	\$7,339,680.97	\$3,832,946.58	\$11,546,128.54	\$15,052,862.93
	<b>Total:</b>	<b><u>\$15,645,242.85</u></b>		

\* The New Revenues for 2019 are estimates for the year based on revenues through October 2019.

## 2015 Community Mitigation Fund

Licensee	City/Town	2015 Award	New Dollars
MGM	Agawam	\$100,000.00	\$100,000.00
Encore	Boston	\$100,000.00	\$100,000.00
Encore	Cambridge	\$100,000.00	\$100,000.00
Encore	Chelsea	\$100,000.00	\$100,000.00
MGM	Chicopee	\$100,000.00	\$100,000.00
MGM	East Longmeadow	\$100,000.00	\$100,000.00
Plain	Foxborough	\$100,000.00	\$100,000.00
MGM	Holyoke	\$100,000.00	\$100,000.00
MGM	Longmeadow	\$100,000.00	\$100,000.00
MGM	Ludlow	\$100,000.00	\$100,000.00
Encore	Lynn	\$100,000.00	\$100,000.00
Encore	Malden	\$100,000.00	\$100,000.00
Plain	Mansfield	\$100,000.00	\$100,000.00
Encore	Medford	\$100,000.00	\$100,000.00
MGM	Northampton	\$100,000.00	\$100,000.00
Encore	Saugus	\$100,000.00	\$100,000.00
Encore	Somerville	\$100,000.00	\$100,000.00
MGM	West Springfield	\$100,000.00	\$100,000.00
MGM	Wilbraham	\$100,000.00	\$100,000.00
Plain	Wrentham	\$100,000.00	\$100,000.00
		<b>\$2,000,000.00</b>	<b>\$2,000,000.00</b>

## 2016 Community Mitigation Fund

Licensee	Awarded City /Town	2016 Type	Award	Reserve Used	New Dollars
Plain	Attleboro	Reserve	\$ 100,000.00		\$ 100,000.00
Encore	Chelsea	Trans	\$ 267,150.00	\$ 100,000.00	\$ 167,150.00
Encore	Everett-Host	Reserve	\$ 100,000.00		\$ 100,000.00
Encore	Everett-Host	Trans	\$ 150,000.00	\$ 100,000.00	\$ 50,000.00
MGM	Hampden	Reserve	\$ 100,000.00		\$ 100,000.00
MGM	HCSD-Springfield	Specific	\$ 280,000.00		\$ 280,000.00
Encore	Lynn	Trans	\$ 100,000.00	\$ 100,000.00	
Encore	Malden	Trans	\$ 100,000.00		\$ 100,000.00
Encore	Malden	Planning & Marketing	\$ 100,000.00	\$ 100,000.00	
Plain	Mansfield	Reserve	\$ 100,000.00	\$ 100,000.00	
Encore	Medford	Trans	\$ 260,000.00	\$ 100,000.00	\$ 160,000.00
Encore	Melrose	Reserve	\$ 100,000.00		\$ 100,000.00
Plain	North Attleboro	Reserve	\$ 100,000.00		\$ 100,000.00
Plain	Plainville	Reserve	\$ 100,000.00		\$ 100,000.00
Encore	Revere	Reserve	\$ 100,000.00		\$ 100,000.00
Encore	Saugus**	Reserve	\$ 21,744.00	\$ 21,744.00	
MGM	Springfield-Historic	Specific	\$ 350,000.00		\$ 350,000.00
MGM	Springfield	Reserve	\$ 100,000.00		\$ 100,000.00
MGM	Springfield-Valet	Specific	\$ 200,000.00	\$ 50,000.00	\$ 150,000.00
MGM	West Springfield	Trans Planning	\$ 247,500.00	\$ 1,500.00	\$ 246,000.00
MGM	West Springfield*	Reserve	\$ 98,500.00	\$ 98,500.00	
Plain	Wrentham	Reserve	\$ 50,000.00	\$ 50,000.00	
<b>Total:</b>			<b>\$ 3,124,894.00</b>	<b>\$821,744.00</b>	<b>\$2,303,150.00</b>

use of Reserve

New Reserve Award

\$800,000 Reserves awarded to Everett, Melrose, Revere, Attleboro, North Attleboro, Plainville, Hampden and Springfield

Note: West Springfield use of reserve was incurred in 2015.

\*\* The Commission awarded Saugus a \$35,000 use of reserves in 2016. Saugus later received approval to shift \$13,256 for a 2017 award.

## 2017 Community Mitigation Fund

Licensee	Awarded City /Town	2017 Type	Award	Reserve Used	New Dollars
Encore	Boston	Trans	\$ 150,000.00		\$ 150,000.00
Encore	Boston	Reserve	\$ 100,000.00	\$ 100,000.00	
Encore	Everett - Bus	Trans	\$ 150,000.00		\$ 150,000.00
Encore	Everett-Bike	Specific	\$ 150,000.00		\$ 150,000.00
Plain	Foxborough	Reserve	\$ 1,180.00	\$ 1,180.00	
MGM	Longmeadow	Reserve	\$ 7,200.00	\$ 7,200.00	
Encore	Lynn	Specific	\$ 100,000.00		\$ 100,000.00
Encore	Malden	Trans	\$ 150,000.00		\$ 150,000.00
Encore	Medford	Trans	\$ 80,000.00		\$ 80,000.00
Encore	MetroNorth / MassHire	Work	\$ 200,000.00		\$ 200,000.00
Plain	Norfolk County DA	Specific	\$ 25,000.00		\$ 25,000.00
MGM	Northampton	Reserve	\$ 100,000.00	\$ 100,000.00	
Plain	Plainville	Specific	\$ 98,397.92		\$ 98,397.92
Plain	Plainville-Fire truck	Specific	\$ 148,750.00	\$ 100,000.00	\$ 48,750.00
Encore	Revere	Reserve	\$ 50,000.00	\$ 50,000.00	
Encore	Revere/Saugus***	Trans	\$ 150,000.00	\$ 100,000.00	\$ 50,000.00
Encore	Saugus (2016)	Reserve	\$ 28,256.00	\$ 28,256.00	
Encore	Somerville	Trans	\$ 150,000.00		\$ 150,000.00
Encore	Somerville	Reserve	\$100,000.00	\$ 100,000.00	
MGM	Springfield Public Schools	Work	\$ 171,833.03		\$ 171,833.03
MGM	Springfield Tech	Work	\$ 200,000.00		\$ 200,000.00
MGM	Springfield-Valet	Specific	\$ 31,523.00		\$ 31,523.00
Region C	SRPEDD	Tribal	\$ 200,000.00		\$ 200,000.00
MGM	West Springfield	Trans	\$ 150,000.00		\$ 150,000.00
<b>TOTAL:</b>			<b>\$ 2,692,139.95</b>	<b>\$ 586,636.00</b>	<b>\$ 2,105,503.95</b>

\*\*\*Revere and Saugus agreed to each use \$50,000.00 of their reserve for this grant.

indicates use of reserve



## 2018 Community Mitigation Fund

Licensee	Awarded City /Town	2018 Type	Award	Reserve Used	New Dollars
Plain	Attleboro	Trans	\$ 100,000.00	\$100,000.00	
Encore	Boston	Trans	\$ 200,000.00		\$ 200,000.00
Encore	Boston Private Industry Council	Work	\$ 300,000.00		\$ 300,000.00
Encore	Chelsea	Trans	\$ 200,000.00		\$ 200,000.00
Encore	Everett/ Somerville	Jt. Trans	\$ 425,000.00		\$ 425,000.00
MGM	Hampden DA	Specific	\$ 125,000.00		\$ 125,000.00
MGM	HCSD-Springfield	Specific	\$ 765,000.00		\$ 765,000.00
MGM	Holyoke	Reserve	\$ 100,000.00	\$100,000.00	
MGM	Holyoke CC	Work	\$ 300,000.00		\$ 300,000.00
	MA State Police	Specific	\$ 1,814,544.00		\$ 1,814,544.00
Encore	Malden	Planning	\$ 50,000.00		\$ 50,000.00
Encore	Medford	Trans	\$ 198,600.00		\$ 198,600.00
Encore	MetroNorth / MassHire	Work	\$ 300,000.00		\$ 300,000.00
Encore	Revere	Planning	\$ 50,000.00		\$ 50,000.00
Encore	Revere/Saugus	Jt. Trans	\$ 275,000.00		\$ 275,000.00
MGM	Springfield - Police	Specific	\$ 160,498.32		\$ 160,498.32
MGM	West Springfield	Trans	\$ 200,000.00		\$ 200,000.00
MGM	West Springfield	Planning	\$ 40,000.00		\$ 40,000.00
Plain	Wrentham	Reserve	\$ 40,000.00	\$40,000.00	
Region C	SRPEDD	Tribal	carryover \$200,000.00		
		<b>Total:</b>	<b>\$5,643,642.32</b>	<b>\$240,000.00</b>	<b>\$ 5,403,642.32</b>

**total award does not include carryover**

       indicates use of reserve funds now or previously used

## 2019 Community Mitigaion Fund

Licensee	Awarded City /Town	2019 Type	Award	Reserve Used	New Dollars
Encore	Boston	Trans	\$ 200,000.00		\$ 200,000.00
Encore	Boston	Workforce	\$ 213,400.00		\$ 213,400.00
Encore	Chelsea/Everett	Planning	\$ 105,000.00		\$ 105,000.00
MGM	Chicopee/ Springfield	Planning	\$50,000.00	\$ 50,000.00	
Encore	Everett Somerville	TPRS	\$ 400,000.00		\$ 400,000.00
Encore	Everett/ Somerville	Jt. Trans	\$ 425,000.00		\$ 425,000.00
Encore	Everett-Police	specific	\$ 182,088.90		\$ 182,088.90
Plain	Foxboro, Wrentham Plainville	Planning	\$ 75,000.00	\$ 75,000.00	\$ -
MGM	Hampden DA	Specific	\$ 100,000.00		\$ 100,000.00
MGM	HCSD-Springfield	Specific	\$ 400,000.00		\$ 400,000.00
MGM	Holyoke CC	Workforce	\$ 300,000.00		\$ 300,000.00
Encore	Lynn	Trans	\$ 200,000.00		\$ 200,000.00
Encore	Medford	Trans	\$ 200,000.00		\$ 200,000.00
Encore	MetroNorth / MassHire	Workforce	\$ 300,000.00		\$ 300,000.00
MGM	Northampton	Planning	\$ 29,000.00		\$ 29,000.00
MGM	PVPC	TPRS	\$ 25,000.00		\$ 25,000.00
Encore	Revere	Planning	\$ 50,000.00		\$ 50,000.00
Encore	Revere/Saugus	Jt. trans	\$ 425,000.00		\$ 425,000.00
Encore	Saugus	Planning	\$ 50,000.00		\$ 50,000.00
MGM	Springfield Police	Specific	\$ 228,457.68		\$ 228,457.68
Region C	SRPEDD	Tribal			carryover (2017)
Total:			\$ 3,957,946.58	\$125,000.00	\$ 3,832,946.58

**total award does not include carryover**

## REVENUES FOR COMMUNITY MITIGATION FUND

Casino	Month	GGR		TAXES		CMF
MGM	October	\$	21,193,386.13	\$	5,298,546.43	\$ 344,405.52
Encore	October	\$	45,812,827.11	\$	11,453,206.78	\$ 744,458.44
MGM	September	\$	19,884,287.76	\$	4,971,071.94	\$ 323,119.68
Encore	September	\$	48,958,335.67	\$	12,239,584.00	\$ 795,572.96
MGM	August	\$	20,966,172.21	\$	5,241,543.05	\$ 340,700.30
Encore	August	\$	52,486,239.66	\$	13,121,559.92	\$ 852,901.39
MGM	July	\$	20,398,605.38	\$	5,099,651.35	\$ 331,477.34
Encore	July	\$	48,574,567.42	\$	12,143,641.86	\$ 789,336.72
MGM	June	\$	19,954,469.30	\$	4,988,617.33	\$ 324,260.13
Encore	June	\$	16,789,943.88	\$	4,197,485.97	\$ 272,836.59
MGM	May	\$	22,285,565.57	\$	5,571,391.39	\$ 362,140.44
MGM	April	\$	21,818,086.34	\$	5,454,521.59	\$ 354,543.90
MGM	March	\$	25,684,173.99	\$	6,421,043.50	\$ 417,367.83
MGM	February	\$	21,500,878.31	\$	5,375,219.58	\$ 349,389.27
MGM	January	\$	19,698,053.88	\$	4,924,513.47	\$ 320,093.38

	CMF \$	Fines (6.5%)	Total
Encore	\$ 744,458.44		
	\$ 795,572.96		
	\$ 852,901.39		
	\$ 789,336.72		
	\$ 272,836.59		
Total:	<u>\$ 3,455,106.10</u>	\$ 2,307,500.00	\$ 5,762,606.10

MGM:	\$ 344,405.52		
	\$ 323,119.68		
	\$ 340,700.30		
	\$ 331,477.34		
	\$ 324,260.13		
	\$ 362,140.44		
	\$ 354,543.90		
	\$ 417,367.83		
	\$ 349,389.27		
	\$ 320,093.38		
Total:	<u>\$ 3,467,497.78</u>	\$11,377.65	\$ 3,478,875.43
<b>Total 2019 Revenues Through October</b>		\$	<b>9,241,481.54</b>

## REVENUES FOR COMMUNITY MITIGATION FUND

		Encore		MGM
Daily Average Revenues	\$	26,374.86	\$	11,406.24
Projected Tax Revenues				
Remainder 2019	\$	1,608,866.20	\$	695,780.80
YTD Tax Revenues	\$	3,455,106.10	\$	3,467,497.78
Total Projected Tax Revenues 2019	\$	5,063,972.30	\$	4,163,278.59
Total Projected Tax Revenues 2019	\$	5,063,972.30	\$	4,163,278.59
YTD Fees and Fines	\$	2,307,500.00	\$	11,377.65
Projected Total Revenues	\$	7,371,472.30	\$	4,174,656.24
2019 CMF Projected	\$	11,546,128.54		

\* Proj. Rev. = Daily Average \* 61 (days remaining in 2019)

*PLEASE NOTE THAT THESE PROJECTIONS ARE BASED SOLELY ON AVERAGE DAILY CONTRIBUTIONS TO THE FUND TO DATE AND DO NOT ACCOUNT FOR SEASONAL VARIATIONS OR IMPACTS CAUSED BY MARKETING*



**Thomas G. Ambrosino**  
City Manager

**City of Chelsea**  
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Chelsea, Massachusetts 02150  
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Telephone: (617) 466-4100  
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November 6, 2019

Massachusetts Gaming Commission  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, Massachusetts 02110

Re: *Comment on Draft 2020 Community Mitigation Fund Guidelines*

Dear Sir/Madam:

I am the City Manager in Chelsea, Massachusetts. We are a surrounding community to the Encore Casino. I am writing with a brief comment on the draft 2020 Community Mitigation Fund Guidelines.

I understand from the draft Guidelines that this year, for the first time, the Commission will allow for funds to be spent on actual transportation construction projects. I wholeheartedly support that decision. With all the casinos now open, it is possible now to determine actual traffic impacts in each region. And, it is clear that some roadways are being adversely affected and may require investment to mitigate these impacts. Most surrounding municipalities do not possess the resources to mitigate these impacts alone.

However, I believe that the amount of funding set aside in the category of transportation construction is insufficient. Given the cost of roadway construction projects, a statewide limit of \$3 million seems woefully inadequate. Most roadway projects cost multiple millions. Although I recognize that the Commission is requiring other funding sources to be available for any project that is the subject of an application, and expects municipalities to share in the costs, the limited amount available per project (no more than \$1 million) may leave meritorious roadway projects – ones required only because of new traffic generated by a newly constructed casino – still unaffordable.

I urge the Commission to increase the total amount available, as well as increase the per project cost to make this a valuable funding opportunity for impacted communities.

Sincerely,

Thomas G. Ambrosino  
City Manager



NICHOLAS COCCHI  
SHERIFF

## THE COMMONWEALTH OF MASSACHUSETTS

SHERIFF OF HAMPDEN COUNTY  
627 RANDALL ROAD  
LUDLOW, MA 01056

TEL: (413) 547-8000  
FAX: (413) 589-1851

November 21, 2019

### 2020 Community Mitigation Funds

Massachusetts Gaming Commission  
C/O Mary S. Thurlow, Program Manager  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, MA 02110  
(617) 979-8420  
Re: Mitigation Guidelines 2020

Dear Massachusetts Gaming Commission (MGC),

The Commission will begin its review of the mitigation guidelines in the upcoming weeks. The Hampden County Sheriff's Department (HCSD) will apply for Fiscal Year 2021 assistance, and I feel it is my responsibility to notify you of my intentions regarding the community mitigation application. HCSD received a \$2.0 million award over 5 years from the Commission due to being one of the very few neighbors truly displaced by the impending construction zone. I ask the MGC to continue supporting HCSD for the length of the initial lease for the Western Massachusetts Recovery Wellness Center (WMRWC).

The award of a casino license in Western Massachusetts authorized MGM Springfield to conduct its business in the City of Springfield. The construction project encompassed a majority of the Howard Street buildings as well as surrounding blocks. This project ultimately displaced HCSD, specifically the Western Massachusetts Correctional Alcohol Center (WMCAC) located at 55 Howard Street, Springfield MA. The annual rent at this location was \$666,276.17 including utilities. The below market rate given to HCSD was a direct result of a 29 year tenet at the site.

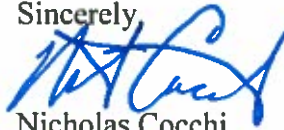
In order to keep this valuable treatment program alive, HCSD had to partner with the Massachusetts Department of Capital Asset Maintenance and Management (DCAMM) to acquire a new location in which to operate the 147 bed facility via a lease agreement. The 10 year lease agreement between HCSD and Mill Street Iconic, LLC to operate at the 155 Mill Street, Springfield MA location came into effect on January 22, 2016. The 10 year lease will cost \$11,082,591.00 over its lifespan. This does not include utility payments. This allows HCSD to operate the WMRWC. Furthermore, the Massachusetts

NC/als

General Court did not alter the HCSD annual budget to reflect the forced move leaving a budgetary gap of over 400K annually.

I am formally requesting the Massachusetts Gaming Commission please consider the initial mitigation award does not factor the full lifespan of the DCAMM lease. HCSD was not given an option for leasing other than 10 years. I ask for your assistance to maintain the annual \$400K offset to help support the operation of the WMRWC through the end of the initial DCAMM lease (FY22-FY26). It is my hope that this letter begins a formal dialogue and that I may be able to present in person to the board on this important topic.

Sincerely,



Nicholas Cocchi  
Sheriff, Hampden County



**From:** Weezy Waldstein <[weezy.waldstein@gmail.com](mailto:weezy.waldstein@gmail.com)>

**Date:** Tuesday, December 3, 2019 at 2:20 PM

**To:** "Griffin, Jill (MGC)" <[Jill.Griffin@MassMail.State.MA.US](mailto:Jill.Griffin@MassMail.State.MA.US)>, "Griffin, Jill (MGC)" <[jill.griffin@state.ma.us](mailto:jill.griffin@state.ma.us)>

**Cc:** Marvin Martin <[marvinaction@hotmail.com](mailto:marvinaction@hotmail.com)>, Dinanyili Paulino <[dinanyilip@chelseacollab.org](mailto:dinanyilip@chelseacollab.org)>, Antonio Amaya <[lacomunidadinc@yahoo.com](mailto:lacomunidadinc@yahoo.com)>, Yrma Fiestas <[yrma8561@gmail.com](mailto:yrma8561@gmail.com)>, Rene Mardones <[rmardones@SomervilleCDC.org](mailto:rmardones@SomervilleCDC.org)>, Blake Roberts Crall <[brobertscrall@somervillecdc.org](mailto:brobertscrall@somervillecdc.org)>, Angela Williams-Mitchell <[angellota1957@gmail.com](mailto:angellota1957@gmail.com)>, Mimi <[mimi.neunited4justice@gmail.com](mailto:mimi.neunited4justice@gmail.com)>, Weezy Waldstein <[weezy.waldstein@gmail.com](mailto:weezy.waldstein@gmail.com)>

**Subject:** Re: Feedback Requested-CMF Workforce Guidelines

Thank you for reaching out, Jill. Please find comments and a suggestion for an additional bullet of allowable activities below.

**Comments from Jobs Action Network (previously Casino Action Network)**

In addition to skills training and adult basic education, the 2019 Encore hiring showed the potential for connecting adults with skills working in low wage employment to higher quality employment that need the same or similar skills. This is especially the case in industries such as hospitality that are segmented into higher wage and low wage employment with a high share of under-employed workers.

Under-employed workers stepping up to higher wage employment has the potential to be both efficient and effective, making an impact at scale and meeting both employer and employee needs. However, neither the workforce development services nor intentional outreach are currently available at the scale, time, and locations needed by under-employed residents.

Additional workforce development services that we do not see referenced as allowable activities are needed for an employee make the change from lower quality employment to higher quality employment, even with the same skills. These activities include:

- Workforce development assistance such as resume preparation, interview practice, and career counseling
- Community outreach by community organizations and workforce system programs
- Retention assistance to ensure newly hired employees have the training to both transition to expectations of higher quality employers and off of any subsidy or benefits. These services require a higher level of engagement and participation of employers.

**We suggest that the following bullet be added to the allowable activities as follows:**

- a program in Region A or Region B that structures intentional connections among workforce development providers, community organizations and employers for outreach, application assistance, retention assistance and referrals to adult basic education, occupational training, and post-secondary education programs as needed, designed to meet the needs of both adult learners and employers;



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10/21/2019

## 2020 COMMUNITY MITIGATION FUND GUIDELINES

BD-20-1068-1068C-1068L-46130

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Massachusetts Gaming Commission

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## 2020 COMMUNITY MITIGATION FUND GUIDELINES BD-20-1068-1068C-1068L-~~46130~~

### What is the Community Mitigation Fund?

The Expanded Gaming Act, M.G.L. c. 23K, created the Community Mitigation Fund (“CMF”) to help entities offset costs related to the construction and operation of a gaming establishment.

### When Is the Application Deadline?

**February 1, 2020.** M.G.L. c. 23K, § 61 states that “parties requesting appropriations from the fund shall submit a written request for funding to the Commission by February 1.”

### Who Can Apply?

M.G.L. c. 23K, § 61 states the Commission shall expend monies in the fund to assist the host and surrounding communities ... “including, but not limited to, communities and water and sewer districts in the vicinity of a gaming establishment, local and regional education, transportation, infrastructure, housing, environmental issues and public safety, including the office of the county district attorney, police, fire, and emergency services.” The Commission may also distribute funds to a governmental entity or district other than a single municipality in order to implement a mitigation measure that affects more than one community.

Applications involving a mitigation measure impacting only one community shall only be submitted by the authorized representatives of the community itself. Governmental entities within communities such as redevelopment authorities or non-regional school districts shall submit applications through such community rather than submitting applications independent of the community.

Private non-governmental parties may not apply for Community Mitigation Funds. Governmental entities may apply to the Commission for funds to mitigate impacts provided that the funding is used for a “public purpose” and not the direct benefit or maintenance of a private party or private parties.

The Community Mitigation Fund may be used to offset costs related to both Category 1 full casino facilities (MGM Springfield and Encore Boston Harbor), the state’s Category 2 slots-only facility (Plainridge Park), and may be utilized, pursuant to these Guidelines, for a program of technical assistance for communities that may be impacted by the potential Tribal gaming facility in Taunton.



Massachusetts Gaming Commission

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### Does a Community Need to Be a Designated Host or Surrounding Community to Apply?

**No.** The Commission’s regulations and M.G.L. c. 23K, § 61 do not limit use of Community Mitigation Funds to only host or surrounding communities. The Commission’s regulation, 205 CMR 125.01(4), states that “[a]ny finding by the commission that a community is not a surrounding community for purposes of the RFA-2 application shall not preclude the community from applying to and receiving funds from the Community Mitigation Fund established by M.G.L. c. 23K, § 61....”

### What Cannot Be Funded?

**2020 Community Mitigation Fund may not be used for the mitigation of:**

- impacts that are projected or predicted but that are not occurring or have not occurred by February 1, 2020;\*\*
- impacts that are the responsibility (e.g. contractual, statutory, regulatory) of parties involved in the construction of gaming facilities (such as damage caused to adjoining buildings by construction equipment, spills of construction-related materials outside of work zones, personal injury claims caused by construction equipment or vehicles);
- the cost of the preparation of a grant application;
- requests related to utility outages, such as the mitigation of business interruptions; and
- ~~police training costs; and~~
- other impacts determined by the Commission

\*\*These limitations do not apply to transportation planning grants, non-transportation planning grants, workforce development program grants, ~~transit~~transportation construction project(s) of regional significance grants, and tribal gaming technical assistance grants, and ~~grants for police training costs.~~

Please note that the Commission may determine to expand the eligible uses of funds for the 2020 program or other future programs when impacts are more clearly identifiable. The Commission will also consult with mitigation advisory committees established in M.G.L. c. 23K in determining such uses.

### Guidance to Ensure Funding is Used for Public Purposes Related to Gaming Facility Impacts

The Commission strongly encourages applicants to ensure that the impacts are directly related to the gaming facility and that the public purpose of such mitigation is readily apparent. The Commission will not fund any applications for assistance for non-governmental entities.

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## 2020 COMMUNITY MITIGATION FUND GUIDELINES

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Please note that as stated by the Commonwealth's Comptroller's Office: "The Anti-Aid Amendment of the Massachusetts Constitution prohibits 'public money or property' from aiding non-public institutions.... Article 46 has been interpreted to allow the expenditure of public funds to non-public recipients solely for the provision of a 'public purposes' [sic] and not for the direct benefit or maintenance of the non-public entity."

Any governmental entity seeking funding for mitigation is required to ensure that any planned use of funding is in conformity with the provisions of the Massachusetts Constitution and with all applicable laws and regulations, including but not limited to, Municipal Finance Law and public procurement requirements.

### How Much Funding Will Be Available?

The Commission has determined a target spending amount of \$11.5 million for 2020. This represents a significant increase in the potential amount of grants awarded compared to prior years ~~(\$2 million in 2015 (all reserve awards), \$2.7 million in 2016 (including some new reserve awards), \$2.4 million in 2017, \$5.9 million in 2018 (including one-time police training costs), and \$2.96 million in 2019).~~<sup>1</sup> Despite this funding increase, significant funds are estimated to remain in the Community Mitigation Fund for impacts and priorities in future years, as such impacts and priorities become more evident. If all target spending is made in 2020 based on projections made at the time the Guidelines were approved in December 2019, the CMF could still have an estimated unallocated balance of over \$3 ~~million~~Million from funds generated by December 31, 2019, including \$1.25 million reserved for future Region A use, \$590,000 for future Region B use, and \$1.5 million from the original license fees). Additional funds will be placed into the CMF from MGM Springfield and Encore Boston Harbor funds generated in 2020.

Now that both the Encore Boston Harbor and MGM Springfield facilities are operational, 6.5% of the revenues from the tax on gross gaming revenues from these facilities are being placed into the Community Mitigation Fund. Based upon an analysis of revenues generated to date, more than \$10 million may be placed into the fund in 2020 for awards in future years.

### Allocation by Region

The Commission intends to allocate 2020 CMF funding based on needs in the regions that reflect the proportion of funds paid into the Community Mitigation Fund from the taxes and

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<sup>1</sup> These yearly grant awards amounts include both the amounts of reserve grants (which by their nature were designed to be spent in future years) and the full value of non-reserve grants that were reduced (because of the requirement that outstanding reserves had to be spent prior to the use of new grant funding). Thus, the amounts of awards for prior years should not be totaled in any effort to understand the total amount of funds granted over the course of the CMF program. For example, a new \$250,000 transportation planning award in 2018 is counted in the 2018 totals here even though that \$250,000 total grant was made from \$150,000 in 2018 funds and \$100,000 from a reserve grant that was made in 2015 or 2016).

## 2020 COMMUNITY MITIGATION FUND GUIDELINES

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fine revenue generated by the MGM Springfield and Encore Boston Harbor facilities.<sup>2</sup> This allocation takes into account mitigation needs outside Region A and Region B, and includes a method to utilize unspent allocations.

For the 2020 year, the Commission plans to allocate the \$11.5 million target spending amount almost equally between the two regions, \$6 million for Region A and \$5 million for Region B, after accounting for grants that will be made for Category 2 impacts. Targeted spending is \$1 million higher in Region A than Region B reflecting the higher amount of funds expected to be generated by Region A in 2019. ~~Thus, by way of example, if~~ If the Commission awards \$500,000 for Category 2 impacts in 2020, \$11 million would be available to be split between Region A and Region B (i.e. \$6 million for Region A and \$5 million for Region B). Please note that these Guidelines establish a maximum target of \$500K for Category 2 impacts. In the event that \$500K is not necessary for Category 2 impacts, more target spending would be available for Region A and Region B.

~~Although Encore Boston Harbor opened mid-year (June 23) and will place only about a half year's worth of revenues into the CMF by December 31, 2019 (compared to a full year's worth of MGM Springfield revenues), an Encore Boston Harbor fine issued in 2019 resulted in approximately \$2.3 million being placed into the Community Mitigation Fund. Encore Boston Harbor is also expected to generate more funds into the CMF in 2019 than MGM Springfield. However, funding that was not allocated in 2019 for Region B can be made available to Region B in 2020. Approximately \$1.65 million that was generated by MGM Springfield in 2018 can be made available in 2020 for Region B.<sup>3</sup>~~

~~Below is a chart showing the anticipated contributions from each Region, compared to projected target spending levels for Region A and Region B.~~

### FOR ILLUSTRATION PURPOSES ONLY (SEE NOTE BELOW)

	<u>Region A</u>	<u>Region B</u>
<b>Unutilized 2018 Gaming Tax Contributions</b>	<b>n/a</b>	<b>\$1.65 million<sup>4</sup></b>
<b>Projected 2019 Gaming Tax Contributions</b>	<b>\$5.20 million</b>	<b>\$4.18 million</b>
<b>2019 Fines</b>	<b>\$2.30 million</b>	<b>\$0.01 million</b>

<sup>2</sup> These Guidelines do not describe revenue estimates from the potential Tribal facility in Taunton or the participation of a Region C facility, as no Region C license or Tribal facility has yet been fully authorized. Further, after the initial deposit, no further contributions from the Slots licensee will be made to the fund.

<sup>3</sup> ~~For the 2019 CMF program, the Commission set a spending target of \$4.1 million for Region B, which included the use of approximately \$1.5 million from "new" funds generated by MGM Springfield in 2018 and \$2.6 million remaining from the original license fees. Only \$1.1 million was awarded to Region B in 2019, leaving the \$1.5 million in "new funds" and approximately \$1.5 million from the original license fees.~~

<sup>4</sup> ~~In the 2019 Guidelines, the Commission included a conservative estimate of \$1.5 million estimate for 2018 MGM Springfield contributions to the CMF. MGM Springfield placed \$1,649,098.02 into the fund in 2018.~~

## 2020 COMMUNITY MITIGATION FUND GUIDELINES

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<b>Total:</b>	<b><u>\$7.5 million</u></b>	<b><u>\$5.84 million</u></b>
<b>2020 Target Spending Amount<sup>5</sup></b>	<b><u>\$6.0 million</u></b>	<b><u>\$5.0 million</u></b>
<b>Plus \$500,000 for Category 2 Spending (split equally).</b>	<b><u>\$1.25 million</u></b>	<b><u>\$1.25 million</u></b>

~~PLEASE NOTE THAT THIS CURRENT ESTIMATE FOR PROJECTED 2019 GAMING TAX CONTRIBUTIONS IS PROVIDED ONLY FOR ILLUSTRATION PURPOSES. THE ESTIMATE IS CALCULATED SOLELY BY USING THE AVERAGE DAILY TAX REVENUES CONTRIBUTED TO DATE MULTIPLIED BY THE NUMBER OF REMAINING DAYS IN 2019. THIS ANALYSIS DOES NOT ACCOUNT FOR SEASONAL IMPACTS (SUCH AS SOME POST-SUMMER REVENUE DECLINES EXPERIENCED TO DATE). IT ALSO DOES NOT ACCOUNT FOR OTHER FACTORS SUCH AS THE IMPACT OF MARKETING BY THESE FACILITIES OR IMPACTS OF REGIONAL COMPETITION. BY THE TIME OF THE ANTICIPATED FINALIZATION OF THE GUIDELINES, THE COMMISSION WILL HAVE THE BENEFIT OF REVENUE NUMBERS THROUGH OCTOBER (AND PERHAPS NOVEMBER). THE BEST AVAILABLE ESTIMATES WILL BE USED AT THAT TIME.~~

It is the Commission's further intention that any unused funds allocated to each Category 1 Region will be set aside for that Region for a period of three years. After the three-year period, the funds shall be allocated back into a combined general fund for all regions and for Category 2 impacts. -Because Encore Boston Harbor opened in 2019, Encore Boston Harbor did not generate any 2018 funds for use in the 2019 program. -Therefore, no funds are rolled over into 2020.- Approximately \$1.65 million of funds generated by MGM Springfield in 2018 are rolled over into 2020. If these funds are not utilized by 2022, they would be allocated back into the combined general fund for all regions and Category 2 impacts during the 2023 CMF program. It is the intention of the Commission to count any allocated regional balances first ~~last~~ toward 2020 spending targets.

### Joint Applications

The Commission continues to support regional approaches to mitigation needs and recognizes that some mitigation requires the commitment of more than one community. The 2020 Guidelines for the Community Mitigation Fund allow multiple communities to submit a joint application. In the event that any of the applicant communities has not expended its One-Time 2015/2016 Reserve ("reserve" or "reserves"), the application must detail how the reserves will be allocated between the applicant communities to meet any reserve expenditure requirement. For example, transportation planning grants require that reserves be used prior to the receipt of new planning funds. In the event of a joint application for a \$200,000 planning grant, the joint application shall specify how the applicant communities will allocate/use a total of \$100,000 in reserves between the communities. The application must specify which

<sup>5</sup> Assumes \$500,000 of Category 2 spending (i.e. \$11.5 million in total spending - \$500k category 2 = \$11 million split between the Regions \$6M and \$5M).

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## 2020 COMMUNITY MITIGATION FUND GUIDELINES

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community will be the fiscal agent for the grant funds. All communities will be held responsible for compliance with the terms contained in the grant.

In order to further regional cooperation the applications for transportation planning grants and non-transportation planning grants that involve more than one community for the same planning projects may request grant assistance that exceeds the limits specified in these Guidelines (\$200,000 for transportation planning grants and \$50,000 for non-transportation planning grants). The additional funding may be requested only for the costs of a joint project being proposed by more than one community, not similar projects. Eligible communities may request additional funding for joint projects based on the below table.

	Base Funding	Regional Planning Incentive Award	Total Allowable Request
Non-Transportation Planning Projects Involving Two (2) Communities	\$100,000 for each community	\$10,000	$\$100,000 \times 2 \text{ communities}$ $\$200,000 + \$10,000 =$ <u>\$210,000</u>
Non-Transportation Program Involving Three (3) or More	\$100,000 for each community	\$15,000	$\$100,000 \times 3 \text{ communities}$ $\$300,000 + \$15,000 =$ <u>\$315,000</u>
Transportation Planning Projects Two (2) Communities	\$200,000 for each community	\$25,000	$\$200,000 \times 2 \text{ communities}$ $\$400,000 + \$25,000 =$ <u>\$425,000</u>
Transportation Planning Projects Three (3) or more	\$200,000 for each community	\$50,000	$\$200,000 \times 3 \text{ communities}$ $\$600,000 + \$50,000$ <u>\$650,000</u>

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\*Although the base amount for such grants would increase with applications involving four or more communities (e.g. \$200,000 Transportation Planning Grant per community X 4 communities = \$800,000) the amount of the Regional Planning Incentive Award will not exceed \$50,000 (e.g. 4 community transportation planning grants would not exceed \$850,000 = 4 x \$200,000 base award plus \$50,000 Regional Planning Incentive Award).

Please note that communities can apply for a portion of the planning grants for single community applications while allocating a portion for joint projects. For example, a community could apply for one \$100,000 base Transportation Planning Grant leaving \$100,000 for a joint application involving another community. In this example the community could be eligible for \$100,000 for the single community project, \$100,000 for a joint project, and a \$25,000 Regional Planning Incentive Award amount shared with a second community.

## 2020 COMMUNITY MITIGATION FUND GUIDELINES

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Applications seeking a Regional Planning Incentive Award amount shall allocate at least fifty percent (50%) of the base funding level towards a joint project. For example, at least \$100,000 of a \$200,000 Transportation Planning Grant seeking an additional Regional Planning Incentive Award amount shall be for the joint project with another community. No community is eligible for more than one Transportation Regional Planning Incentive Award. No community is eligible for more than one Non-Transportation Regional Planning Incentive Award.

### Limitations

No application for a Specific Impact Grant shall exceed \$500,000, unless a waiver has been granted by the Commission. No community is eligible for more than one Specific Impact Grant, unless a waiver has been granted by the Commission. However, communities may apply for multiple purposes in one application.

Of that amount, for 2020, no more than \$500,000 may be expended for operational impacts related to the Category 2 gaming facility, unless otherwise determined by the Commission.

### One-Time 2015/2016 Reserves

In 2015 and 2016, a Reserve Fund was established for communities that may not have been able to demonstrate significant impacts by the submittal deadline date. The Commission reserved \$100,000 for the following communities which were either a host community, designated surrounding community, a community which entered into a nearby community agreement with a licensee, a community that petitioned to be a surrounding community to a gaming licensee, or a community that is geographically adjacent to a host community:

**Region A:** Boston, Cambridge, Chelsea, Everett, Lynn, Malden, Medford, Melrose, Revere, Saugus, Somerville

**Region B:** Agawam, Chicopee, East Longmeadow, Hampden, Holyoke, Longmeadow, Ludlow, Northampton, Springfield, West Springfield, Wilbraham

**Category 2 – Slots:** Attleboro, Foxboro, Mansfield, North Attleboro, Plainridge, Wrentham

In many cases, communities may not be in a position to access their 2015/2016 Reserves by the February 1, 2020 deadline. Therefore, the Commission has extended such Reserves for the 2020 Community Mitigation Fund Program. Communities may continue to access whatever portion of the original \$100,000 that remains unexpended. **The above communities do not need to submit any new application to keep their Reserves. These reserves have automatically been extended by action of the Commission.**

The criteria for the use of the Reserves remain the same. This Reserve can be used to cover impacts that may arise in 2020 or thereafter. It may also be used for planning, either to determine how to achieve further benefits from a facility or to avoid or minimize any adverse impacts.

Funds will be distributed as the needs are identified. Communities that utilize the Reserve are not prohibited from applying for funding for any specific mitigation request.

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### What are the Reserve Amounts?

Can a community apply for mitigation of a specific impact even though it has not fully utilized its One-Time 2015/2016 Reserve?

**Yes.** However, if a Specific Impact Grant application is successful, a portion of the One-Time Reserve will be used as an offset against the amount requested for the specific impact. The reserve amount will be reduced by fifty thousand dollars (\$50,000.00) assuming the specific impact request is at least that amount.

### Specific Impact Grants - What Specific Impacts Can Be Funded?

The 2020 Community Mitigation Fund for mitigation of specific impacts may be used only to mitigate impacts that either have occurred or are occurring as of the February 1, 2020 application date. Although the definition in the Commission's regulations (for the purpose of determining which communities are surrounding communities) references predicted impacts, the 2020 program is limited to only those impacts that are being experienced or were experienced by the time of the February 1, 2020 application date.

The Commission has determined that the funding of unanticipated impacts will be a priority under the annual Community Mitigation Fund. Thus the Commission will review funding requests in the context of any host or surrounding community agreement to help determine funding eligibility.<sup>6</sup> The Community Mitigation Fund is not intended to fund the mitigation of specific impacts already being funded in a Host or Surrounding Community Agreement.

No application for the mitigation of a specific impact shall exceed \$500,000. However, communities and governmental entities may ask the Commission to waive this funding cap. Any community and governmental entity seeking a waiver should include a statement in its application specifying the reason for its waiver request, in accordance with the waiver guidance included in these Guidelines.

#### **Allowable impacts for funding are as follows:**

**Operational Impacts for All Gaming Facilities:** In recognition that the Category 2 gaming facility in Plainville opened during calendar year 2015, the MGM Springfield Category 1 facility opened during calendar year 2018, and Encore Boston Harbor opened during calendar year 2019, the Commission will make available funding to mitigate operational related impacts that are being experienced or were experienced from that facility by the February 1, 2020 date. The Commission will make available up to \$500,000 in total for applications for the mitigation of operational impacts relating to the Plainridge facility.

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<sup>6</sup> The Commission is aware of the difference in bargaining power between host and surrounding communities in negotiating agreements and will take this into account when evaluating funding applications.

## 2020 COMMUNITY MITIGATION FUND GUIDELINES

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The Commission's regulation 205 CMR 125.01 2(b)4 defines operational impacts as:

"The community will be significantly and adversely affected by the operation of the gaming establishment after its opening taking into account such factors as potential public safety impacts on the community; increased demand on community and regional water and sewer systems; impacts on the community from storm water run-off, associated pollutants, and changes in drainage patterns; stresses on the community's housing stock including any projected negative impacts on the appraised value of housing stock due to a gaming establishment; any negative impact on local, retail, entertainment, and service establishments in the community; increased social service needs including, but not limited to, those related to problem gambling; and demonstrated impact on public education in the community."

Although these definitions include the types of operational impacts that may be funded, it is not limited to those. The determination will be made by the Commission after its review.

### Public Safety Operational Costs

All applications for public safety personnel or other public safety operation costs must demonstrate that CMF funds will supplement and not supplant historical operations funding. Grants for public safety personnel or operations costs may not exceed \$ ~~\_\_\_\_\_~~ per community. \$200,000.00 per community, unless a waiver is approved by the Commission pursuant to the waiver standard established in these Guidelines. Grant funds shall not be used to pay for Gaming Enforcement Unit personnel or operations costs specified or anticipated in the memoranda of understanding between the Massachusetts State Police and host communities' police departments.

Applicants must include detailed hourly estimates for the costs of any public safety personnel costs. Applicants should include the most relevant information describing historical service or staffing levels ("baseline information") in order to demonstrate that all funds will be used to supplement existing efforts. For example, if a community requests funding for additional staffing for a specific time period, the application should include information about the staffing levels that have been used for that same time period during the license term of the gaming facility. In describing any historical service levels, applicants should identify any time limited or "pilot" type operations which may have a bearing upon any determination of how the baseline service levels should be calculated. Applicants are requested to provide as much detailed baseline information as practicable to help the Commission in its review.

Please note that any 2020 public safety grants shall have a duration of only one year, unless otherwise determined by the Commission. Any grant awards issued in **2020 SHOULD NOT** be considered to provide any guarantee or indication of future funding.

### Hampden County Sheriff's Department – Specific Impact Grant Grants

In 2016 the Commission awarded the Hampden County Sheriff's Department ("HCSD") funds to offset increased rent for the Western Massachusetts Correctional Alcohol Center ("WMCAC"). In providing assistance, the Commission stated that the amount of assistance shall not exceed

## 2020 COMMUNITY MITIGATION FUND GUIDELINES

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\$2,000,000 in total for five years or \$400,000 per fiscal year. A provision in the grant required HCSD to reapply each year. Each grant application may not exceed \$400,000 per year. Any such lease assistance shall be included in the Region B allocation of funds.

### 2020 Non-Transportation Planning GrantGrants

The Commission will make available funding for certain planning activities for all communities that previously qualified to receive funding from the One-Time 2015/2016 Reserve Fund, and have already allocated and received Commission approval of the use of its reserve. No application for this 2020 Non-Transportation Planning Grant shall exceed One Hundred Thousand Dollars (\$100,000). Applications involving transportation planning or design are not eligible for the 2020 Non-Transportation Planning Grant. Communities requesting transportation planning should instead apply for Transportation Planning Grant funds.

Eligible planning projects must have a defined area or issue that will be investigated as well as a clear plan for implementation of the results. The planning project must be clearly related to addressing issues or impacts directly related to the gaming facility. Applicants will be required to submit a detailed scope, budget, and timetable for the planning effort prior to funding being awarded. Each community applying for a 2020 Non-Transportation Planning Grant will also need to provide detail on what it will contribute to the project such as in-kind services or planning funds. Planning projects may include programs created by communities to provide technical assistance and promotion for groups of area businesses.

Communities that utilize this 2020 Non-Transportation Planning Grant are not prohibited from applying for funding for any specific mitigation request.

### Transportation Planning Grants

The Commission will make available funding for certain transportation planning activities for all communities eligible to receive funding from the Community Mitigation Fund in Regions A & B and for the Category 2 facility, including each Category 1 and Category 2 host community and each designated surrounding community, each community which entered into a nearby community agreement with a licensee, and any community that petitioned to be a surrounding community to a gaming licensee, each community that is geographically adjacent to a host community.

The total funding available for Transportation Planning Grants will likely not exceed \$1,000,000. No application for a Transportation Planning Grant shall exceed \$200,000.

Eligible transportation planning projects must have a defined area or issue that will be investigated as well as a clear plan for implementation of the results. Transportation Planning Grant funds may be sought to expand a planning project begun with reserve funds or to fund an additional project once the reserves have been exhausted.

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Eligible transportation planning projects must have a defined area or issue that will be investigated as well as a clear plan for implementation of the results.

Eligible expenses to be covered by the Transportation Planning Grant include, but not necessarily limited to:

- Planning consultants/staff
- Data gathering/surveys
- Data analysis
- Design
- Engineering review/surveys
- Public meetings/hearings
- Final report preparation

The transportation planning projects must be clearly related to addressing transportation issues or impacts directly related to the gaming facility. Applicants will be required to submit a detailed scope, budget, and timetable for the transportation planning effort prior to funding being awarded.

Communities that requested and received the One-Time 2015/2016 Reserve Grant must first expend those funds before accessing any Transportation Planning Grant funds. Transportation Planning Grant funds may be sought to expand a planning project begun with reserve funds or to fund an additional project once the reserves have been exhausted.

In addition to the specific impact grant factors further defined in section “[How Will the Commission Decide on Applications?](#)”, the Commission will also consider whether the applicant demonstrates the potential for such transportation project that is the subject of a CMF application to compete for state or federal transportation funds.

Applicants may, but are not required, to include a description of how the project meets the evaluation standards for the Fiscal Year 2020 TIP criteria for the Boston MPO Region or the Pioneer Valley Planning Commission’s transportation evaluation criteria, or other regional transportation project evaluation standard, whichever may be most applicable.

### Transportation Project Construction Costs Project(s) Grants

In addition to grants for transportation planning and design through its transportation planning grants, the Commission has determined to expand these grants to include the cost of the construction of transportation projects in the 2020 CMF. The Commission ~~intends~~[anticipates](#) that any CMF assistance provided will only be for a percentage of the costs ~~no more than~~ [X percent](#) of any such project and that significant other federal, state, local, private or other funding will be available to pay for the costs of any such project.

Applicants are not prohibited from applying for transportation construction funds in future years for a project included in a 2020 application. However, any 2020 transportation [construction](#) project may not rely upon contributions from the CMF in future rounds. Applicants should demonstrate that the financing for the project does not depend upon any future year awards by the Commission. Given the likely complexity of any such transportation

construction applications, applicants may consult with Commission staff before and during the CMF review on such projects. The Commission anticipates authorizing no more than \$3,000,000 in grants for transportation construction projects. The Commission does not anticipate authorizing more than \$1,000,000 for any one award. As noted in these Guidelines, the Commission may adjust all target spending amounts, including but not limited to the amounts in this section. For example, more transportation construction awards may be made available if regional award targets are not reached after totaling awards from all other grant categories. Applicants may include a request to use funding from previously awarded CMF Reserves in any description of significant other federal, state, local, or private contributions. Similarly, applicants may include contributions from gaming licensees and private contributions. Applications contain no minimum and will be evaluated on the readiness of the project and contributions to the project by other financing sources.

Applicants must demonstrate that any transportation construction project will begin construction no later than June 30, 2021. In addition to the criteria for determining grants stated later in these Guidelines, the Commission will evaluate a project's readiness to proceed, the significance of additional funds from other sources, and the potential transportation benefits associated with such projects.

Although the Commission will not authorize any multi-year grants for transportation projects in 2020, the Commission plans to issue request for Statements of Interest in 2020 for transportation construction projects that would require multi-year grants. Such Statement of Interest would help the Commission determine the needs for multi-year grants in preparation for the 2021 CMF funding round. The Statement of Interest would also be utilized to allow for a greater understanding of projects that may be the subject of a future application.

Applicants may, but are not required, to include a description of how the project meets the evaluation standards for the Fiscal Year 2020 TIP criteria for the Boston MPO Region or the Pioneer Valley Planning Commission's transportation evaluation criteria, or other regional transportation project evaluation standard, whichever may be most applicable.

Applicants are strongly encouraged to include a letter of support from the MassDOT with any application.

Transportation construction grants are not available for transportation operations costs.

#### Limitations/Specific Requirements on Planning Applications

The Commission will fund no application for more than two years for any municipal employee. The CMF will not pay the full cost of any municipal employee. The municipality would need to provide the remaining amount of any employee cost and certify that all such expenses are casino related. For non-personnel costs, each community applying for planning funds will also need to provide detail on what it will contribute to the planning project such as in-kind services or planning funds.

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Pursuant to the Guidelines, the Commission will evaluate requests for planning funds (including the use of One-Time 2015-2016 Reserve, Non-Transportation Planning Grant, Transportation Planning Grant and ~~Transit~~ Transportation Construction Project(s) of Regional Significance) after taking into consideration input the applicant has received from the local Regional Planning Agency ("RPA") or any such interested parties. Although there is no prerequisite for using RPA's for planning projects, consultation with RPA's is required to enable the Commission to better understand how planning funds are being used efficiently across the region of the facility. Please provide details about the applicant's consultation with the RPA or any such interested parties. Applicants should provide detail regarding consultations with nearby communities to determine the potential for cooperative regional efforts regarding planning activities.

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### Tribal Gaming Technical Assistance ~~Grant~~ Grants

The Commission may make available no more than \$200,000 in technical assistance funding to assist in the determination of potential impacts that may be experienced by communities in geographic proximity to the potential Tribal Gaming facility in Taunton. Said technical assistance funding may be made through Southeastern Regional Planning and Economic Development District ("SRPEDD"), the regional planning agency that services such communities or a comparable regional entity. Such funding will only be made available, after approval of any application by SRPEDD or a comparable regional entity, if it is determined by the Commission that construction of such gaming facility will likely commence prior to or during Fiscal Year 2020. Any such application by SRPEDD or a comparable regional entity must demonstrate that any studies of impacts will address the technical assistance needs of the region which may include but not be limited to the communities that are geographically adjacent to Taunton. Such funding shall not be used to study impacts on or provide technical assistance to Taunton, as funding has been provided in the Intergovernmental Agreement By and Between the Mashpee Wampanoag Tribe and the City of Taunton. Any such program of technical assistance may be provided by SRPEDD itself or through a contract with SRPEDD.

### Workforce Development Pilot Program ~~Grant~~ Grants

For fiscal year 2020, the Commission will make available funding for certain career pathways workforce development pilot programs in Regions A and B for service to residents of communities of such Regions, including each Category 1 host community and each designated surrounding community, each community which entered into a nearby community agreement with a licensee, any community that petitioned to be a surrounding community to a gaming licensee, and each community that is geographically adjacent to a host community. CMF Workforce grant applicants should focus on areas highly impacted by casino development, including gaming school scholarships, culinary, hospitality skills training or vocational focused English language/adult basic education.

The total funding available for workforce grants will likely not exceed ~~\$700~~ \$800,000. ~~No application for The Commission anticipates a grant base award of no more than \$300,000 in each Region shall exceed \$300,000 unless otherwise determined by the Commission. (not~~

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## 2020 COMMUNITY MITIGATION FUND GUIDELINES

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including an additional \$50,000 for regional cooperation or an additional \$100,000 award for significant regional needs (both additional awards described below)). In an effort to promote administrative efficiencies and greater regional cooperation, applicants that demonstrate cooperation of a significant number of workforce agencies in each region may be eligible for \$50,000 in additional funding. One grant is anticipated to be considered for each Region. Each governmental entity applying for workforce development funds will also need to provide detail on what it will contribute to the workforce development project such as in-kind services or workforce development funds. The Commission may authorize an award of up to \$100,000 for significant regional needs.

Eligible career pathways workforce development proposals must include a regional consortium approach to improve the skills, knowledge, and credential attainment of each Region A and Region B residents interested in a casino career, focusing on increasing industry-recognized and academic credentials needed to work in the most in-demand occupations related to the expanded gaming industry or a focus on occupations that could be in high demand from the casino, potentially negatively impacting the regional business community. This could include a focus on hospitality, culinary, cash handling, or customer service, etc.

### Goals include:

- To help low-skilled adults earn occupational credentials, obtain well-paying jobs, and sustain rewarding careers in sectors related to hospitality and casino careers.
- To get students with low basic skills into for-credit career and technical education courses to improve their educational and employment outcomes.
- To deliver education and career training programs that can be completed in two years or less and prepare program participants for employment in high-wage, high-skill occupations related to the casino.
- To align and accelerate ABE, GED, and developmental programs and provide nontraditional students the supports they need to complete postsecondary credentials of value in the regional labor market.
- To mitigate a strain in existing resources and a potential impact to the regional labor market.

### Eligible activities include:

- a program in Region A or Region B that structures intentional connections among adult basic education, occupational training, and post-secondary education programs designed to meet the needs of both adult learners and employers;
- a program in Region A or Region B that provides post-secondary vocational programs, registered apprenticeships, courses leading to college credits or industry-recognized certificates, Adult Basic Education ("ABE") and vocationally based English for Speakers of

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Other Languages (“ESOL”) training programs, contextualized learning, integrated education and training, and industry-recognized credentials.

**A consortium application is required.** However, governmental entities eligible to receive funds would include but not be limited to: host communities, communities which were each either a designated surrounding community, a community which entered into a nearby community agreement with a licensee, a community that is geographically adjacent to the host community of a gaming licensee, a community that petitioned to be a surrounding community to a gaming licensee state agencies, state agencies, and regional employment boards. The Commission shall evaluate the use of host community agreement funds in evaluating funding requests for workforce development pilot program grant funds. Applicants should consider leveraging other funding resources.

The Commission has determined that administrative costs (including but not limited to all indirect and other administrative funding) shall not exceed 7.5% of the total grant allocation. Administrative costs include activities related to management, oversight, reporting and record keeping, and monitoring of the grant program.

#### **What Should Be Included in the Applications?**

- ★ Applicants are required to complete the 2020 Specific Impact Grant Application, the 2020 Transportation Planning Grant Application, the 2020 Workforce Development Pilot Program Grant Application, the 2020 Non-Transportation Planning Grant Application, 2020 Transportation ~~Project~~ Construction ~~Costs~~Project(s) Grant Application, or 2020 Reserve Planning Grant Application/Tribal Gaming Technical Assistance Grant Application, and may also submit additional supporting materials of a reasonable length.
- ★ Applicants will need to describe how the specific mitigation, planning, workforce development pilot program or regional transit project request will address any claimed impacts and provide justification of any funds requested. Unlike existing surrounding community agreements which were based on anticipated impacts, any Specific Impact Grant will be based on impacts that have occurred or are occurring, as described previously.
- ★ Applicants will need to describe if and how such impacts were addressed or not addressed in any host or surrounding community agreements. Applicants may include a letter of support from the applicable gaming licensee. However, this is not necessary, as the Commission will request the licensee’s opinion regarding each Application.

#### **How Will the Commission Decide on Applications?**

Similar to the Commission’s surrounding community review process, the Commission will ask each licensee to review and comment on any requests for funding.

The Commission will evaluate the submittal by the community, any input received from the community and interested parties (such as regional planning agencies), the responses of the licensee, Commission consultant reviews, and any other sources determined by the

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Commission. Commission Staff may consider information from the report issued by the Lower Mystic Regional Workforce Group in its evaluation of transportation planning grants.

The Commission will evaluate any funding requests in the context of any host or surrounding community agreements. Factors used by the Commission to evaluate grant applications may include but not be limited to:

- A demonstration that the impact is being caused by the proposed gaming facility;
- The significance of the impact to be remedied;
- The potential for the proposed mitigation measure to address the impact;
- The feasibility and reasonableness of the proposed mitigation measure;
- A demonstration that any program to assist non-governmental entities is for a demonstrated public purpose and not for the benefit or maintenance of a private party;
- The significance of any matching funds for workforce development pilot program activities, transportation construction project(s) or planning efforts, including but not limited to the ability to compete for state or federal workforce, transportation or other funds;
- Any demonstration of regional benefits from a mitigation award;
- A demonstration that other funds from host or surrounding community agreements are not available to fund the proposed mitigation measure;
- A demonstration that such mitigation measure is not already required to be completed by the licensee pursuant to any regulatory requirements or pursuant to any agreements between such licensee and applicant; and
- The inclusion of a detailed scope, budget, and timetable for each mitigation request.

### Supplemental Guidelines Used To Evaluate Workforce Development Applications

- ❖ Does the application develop a workforce pilot program that seeks to address any claimed impacts?
- ❖ Does the proposal include a program in Region A or Region B that structures intentional connections among adult basic education, occupational training, and post-secondary education programs?
- ❖ Does the proposal seek to assist low-skilled adults in obtaining education and career training to enable them to join the regional labor market?
- ❖ Does the proposal seek to address the anticipated goals of the program (see pages 12 and 13 of these Guidelines)?

- ❖ Will the participants receive industry-recognized or academic credentials needed to work in the most in-demand casino –related occupations within the region?
- ❖ A governmental entity applying for workforce development funds will also need to provide detail on what it will contribute to the workforce development project such as in-kind services or workforce development funds
- ❖ Is the Applicant collaborating with others to provide a regional approach?
- ❖ Does the Applicant address issues related to a gaming facility?

The Commission may ask Applicants for supplementary materials, may request a meeting with Applicants, and reserves the ability to host a hearing or hearings on any application.

The Commission’s deliberations on Community Mitigation Fund policies will also be aided through input from the Gaming Policy Advisory Committee, the Community Mitigation Subcommittee, and any Local Community Mitigation Advisory Committees as established pursuant to M.G.L. c. 23K.

The Commission reserves the ability to determine a funding limit below what is detailed in these Guidelines. The Commission also reserves the ability to determine a funding limit above what is detailed in these Guidelines. The Commission notes that it plans to target its funding decisions based on the regional allocations described earlier. However, the Commission reserves the right to make determinations that do not strictly adhere or adhere to such targets. In the event the Commission awards are not in such adherence, the Commission may make appropriate adjustments in future guidelines to bring regional allocations into more congruity with such targets.

**The Commission reserves the ability to fund only portions of requested projects and to fund only a percentage of amounts requested. The Commission also reserves the ability to place conditions on any award.**

**There is limited funding available. The Commission therefore reserves the right to determine which requests to fund based on its assessment of a broad range of factors including the extent of public benefit each grant is likely to produce.**

#### When Will the Commission Make Decisions?

The Commission anticipates making funding decisions on any requests for grant assistance before July 2020, after a comprehensive review and any additional information requests.

#### Authorization to Approve Requests for Changes to Components of Grant Awards

The Commission hereby authorizes staff to approve requests for changes to components of grant awards provided that staff shall provide notice of such changes to all Commission members and provided further that such changes shall not exceed 10% of the grant award or \$10,000, whichever is smaller.

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### Is There a Deadline for the Use of the One-Time 2015/2016 Reserve?

There is no deadline. Funds may be used on a rolling basis when specific impacts are determined or the specific planning activity is determined. Once known, communities should contact the Ombudsman's Office, which will assist the community in providing the needed information. Communities with specific impacts will, at the time the impacts are known, complete the Specific Impact Grant Application or the Planning Project Grant Application in its entirety. Communities with requests for planning funds will provide similar information to the Commission: a description of the planning activity, how the planning activity relates to the development or operation of the gaming facility, how the planning funds are proposed to be used, consultation with the Regional Planning Agency, other funds being used, and how planning will help the community determine how to achieve further benefits from a facility or to avoid or minimize any adverse impacts. The Commission will fund no application for more than two years for any municipal employee. The CMF will not pay the full cost of any municipal employee. The municipality would need to provide the remaining amount of any employee cost and certify that all such expenses are casino related. Each Community applying for planning funds will also need to provide detail on what it will contribute to the planning project such as in-kind services or planning funds. Please note that such details do not need to be determined by the February 1, 2020 application date. Commission approvals of the use of the One-Time 2015/2016 Reserve will also be on a rolling basis corresponding to the rolling determinations of use by communities.

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### Waivers and Variances

(a) General. The Commission may in its discretion waive or grant a variance from any provision or requirement contained in these Guidelines, not specifically required by law, where the Commission finds that:

1. Granting the waiver or variance is consistent with the purposes of M.G.L. c. 23K;
2. Granting the waiver or variance will not interfere with the ability of the Commission to fulfill its duties;
3. Granting the waiver or variance will not adversely affect the public interest; and
4. Not granting the waiver or variance would cause a substantial hardship to the community, governmental entity, or person requesting the waiver or variance.

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(b) Filings. All requests for waivers or variances shall be in writing, shall set forth the specific provision of the Guidelines to which a waiver or variance is sought, and shall state the basis for the proposed waiver or variance.

(c) Determination. The Commission may grant a waiver or variance, deny a waiver or variance, or grant a waiver or variance subject to such terms, conditions and limitations as the commission may determine.

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### Who Should Be Contacted for Any Questions?

As the 2020 Community Mitigation Fund program is just in the fifth year of the program for the Commission, communities and other parties may have a number of questions. They are encouraged to contact the Commission's Ombudsman with any questions or concerns. The Commission's Ombudsman will regularly brief the Commission regarding the development of Community Mitigation Fund policies.

The Commission's Ombudsman, John Ziemba, can be reached at (617) 979-8423 or via e-mail at [john.s.ziemba@state.ma.us](mailto:john.s.ziemba@state.ma.us). The Commission's address is 101 Federal Street, 12<sup>th</sup> Floor, Boston, MA 02110.

### Where Should the Application Be Sent?

Applications **must be sent to** [www.commbuys.com](http://www.commbuys.com). An application received by COMMBUYS by February 1, 2020 will meet the application deadline. Applicants that are not part of the COMMBUYS system should contact Mary Thurlow of the Commission's Ombudsman's Office well in advance of the February 1, 2020 deadline to make arrangements for submission of the application by the deadline. Mary Thurlow can be contacted at (617) 979-8420 or at [mary.thurlow@state.ma.us](mailto:mary.thurlow@state.ma.us).

If you have any questions or concerns contact the COMMBUYS Help Desk at [COMMBUYS@state.ma.us](mailto:COMMBUYS@state.ma.us) or during normal business hours (8am - 5pm ET Monday - Friday) at 1-888-627-8283 or 617-720-3197.

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# 20

# COMMUNITY MITIGATION FUND

12/2/19

## 2020 COMMUNITY MITIGATION FUND GUIDELINES BD-20-1068-1068C-1068L-46130

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Massachusetts Gaming Commission



# 20

# COMMUNITY MITIGATION FUND

## 2020 COMMUNITY MITIGATION FUND GUIDELINES BD-20-1068-1068C-1068L-46130

### What is the Community Mitigation Fund?

The Expanded Gaming Act, M.G.L. c. 23K, created the Community Mitigation Fund ("CMF") to help entities offset costs related to the construction and operation of a gaming establishment.

### When Is the Application Deadline?

**February 1, 2020.** M.G.L. c. 23K, § 61 states that "parties requesting appropriations from the fund shall submit a written request for funding to the Commission by February 1."

### Who Can Apply?

M.G.L. c. 23K, § 61 states the Commission shall expend monies in the fund to assist the host and surrounding communities ... "including, but not limited to, communities and water and sewer districts in the vicinity of a gaming establishment, local and regional education, transportation, infrastructure, housing, environmental issues and public safety, including the office of the county district attorney, police, fire, and emergency services." The Commission may also distribute funds to a governmental entity or district other than a single municipality in order to implement a mitigation measure that affects more than one community.

Applications involving a mitigation measure impacting only one community shall only be submitted by the authorized representatives of the community itself. Governmental entities within communities such as redevelopment authorities or non-regional school districts shall submit applications through such community rather than submitting applications independent of the community.

Private non-governmental parties may not apply for Community Mitigation Funds. Governmental entities may apply to the Commission for funds to mitigate impacts provided that the funding is used for a "public purpose" and not the direct benefit or maintenance of a private party or private parties.

The Community Mitigation Fund may be used to offset costs related to both Category 1 full casino facilities (MGM Springfield and Encore Boston Harbor), the state's Category 2 slots-only facility (Plainridge Park), and may be utilized, pursuant to these Guidelines, for a program of technical assistance for communities that may be impacted by the potential Tribal gaming facility in Taunton.



Massachusetts Gaming Commission

101 Federal Street, 12<sup>th</sup> Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | [www.massgaming.com](http://www.massgaming.com)



### Does a Community Need to Be a Designated Host or Surrounding Community to Apply?

**No.** The Commission’s regulations and M.G.L. c. 23K, § 61 do not limit use of Community Mitigation Funds to only host or surrounding communities. The Commission’s regulation, 205 CMR 125.01(4), states that “[a]ny finding by the commission that a community is not a surrounding community for purposes of the RFA-2 application shall not preclude the community from applying to and receiving funds from the Community Mitigation Fund established by M.G.L. c. 23K, § 61....”

### What Cannot Be Funded?

***2020 Community Mitigation Fund may not be used for the mitigation of:***

- impacts that are projected or predicted but that are not occurring or have not occurred by February 1, 2020;\*\*
- impacts that are the responsibility (e.g. contractual, statutory, regulatory) of parties involved in the construction of gaming facilities (such as damage caused to adjoining buildings by construction equipment, spills of construction-related materials outside of work zones, personal injury claims caused by construction equipment or vehicles);
- the cost of the preparation of a grant application;
- requests related to utility outages, such as the mitigation of business interruptions; and
- other impacts determined by the Commission

\*\*These limitations do not apply to transportation planning grants, non-transportation planning grants, workforce development program grants, transportation construction project grants, and tribal gaming technical assistance grants.

Please note that the Commission may determine to expand the eligible uses of funds for the 2020 program or other future programs when impacts are more clearly identifiable. The Commission will also consult with mitigation advisory committees established in M.G.L. c. 23K in determining such uses.

### Guidance to Ensure Funding is Used for Public Purposes Related to Gaming Facility Impacts

The Commission strongly encourages applicants to ensure that the impacts are directly related to the gaming facility and that the public purpose of such mitigation is readily apparent. The Commission will not fund any applications for assistance for non-governmental entities.

Please note that as stated by the Commonwealth’s Comptroller’s Office: “The Anti-Aid Amendment of the Massachusetts Constitution prohibits ‘public money or property’ from

aiding non-public institutions.... Article 46 has been interpreted to allow the expenditure of public funds to non-public recipients solely for the provision of a 'public purposes' [sic] and not for the direct benefit or maintenance of the non-public entity."

Any governmental entity seeking funding for mitigation is required to ensure that any planned use of funding is in conformity with the provisions of the Massachusetts Constitution and with all applicable laws and regulations, including but not limited to, Municipal Finance Law and public procurement requirements.

### How Much Funding Will Be Available?

The Commission has determined a target spending amount of \$11.5 million for 2020. This represents a significant increase in the potential amount of grants awarded compared to prior years.<sup>1</sup> Despite this funding increase, significant funds are estimated to remain in the Community Mitigation Fund for impacts and priorities in future years, as such impacts and priorities become more evident. If all target spending is made in 2020 based on projections made at the time the Guidelines were approved in December 2019, the CMF could still have an estimated unallocated balance of over \$3 Million from funds generated by December 31, 2019. Additional funds will be placed into the CMF from MGM Springfield and Encore Boston Harbor funds generated in 2020.

Now that both the Encore Boston Harbor and MGM Springfield facilities are operational, 6.5% of the revenues from the tax on gross gaming revenues from these facilities are being placed into the Community Mitigation Fund. Based upon an analysis of revenues generated to date, more than \$10 million may be placed into the fund in 2020 for awards in future years.

### Allocation by Region

The Commission intends to allocate 2020 CMF funding based on needs in the regions that reflect the proportion of funds paid into the Community Mitigation Fund from the taxes and fine revenue generated by the MGM Springfield and Encore Boston Harbor facilities.<sup>2</sup> This allocation takes into account mitigation needs outside Region A and Region B, and includes a method to utilize unspent allocations.

For the 2020 year, the Commission plans to allocate the \$11.5 million target spending amount almost equally between the two regions, \$6 million for Region A and \$5 million for Region B, after accounting for grants that will be made for Category 2 impacts. Targeted spending is \$1

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<sup>1</sup> These yearly grant awards amounts include both the amounts of reserve grants (which by their nature were designed to be spent in future years) and the full value of non-reserve grants that were reduced (because of the requirement that outstanding reserves had to be spent prior to the use of new grant funding). Thus, the amounts of awards for prior years should not be totaled in any effort to understand the total amount of funds granted over the course of the CMF program. For example, a new \$250,000 transportation planning award in 2018 is counted in the 2018 totals here even though that \$250,000 total grant was made from \$150,000 in 2018 funds and \$100,000 from a reserve grant that was made in 2015 or 2016).

<sup>2</sup> These Guidelines do not describe revenue estimates from the potential Tribal facility in Taunton or the participation of a Region C facility, as no Region C license or Tribal facility has yet been fully authorized. Further, after the initial deposit, no further contributions from the Slots licensee will be made to the fund.

million higher in Region A than Region B reflecting the higher amount of funds expected to be generated by Region A in 2019. If the Commission awards \$500,000 for Category 2 impacts in 2020, \$11 million would be available to be split between Region A and Region B (i.e. \$6 million for Region A and \$5 million for Region B). Please note that these Guidelines establish a maximum target of \$500K for Category 2 impacts. In the event that \$500K is not necessary for Category 2 impacts, more target spending would be available for Region A and Region B.

It is the Commission's further intention that any unused funds allocated to each Category 1 Region will be set aside for that Region for a period of three years. After the three-year period, the funds shall be allocated back into a combined general fund for all regions and for Category 2 impacts. Because Encore Boston Harbor opened in 2019, Encore Boston Harbor did not generate any 2018 funds for use in the 2019 program. Therefore, no funds are rolled over into 2020. Approximately \$1.65 million of funds generated by MGM Springfield in 2018 are rolled over into 2020. If these funds are not utilized by 2022, they would be allocated back into the combined general fund for all regions and Category 2 impacts during the 2023 CMF program. It is the intention of the Commission to count any allocated regional balances first toward 2020 spending targets.

### Joint Applications

The Commission continues to support regional approaches to mitigation needs and recognizes that some mitigation requires the commitment of more than one community. The 2020 Guidelines for the Community Mitigation Fund allow multiple communities to submit a joint application. In the event that any of the applicant communities has not expended its One-Time 2015/2016 Reserve ("reserve" or "reserves"), the application must detail how the reserves will be allocated between the applicant communities to meet any reserve expenditure requirement. For example, transportation planning grants require that reserves be used prior to the receipt of new planning funds. In the event of a joint application for a \$200,000 planning grant, the joint application shall specify how the applicant communities will allocate/use a total of \$100,000 in reserves between the communities. The application must specify which community will be the fiscal agent for the grant funds. All communities will be held responsible for compliance with the terms contained in the grant.

In order to further regional cooperation the applications for transportation planning grants and non-transportation planning grants that involve more than one community for the same planning projects may request grant assistance that exceeds the limits specified in these Guidelines (\$200,000 for transportation planning grants and \$50,000 for non-transportation planning grants). The additional funding may be requested only for the costs of a joint project being proposed by more than one community, not similar projects. Eligible communities may request additional funding for joint projects based on the below table.

	Base Funding	Regional Planning Incentive Award	Total Allowable Request
Non-Transportation Planning Projects Involving Two (2) Communities	\$100,000 for each community	\$10,000	$\$100,000 \times 2 \text{ communities}$ $\underline{\$200,000 + \$10,000 =}$ $\underline{\$210,000}$
Non-Transportation Program Involving Three (3) or More	\$100,000 for each community	\$15,000	$\$100,000 \times *$ $\underline{3 \text{ communities}}$ $\underline{\$300,000 + \$15,000 =}$ $\underline{\$315,000}$
Transportation Planning Projects Two (2) Communities	\$200,000 for each community	\$25,000	$\$200,000 \times$ $\underline{2 \text{ communities}}$ $\underline{\$400,000 + \$25,000 =}$ $\underline{\$425,000}$
Transportation Planning Projects Three (3) or more	\$200,000 for each community	\$50,000	$\$200,000 \times *$ $\underline{3 \text{ communities}}$ $\underline{\$600,000 + \$50,000}$ $\underline{\$650,000}$

\*Although the base amount for such grants would increase with applications involving four or more communities (e.g. \$200,000 Transportation Planning Grant per community X 4 communities = \$800,000) the amount of the Regional Planning Incentive Award will not exceed \$50,000 (e.g. 4 community transportation planning grants would not exceed \$850,000 = 4 x \$200,000 base award plus \$50,000 Regional Planning Incentive Award).

Please note that communities can apply for a portion of the planning grants for single community applications while allocating a portion for joint projects. For example, a community could apply for one \$100,000 base Transportation Planning Grant leaving \$100,000 for a joint application involving another community. In this example the community could be eligible for \$100,000 for the single community project, \$100,000 for a joint project, and a \$25,000 Regional Planning Incentive Award amount shared with a second community.

Applications seeking a Regional Planning Incentive Award amount shall allocate at least fifty percent (50%) of the base funding level towards a joint project. For example, at least \$100,000 of a \$200,000 Transportation Planning Grant seeking an additional Regional Planning Incentive Award amount shall be for the joint project with another community. No community is eligible for more than one Transportation Regional Planning Incentive Award. No community is eligible for more than one Non-Transportation Regional Planning Incentive Award.

### Limitations

No application for a Specific Impact Grant shall exceed \$500,000, unless a waiver has been granted by the Commission. No community is eligible for more than one Specific Impact Grant, unless a waiver has been granted by the Commission. However, communities may apply for multiple purposes in one application.

Of that amount, for 2020, no more than \$500,000 may be expended for operational impacts related to the Category 2 gaming facility, unless otherwise determined by the Commission.

### **One-Time 2015/2016 Reserve Grants**

In 2015 and 2016, a Reserve Fund was established for communities that may not have been able to demonstrate significant impacts by the submittal deadline date. The Commission reserved \$100,000 for the following communities which were either a host community, designated surrounding community, a community which entered into a nearby community agreement with a licensee, a community that petitioned to be a surrounding community to a gaming licensee, or a community that is geographically adjacent to a host community:

**Region A:** Boston, Cambridge, Chelsea, Everett, Lynn, Malden, Medford, Melrose, Revere, Saugus, Somerville

**Region B:** Agawam, Chicopee, East Longmeadow, Hampden, Holyoke, Longmeadow, Ludlow, Northampton, Springfield, West Springfield, Wilbraham

**Category 2 – Slots:** Attleboro, Foxboro, Mansfield, North Attleboro, Plainridge, Wrentham

In many cases, communities may not be in a position to access their 2015/2016 Reserves by the February 1, 2020 deadline. Therefore, the Commission has extended such Reserves for the 2020 Community Mitigation Fund Program. Communities may continue to access whatever portion of the original \$100,000 that remains unexpended. **The above communities do not need to submit any new application to keep their Reserves. These reserves have automatically been extended by action of the Commission.**

The criteria for the use of the Reserves remain the same. This Reserve can be used to cover impacts that may arise in 2020 or thereafter. It may also be used for planning, either to determine how to achieve further benefits from a facility or to avoid or minimize any adverse impacts.

Funds will be distributed as the needs are identified. Communities that utilize the Reserve are not prohibited from applying for funding for any specific mitigation request.

### **What are the Reserve Amounts?**

Can a community apply for mitigation of a specific impact even though it has not fully utilized its One-Time 2015/2016 Reserve?

**Yes.** However, if a Specific Impact Grant application is successful, a portion of the One-Time Reserve will be used as an offset against the amount requested for the specific impact. The reserve amount will be reduced by fifty thousand dollars (\$50,000.00) assuming the specific impact request is at least that amount.

### Specific Impact Grants - What Specific Impacts Can Be Funded?

The 2020 Community Mitigation Fund for mitigation of specific impacts may be used only to mitigate impacts that either have occurred or are occurring as of the February 1, 2020 application date. Although the definition in the Commission's regulations (for the purpose of determining which communities are surrounding communities) references predicted impacts, the 2020 program is limited to only those impacts that are being experienced or were experienced by the time of the February 1, 2020 application date.

The Commission has determined that the funding of unanticipated impacts will be a priority under the annual Community Mitigation Fund. Thus the Commission will review funding requests in the context of any host or surrounding community agreement to help determine funding eligibility.<sup>3</sup> The Community Mitigation Fund is not intended to fund the mitigation of specific impacts already being funded in a Host or Surrounding Community Agreement.

No application for the mitigation of a specific impact shall exceed \$500,000. However, communities and governmental entities may ask the Commission to waive this funding cap. Any community and governmental entity seeking a waiver should include a statement in its application specifying the reason for its waiver request, in accordance with the waiver guidance included in these Guidelines.

#### **Allowable impacts for funding are as follows:**

**Operational Impacts for All Gaming Facilities:** In recognition that the Category 2 gaming facility in Plainville opened during calendar year 2015, the MGM Springfield Category 1 facility opened during calendar year 2018, and Encore Boston Harbor opened during calendar year 2019, the Commission will make available funding to mitigate operational related impacts that are being experienced or were experienced from that facility by the February 1, 2020 date. The Commission will make available up to \$500,000 in total for applications for the mitigation of operational impacts relating to the Plainridge facility.

The Commission's regulation 205 CMR 125.01 2(b)4 defines operational impacts as:

"The community will be significantly and adversely affected by the operation of the gaming establishment after its opening taking into account such factors as potential public safety impacts on the community; increased demand on community and regional water and sewer systems; impacts on the community from storm water run-off, associated pollutants, and changes in drainage patterns; stresses on the community's housing stock including any projected negative impacts on the appraised value of housing stock due to a gaming establishment; any negative impact on local, retail, entertainment, and service establishments in the community; increased social

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<sup>3</sup> The Commission is aware of the difference in bargaining power between host and surrounding communities in negotiating agreements and will take this into account when evaluating funding applications.



service needs including, but not limited to, those related to problem gambling; and demonstrated impact on public education in the community.”

Although these definitions include the types of operational impacts that may be funded, it is not limited to those. The determination will be made by the Commission after its review.

#### Public Safety Operational Costs

All applications for public safety personnel or other public safety operation costs must demonstrate that CMF funds will supplement and not supplant historical operations funding. Grants for public safety personnel or operations costs may not exceed **\$200,000.00** per community, unless a waiver is approved by the Commission pursuant to the waiver standard established in these Guidelines. Grant funds shall not be used to pay for Gaming Enforcement Unit personnel or operations costs specified or anticipated in the memoranda of understanding between the Massachusetts State Police and host communities’ police departments.

Applicants must include detailed hourly estimates for the costs of any public safety personnel costs. Applicants should include the most relevant information describing historical service or staffing levels (“baseline information”) in order to demonstrate that all funds will be used to supplement existing efforts. For example, if a community requests funding for additional staffing for a specific time period, the application should include information about the staffing levels that have been used for that same time period during the license term of the gaming facility. In describing any historical service levels, applicants should identify any time limited or “pilot” type operations which may have a bearing upon any determination of how the baseline service levels should be calculated. Applicants are requested to provide as much detailed baseline information as practicable to help the Commission in its review.

Please note that any 2020 public safety grants shall have a duration of only one year, unless otherwise determined by the Commission. Any grant awards issued in **2020 SHOULD NOT** be considered to provide any guarantee or indication of future funding.

#### Hampden County Sheriff’s Department – Specific Impact Grants

In 2016 the Commission awarded the Hampden County Sheriff’s Department (“HCSD”) funds to offset increased rent for the Western Massachusetts Correctional Alcohol Center (“WMCAC”). In providing assistance, the Commission stated that the amount of assistance shall not exceed \$2,000,000 in total for five years or \$400,000 per fiscal year. A provision in the grant required HCSD to reapply each year. Each grant application may not exceed \$400,000 per year. Any such lease assistance shall be included in the Region B allocation of funds.

#### 2020 Non-Transportation Planning Grants

The Commission will make available funding for certain planning activities for all communities that previously qualified to receive funding from the One-Time 2015/2016 Reserve Fund, and have already allocated and received Commission approval of the use of its reserve. No application for this 2020 Non-Transportation Planning Grant shall exceed One Hundred

Thousand Dollars (\$100,000). Applications involving transportation planning or design are not eligible for the 2020 Non-Transportation Planning Grant. Communities requesting transportation planning should instead apply for Transportation Planning Grant funds.

Eligible planning projects must have a defined area or issue that will be investigated as well as a clear plan for implementation of the results. The planning project must be clearly related to addressing issues or impacts directly related to the gaming facility. Applicants will be required to submit a detailed scope, budget, and timetable for the planning effort prior to funding being awarded. Each community applying for a 2020 Non-Transportation Planning Grant will also need to provide detail on what it will contribute to the project such as in-kind services or planning funds. Planning projects may include programs created by communities to provide technical assistance and promotion for groups of area businesses.

Communities that utilize this 2020 Non-Transportation Planning Grant are not prohibited from applying for funding for any specific mitigation request.

### Transportation Planning Grants

The Commission will make available funding for certain transportation planning activities for all communities eligible to receive funding from the Community Mitigation Fund in Regions A & B and for the Category 2 facility, including each Category 1 and Category 2 host community and each designated surrounding community, each community which entered into a nearby community agreement with a licensee, and any community that petitioned to be a surrounding community to a gaming licensee, each community that is geographically adjacent to a host community.

The total funding available for Transportation Planning Grants will likely not exceed \$1,000,000. No application for a Transportation Planning Grant shall exceed \$200,000.

Eligible transportation planning projects must have a defined area or issue that will be investigated as well as a clear plan for implementation of the results. Transportation Planning Grant funds may be sought to expand a planning project begun with reserve funds or to fund an additional project once the reserves have been exhausted.

Eligible transportation planning projects must have a defined area or issue that will be investigated as well as a clear plan for implementation of the results.

Eligible expenses to be covered by the Transportation Planning Grant include, but not necessarily limited to:

- Planning consultants/staff
- Data gathering/surveys
- Data analysis
- Design
- Engineering review/surveys
- Public meetings/hearings
- Final report preparation



The transportation planning projects must be clearly related to addressing transportation issues or impacts directly related to the gaming facility. Applicants will be required to submit a detailed scope, budget, and timetable for the transportation planning effort prior to funding being awarded.

Communities that requested and received the One-Time 2015/2016 Reserve Grant must first expend those funds before accessing any Transportation Planning Grant funds. Transportation Planning Grant funds may be sought to expand a planning project begun with reserve funds or to fund an additional project once the reserves have been exhausted.

In addition to the specific impact grant factors further defined in section [“How Will the Commission Decide on Applications?”](#), the Commission will also consider whether the applicant demonstrates the potential for such transportation project that is the subject of a CMF application to compete for state or federal transportation funds.

Applicants may, but are not required, to include a description of how the project meets the evaluation standards for the Fiscal Year 2020 TIP criteria for the Boston MPO Region or the Pioneer Valley Planning Commission’s transportation evaluation criteria, or other regional transportation project evaluation standard, whichever may be most applicable.

### [Transportation Construction Project\(s\) Grants](#)

In addition to grants for transportation planning and design through its transportation planning grants, the Commission has determined to expand these grants to include the cost of the construction of transportation projects in the 2020 CMF. The Commission anticipates that any CMF assistance provided will only be for a percentage of the costs of any such project and that significant other federal, state, local, private or other funding will be available to pay for the costs of any such project.

Applicants are not prohibited from applying for transportation construction funds in future years for a project included in a 2020 application. However, any 2020 transportation construction project may not rely upon contributions from the CMF in future rounds. Applicants should demonstrate that the financing for the project does not depend upon any future year awards by the Commission. Given the likely complexity of any such transportation construction applications, applicants may consult with Commission staff before and during the CMF review on such projects. The Commission anticipates authorizing no more than \$3,000,000 in grants for transportation construction projects. The Commission does not anticipate authorizing more than \$1,000,000 for any one award. As noted in these Guidelines, the Commission may adjust all target spending amounts, including but not limited to the amounts in this section. For example, more transportation construction awards may be made available if regional award targets are not reached after totaling awards from all other grant categories. Applicants may include a request to use funding from previously awarded CMF Reserves in any description of significant other federal, state, local, or private contributions. Similarly, applicants may include contributions from gaming licensees and private contributions.

Applications contain no minimum and will be evaluated on the readiness of the project and contributions to the project by other financing sources.

Applicants must demonstrate that any transportation construction project will begin construction no later than June 30, 2021. In addition to the criteria for determining grants stated later in these Guidelines, the Commission will evaluate a project's readiness to proceed, the significance of additional funds from other sources, and the potential transportation benefits associated with such projects.

Although the Commission will not authorize any multi-year grants for transportation projects in 2020, the Commission plans to issue request for Statements of Interest in 2020 for transportation construction projects that would require multi-year grants. Such Statement of Interest would help the Commission determine the needs for multi-year grants in preparation for the 2021 CMF funding round. The Statement of Interest would also be utilized to allow for a greater understanding of projects that may be the subject of a future application.

Applicants may, but are not required, to include a description of how the project meets the evaluation standards for the Fiscal Year 2020 TIP criteria for the Boston MPO Region or the Pioneer Valley Planning Commission's transportation evaluation criteria, or other regional transportation project evaluation standard, whichever may be most applicable.

Applicants are strongly encouraged to include a letter of support from the MassDOT with any application.

Transportation construction grants are not available for transportation operations costs.

### **Limitations/Specific Requirements on Planning Applications**

The Commission will fund no application for more than two years for any municipal employee. The CMF will not pay the full cost of any municipal employee. The municipality would need to provide the remaining amount of any employee cost and certify that all such expenses are casino related. For non-personnel costs, each community applying for planning funds will also need to provide detail on what it will contribute to the planning project such as in-kind services or planning funds.

Pursuant to the Guidelines, the Commission will evaluate requests for planning funds (including the use of One-Time 2015-2016 Reserve, Non-Transportation Planning Grant, Transportation Planning Grant and Transportation Construction Project) after taking into consideration input the applicant has received from the local Regional Planning Agency ("RPA") or any such interested parties. Although there is no prerequisite for using RPA's for planning projects, consultation with RPA's is required to enable the Commission to better understand how planning funds are being used efficiently across the region of the facility. Please provide details about the applicant's consultation with the RPA or any such interested parties. Applicants should provide detail regarding consultations with nearby communities to determine the potential for cooperative regional efforts regarding planning activities.

### **Tribal Gaming Technical Assistance Grants**

The Commission may make available no more than \$200,000 in technical assistance funding to assist in the determination of potential impacts that may be experienced by communities in geographic proximity to the potential Tribal Gaming facility in Taunton. Said technical assistance funding may be made through Southeastern Regional Planning and Economic Development District ("SRPEDD"), the regional planning agency that services such communities or a comparable regional entity. Such funding will only be made available, after approval of any application by SRPEDD or a comparable regional entity, if it is determined by the Commission that construction of such gaming facility will likely commence prior to or during Fiscal Year 2020. Any such application by SRPEDD or a comparable regional entity must demonstrate that any studies of impacts will address the technical assistance needs of the region which may include but not be limited to the communities that are geographically adjacent to Taunton. Such funding shall not be used to study impacts on or provide technical assistance to Taunton, as funding has been provided in the Intergovernmental Agreement By and Between the Mashpee Wampanoag Tribe and the City of Taunton. Any such program of technical assistance may be provided by SRPEDD itself or through a contract with SRPEDD.

### **Workforce Development Pilot Program Grants**

For fiscal year 2020, the Commission will make available funding for certain career pathways workforce development pilot programs in Regions A and B for service to residents of communities of such Regions, including each Category 1 host community and each designated surrounding community, each community which entered into a nearby community agreement with a licensee, any community that petitioned to be a surrounding community to a gaming licensee, and each community that is geographically adjacent to a host community. CMF Workforce grant applicants should focus on areas highly impacted by casino development, including gaming school scholarships, culinary, hospitality skills training or vocational focused English language/adult basic education.

The total funding available for workforce grants will likely not exceed \$800,000. The Commission anticipates a base award of no more than \$300,000 in each Region (not including an additional \$50,000 for regional cooperation or an additional \$100,000 award for significant regional needs (both additional awards described below)). In an effort to promote administrative efficiencies and greater regional cooperation, applicants that demonstrate cooperation of a significant number of workforce agencies in each region may be eligible for \$50,000 in additional funding. One grant is anticipated to be considered for each Region. Each governmental entity applying for workforce development funds will also need to provide detail on what it will contribute to the workforce development project such as in-kind services or workforce development funds. The Commission may authorize an award of up to \$100,000 for significant regional needs.

Eligible career pathways workforce development proposals must include a regional consortium approach to improve the skills, knowledge, and credential attainment of each Region A and Region B residents interested in a casino career, focusing on increasing industry-recognized and academic credentials needed to work in the most in-demand occupations related to the expanded gaming industry or a focus on occupations that could be in high demand from the casino, potentially negatively impacting the regional business community. This could include a focus on hospitality, culinary, cash handling, or customer service, etc.

Goals include:

- To help low-skilled adults earn occupational credentials, obtain well-paying jobs, and sustain rewarding careers in sectors related to hospitality and casino careers.
- To get students with low basic skills into for-credit career and technical education courses to improve their educational and employment outcomes.
- To deliver education and career training programs that can be completed in two years or less and prepare program participants for employment in high-wage, high-skill occupations related to the casino.
- To align and accelerate ABE, GED, and developmental programs and provide nontraditional students the supports they need to complete postsecondary credentials of value in the regional labor market.
- To mitigate a strain in existing resources and a potential impact to the regional labor market.

Eligible activities include:

- a program in Region A or Region B that structures intentional connections among adult basic education, occupational training, and post-secondary education programs designed to meet the needs of both adult learners and employers;
- a program in Region A or Region B that provides post-secondary vocational programs, registered apprenticeships, courses leading to college credits or industry-recognized certificates, Adult Basic Education (“ABE”) and vocationally based English for Speakers of Other Languages (“ESOL”) training programs, contextualized learning, integrated education and training, and industry-recognized credentials.

**A consortium application is required.** However, governmental entities eligible to receive funds would include but not be limited to: host communities, communities which were each either a designated surrounding community, a community which entered into a nearby community agreement with a licensee, a community that is geographically adjacent to the host community of a gaming licensee, a community that petitioned to be a surrounding community to a gaming licensee state agencies, state agencies, and regional employment boards. The Commission shall evaluate the use of host community agreement funds in evaluating funding requests for workforce development pilot program grant funds. Applicants should consider leveraging other funding resources.

The Commission has determined that administrative costs (including but not limited to all indirect and other administrative funding) shall not exceed 7.5% of the total grant allocation. Administrative costs include activities related to management, oversight, reporting and record keeping, and monitoring of the grant program.

### What Should Be Included in the Applications?

- ★ Applicants are required to complete the 2020 Specific Impact Grant Application, the 2020 Transportation Planning Grant Application, the 2020 Workforce Development Pilot Program Grant Application, the 2020 Non-Transportation Planning Grant Application, 2020 Transportation Construction Project(s) Grant Application, or 2020 Reserve Planning Grant Application/Tribal Gaming Technical Assistance Grant Application, and may also submit additional supporting materials of a reasonable length.
- ★ Applicants will need to describe how the specific mitigation, planning, workforce development pilot program or regional transit project request will address any claimed impacts and provide justification of any funds requested. Unlike existing surrounding community agreements which were based on anticipated impacts, any Specific Impact Grant will be based on impacts that have occurred or are occurring, as described previously.
- ★ Applicants will need to describe if and how such impacts were addressed or not addressed in any host or surrounding community agreements. Applicants may include a letter of support from the applicable gaming licensee. However, this is not necessary, as the Commission will request the licensee's opinion regarding each Application.

### How Will the Commission Decide on Applications?

Similar to the Commission's surrounding community review process, the Commission will ask each licensee to review and comment on any requests for funding.

The Commission will evaluate the submittal by the community, any input received from the community and interested parties (such as regional planning agencies), the responses of the licensee, Commission consultant reviews, and any other sources determined by the Commission. Commission Staff may consider information from the report issued by the Lower Mystic Regional Workforce Group in its evaluation of transportation planning grants.

The Commission will evaluate any funding requests in the context of any host or surrounding community agreements. Factors used by the Commission to evaluate grant applications may include but not be limited to:

- A demonstration that the impact is being caused by the proposed gaming facility;
- The significance of the impact to be remedied;
- The potential for the proposed mitigation measure to address the impact;
- The feasibility and reasonableness of the proposed mitigation measure;

- A demonstration that any program to assist non-governmental entities is for a demonstrated public purpose and not for the benefit or maintenance of a private party;
- The significance of any matching funds for workforce development pilot program activities, transportation construction project(s) or planning efforts, including but not limited to the ability to compete for state or federal workforce, transportation or other funds;
- Any demonstration of regional benefits from a mitigation award;
- A demonstration that other funds from host or surrounding community agreements are not available to fund the proposed mitigation measure;
- A demonstration that such mitigation measure is not already required to be completed by the licensee pursuant to any regulatory requirements or pursuant to any agreements between such licensee and applicant; and
- The inclusion of a detailed scope, budget, and timetable for each mitigation request.

### Supplemental Guidelines Used To Evaluate Workforce Development Applications

- ❖ Does the application develop a workforce pilot program that seeks to address any claimed impacts?
- ❖ Does the proposal include a program in Region A or Region B that structures intentional connections among adult basic education, occupational training, and post-secondary education programs?
- ❖ Does the proposal seek to assist low-skilled adults in obtaining education and career training to enable them to join the regional labor market?
- ❖ Does the proposal seek to address the anticipated goals of the program (see pages 12 and 13 of these Guidelines)?
- ❖ Will the participants receive industry-recognized or academic credentials needed to work in the most in-demand casino –related occupations within the region?
- ❖ A governmental entity applying for workforce development funds will also need to provide detail on what it will contribute to the workforce development project such as in-kind services or workforce development funds
- ❖ Is the Applicant collaborating with others to provide a regional approach?
- ❖ Does the Applicant address issues related to a gaming facility?

The Commission may ask Applicants for supplementary materials, may request a meeting with Applicants, and reserves the ability to host a hearing or hearings on any application.



The Commission's deliberations on Community Mitigation Fund policies will also be aided through input from the Gaming Policy Advisory Committee, the Community Mitigation Subcommittee, and any Local Community Mitigation Advisory Committees as established pursuant to M.G.L. c. 23K.

The Commission reserves the ability to determine a funding limit below what is detailed in these Guidelines. The Commission also reserves the ability to determine a funding limit above what is detailed in these Guidelines. The Commission notes that it plans to target its funding decisions based on the regional allocations described earlier. However, the Commission reserves the right to make determinations that do not strictly adhere or adhere to such targets. In the event the Commission awards are not in such adherence, the Commission may make appropriate adjustments in future guidelines to bring regional allocations into more congruity with such targets.

**The Commission reserves the ability to fund only portions of requested projects and to fund only a percentage of amounts requested. The Commission also reserves the ability to place conditions on any award.**

**There is limited funding available. The Commission therefore reserves the right to determine which requests to fund based on its assessment of a broad range of factors including the extent of public benefit each grant is likely to produce.**

### When Will the Commission Make Decisions?

The Commission anticipates making funding decisions on any requests for grant assistance before July 2020, after a comprehensive review and any additional information requests.

### Authorization to Approve Requests for Changes to Components of Grant Awards

The Commission hereby authorizes staff to approve requests for changes to components of grant awards provided that staff shall provide notice of such changes to all Commission members and provided further that such changes shall not exceed 10% of the grant award or \$10,000, whichever is smaller.

### Is There a Deadline for the Use of the One-Time 2015/2016 Reserve?

There is no deadline. Funds may be used on a rolling basis when specific impacts are determined or the specific planning activity is determined. Once known, communities should contact the Ombudsman's Office, which will assist the community in providing the needed information. Communities with specific impacts will, at the time the impacts are known, complete the Specific Impact Grant Application or the Planning Project Grant Application in its entirety. Communities with requests for planning funds will provide similar information to the Commission: a description of the planning activity, how the planning activity relates to the development or operation of the gaming facility, how the planning funds are proposed to be used, consultation with the Regional Planning Agency, other funds being used, and how planning will help the community determine how to achieve further benefits from a facility or

to avoid or minimize any adverse impacts. The Commission will fund no application for more than two years for any municipal employee. The CMF will not pay the full cost of any municipal employee. The municipality would need to provide the remaining amount of any employee cost and certify that all such expenses are casino related. Each Community applying for planning funds will also need to provide detail on what it will contribute to the planning project such as in-kind services or planning funds. Please note that such details do not need to be determined by the February 1, 2020 application date. Commission approvals of the use of the One-Time 2015/2016 Reserve will also be on a rolling basis corresponding to the rolling determinations of use by communities.

### Waivers and Variances

(a) General. The Commission may in its discretion waive or grant a variance from any provision or requirement contained in these Guidelines, not specifically required by law, where the Commission finds that:

1. Granting the waiver or variance is consistent with the purposes of M.G.L. c. 23K;
2. Granting the waiver or variance will not interfere with the ability of the Commission to fulfill its duties;
3. Granting the waiver or variance will not adversely affect the public interest; and
4. Not granting the waiver or variance would cause a substantial hardship to the community, governmental entity, or person requesting the waiver or variance.

(b) Filings. All requests for waivers or variances shall be in writing, shall set forth the specific provision of the Guidelines to which a waiver or variance is sought, and shall state the basis for the proposed waiver or variance.

(c) Determination. The Commission may grant a waiver or variance, deny a waiver or variance, or grant a waiver or variance subject to such terms, conditions and limitations as the commission may determine.

### Who Should Be Contacted for Any Questions?

As the 2020 Community Mitigation Fund program is just in the fifth year of the program for the Commission, communities and other parties may have a number of questions. They are encouraged to contact the Commission's Ombudsman with any questions or concerns. The Commission's Ombudsman will regularly brief the Commission regarding the development of Community Mitigation Fund policies.

The Commission's Ombudsman, John Ziemba, can be reached at (617) 979-8423 or via e-mail at [john.s.ziemba@state.ma.us](mailto:john.s.ziemba@state.ma.us). The Commission's address is 101 Federal Street, 12<sup>th</sup> Floor, Boston, MA 02110.



### Where Should the Application Be Sent?

Applications **must be sent to** [www.commbuys.com](http://www.commbuys.com). An application received by COMMBUYS by February 1, 2020 will meet the application deadline. Applicants that are not part of the COMMBUYS system should contact Mary Thurlow of the Commission's Ombudsman's Office well in advance of the February 1, 2020 deadline to make arrangements for submission of the application by the deadline. Mary Thurlow can be contacted at (617) 979-8420 or at [mary.thurlow@state.ma.us](mailto:mary.thurlow@state.ma.us).

If you have any questions or concerns contact the COMMBUYS Help Desk at [COMMBUYS@state.ma.us](mailto:COMMBUYS@state.ma.us) or during normal business hours (8am - 5pm ET Monday - Friday) at 1-888-627-8283 or 617-720-3197.



December 5, 2019

The Honorable Karen E. Spilka  
President of the Senate  
The State House, Room 356  
24 Beacon Street  
Boston, MA 02133

The Honorable Robert DeLeo  
Speaker of the House  
The State House, Room 356  
24 Beacon Street  
Boston, MA 02133

The Honorable Paul R. Feeney  
Chair, Joint Committee on Consumer  
Protection and Professional Licensure  
The State House, Room 215  
24 Beacon Street  
Boston, MA 02133

The Honorable Tackey Chan  
Chair, Joint Committee on Consumer  
Protection and Professional Licensure  
The State House, Room 42  
24 Beacon Street  
Boston, MA 02133

Re: HB 13 – An Act Relative to Horse Racing and Wagering

Dear Speaker DeLeo, Senate President Spilka, Chairs Chan and Feeney:

As you are aware, earlier this year, the Legislature enacted and the Governor signed the most recent extension of the Commonwealth's racing and simulcasting statutes, which previously had a July 31, 2019 expiration date. We are cognizant that the January 15, 2020 current expiration date is soon approaching. Therefore, in order to help ensure that the Commonwealth's racing industry continues without disruption, we are writing to express our support for another time limited extension of the Commonwealth's current racing and simulcasting statutes beyond the January 15, 2020 expiration date [to a specified date?].

Although no live racing will occur until next April and although live racing has ended at Suffolk Downs, a disruption in these statutes in January would still have significant impacts as simulcasting continues at these facilities. Foremost among such potential impacts, a disruption would impact employees of the four simulcasting licensees racing facilities such as pari-mutuel clerks, security, concessions, facilities and grounds personnel. Further, if simulcasting revenues are interrupted, this could potentially impact live racing once it resumes because simulcasting revenues are utilized to pay for live racing purses. In addition, the funding for the Commission's Division of Racing is also dependent upon simulcasting as well as a daily license fee for each day a track is open. Thus, a temporary shut-down would affect the funding available for it to regulate the industry, once it resumes.



Massachusetts Gaming Commission

The Honorable Karen E. Spilka  
The Honorable Robert DeLeo  
The Honorable Paul R. Feeney  
The Honorable Tackey Chan  
December 5, 2019  
Page 2

The Commission understands the significant other important legislative agenda items that have been before the Legislature this year and await the Legislature when it resumes formal sessions in January. We are mindful that a consensus has not yet been achieved on the future of racing in the Commonwealth despite all of the Legislature's efforts, the efforts of industry stakeholders, and the efforts of the Commission. In the ongoing efforts to achieve an understanding of the future of racing, we offer any assistance that may be helpful in the review of such statutes next year. In this regard, the Commission recently asked stakeholders to take a fresh look at the Commission's racing legislation, House Bill 13, the language of which was filed three years ago and refiled again late last year. The Commission recently reviewed the input it received and expressed its openness to recommend revisions to the language contained in the bill. Should such input be useful we would welcome the opportunity to review these suggestions with you or your staff.

In closing, we thank you for your continued efforts regarding the Commonwealth's racing industry and hope that we can avoid any disruptions while we work hard to evaluate options to improve the industry in the Commonwealth. With the Legislature's support and some of the important measures included in the Expanded Gaming Act, we have seen a demonstration that racing can be successful in Massachusetts, with the sport's attendant benefits such as jobs and preservation of open spaces. For example, Plainridge Park successfully held 110 race days this year and is approved to hold 110 days in 2020. That represents significant support for many Massachusetts bred horses, the many horse farms throughout the state, and the many jobs that support this industry. We hope that we all jointly can build upon this success. Thank you, once again.

Sincerely,

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Cathy Judd-Stein, Chair

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Gayle Cameron, Commissioner

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Eileen O'Brien, Commissioner

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Bruce Stebbins, Commissioner

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Enrique Zuniga, Commissioner



**TO:** Chair Judd-Stein and Commissioners Cameron, O'Brien, Stebbins and Zuniga  
**FROM:** Jill Lacey Griffin, Director Workforce, Supplier & Diversity Development  
**CC:** Ed Bedrosian, Executive Director  
**DATE:** December 6, 2019  
**RE:** RFR for small business technical assistance

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**Summary:** This week we put out a request for response with the express purpose of ensuring that Massachusetts companies continue to be successful in the expanded gaming industry. The Massachusetts Gaming Commission intends this grant program to provide targeted, intensive, one on one consulting expertise to small and medium-sized Massachusetts-based companies who are current and potential vendors to one of the three casinos. Grant awards may total up to **\$150,000** and individual amounts may range from approximately **\$25,000** to **\$150,000**. Successful applicants must currently operate a business technical assistance grant program, demonstrate existing infrastructure and recent indicators of success with business clients, including job and revenue growth, business stabilization and retention, etc.

Funds will be granted to one or more qualifying entity(s) that can:

- offer technical assistance to companies that have an existing business relationship with one of the three casinos but may need consulting or technical assistance on a specific issue to ensure continued success as a vendor
- work with companies that are identified by a casino as a potential vendor but for a specific issue that could be supported by technical assistance
- work with the casino procurement representatives to identify Massachusetts-based and Minority, Women and Veteran Business Enterprises (MWVBE) businesses in the procurement categories identified as needed by the licensee.

The grant funds must be expended by the end of the fiscal year, June 30, 2020, but may be eligible for additional funding cycles based on performance, budget availability and the need for services. **Proposals are due through Commbuys Friday, January 3, 2020 by 3:00 p.m.**



Massachusetts Gaming Commission



*Division of Racing*

TO: Cathy Judd-Stein, Chair  
Gayle Cameron, Commissioner  
Eileen O'Brien, Commissioner  
Bruce Stebbins, Commissioner  
Enrique Zuniga, Commissioner

FROM: Alexandra Lightbown, Director of Racing

CC: Edward Bedrosian, Executive Director  
Todd Grossman, Acting General Counsel

DATE: December 5, 2019

RE: Suffolk Downs Request for Approval of Simulcast Import Locations

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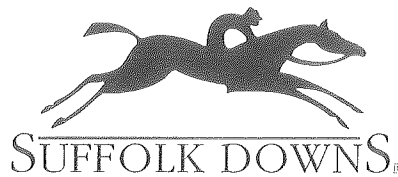
Dear Commissioners:

Suffolk Downs' Chief Operating Official Chip Tuttle has submitted a request for approval of simulcast import locations dated November 8, 2019. These locations usually are approved as part of a racing licensee's application for live racing. Earlier this year, the Commonwealth's racing and simulcasting statutes were extended to January 15, 2020. Subsequently, Suffolk Downs did not apply for live racing dates, necessitating a separate approval by the Commission.

**Recommendation: That the Commission approves the Suffolk Downs request for approval of the simulcast import locations listed in their November 8, 2019 letter.**



Massachusetts Gaming Commission



November 8, 2019

Dr. Alexandra R. Lightbown  
Director of Racing  
Massachusetts Gaming Commission  
101 Federal Street, 12th Floor  
Boston, MA 02110

Dear Dr. Lightbown:

In anticipation of simulcasting operations next year, I am writing to request that the Massachusetts Gaming Commission approve Sterling Suffolk Racecourse, LLC's simulcast import locations and, in accordance with 205 CMR 6.20, account wagering vendors for 2020. In the past, these requests have been part of our annual application for live racing dates. As you know, in light of the terms of the recent extension of the racing and simulcasting statutes and after consultation with MGC staff, we have not submitted an application for racing dates for next year.

With respect to simulcast import locations, we ask that the Commission approve the locations identified on the enclosed list.

With respect to ADW, Sterling Suffolk seeks approval of XpressBet LLC, TVG, Twin Spires, NYRAbets, and FanDuel Racing as its 2020 account wagering providers. With the exception of FanDuel Racing, the Commission has previously approved these vendors and they are already successfully operating through Sterling Suffolk. FanDuel is launching its new FanDuel Racing interface to specifically promote pari-mutuel wagering on horse races to its existing daily fantasy sports users with the goal of expanding the market for pari-mutuel wagering. FanDuel Racing will operate on the existing backbone of its affiliate TVG, utilizing TVG's tote, streaming, and data functions.

I am happy to provide any additional information the Commission requires to act on this request.

Sincerely,

Chip Tuttle  
Chief Operating Officer

enclosure

Telephone: 617-567-3900

525 McClellan Highway, East Boston, Massachusetts 02128

EAST170110696.2

Made in Massachusetts

<u>2020 Import</u>	<u>Type</u>	<u>Subordinate</u>
AJAX DOWNS	Thoroughbred/Mixed Meet	
ALBURQUERQUE	Thoroughbred/Mixed Meet	
AQUEDUCT	Thoroughbred/Mixed Meet	
ARAPAHOE	Thoroughbred/Mixed Meet	
ARLINGTON	Thoroughbred/Mixed Meet	
ASSINIBOIA	Thoroughbred/Mixed Meet	
BELMONT	Thoroughbred/Mixed Meet	
BELTERRA	Thoroughbred/Mixed Meet	
BIRMINGHAM RACE COURSE	Greyhound	
BREEDERS CUP	Thoroughbred/Mixed Meet	
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BREEDERS CUP SIRE FUTURE WAGER	Thoroughbred/Mixed Meet	
CALIFORNIA FAIRS	Thoroughbred/Mixed Meet	
CANTERBURY	Thoroughbred/Mixed Meet	
CENTURY DOWNS	Thoroughbred/Mixed Meet	
CHARLES TOWN	Thoroughbred/Mixed Meet	
CHURCHILL	Thoroughbred/Mixed Meet	
DEL MAR	Thoroughbred/Mixed Meet	
DELAWARE	Thoroughbred/Mixed Meet	
DELTA DOWNS	Thoroughbred/Mixed Meet	
DERBY LANE	Greyhound	
DUBAI (Carnival & World Cup)	Thoroughbred/Mixed Meet	
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FAIRPLEX	Thoroughbred/Mixed Meet	
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FLAMBORO	Harness	
FORT ERIE	Thoroughbred/Mixed Meet	
FREEHOLD	Harness	
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GRAND RIVER RACEWAY	Thoroughbred/Mixed Meet	
GULF GREYHOUND	Greyhound	
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GULFSTREAM WEST	Thoroughbred/Mixed Meet	Latin American Racing as defined in Monarch Management contract
HARRAH'S @ PHILLY	Harness	
HARRINGTON	Harness	
HASTINGS	Thoroughbred/Mixed Meet	
HAWTHORNE	Harness	
HAWTHORNE	Thoroughbred/Mixed Meet	
HOLLYWOOD GREYHOUND PARK	Greyhound	
HOOSIER	Harness	
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*Division of Racing*

TO: Cathy Judd-Stein, Chair  
Gayle Cameron, Commissioner  
Eileen O'Brien, Commissioner  
Bruce Stebbins, Commissioner  
Enrique Zuniga, Commissioner

FROM: Alexandra Lightbown, Director of Racing

CC: Edward Bedrosian, Executive Director  
Todd Grossman, Acting General Counsel

DATE: December 5, 2019

RE: Suffolk Downs Request for Approval of Account Deposit Wagering Providers

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Dear Commissioners:

Suffolk Downs' Chief Operating Official Chip Tuttle has submitted a request for approval of the following Account Deposit Wagering providers: XpressBet LLC, TVG, Twin Spires, NYRAbets, and FanDuel Racing dated November 8, 2019. All have been approved by the Commission in the past except FanDuel Racing, which will use the TVG backbone. These locations usually are approved as part of a racing licensee's application for live racing. Earlier this year, the Commonwealth's racing and simulcasting statutes were extended to January 15, 2020. Subsequently, Suffolk Downs did not apply for live racing dates, necessitating a separate approval by the Commission.

**Recommendation: That the Commission approves the Suffolk Downs request for approval of XpressBet LLC, TVG, Twin Spires, NYRAbets and FanDuel Racing as their Account Wagering providers.**



Massachusetts Gaming Commission



November 8, 2019

Dr. Alexandra R. Lightbown  
Director of Racing  
Massachusetts Gaming Commission  
101 Federal Street, 12th Floor  
Boston, MA 02110

Dear Dr. Lightbown:

In anticipation of simulcasting operations next year, I am writing to request that the Massachusetts Gaming Commission approve Sterling Suffolk Racecourse, LLC's simulcast import locations and, in accordance with 205 CMR 6.20, account wagering vendors for 2020. In the past, these requests have been part of our annual application for live racing dates. As you know, in light of the terms of the recent extension of the racing and simulcasting statutes and after consultation with MGC staff, we have not submitted an application for racing dates for next year.

With respect to simulcast import locations, we ask that the Commission approve the locations identified on the enclosed list.

With respect to ADW, Sterling Suffolk seeks approval of XpressBet LLC, TVG, Twin Spires, NYRAbets, and FanDuel Racing as its 2020 account wagering providers. With the exception of FanDuel Racing, the Commission has previously approved these vendors and they are already successfully operating through Sterling Suffolk. FanDuel is launching its new FanDuel Racing interface to specifically promote pari-mutuel wagering on horse races to its existing daily fantasy sports users with the goal of expanding the market for pari-mutuel wagering. FanDuel Racing will operate on the existing backbone of its affiliate TVG, utilizing TVG's tote, streaming, and data functions.

I am happy to provide any additional information the Commission requires to act on this request.

Sincerely,

Chip Tuttle  
Chief Operating Officer

enclosure

Telephone: 617-567-3900

525 McClellan Highway, East Boston, Massachusetts 02128

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Made in Massachusetts

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# FANDUELGROUP

FanDuel Racing: What, Why, Who & How

# What is FanDuel Racing?

## What is FanDuel Racing?

*A pari-mutuel ADW interface on TVG's backbone built specifically for the Daily Fantasy Sports user base, marketed to our Daily Fantasy sports clientele in states where both products are available*

## Is this Fixed Odds as well as ADW?

*No this is not fixed odds (it is traditional pari-mutuel ADW), nor will it be positioned on our fixed odds sites, this product is an ADW product that will be built for and marketed on FanDuel DFS to our existing DFS user base*

## So it's TVG with the FanDuel Brand?

*The backend (tote, streaming, data) is the same as TVG but the what the customer sees will be a bit different as it will be built for users who are less accustomed to racing and more accustomed to daily fantasy sports*

# Racing to a Fantasy Customer Base, Why?

## Different problems, common solution:

- **Horse Racing Problem:** Struggles to get exposure to an incremental fan base who are willing to speculate, there is an unfamiliarity with racing brands and trust issues
- **Daily Fantasy Problem:** Fantasy product is engaging but the availability of action is sporadic due the sports schedule and the dependency on other's participation.

### Racing fills the DFS Need:

- Legal and safe product to offer between contests, available to users in 25 states
- Regular action with a race every 5 mins
- Rich video experience bringing the wager to life
- Quick transaction, paid within 3-4mins

### DFS fills Racing's need:

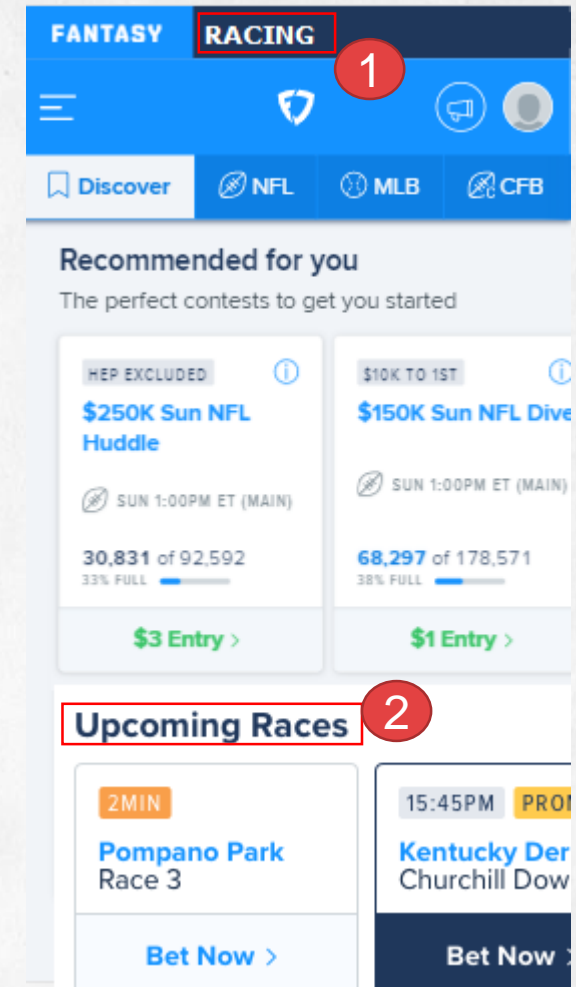
- Provides a platform putting racing in front of millions of DFS users, which are incremental to racing
- FanDuel brand familiarity engenders trust for customers who are not familiar with racing ADWs
- A separate interface gives the freedom to build an ADW product for the DFS customer



# Who are you targeting?

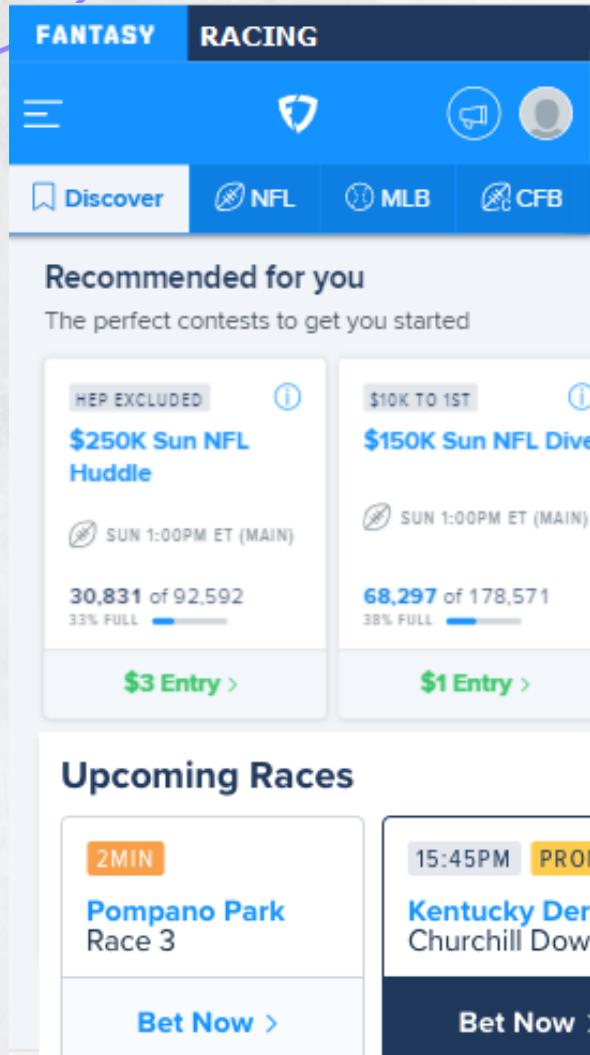
## New real estate, new customers:

- **FanDuel has over 8 million customers** on its database and over 1 million active customers on its product annually ( see *integration 1&2 in the screenshot*)
- **Racing crossover is minimal**, less than 5% of DFS customers are active on TVG
- **Marketing will be cross sell** in the DFS product and direct to DFS customers, this will only be available in states where DFS and ADW are both available
- **Marketing will not be above the line** or in traditional horse racing spaces such as TVG TV
- **TVG customers will not be marketed** this product nor will they be allowed have a FanDuel Racing account as well as a TVG account



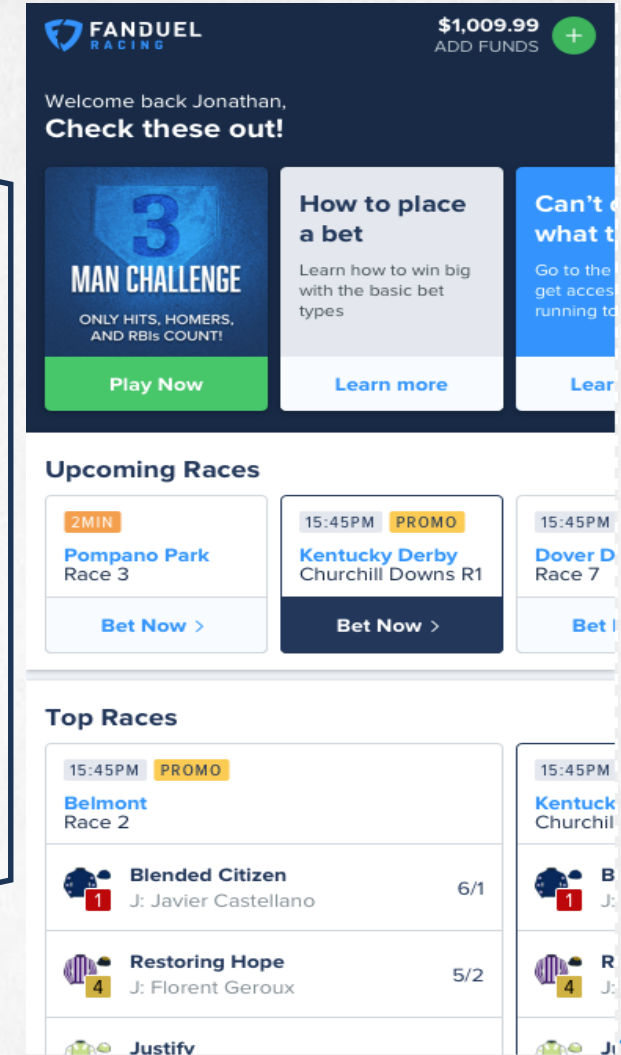


# How will people get to FanDuel Racing?



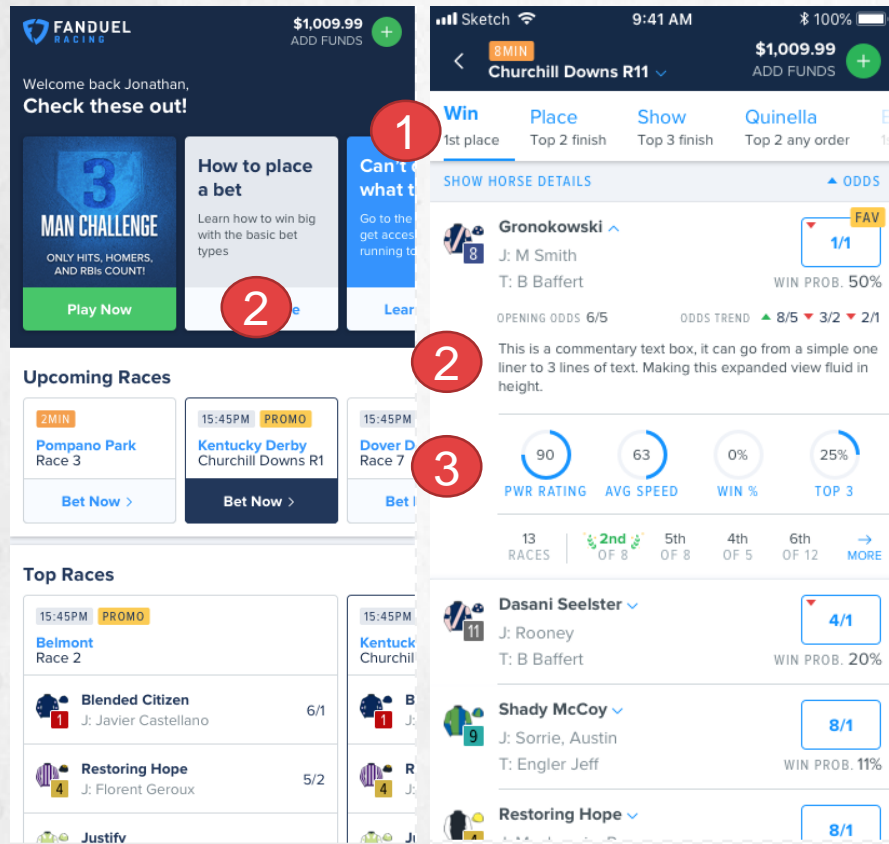
The funnel is FanDuel Daily Fantasy Sports To FanDuel Racing:

- Customer clicks on a link either in the Daily Fantasy product or via a contact such as a push or an email
- Customer goes to FanDuel Racing and signs up for an FD Racing account
- Other customers can sign up but discovery in that scenario will likely be organic as there will not be external marketing



# How is this being built?

FanDuel Racing is a separate website which is essentially redesign of the TVG website and app with the same plumbing underneath



1. **Front End:** The examples to the left show how visually the FanDuel Racing product looks different from traditional ADWs with more explainers (1), aids (2) and visuals (3) so as to make the experience less intimidating
2. **Back End:** The engine behind everything will be the same as TVG with the same technology regarding database, geolocation, account and the exact same plumbing to providers such as AmTote, Roberts and Equibase

# What States? What about Host/Hub Fees?

States will be those where  
FanDuel DFS and TVG ADW are  
both available

State List	
AR	ND
CA	NH
CO	NM
CT	NY
DE	OH
FL	OR
IL	PA
IN	RI
KY	SD
MA	TN
MD	VT
MN	WV
	WY

## Hub/Host Fees

- Separate TRA codes from TVG
- All commercial arrangements regarding hub/host fees will be the same for FanDuel Racing as for TVG with the same % fees
- Points of contact for FanDuel relationships will be the same as for TVG
- Accounting and payments will occur in the same manner as they occur for TVG



## **MEMORANDUM**

<b>TO:</b>	Massachusetts Gaming Commission
<b>FROM:</b>	Chad Bourque, Financial Analyst
<b>SUBJECT:</b>	Request for Consideration & Reimbursement   Suffolk Promotional Trust Fund
<b>DATE:</b>	December 02, 2019

In accordance with General Laws of Massachusetts, Chapter 128A, Section 5g. The trustees may expand without appropriation all or any part of the promotional trust funds to the appropriate track licensee in proportion to the amount deposited in each fund for use in promotional marketing. The following promotional fund request has been reviewed.

Project # SPT 2012-1

Request for Consideration & Reimbursement	\$192,971.10
Current promotional trust fund balance as of 11/26/2019	\$204,910.80
Balance in fund after request as of 11/26/2019	\$11,939.70
Balance due on project	\$133,713.14

**Total Request for Consideration & Reimbursement: \$192,971.10**

All financial statements required under section 6 shall be accompanied by a statement signed under the pains and penalties of perjury by the manager of the licensee setting forth the promotions completed with funds obtained under this section.

After review and confirmation of the request, with your authorization, we will make payment to the track from the appropriate trust fund.

Encl. suffolk\_promo\_rfc\_rfr\_2012-01

Cdb



Massachusetts Gaming Commission



August 23, 2019

Derek Lennon, Chief Financial and Administrative Officer  
Massachusetts Gaming Commission  
101 Federal Street, 12th Floor  
Boston, MA 02110

Dear Mr. Lennon:

At your earliest convenience kindly forward any and all amounts due representing the following Suffolk Downs Promotional Trust Fund project:

SPT 2012-1 - \$326,684.24

Should you have any questions regarding the above, please feel free to call me at 617-568-3327

Thank you for your consideration in this matter.

Very truly yours,

Chip Tuttle  
Chief Operating Officer





# Invoice

Suffolk Downs  
Christian Teja  
111 Waldemar Avenue  
East Boston, MA 02128

Invoice # INV-8598  
Invoice Date 4/27/2012  
Due Date 5/27/2012  
Terms Net 30

## Media

### Insertion Orders

Ad/Caption	Insertion Date	Total Cost
2012 Suffolk Downs Online		
Boston.com 728x90 - Sports Section Front - Targeted to Boston DMA, Mon-Fri Only	4/30/2012	282.35
Boston.com 300x250 - Delivery by towns/zip codes in and around East Boston/Suffolk Downs	4/30/2012	345.10
Sliding Billboard w/leaderboard - Sports Section Front - Targeted to Boston DMA	5/3/2012	1,976.47
Sliding Billboard w/leaderboard - Sports Section Front - Targeted to Boston DMA	5/31/2012	1,976.47
Boston.com 300x250 - Delivery by towns/zip codes in and around East Boston/Suffolk Downs	5/21/2012	690.20
Boston.com 728x90 - Sports Section Front - Targeted to Boston DMA, Mon-Fri Only	5/21/2012	564.71
Boston.com added value - 75x35 Plus Text Sponsored Link - Sports Section	4/30/2012	0.00
Boston.com added value - 75x35 Plus Text Sponsored Link - Sports Section	5/21/2012	0.00
ESPNBoston.com - ROS 300x250 - 4/30-5/5(noon)	4/30/2012	1,294.12
ESPNBoston.com 728x90 - MLB Rotational - 5/21-6/2(noon)	5/21/2012	677.65
ESPNBoston.com 300x250 - MLB Rotational - 5/21-6/2(noon)	5/21/2012	757.65
ESPNBoston.com - ROS 728x90 - 5/21-6/2(noon)	5/21/2012	705.88
ESPNBoston.com - ROS 300x250 - 5/21-6/2(noon)	5/21/2012	705.88
ESPNBoston.com 728x90 - NBA Rotational - 5/21-6/2(noon)	5/21/2012	823.53
ESPNBoston.com 300x250 - NBA Rotational - 5/21-6/2(noon)	5/21/2012	941.18
ESPNBoston.com 728x90 - NHL Rotational - 5/21-6/2(noon)	5/21/2012	329.41
TheBostonChannel.com 300x250 - 4/30-5/5(noon)	4/30/2012	1,023.53
TheBostonChannel.com 728x90 - 4/30-5/5(noon)	4/30/2012	1,023.53
TheBostonChannel.com 728x90 - 5/21-6/2(noon)	5/21/2012	2,082.35
TheBostonChannel.com 300x250 - 5/21-6/2(noon)	5/21/2012	2,082.35
TheBostonChannel.com Homepage Hover Ad - 5/31	5/31/2012	1,964.71

8346-900

Adv - Online/Internet

Total: \$20,247.07

### 2012 Suffolk Downs Print

1/4 Page 4C - The Revere Advocate - 3/23	3/23/2012	352.94
1/4 Page B&W - The Saugus Advocate - 5/3	5/3/2012	211.76
1/4 Page B&W - The Saugus Advocate - 5/31	5/31/2012	211.76
1/4 Page B&W - The Revere Advocate - 5/3	5/3/2012	211.76
1/4 Page B&W - The Revere Advocate - 5/31	5/31/2012	211.76
6x3 Strip Ad 4C - Front of Sports Section - 5/31	5/31/2012	5,882.35
6x3 Strip Ad 4C - Front of Sports Section - 5/2	5/2/2012	3,137.26
6x3 Strip Ad 4C - Front of Sports Section - 5/29	5/29/2012	3,137.26
6x3 Strip Ad 4C - Front of Sports Section - 5/30	5/30/2012	3,137.26
3x2 Front Page Marquee - 6/1	6/1/2012	3,137.26
6x3 Strip Ad 4C - Front of Sports Section - 5/3	5/3/2012	1,200.00
1/4 Page B&W - Lynn Daily Item - 5/3	5/3/2012	450.27
1/4 Page B&W - Lynn Daily Item - 5/31	5/31/2012	450.27

pd  
44 372.70  
BAL  
100.00  
PD  
CIS#  
95673  
4/27/12

1/4 Pag 4C - Revere Journal - 5/2  
 1/4 Pag 4C - Revere Journal - 5/30  
 1/4 Pag 4C - Winthrop Sun - 5/31  
 1/4 Pag 4C - Winthrop Sun - 5/3  
 1/4 Pag 4C - East Boston Times - 5/2  
 1/4 Pag 4C - East Boston Times - 5/30  
 1/4 Pag 4C - Chelsea Record - 5/2  
 1/4 Pag 4C - Chelsea Record - 5/30

5/2/2012  
 5/30/2012  
 5/31/2012  
 5/3/2012  
 5/2/2012  
 5/30/2012  
 5/2/2012  
 5/30/2012

8340-900

Adv-News

370.59  
 370.59  
 370.59  
 370.59  
 370.59  
 370.59  
 370.59  
 370.59

Total: \$24,696.63

Insertion Order Subtotal: \$44,943.70

# Broadcast Orders

Station	Date	Total Cost
WBZ-FM	4/30/2012 - 6/3/2012	11,450.00
WBOQ-FM	4/30/2012 - 6/3/2012	600.00
WBOQ-FM	4/30/2012 - 6/3/2012	300.00
WBZ-AM	4/30/2012 - 6/3/2012	13,400.00
WEEI-AM	4/30/2012 - 6/3/2012	12,350.00
WAAF-FM	4/30/2012 - 6/3/2012	13,830.00
WZLX-FM	4/30/2012 - 6/3/2012	11,640.00
COMCASTS	5/21/2012 - 6/3/2012	35,559.00
WZLX	6/2/2012	300.00

Adv-Radio

Adv-TV

Broadcast Order Subtotal: \$99,429.00

Radio 8341-900 - 63870.00

TV 8342-900 - 35559.00

Internet 8346-900 - 20247.07

NEWSPAPER 8340-900 - 24686.63

\$144,372.70  
 Invoice Total \$144,372.70  
 Less Applied Payments \$0.00  
 Less Advance Billings \$0.00  
 Amount Due \$144,372.70

Vendor Number	CONF 001
Distribution	
Voucher Number	105962
Check Code	
Approved By	

*[Signature]*

**STERLING SUFFOLK RACECOURSE, LLC**

086/551

ACCOUNT NO. 1000001			VENDOR CONOVER TUTTLE PACE		CHECK NO. 095673	CHECK DATE 06/27/12	
VOUCHER	INVOICE NUMBER	INV. DATE	REFERENCE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
05962	INV-0598	04/27/12	MEDIA WORLD TV INTL	\$180,000.00	\$180,000.00	\$ .00	\$180,000.00
06061	INV-0613	04/30/12	WEBSITE MAINTENANCE	\$95,541.16	\$95,541.16	\$ .00	\$95,541.16
06063	INV-0603	05/01/12	CRV/12 DETAINER AND	10,000.00	\$0,000.00	\$ .00	\$0,000.00
				0204,541.16	0204,541.16	\$ .00	0204,541.16
						CHECK TOTAL	0204,541.16

Bank of America

5-13/110

095673

**STERLING SUFFOLK RACECOURSE, LLC**

OPERATING ACCOUNT  
111 WALDEMAR AVENUE  
EAST BOSTON, MA 02128

PAY

Two Hundred Four Thousand Five Hundred Forty One Dollars And 16 Cents

CHECK NO.	CHECK DATE	VENDOR NO.
095673	06/27/12	CON0001

CHECK AMOUNT
\$204,541.16

TO THE  
ORDER  
OF:

CONOVER TUTTLE PACE  
77 NORTH WASHINGTON ST  
BOSTON MA 02114

AUTHORIZED SIGNATURE

⑈095673⑈ ⑈011000138393728 79723⑈



## STERLING SUFFOLK RACECOURSE, LLC

0064232

ACCOUNT NO. COND001			VENDOR CONOVER TUTTLE PAGE		CHECK NO. 095369	CHECK DATE 05/31/12		
VOUCHER	INVOICE NUMBER	INV. DATE	REFERENCE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT	
05058	INV-8201	03/01/12	MAR/12 RETAINER \$1 EXP	\$8,023.10	\$8,023.10	1.00	\$8,023.10	
06091	INV-0425	03/30/12	WEBSITE MAINTENANCE	\$17,216.99	\$17,216.99	1.00	\$17,216.99	
05443	INV-8395	04/02/12	APR/12 RETAINER, 1	\$8,000.00	\$8,000.00	1.00	\$8,000.00	
06062	INV-8503	04/20/12	VISUAL EFFECTS & PHI	\$12,500.31	\$12,500.31	1.00	\$12,500.31	
05962	INV-8558	04/27/12	MEDIA RADIO TV INTE	\$144,372.70	\$144,372.70	1.00	\$144,372.70	
				\$190,113.10	\$190,113.10	1.00	\$190,113.10	
CHECK TOTAL							\$190,113.10	

Bank of America

5-13/110

095369

## STERLING SUFFOLK RACECOURSE, LLC

OPERATING ACCOUNT  
111 WALDEMAR AVENUE  
EAST BOSTON, MA 02128

PAY

Ninety Thousand One Hundred Thirteen Dollars And 10 Cents

CHECK NO.	CHECK DATE	VENDOR NO.
095369	05/31/12	COND001

CHECK AMOUNT

\$190,113.10

TO THE  
ORDER  
OF:

CONOVER TUTTLE PAGE  
77 NORTH WASHINGTON ST  
BOSTON MA 02114

NON-NEGOTIABLE

AUTHORIZED SIGNATURE

⑈095369⑈ ⑆011000136⑆93728 79723⑈



# Invoice

Suffolk Downs  
Christian Teja  
111 Waldemar Avenue  
East Boston, MA 02128

Invoice # INV-8835  
Invoice Date 5/29/2012  
Due Date 6/28/2012  
Terms Net 30

## Media

### Insertion Orders

#### Ad#/Caption

#### Insertion Date

#### Total Cost

#### 2012 Suffolk Downs Online

Homepage Sliding Billboard - Bostonherald.com - 6/5	6/5/2012	1,323.53
Homepage Video Player Sponsorship - Bostonherald.com - 6/5	6/5/2012	0.00
Homepage Fixed Placement - Bostonherald.com - 6/5	6/5/2012	1,323.53

Total: \$2,647.06

#### 2012 Suffolk Downs OOH

25 Half Brand Cars - 6/18-7/15	6/18/2012	8,117.65
100 interior car cards - 6/18-7/15	6/18/2012	0.00
Production - 6/18-7/15	6/18/2012	665.00
25 BONUS interior car cards - 6/18-7/15	6/18/2012	0.00

Total: \$8,782.65

#### 2012 Suffolk Downs Print

Full Page - Boston Herald - 6/7	6/7/2012	10,588.24
6x3 Strip Ad 4C - Sports Section - 6/8	6/8/2012	2,650.00
Full Page 4C - El Mundo - 6/7	6/7/2012	2,550.00
ElMundoBoston.com - Leaderboard Banner - 6/6-6/10	6/6/2012	294.12
ElMundoBoston.com - Leaderboard logo-side - 6/6-6/10	6/6/2012	176.47
Full Page 4C - El Planeta - 6/8	6/8/2012	2,083.00
TuBoston.com - Leaderboard - 6/6-6/10	6/6/2012	0.00
2 Pg Spread - East Boston Times - 6/6	6/6/2012	2,975.00
2 Pg Spread - Revere Journal - 6/6	6/6/2012	3,542.00
Full Pg Ad - Chelsea Record - 6/7	6/7/2012	1,400.00
Full Pg Ad - Winthrop Transcript - 6/7	6/7/2012	1,482.00
Over-Run Printing (15,000 Count) - East Boston Times - 6/6	6/6/2012	1,764.71
Full Page 4C - La Semana - 6/7	6/7/2012	705.88
LaSemana.com - Sidebar Left Banner - 6/6-6/10	6/6/2012	0.00
LaSemana.com - Bottom Banner - 6/6-6/10	6/6/2012	176.47
Full Page - Lynn Daily Item - 6/7	6/7/2012	2,418.44
Full Page - Revere Advocate - 6/7	6/7/2012	941.18
Half Page - Salem News - 6/7	6/7/2012	3,421.18

Total: \$37,168.69

Insertion Order Subtotal: \$48,598.40

\$48,598.40

Invoice Total \$48,598.40

Less Applied Payments \$0.00

Less Advance Billings \$0.00

Amount Due \$48,598.40

Vendor Number	CONF 001
Distribution	7534-900
Advertiser Number	106589
Check Code	
Approved By	

*Christian Teja*

*[Signature]*

**STERLING SUFFOLK RACECOURSE, LLC**

0064782

ACCOUNT NO. COND001		VENDOR CONOVER TUTTLE RACE		CHECK NO. 095894	CHECK DATE 07/13/12
VOUCHER	INVOICE NUMBER	INV. DATE	REFERENCE	INVOICE AMOUNT	AMOUNT PAID
06589	INV-8835	06/01/12	MEDIA ROLLOUT AD NEW	\$48,598.48	\$48,598.48
					DISCOUNT TAKEN 1.00
					NET CHECK AMOUNT \$48,598.48
				\$48,598.48	\$48,598.48
					1.00
					\$48,598.48
					CHECK TOTAL \$48,598.48

**STERLING SUFFOLK RACECOURSE, LLC**

OPERATING ACCOUNT  
111 WALDEMAR AVENUE  
EAST BOSTON, MA 02128

Bank of America



5-13/110

095894

AY

Forty Eight Thousand Five Hundred Ninety Eight Dollars And 48 Cents

TO THE  
ORDER  
OF:

CONOVER TUTTLE RACE  
77 NORTH WASHINGTON ST  
BOSTON MA 02114

CHECK NO.	CHECK DATE	VENDOR NO.
095894	07/13/12	COND001

CHECK AMOUNT
\$48,598.48

**NON-NEGOTIABLE**

AUTHORIZED SIGNATURE

⑈095894⑈ ⑆01⑆000138⑆93728 79723⑈



## **MEMORANDUM**

<b>TO:</b>	Massachusetts Gaming Commission
<b>FROM:</b>	Chad Bourque, Financial Analyst
<b>SUBJECT:</b>	Request for Consideration & Reimbursement   Suffolk Promotional Trust Fund
<b>DATE:</b>	December 02, 2019

In accordance with General Laws of Massachusetts, Chapter 128A, Section 5g. The trustees may expand without appropriation all or any part of the promotional trust funds to the appropriate track licensee in proportion to the amount deposited in each fund for use in promotional marketing. The following promotional fund request has been reviewed.

Project # SPT 2012-1

Request for Consideration & Reimbursement	\$192,971.10
Current promotional trust fund balance as of 11/26/2019	\$204,910.80
Balance in fund after request as of 11/26/2019	\$11,939.70
Balance due on project	\$133,713.14

**Total Request for Consideration & Reimbursement: \$192,971.10**

All financial statements required under section 6 shall be accompanied by a statement signed under the pains and penalties of perjury by the manager of the licensee setting forth the promotions completed with funds obtained under this section.

After review and confirmation of the request, with your authorization, we will make payment to the track from the appropriate trust fund.

Encl. suffolk\_promo\_rfc\_rfr\_2012-01

Cdb



Massachusetts Gaming Commission



August 23, 2019

Derek Lennon, Chief Financial and Administrative Officer  
Massachusetts Gaming Commission  
101 Federal Street, 12th Floor  
Boston, MA 02110

Dear Mr. Lennon:

At your earliest convenience kindly forward any and all amounts due representing the following Suffolk Downs Promotional Trust Fund project:

SPT 2012-1 - \$326,684.24

Should you have any questions regarding the above, please feel free to call me at 617-568-3327

Thank you for your consideration in this matter.

Very truly yours,

Chip Tuttle  
Chief Operating Officer



# Invoice

Suffolk Downs  
Christian Teja  
111 Waldemar Avenue  
East Boston, MA 02128

Invoice # INV-8598  
Invoice Date 4/27/2012  
Due Date 5/27/2012  
Terms Net 30

## Media

### Insertion Orders

Ad/Caption	Insertion Date	Total Cost
2012 Suffolk Downs Online		
Boston.com 728x90 - Sports Section Front - Targeted to Boston DMA, Mon-Fri Only	4/30/2012	282.35
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Sliding Billboard w/leaderboard - Sports Section Front - Targeted to Boston DMA	5/3/2012	1,976.47
Sliding Billboard w/leaderboard - Sports Section Front - Targeted to Boston DMA	5/31/2012	1,976.47
Boston.com 300x250 - Delivery by towns/zip codes in and around East Boston/Suffolk Downs	5/21/2012	690.20
Boston.com 728x90 - Sports Section Front - Targeted to Boston DMA, Mon-Fri Only	5/21/2012	564.71
Boston.com added value - 75x35 Plus Text Sponsored Link - Sports Section	4/30/2012	0.00
Boston.com added value - 75x35 Plus Text Sponsored Link - Sports Section	5/21/2012	0.00
ESPNBoston.com - ROS 300x250 - 4/30-5/5(noon)	4/30/2012	1,294.12
ESPNBoston.com 728x90 - MLB Rotational - 5/21-6/2(noon)	5/21/2012	677.65
ESPNBoston.com 300x250 - MLB Rotational - 5/21-6/2(noon)	5/21/2012	757.65
ESPNBoston.com - ROS 728x90 - 5/21-6/2(noon)	5/21/2012	705.88
ESPNBoston.com - ROS 300x250 - 5/21-6/2(noon)	5/21/2012	705.88
ESPNBoston.com 728x90 - NBA Rotational - 5/21-6/2(noon)	5/21/2012	823.53
ESPNBoston.com 300x250 - NBA Rotational - 5/21-6/2(noon)	5/21/2012	941.18
ESPNBoston.com 728x90 - NHL Rotational - 5/21-6/2(noon)	5/21/2012	329.41
TheBostonChannel.com 300x250 - 4/30-5/5(noon)	4/30/2012	1,023.53
TheBostonChannel.com 728x90 - 4/30-5/5(noon)	4/30/2012	1,023.53
TheBostonChannel.com 728x90 - 5/21-6/2(noon)	5/21/2012	2,082.35
TheBostonChannel.com 300x250 - 5/21-6/2(noon)	5/21/2012	2,082.35
TheBostonChannel.com Homepage Hover Ad - 5/31	5/31/2012	1,964.71

8346-900

Adv - Online/Internet

Total: \$20,247.07

### 2012 Suffolk Downs Print

1/4 Page 4C - The Revere Advocate - 3/23	3/23/2012	352.94
1/4 Page B&W - The Saugus Advocate - 5/3	5/3/2012	211.76
1/4 Page B&W - The Saugus Advocate - 5/31	5/31/2012	211.76
1/4 Page B&W - The Revere Advocate - 5/3	5/3/2012	211.76
1/4 Page B&W - The Revere Advocate - 5/31	5/31/2012	211.76
6x3 Strip Ad 4C - Front of Sports Section - 5/31	5/31/2012	5,882.35
6x3 Strip Ad 4C - Front of Sports Section - 5/2	5/2/2012	3,137.26
6x3 Strip Ad 4C - Front of Sports Section - 5/29	5/29/2012	3,137.26
6x3 Strip Ad 4C - Front of Sports Section - 5/30	5/30/2012	3,137.26
3x2 Front Page Marquee - 6/1	6/1/2012	3,137.26
6x3 Strip Ad 4C - Front of Sports Section - 5/3	5/3/2012	1,200.00
1/4 Page B&W - Lynn Daily Item - 5/3	5/3/2012	450.27
1/4 Page B&W - Lynn Daily Item - 5/31	5/31/2012	450.27

pd  
44 372.70  
BAL  
100.00  
PD  
CIS#  
95673  
4/27/12



1/4 Pag 4C - Revere Journal - 5/2  
 1/4 Pag 4C - Revere Journal - 5/30  
 1/4 Pag 4C - Winthrop Sun - 5/31  
 1/4 Pag 4C - Winthrop Sun - 5/3  
 1/4 Pag 4C - East Boston Times - 5/2  
 1/4 Pag 4C - East Boston Times - 5/30  
 1/4 Pag 4C - Chelsea Record - 5/2  
 1/4 Pag 4C - Chelsea Record - 5/30

5/2/2012  
 5/30/2012  
 5/31/2012  
 5/3/2012  
 5/2/2012  
 5/30/2012  
 5/2/2012  
 5/30/2012

8340-900

370.59  
 370.59  
 370.59  
 370.59  
 370.59  
 370.59  
 370.59  
 370.59

Adv-News

Total: \$24,696.63

Insertion Order Subtotal: \$44,943.70

# Broadcast Orders

Station	Date	Total Cost
WBZ-FM	4/30/2012 - 6/3/2012	11,450.00
WBOQ-FM	4/30/2012 - 6/3/2012	600.00
WBOQ-FM	4/30/2012 - 6/3/2012	300.00
WBZ-AM	4/30/2012 - 6/3/2012	13,400.00
WEEI-AM	4/30/2012 - 6/3/2012	12,350.00
WAAF-FM	4/30/2012 - 6/3/2012	13,830.00
WZLX-FM	4/30/2012 - 6/3/2012	11,640.00
COMCASTS	5/21/2012 - 6/3/2012	35,559.00
WZLX	6/2/2012	300.00

Adv-Radio

Adv-TV

Broadcast Order Subtotal: \$99,429.00

\$144,372.70

Invoice Total \$144,372.70  
 Less Applied Payments \$0.00  
 Less Advance Billings \$0.00  
 Amount Due \$144,372.70

✓

Radio 8341-900 - 63870.00

TV 8342-900 - 35559.00

Internet 8346-900 - 20247.07

NEWSPAPER 8340-900 - 24686.63

Vendor Number	CONF 001
Distribution	
Voucher Number	105962
Check Code	
Approved By	

*[Signature]*

**STERLING SUFFOLK RACECOURSE, LLC**

086/551

ACCOUNT NO. 1000001			VENDOR CONOVER TUTTLE PACE		CHECK NO. 095673	CHECK DATE 06/27/12	
VOUCHER	INVOICE NUMBER	INV. DATE	REFERENCE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
05962	INV-0598	04/27/12	MEDIA WORLD TV INTL	\$180,000.00	\$180,000.00	\$ .00	\$180,000.00
06061	INV-0613	04/30/12	WEBSITE MAINTENANCE	\$95,541.16	\$95,541.16	\$ .00	\$95,541.16
06063	INV-0603	05/01/12	06/12 DETENTION AND	10,000.00	\$0,000.00	\$ .00	\$0,000.00
				0204,541.16	0204,541.16	\$ .00	0204,541.16
						CHECK TOTAL	0204,541.16

Bank of America

5-13/110

095673

**STERLING SUFFOLK RACECOURSE, LLC**

OPERATING ACCOUNT  
111 WALDEMAR AVENUE  
EAST BOSTON, MA 02128

PAY

Two Hundred Four Thousand Five Hundred Forty One Dollars And 16 Cents

CHECK NO.	CHECK DATE	VENDOR NO.
095673	06/27/12	CON0001

CHECK AMOUNT
\$204,541.16

TO THE  
ORDER  
OF:

CONOVER TUTTLE PACE  
77 NORTH WASHINGTON ST  
BOSTON MA 02114

AUTHORIZED SIGNATURE

⑈095673⑈ ⑈011000138393728 79723⑈



## STERLING SUFFOLK RACECOURSE, LLC

0064232

ACCOUNT NO. COND001			VENDOR CONOVER TUTTLE PAGE		CHECK NO. 095369	CHECK DATE 05/31/12		
VOUCHER	INVOICE NUMBER	INV. DATE	REFERENCE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT	
05058	INV-8201	03/01/12	MAR/12 RETAINER \$1 EXP	\$8,023.10	\$8,023.10	1.00	\$8,023.10	
06091	INV-0425	03/30/12	WEBSITE MAINTENANCE	\$17,216.99	\$17,216.99	1.00	\$17,216.99	
05443	INV-8395	04/02/12	APR/12 RETAINER, 1	\$8,000.00	\$8,000.00	1.00	\$8,000.00	
06062	INV-8503	04/20/12	VISUAL EFFECTS & PHI	\$12,500.31	\$12,500.31	1.00	\$12,500.31	
05962	INV-8558	04/27/12	MEDIA RADIO TV INTE	\$144,372.70	\$144,372.70	1.00	\$144,372.70	
				\$190,113.10	\$90,113.10	1.00	\$90,113.10	
CHECK TOTAL							\$90,113.10	

Bank of America

5-13/110

095369

## STERLING SUFFOLK RACECOURSE, LLC

OPERATING ACCOUNT  
111 WALDEMAR AVENUE  
EAST BOSTON, MA 02128

PAY

Ninety Thousand One Hundred Thirteen Dollars And 10 Cents

CHECK NO.	CHECK DATE	VENDOR NO.
095369	05/31/12	COND001

CHECK AMOUNT

\$90,113.10

TO THE  
ORDER  
OF:

CONOVER TUTTLE PAGE  
77 NORTH WASHINGTON ST  
BOSTON MA 02114

NON-NEGOTIABLE

AUTHORIZED SIGNATURE

⑈095369⑈ ⑆011000136⑆93728 79723⑈



# Invoice

Suffolk Downs  
Christian Teja  
111 Waldemar Avenue  
East Boston, MA 02128

Invoice # INV-8835  
Invoice Date 5/29/2012  
Due Date 6/28/2012  
Terms Net 30

## Media

### Insertion Orders

Ad#/Caption	Insertion Date	Total Cost
<b>2012 Suffolk Downs Online</b>		
Homepage Sliding Billboard - Bostonherald.com - 6/5	6/5/2012	1,323.53
Homepage Video Player Sponsorship - Bostonherald.com - 6/5	6/5/2012	0.00
Homepage Fixed Placement - Bostonherald.com - 6/5	6/5/2012	1,323.53
Total:		\$2,647.06
<b>2012 Suffolk Downs OOH</b>		
25 Half Brand Cars - 6/18-7/15	6/18/2012	8,117.65
100 interior car cards - 6/18-7/15	6/18/2012	0.00
Production - 6/18-7/15	6/18/2012	665.00
25 BONUS interior car cards - 6/18-7/15	6/18/2012	0.00
Total:		\$8,782.65
<b>2012 Suffolk Downs Print</b>		
Full Page - Boston Herald - 6/7	6/7/2012	10,588.24
6x3 Strip Ad 4C - Sports Section - 6/8	6/8/2012	2,650.00
Full Page 4C - El Mundo - 6/7	6/7/2012	2,550.00
ElMundoBoston.com - Leaderboard Banner - 6/6-6/10	6/6/2012	294.12
ElMundoBoston.com - Leaderboard logo-side - 6/6-6/10	6/6/2012	176.47
Full Page 4C - El Planeta - 6/8	6/8/2012	2,083.00
TuBoston.com - Leaderboard - 6/6-6/10	6/6/2012	0.00
2 Pg Spread - East Boston Times - 6/6	6/6/2012	2,975.00
2 Pg Spread - Revere Journal - 6/6	6/6/2012	3,542.00
Full Pg Ad - Chelsea Record - 6/7	6/7/2012	1,400.00
Full Pg Ad - Winthrop Transcript - 6/7	6/7/2012	1,482.00
Over-Run Printing (15,000 Count) - East Boston Times - 6/6	6/6/2012	1,764.71
Full Page 4C - La Semana - 6/7	6/7/2012	705.88
LaSemana.com - Sidebar Left Banner - 6/6-6/10	6/6/2012	0.00
LaSemana.com - Bottom Banner - 6/6-6/10	6/6/2012	176.47
Full Page - Lynn Daily Item - 6/7	6/7/2012	2,418.44
Full Page - Revere Advocate - 6/7	6/7/2012	941.18
Half Page - Salem News - 6/7	6/7/2012	3,421.18
Total:		\$37,168.69

Insertion Order Subtotal: \$48,598.40

Vendor Number	CONF 001
Distribution	7534-900
Invoice Number	106589
Check Code	
Approved By	

Invoice Total \$48,598.40  
Less Applied Payments \$0.00  
Less Advance Billings \$0.00  
Amount Due \$48,598.40

*Christian Teja*

*[Signature]*

**STERLING SUFFOLK RACECOURSE, LLC**

0064782

ACCOUNT NO. COND001		VENDOR CONOVER TUTTLE RACE		CHECK NO. 095894	CHECK DATE 07/13/12
VOUCHER 06589	INVOICE NUMBER INV-8835	INV. DATE 06/01/12	REFERENCE MEDIA ROLLOUT AD NEW	INVOICE AMOUNT \$48,598.48	AMOUNT PAID \$48,598.48
					DISCOUNT TAKEN 1.00
					NET CHECK AMOUNT \$48,598.48
				\$48,598.48	\$48,598.48
				\$48,598.48	1.00
					\$48,598.48
				CHECK TOTAL	\$48,598.48

**STERLING SUFFOLK RACECOURSE, LLC**

OPERATING ACCOUNT  
111 WALDEMAR AVENUE  
EAST BOSTON, MA 02128

Bank of America



5-13/110

095894

CHECK NO. 095894	CHECK DATE 07/13/12	VENDOR NO. COND001
------------------	---------------------	--------------------

CHECK AMOUNT
\$48,598.48

Forty Eight Thousand Five Hundred Ninety Eight Dollars And 48 Cents

TO THE  
ORDER  
OF:

CONOVER TUTTLE RACE  
77 NORTH WASHINGTON ST  
BOSTON MA 02114

**NON-NEGOTIABLE**

AUTHORIZED SIGNATURE

⑈095894⑈ ⑆01⑆000138⑆93728 79723⑈



*Division of Racing*

## **MEMORANDUM**

<b>TO:</b>	Massachusetts Gaming Commission
<b>FROM:</b>	Chad Bourque, Financial Analyst
<b>SUBJECT:</b>	Request for Consideration   Harness Horse Capital Improvement Trust Fund
<b>DATE:</b>	December 02, 2019

In accordance with General Laws of Massachusetts, Chapter 128A, Section 5g.

The trustees may expend without appropriation all or any part of the capital trust fund to the appropriate track licensee in proportion to the amount deposited in each fund for use of a capital expenditure for alterations, additions, replacements, changes, improvements or major repairs to or upon the property owned or leased by the licensee and used by it for the conduct of racing, but not for the cost of maintenance or of other ordinary operations. The trustees shall hire the services of the architectural/engineering consultants as they deem appropriate to advise them and to evaluate proposed capital improvements. The following capital fund requests have been reviewed.

### **HHCITF**

- # 2019-01 Purchase tractor from Massey Ferguson, AGCO Corporation \$40,338.00

**Total Request for Consideration: \$40,338.00**

All financial statements required under section 6 shall be accompanied by a statement signed under the pains and penalties of perjury by the manager of the licensee setting forth the capital improvements completed with funds obtained under this section. All documentation has been submitted and reviewed.

After review and confirmation of the request, with your authorization, we will approve the scope of work to be completed at the licensee facility.

Encl. ppc\_caprfc\_2019\_01

Cdb



Massachusetts Gaming Commission



**DIXON SALO**  
**ARCHITECTS**  
INCORPORATED

Neil R. Dixon, Principal  
Wayne O. Salo, Principal  
Jesse G. Hilgenberg, Principal

September 9, 2019

Mr. Chad Bourque, Senior Financial Analyst  
Massachusetts Gaming Commission/Racing Division  
101 Federal Street  
Boston, MA 02110

RE: Plainridge Racecourse  
Plainridge HHCITF Project 2019-1  
Tractor  
Request for Consideration

Dear Mr. Bourque:

Attached please find one copy of a Request for Consideration from Plainridge Racecourse to the Massachusetts Gaming Commission/Racing Division in the amount of \$40,338.00 for the Purchase of a tractor at Plainridge Racecourse.

The project involved the purchase of a new tractor to replace the existing tractor used in the daily maintenance of the race track, infield and landscaped areas. The existing tractor is old and has been requiring frequent maintenance and repairs.

Three proposals were solicited for a replacement tractor. Prices included the trade-in of the existing tractor:

Massey Ferguson	\$40,338.00
Norfolk Power Equipment	\$47,779.08
Padula Bros.	87,135.56

Plainridge Racecourse elected to purchase the tractor from Massey Ferguson who submitted the lowest priced proposal.

Based upon the above, it is the opinion of this office that the project is an appropriate Capital Improvement Trust Fund Project and we recommend that this Request for Consideration be approved by the Massachusetts Gaming Commission/Racing Division in the amount of \$40,338.00.

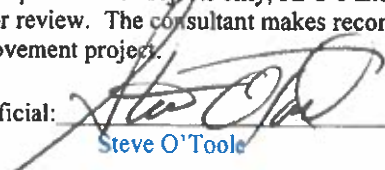
Should you have any questions please do not hesitate to contact this office.

Very truly yours,  
DIXON SALO ARCHITECTS, INC.

  
Neil R. Dixon,  
Principal/Architect  
NRD/hs

cc: Steve O'Toole, Plainridge Racecourse  
Enclosure: Plainridge HHCITF Project 2019-1 (RFC)

**Massachusetts Gaming Commission  
Harness Horse Capital Improvement Trust Fund  
Harness Horse Promotional Trust Fund**

1. Date: 8/27/2019
2. Association: Plainville Gaming & Redevelopment, LLC d/b/a/ Plainridge Racecourse
3. Project #: Plainridge HHCITF 2019-1
4. Project Description: Tractor
5. Type of Request: RFC - HHCITF
  - Request for Consideration / RFC
  - Request for Reimbursement / RFR
  - Harness Horse Capital Improvement Fund / HHCIF
  - Harness Horse Promotional Trust Fund / HHPTF
6. Total Project Amount: \$40,338.00 RFC
  - Estimate / RFC - \$40,338.00
  - Actual / RFR
7. RFC – Provide a detailed description of the promotional or capital improvement project including the project objectives, how it will enhance the operations of the association and / or improve attendance and handles at your racetrack:  
  
RFR – Requests for reimbursement must contain a listing of all project expenditures by date, paid to and check number. A copy of the invoice and cancelled check must support each expenditure:  
  
[See attached](#)
8. For Capital Improvement Projects only, RFC's and RFR's must be submitted to the Commission's architect engineer consultant for review. The consultant makes recommendations to the Trustees relative to the cost and nature of the capital improvement project.
9. By Track Official:  Title: Director of Racing Date: 8/27/19  
Steve O'Toole
10. Trustee Approval and Date:





**MASSEY FERGUSON**

Prepared for: Plainridge Park  
 Proposal Number: QQ-0269974  
 Good Through: 07-31-2019

Dealership Name: Big Boy's Toys L.L.C.  
 Dealer Representative: Daniel Huff  
 Representative Email: dhuff@bigboystoysllc.biz

Model #	MSRP
<b>MF4707 Tractor</b>	<b>\$ 64,890.00</b>
<ul style="list-style-type: none"> <li>• MF4707 PFA Cab Deluxe</li> <li>• 13.68:1 Super Creep Red Gear</li> <li>• Air Ssp Swivel Seat w/Armres</li> <li>• With Loader Subframe &amp; Hyd K</li> <li>• F340/86R24 (13.6R24) R1</li> <li>• R15.5R38 R1</li> </ul>	
• MF931X SS AC Ldr w/ Fact LLO	
Total Retail Price	
	<b>\$ 64,890.00</b>

Lowest Payment \$654.00/Month  
 Cash Price \$40,338.00



<b>Low Rate</b>	<b>Finance Low Rate</b>	
	Sale Price	\$ 60,699.00
	Down Payment + Trade-In:	\$ 10,750.00
	Net Price	\$ 49,949.00
	Taxes	\$ 3,122.00
	Amount Financed	\$ 53,071.00

Financing Options*	Monthly Payment
0.00% for 36 months	\$ 1,474.00
0.00% for 48 months	\$ 1,106.00
0.00% for 60 months	\$ 885.00
0.00% for 72 months	\$ 737.00
0.99% for 84 months	\$ 654.00



<b>Cash Price</b>	<b>Cash Price</b>	
	Sale Price	\$ 48,715.00
	Trade-In:	\$ 10,750.00
	Net Price	\$ 37,965.00
	Taxes	\$ 2,373.00
	Final Customer Price	\$ 40,338.00



**AGCO ANSWERS**  
 (877) 525-4384  
 AGCOAnswers@AGCOcorp.com  
**COMMITTED TO CUSTOMER CARE**

This Letter is a non-binding indication of interest regarding a possible transaction on the general terms and conditions outlined herein and is not a legal commitment. This Letter is intended for the use of the Customer only. \*The following is a proposal for financing for the customer named herein ("Customer") regarding the equipment described herein ("Equipment") by AGCO Finance LLC for discussion purposes only. Customer participation subject to credit qualification and approval by AGCO Finance LLC. Not all Customers may qualify for this rate or term. This proposal is not a statement of all terms and conditions of any financing that may be approved. This Letter is intended for the use of the Customer only. This Letter is valid until "Good Through" date listed above and thereafter shall automatically be deemed to be null and void. \*\*\*The cash price is a good faith dealer estimate only. See dealer for details.





**MASSEY FERGUSON**

Prepared for: Plainridge Park  
Proposal Number: QQ-0269974  
Good Through: 07-31-2019

Dealership Name: Big Boy's Toys L.L.C.  
Dealer Representative: Daniel Huff  
Representative Email: dhuff@bigboystoysllc.biz

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**Trade In Detail**

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MF 1759	\$ 10,750.00
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<b>Total</b>	<b>\$ 10,750.00</b>
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## **INSIDE FRONT COVER (LETTER FROM THE COMMISSION)**

### **HONORABLE MADAMS AND MESSRS.**

We are pleased to deliver the eighth annual report of the Massachusetts Gaming Commission. This report covers the details of our operations as of the end of the Fiscal Year 2019 (June 30, 2019), and is submitted in accordance with section 70 of Chapter 23K. During FY19 we continued to implement the operational readiness process in anticipation of the opening of Encore Boston Harbor. During most of FY19 our Investigations and Enforcement Bureau conducted and completed an investigation into the allegations against its former chief executive and the company's response to those allegations. In April of 2019 the Commission assessed a \$35.5 million fine to Wynn Resorts for their inadequate response to those allegations.

The fourth full year of operations for Plainridge Park Casino concluded on June 30, 2019, while the first full year of operations for MGM Springfield concluded on August 20, 2019. The total gaming tax revenues collected for the fiscal year were **\$144.9 million** (including the first week of Encore Boston Harbor after its opening on June 23 2019).

Calendar year 2019 marked the fifth year of funding for mitigation projects across the Commonwealth with a total of \$15.6 million in grants. In addition, this fiscal year we increased funding for workforce development activities that leverage existing efforts at the State and local levels to help provide opportunities for employment.

We are always available to discuss with you at your convenience the efforts the Commission is making, the results it is achieving and any other aspect of our operations about which you would like additional information. Sincerely, Massachusetts Gaming Commission

### **DECEMBER 2018 LISTINGS**

Governor, Charles D. Baker, Attorney General, Maura Healey, Treasurer, Deborah Goldberg, Chairs of the House and Senate Committees on Ways & Means, Chairs of the Joint Committee on Economic Development & Emerging Technologies, Clerks of the House and Senate

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Racing Operations  
Tax Collections & Agency Finances  
Workforce, Supplier and Diversity Development  
Litigation Matters

## MISSION STATEMENT

**The mission of the Massachusetts Gaming Commission is to create and maintain a fair, transparent, and participatory process for implementing the expanded gaming law** passed by the Legislature and signed by the Governor in November, 2011. The Commission strives 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 expanded gaming, and allow an appropriate return on investment for gaming providers that assures the operation of casino-resorts of the highest quality.

## LETTER FROM THE CHAIR

The Massachusetts Gaming Commission (MGC) has been in existence since March 21 of 2012, and this report entails the eighth fiscal year of operations in the process of implementing the expanded gaming legislation (**Chapter 194 of the Acts of 2011 — An Act Establishing Expanded Gaming in the Commonwealth**) enacted by the General Court and signed into law by the Governor November 2011. The Commission made significant progress towards its mission during FY19. We continue to operate the regulatory framework to enable this Commission to oversee and regulate the gaming licenses that the Gaming Act allows.

### DURING FY19 THE COMMISSION:

1. Oversaw the fourth full year of operations of at Plainridge Park Casino (PPC). For FY19 (ending June 30, 2019) Gross Gaming Revenues totaled \$168.7 million (a \$1.3 million decrease from the prior year – reflecting increased in state competition) resulting in taxes of \$82.6 million (\$33.0 million to Local Aid and \$7.4 million to the Race Horse Development Fund).
2. Oversaw the first 10 months of operations of the MGM Springfield casino followed the August 26, 2018 opening. Gaming revenue for the period (from opening through June 30, 2019) amounted to \$232.4 million, which resulted in \$58.1 million in gaming taxes.
3. Completed an investigation into Wynn Resorts' response to the misconduct allegations of its former chief executive. The Commission adjudicated \$35.5 million in fines. Per statute all fines are deposited to the same funds in which gaming taxes from Category 1 licenses are distributed.
4. Issued an operations certificate to Encore Boston Harbor which opened in June of 2019. The first week of operations generated \$16.7 million in gaming revenue and \$4.1 million in gaming taxes.
5. Promulgated or amended eleven sets of regulations that govern many important aspects of gaming and racing operations including: Junket enterprises, gaming equipment (progressive games), licensing and administrative hearings and Standardbred and Thoroughbred racing (amendments as exotic bets – Pick & Pools).
6. Released important reports including the *Social & Economic Impacts of Expanded Gambling in Massachusetts: 2018* summarizing the impacts of expanded gaming to date. Other reports included a gambling screening study among military veterans (by the Bedford VA), and African-American Perspectives in Casino Gambling.
7. Continued to oversee and regulate the racing and simulcasting operations in the Commonwealth, including disbursements to purses and for the benefit of horsemen and breeders associations for a total of \$17.07 million (\$13.5 million disbursed to purses, \$2.8 million to breeders and \$704,773 to health and wellness programs).
8. Held 24 public meetings of the Commission, and an additional 5 public hearings. The Commission streams all its public meetings live via the MGC website and transcribes the meetings and hearings in full. Further, there were 24 additional open meetings (Access and Opportunity Committee, Public Health Trust Fund Executive Committee, Horse Racing Committee, Local Community Mitigation Advisory and Gaming Policy Advisory Committee).

## MAJOR MILESTONES ANTICIPATED FOR FISCAL YEAR 2020

**The initial five-year term of the license of Plainridge Park Casino will conclude on June 24, 2020.** The Commission initiated policy discussions around renewal and will shortly promulgate associated regulations. Although we do not anticipate any legislative changes are required to grant a renewal, the Commission will conduct a regulatory and compliance review of Penn's license conditions, and an update investigation into the suitability of individual qualifiers. PPC now operates with more in-state competition (MGM and Encore), and gaming revenue for the first quarter of FY20 was \$36.2 million. The associated revenues to the Commonwealth were \$17.7 million. During FY19 PPC annual revenues decreased by \$1.3 million, and FY20 will bring further declines (the first three months of FY 20 netted an \$8.6 million decline in gaming revenues for the same first quarter the prior year).

**FY20 will mark the first full year of operations of both Category 1 licensees (MGM and Encore)** within a fiscal year. The total revenues to the Commonwealth could approach \$250 million for FY20.

**We will continue to improve our responsible gaming efforts.** We contract with the Mass Council on Compulsive Gambling to operate GameSense, an on-site space to promote positive play and connect people with resources including the Voluntary Self Exclusion program.

**We will continue our research and program evaluation activities.** We will implement the priorities from the previous year strategic planning process for the research program to continue making our research and program evaluation activities as useful as possible for regulation, mitigation and informing policy makers.

**Standardbred Racing will continue at Plainridge Park Casino and is expected to include 110 days of live racing for the calendar year 2020.** We continue to evaluate the feasibility of Thoroughbred racing given available monies for purses. There were no Thoroughbred racing applications submitted by the statutory deadline of November 2019, and thus Thoroughbred live racing will likely not take place for calendar 2020. There are currently three bills being considered that in one way or another attempt to address Thoroughbred live racing and simulcasting.

**We will continue to work to maximize the economic benefits from a casino.** We convene and connect licensees to the Commonwealth's workforce and small business resources. We provide grants to leverage and supplement state and local workforce development programs.

**We will continue our transition to regulatory aspects of the operations of casinos, including:**

- Further regulations that govern operations and functions at the gaming establishments
- Implementation of further rules and procedures to ensure the integrity of the game
- Compliance, monitoring and audit programs for the oversight of operations of licensees

**We monitor developments that affect the gaming industry** to make policy recommendations. Topics like the status of the Mashpee Wampanoag Tribe have significant implications for **Region C** (Southeastern Massachusetts). Other topics include online gaming, sports betting, illegal gambling and the status of the Wampanoag Tribe of Gay Head (Aquinnah) and their potential impact on the young gaming industry in Massachusetts.

## **KEY PROVISIONS OF THE GAMING ACT**

**Chapter 194 of the Acts of 2011 (“The Gaming Act”)** includes significant features to ensure public confidence and a robust gaming industry that generates economic development while providing mitigation measures to protect potentially vulnerable groups.

### **A STRONG, INDEPENDENT REGULATORY FRAMEWORK**

- Five full-time commissioners appointed by the three constitutional officer
- Rigorous standards for suitability and licensure of companies, vendors and employees
- On-site presence of gaming agents, state police and responsible gaming agents (GameSense Advisors)
- Detailed regulations and strict oversight to ensure integrity of the operations and fairness of the games

### **A ROBUST AND FUNDED RESEARCH MANDATE**

The gaming act enshrines the role of research in enhancing responsible gaming and mitigating the negative consequences of expanded gaming in Massachusetts. To this end, the secretary of health & human services and the Commission established a public health trust fund executive committee to oversee and execute on this mandate. The act directs the parties to:

- Understand the social and economic effects of expanded gambling including conducting a baseline study and subsequent studies of all relevant critical, social and economic variables
- Obtain scientific information relative to the neuroscience, psychology, sociology, epidemiology and etiology of gambling
- Make annual, scientifically-based recommendations for policy to the Legislature

### **STRONG LOCAL CONTROL**

- Host communities vote on the host community agreement negotiated between the applicant and the local executive
- Surrounding communities have a process for addressing mitigation concerns (that must also be funded and addressed by the applicants)
- Reimbursement to communities for mitigation costs

### **POLICIES TO MAXIMIZE THE BENEFITS TO THE COMMONWEALTH**

- A competitive and transparent process for license solicitation, evaluation and award of up to three category 1 licenses and one category 2 license to maximize capital investment
- Clear directives and specific criteria to realize economic benefits to support local, small and diverse businesses, employ the unemployed and underemployed, while protecting vulnerable groups and other commonwealth assets including the lottery and impacted live entertainment venues

## RECOMMENDATIONS LEGISLATIVE ACTION

In accordance with chapter 30 section 33 and c. 23 k (the gaming act); **we submit recommendations for legislative action. The topics for consideration are:**

- 1. Consider addressing the expiring nature of the racing statutes in a permanent manner.** The current statutes that govern live racing and simulcasting in the commonwealth (g.l. c. 128a and c. 128c) expire on January 2020. As part of the gaming act (c. 194 of the acts of 2011, §104), the Commission was tasked with providing findings and recommendations to the Legislature (given its then pending expiration of July 31, 2014). These recommendations were submitted in April 2013, in a report that included a draft proposed new g.l. c. 128d. While the Legislature did not enact the proposed c. 128d, different efforts to address this (in the house & senate) resulted in five annual extensions of sections 128a and 128c (st. 2105c. 10 §59, st. 2016 c.176, st. 2017 c.56, st.2018 c.159 and st.2019 c.47. These extensions have allowed Suffolk Downs to continue simulcasting while requiring they conduct at least one day of live racing. However, in our opinion, the current short-term nature of the law creates uncertainty to the viability of live horse racing in the commonwealth. Accordingly, the Commission favors an approach that includes a comprehensive statutory amendment that takes a more long-term view including allowing the Commission to set the minimum number of race days and use the horse race development fund to provide assistance to the racing industry as originally envisioned by the gaming act (both Standardbred and Thoroughbred).
- 2. Consider addressing the rapidly evolving nature of online gaming in a holistic way.** In 2016 the Legislature created a special commission that produced a report on July 31, 2017. In our opinion and as stated in the special commission's final report, the commonwealth should provide a flexible, omnibus regulatory framework (and update outdated relevant statutes) as opposed to addressing the legality and regulation of each new game or online technology on a one-off basis, which may also include Sports Betting.
- 3. Consider exempting members of the gaming policy advisory committee, its subcommittees and local advisory committees from certain conflicts of interest and ethics restrictions.** G.l. c. 23k, §68 created a gaming policy advisory committee (gpac) and subcommittees (specifically a subcommittee on community mitigation) and local community mitigation advisory committees (lcmac) to provide advice to the Commission on gaming policy and related mitigation matters. By statute, the lmacs include appointees from the host and surrounding communities to the casinos. The people in the best position to provide informed input in many of these advisory roles are local officials, municipal and regional employees. However, it has been determined that municipal and regional employees may be in violation of the state's conflict of interest law (g.l. c. 268a) if they were to provide advice to the Commission while also performing their local duties which typically include gaming related matters. MGC worked closely with the state ethics commission to craft language to allow those municipal and regional planning employees to provide the best advice to the Commission while also meeting their gaming-related local and regional duties.

## AGENCY DIVISIONS

### INVESTIGATIONS & ENFORCEMENT BUREAU AND DIVISION OF LICENSING

The Investigations and Enforcement Bureau (IEB) is comprised of 1) the Investigations Division, which includes Massachusetts State Police (MSP) staff and a team of civilian financial investigators; 2) the Gaming Agents Division, comprised of civilian agents, which is charged with providing regulatory oversight and on-site monitoring of licensed gaming establishments; and 3) the legal arm of the IEB, which consists of the Chief Enforcement Counsel and Senior Enforcement Counsel and whose duties include legal review of investigations and representing the IEB in licensing and enforcement actions initiated by the Bureau. The Director of the IEB also oversees the Division of Licensing, which administers the licensing and registration functions on behalf of the Commission for employees of and vendors to the gaming establishments.

The IEB conducts probity investigations to determine suitability for licensure and registration for all gaming establishment employees and vendors, per licensing regulations (205 CMR 134.00), which also define thresholds, standards and procedures for licensing and registration. There are three levels of employee licensure; Key Gaming Employee - Executive, Key Gaming Employee — Standard, and Gaming Employee. All three levels of licensure require a background check before employment may commence at a Gaming Establishment. Some employees not classified by regulation as either Key Gaming or Gaming Employees must register as a Gaming Service Employees, unless exempted from classification by the Commission. Background checks for those employees may commence after employment begins. The depth of background check is commensurate with the level of licensure/registration.

In FY19, the IEB and Division of Licensing processed and completed background investigations for 4,871 applications for individual employee licensure or registration. The IEB and the Division of Licensing also received and processed 5 new Gaming Vendor applications and completed ongoing investigations for and gave full licenses to 3 Gaming Vendors which included 18 entity qualifiers and 35 individual qualifiers. (This process also included the review of 35 subcontractor information forms.) Additionally, the IEB and the Division of Licensing processed and conducted background investigations for 837 applications for non-gaming vendor registration and 7 individual casino qualifiers.

In FY19 the IEB completed the investigation into the circumstances reported in the Wall Street Journal regarding alleged sexual misconduct by Wynn Resorts now-former Chairman and CEO, Steve Wynn, and the company's response. The matter culminated in a 200+ page report and an adjudicatory hearing before the full Commission during April 2019.

In FY19 the IEB's Gaming Agents Division also conducted the necessary regulatory work for the opening of both the MGM Springfield Casino and the Encore Boston Harbor Casino. Gaming agents conducted hundreds of regulatory examinations to test casino internal controls and procedures and conducted "test nights" at each facility to ensure compliance with MGC regulations before the Commission authorized the opening of each casino.

Now that all three licensed casinos are in operation, gaming agents continue to oversee and/or review a variety of tasks at all facilities, including slot machines moves and inspections, operational audits, compliance reports, patron complaints, machine jackpots over certain thresholds, and tips from the **Fair Deal** tip line.

The Massachusetts State Police have a 24/7 presence at all three casinos have criminal enforcement responsibilities and are also assigned to conduct employee background checks.



## OFFICE OF THE OMBUDSMAN

The Office of the Ombudsman is responsible for coordinating and communicating interactions among the Commission and many stakeholders: State Agencies, Applicants, Licensees, Host and Surrounding Communities, and multiple other interested parties.

## COMMUNITY MITIGATION GRANTS

The Community Mitigation Fund receives monies from the licensing fees and the taxes on gross gaming revenues and is designed to address unanticipated adverse impacts that may result from the construction and operations of casinos. It may also be used for planning, either to determine how to achieve further benefits from a facility or to avoid or minimize any adverse impacts. When fully funded, the Community Mitigation Fund will have approximately \$20 million annually for local mitigation projects.

The Office of the Ombudsman reviews requests for mitigation dollars and makes recommendations to the Commission on the disbursements from the Community Mitigation Fund. **To date, the Commission has allocated approximately \$15.6 million in grants to host, surrounding and neighboring communities, governmental agencies and public safety organizations.** During FY19, the Community Mitigation grants were as follows:

- 1. One-Time Reserve Grants in the amount of \$100,000.** This grant reserved \$100,000 for the communities which were a host community, surrounding community, nearby or adjacent community. To date, a total of 28 communities associated with Region A, B and the slots parlor have been granted reserves for a total of \$2,800,000.
- 2. Specific Mitigation Grants.** These grants were developed to assist communities with an unanticipated or anticipated mitigation need specific to that Community. During FY 18 these grants were as follows:

Hampden DA	<b>\$125,000</b>	\$100,000 for an additional Assistant District Attorney to assist with potential increased caseloads that may result from the operation of the MGM Springfield facility, and \$25,000 to develop a tracking system for casino related cases. The grant provides flexibility to pay for the portion of a victim witness advocate.
Hampden County Sheriff's Department	<b>\$765,000</b>	Lease assistance for the Western Mass. Correctional Alcohol Center for 2018 and 2019. The Center needed to move from its prior location which was located within the current footprint of the MGM Springfield facility.
MA State Police	<b>\$1,814,544</b>	Hiring, training, and compensation of Troopers for the Expansion of the Gaming Enforcement Unit
Springfield Police	<b>\$160,498</b>	Training and equipment for Recruit Officers to attend Police Training Academy, and additional personnel costs. Five Springfield Police Officers and one Lieutenant will be assigned the MGM Springfield Gaming Enforcement Unit.

- 3. Transportation Grants.** These grants were developed to assist communities in transportation and transportation related impacts. The Commission continues to support regional approaches to mitigation needs and recognizes that some mitigation requires the commitment of more than one community. The 2018 Guidelines for the Community Mitigation Fund allowed multiple communities to submit a joint application.

Attleboro	<b>\$100,000</b>	Traffic study of and improvements (e.g. signal coordination) to a study area that consists of Route 123 from its intersections at Route 1, northerly along Route 1 to the North Attleborough corporate line.
Boston	<b>\$200,000</b>	Assistance with the design of the Sullivan Square/Rutherford Avenue Project.
Chelsea	<b>\$200,000</b>	100% Design / Engineering of Beacham / Williams Street Corridor.
Everett/Somerville	<b>\$425,000</b>	Design & permitting of station enhancements / a weather protected connecting structure (Connector) for enhanced access to the Assembly Square MBTA Station. A completed Connector would work in tandem with a proposed bicycle and pedestrian bridge to provide connections from the Station to the Encore Boston Harbor facility, the City of Everett, and regional bicycle and pedestrian paths.
Medford	<b>\$198,600</b>	Survey, Final Design documents and complete permitting for the proposed South Medford Connector bicycle and pedestrian path, designed to provide enhance regional connections.
Revere/Saugus	<b>\$275,000</b>	Funding for preliminary traffic designs for elements within Phase 1 of the Route 1 Improvement Project in order to plan for potential Encore Boston Harbor traffic.
West Springfield	<b>\$200,000</b>	Professional engineering consultant to collect data, analyze and design improvements to portions of both Park Street (Route 20) and Park Avenue (Route 20) between the intersections of Elm Street (Route 20) and Union Street, easterly to the North End Bridge Rotary at Route 5 to mitigate transportation impacts associated with additional casino traffic.

- 4. Workforce Development Pilot Program.** FY18 was the second year that MGC allocated funding for Workforce Development purposes as part of the Community Mitigation fund. This program was conceived as a pilot program to help increase job readiness in both regions A & B in anticipation of the casino openings. A total of \$900,000 for the Workforce Development Pilot Program was approved for FY funding round as follows:

Boston Private Industry Council	<b>\$300,000</b>	Funding for the Greater Boston Casino Pipe Line Initiative (GBCPI) including funding for English for Hospitality classes, "Community Supports" local outreach to jobseekers, Best Pre-apprentice
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program funding and Gaming School Scholarships.

Holyoke Community College	<b>\$300,000</b>	Work Ready collaboration between Holyoke Community College, Springfield Technical Community College and Springfield Public Schools (SPS) including \$70,000 for HCC gaming scholarships, \$57,306 for HCC / STCC line cook training; \$100,000 for year two of the SPS Ahead of the Game program for literacy and math skills GED / HiSET; and \$82,693 for year two of the STCC / HCC Hampden Prep Program for local education (high school credential) and career readiness exploration and certificate.
MetroNorth Regional Employment Board (MNREB)	<b>\$300,000</b>	Metro North Casino Careers Consortium (MNCCC) including \$95,000 for the NECAT Everett Culinary Training Program, \$10,000 for the Career Casino Advisors program, \$60,000 for English for Employment, and \$50,000 for Job Readiness Training

## **5. Non-Transportation Planning**

Malden	<b>\$50,000</b>	Planning to assist in the completion of a Broadway Corridor Framework Plan to study existing physical and economic conditions and project gaming facility related impacts on the Corridor. The effort will also provide recommendations relating to land use, economic development, and implementation.
Revere	<b>\$50,000</b>	\$42,000 to continue the services of an economic development consultant to address Encore Boston Harbor opportunities over an additional period of 6 months. The balance of the grant, \$8,000, would be used to undertake marketing and promotional efforts about these development opportunities and the potential linkage with the Encore Boston Harbor Casino.
West Springfield	<b>\$40,000</b>	Funding for an architectural and engineering consultant to conduct a Police Facility Needs Assessment and Location Study. The Town of West Springfield will experience space constraints in its current facility resulting from the hiring of eight new officers to address potential MGM Springfield calls for service.

## **6. Tribal Gaming Technical Assistance Reserve \$200,000**

Southeastern Regional Planning and Economic Development District (SRPEDD)	<b>\$200,000</b>	This reserve would provide funding to SRPEDD to assist in the determination of potential impacts that may be experienced by communities that are geographically proximate to the proposed facility. The Commission determined that this reserve should continue until there is a decision regarding the tribal facility.
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## **LICENSEE REPORTING & CONSTRUCTION OVERSIGHT**

The Office of the Ombudsman also helps the Commission remain up to date on the activities of its licensees, including the progress of the construction of the Encore Boston Harbor and MGM Springfield facilities, and the status of all three current facilities in meeting the terms of their licenses. The Ombudsman's office coordinates reports due to the Commission from licensees as well as developments regarding their progress against a large number of license conditions. This office includes the role of a "Construction Project Oversight Manager" for the oversight of efforts from licensees and other design, permitting and construction requirements.

The Ombudsman further coordinates and supports legislatively mandated Advisory Committees and sub-committees which support the Commission on the Community Mitigation Fund Guidelines on an annual basis.

## **INFORMATION TECHNOLOGY SERVICES DIVISION**

The Information Technology Services Division ("ITS") is comprised of two major teams, the Corporate Technology Unit and the Gaming Technology Compliance Unit.

The Corporate Technology Unit ("CTU") provides information technology products and services to meet the needs of the MGC community.

This past year, we modernized the desktop environment across all four locations, implemented encryption on end-user equipment, implemented asset tracking, and updated back-end systems and applications to modern standards. Further, we implemented a new SD-Wan Network for the MGC's Wide Area Network (WAN). We increased bandwidth as well as redundancy by installing two diverse circuits at each MGC office. In addition, we have replaced all aging network switches at the Boston and Plainville MGC offices. The CTU also implemented a new cloud-based phone system for all MGC offices which will improve the ability of offices to operate independently and give employees the flexibility to work from any of our locations without losing access to their telecommunication services.

The Gaming Technology Compliance Unit ("GTCU") is responsible for planning, organizing, managing, and implementing the regulations, policies, procedures, and testing needed to ensure the integrity of electronic gaming devices ("EGDs" aka slot machines) and associated software and equipment. The GTCU oversees the issuance of certifications and permits for the use of EGDs in Massachusetts. The Unit is also responsible for the evaluation, inspection, and investigation of electronic gaming devices and associated equipment, and the oversight of all EGD assets in the jurisdiction.

The GTCU installed MGC's central monitoring system ("CMS") at the two remaining casinos, MGM Springfield ("MGM") and Encore Boston Harbor ("EBH"), with the assistance of our Network Operations Center ("NOC"). At the opening of each casino, the MGC installed over 2,100 EGDs at MGM and over 3,100 at EBH.

The GTCU works directly with the Licensing, Investigations, Responsible Gaming, Accounting, and MGC's Independent Testing Labs to ensure all technical requirements comply with MGC regulations. This includes product verification and equipment and software testing as part of the vendor licensing process. We also conduct integration and inter-operability testing to ensure the EGDs communicate effectively with our monitoring system and the licensees' systems.

## RESEARCH AND RESPONSIBLE GAMING

The Office of Research and Responsible Gaming leads MGC's efforts to mitigate gambling related harm through the development and implementation of casino-based responsible gaming programs. In addition, this office directs the implementation of a comprehensive gaming research program as mandated by Section 71 of Chapter 23k.

The Director of Research and Responsible Gaming serves as key liaison to the Public Health Trust Fund. The Gaming Act created this fund and it is managed by an executive committee co-chaired by the Chair of the Commission and the Secretary of Health and Human Services or their designees. For FY2020, the Public Health Trust Fund will direct approximately \$14 million to gaming research, responsible gaming and problem gambling prevention and treatment programs. MGC and the Executive Office of Health and Human Services set an annual budget for expenditures from the Public Health Trust Fund, which includes funding for the yearly gaming research program.

## SOCIAL AND ECONOMIC IMPACTS OF GAMBLING IN MASSACHUSETTS

The cornerstone research effort of the Commission is a comprehensive, multi-year study of the **Social and Economic Impacts of Gambling in Massachusetts** (SEIGMA). This study constitutes the most in-depth and comprehensive investigation of the impacts of introducing casino gambling ever undertaken. Lead by the UMASS Amherst School of Public Health and Health Sciences and supported by the UMASS Donahue Institute, a multi-disciplinary research team collects, analyzes and reports each year the actual impacts, which in turn provide key information to policymakers.

This year, SEIGMA released a report summarizing the impacts of expanded gaming to-date.

***Social and Economic Impacts of Expanded Gambling in Massachusetts: 2018*** (Released on December 6, 2018)

**Fact Sheets:** <https://www.umass.edu/seigma/fact-sheets>

**Reports:** <https://massgaming.com/about/research-agenda/>

The SEIGMA team released the *Social and Economic Impacts of Expanded Gambling in Massachusetts: 2018* report which constitutes the most in-depth and comprehensive investigation of the impacts of introducing casino gambling ever undertaken.

Beginning in 2013, the SEIGMA team has collected extensive baseline and follow-up data on the social and economic changes in Massachusetts related to the introduction of casino gambling. This compendium report—a summary of impacts that have been observed as of July 2018—is SEIGMA's first in a series of reports that will analyze the changes in Massachusetts' social and economic landscape after the introduction of new gambling venues. At the time of writing, the only significant changes that have occurred are the construction impacts of building three facilities as well as the opening of Plainridge Park Casino (PPC)—the smallest of the three new venues—in June 2015. Other than the very clear revenue, employment, and spending of PPC, there is little evidence of marked social or economic changes to date in Massachusetts that can be attributed to gambling.

The limited social impacts are likely due to the characteristics of PPC as a venue and the availability of gambling in neighboring states preceding PPC. It is also the case that the impacts of casino gambling in Massachusetts in 2018 are likely not reflective of future social and economic impacts that the SEIGMA

team will examine with the larger casino developments in Massachusetts—MGM Springfield and Encore Boston Harbor.

Social & Health Impacts		Change from before PPC opened to after
Problem Gambling & Related Indices	Rate of Problem Gambling	↔
	Financial Problems or Employment Problems	↔
	Divorce; Separation; Domestic Violence; Child Abuse and Neglect; Suicide	↔
Attitudes	Attitudes Toward Gambling	↓ ↑
Population Health & Leisure	Physical and Psychological Health; Substance Use and Addictions; Leisure Activity	↔
Demographics	Population	↔

***Gambling Problems Among Military Veterans: Screening Study in Primary Care Behavioral Health. Bedford VA Research Corporation Inc. (BRCI)*** Released February 2019

Background and Objectives:

Existing research has found that military veterans are at greater risk of experiencing gambling related harm. To better serve this population, the MGC funded the Bedford VA to evaluate the reliability and validity of the BBGS gambling screen among VA patients in Primary Care Behavior Health (PCBH) clinics. The study aimed to evaluate the prevalence of problem gambling among veterans and its co-occurrence with other medical and mental health problems.

Results:

Of the veterans who gambled, 5.9% endorsed at least one item on the BBGS, some of whom were later diagnosed with a gambling disorder. The prevalence of at-risk/problem gambling for the full sample is 1.9%, however, because so few Veterans endorsed issues with problem gambling on the BBGS, researchers were unable to examine the sensitivity and specificity of the questionnaire.

***Casinos and Gambling in Massachusetts: African-American Perspectives. JSI Research & Training Institute, Inc.*** Released February 2019

Background and Objectives:

The SEIGMA baseline survey found that persons who identify as black are 4 times more likely than persons who identify as white to experience gambling related harm. In order to better understand why this may be, the MGC provided funding to JSI Research and Training Institute to explore themes, concerns, and perceptions regarding gambling and casinos among African Americans in Massachusetts as well as environmental and contextual factors.

Results:

Findings from this study highlight the importance of including place and context to help pursue a clear understanding of factors anteceding gambling, gambling behavior, and consequences among African Americans in Massachusetts that could inform the development of effective strategies to prevent and treat problem gambling behavior.

***The importance of friends and family to recreational gambling, at-risk gambling, and problem gambling. BMC Public Health, 18(1), 1080. Published on September 4, 2018***

#### Background and Objectives:

To inform problem gambling prevention strategies, it's important to understand the variables which discriminate between recreational gambling and at-risk gambling and whether they are similar or different to the ones correlated with problem gambling.

#### Results:

Compared to recreational gamblers, At-Risk Gamblers were more likely to: gamble at casinos; play the instant and daily lottery; be male; gamble online; and be born outside the United States. Problem and Pathological Gamblers were more likely to: play the daily lottery; be Black; gamble at casinos; be male; gamble online; and play the instant lottery. Importantly, having a greater portion of friends and family who were regular gamblers was the second strongest correlate of being both an At-Risk Gambler and Problem/Pathological Gambler.

This suggests that targeting the social networks of heavily involved Recreational Gamblers and At-Risk Gamblers (in addition to Problem/Pathological Gamblers) could be an important focus of efforts in problem gambling prevention.

### **RESPONSIBLE GAMING INITIATIVES**

Responsible gaming is a key area of focus of the MGC and its mission of maximizing economic development while minimizing the potentially negative and unintended consequences of gaming. The ongoing Responsible Gaming programs are now deployed at PPC, MGM Springfield and Encore. Those programs are:

#### **THE VOLUNTARY SELF-EXCLUSION PROGRAM (VSE)**

As required by statute, the Voluntary Self-Exclusion program is available to assist patrons who recognize that they have experienced a loss of control over their gambling and wish to invoke external controls. Once on the list, persons are prohibited from entering the gaming floor and if they do, gambling wins and losses are transferred to the MGC Gaming Revenue Fund. Enrollment terms are 1-year, 3-years, or 5-years. The VSE contract covers all Massachusetts casino properties. The MGC self-exclusion process utilizes an engaged approach, ensuring that the patron obtains the assistance needed, is responded to in a respectful, timely, and discreet manner, and feels supported. To date over 700 people have enrolled in the program including 125 who have removed themselves from the list at the conclusion of their term.

#### **GAMESENSE**

GameSense is an innovative responsible gaming program adopted by the Massachusetts Gaming Commission (MGC) as part of its mission to promote positive play and reduce gambling related harm. The program is offered at each of the three casinos in a dedicated space known as the *GameSense Info Center* and is staffed 16 hours a day/7 days a week by dedicated staff known as *GameSense Advisors*.

GameSense is built on a stepped-care approach which recognizes that different players are susceptible to varying degrees of harm. These diverse players necessitate different prevention and intervention strategies relevant to their specific needs.



In this framework, the largest group is made up of positive players who do not experience any negative consequences as a result of their gambling. GameSense works to ensure that these players maintain positive play by providing them with tools and knowledge which help them to maintain control.

The second group is made up of players who are at risk for developing a gambling problem. Strategies to benefit this group include connecting players with self-assessment tools, providing them with information to help recognize the signs of problem gambling, and awareness of intervention resources.

The third group is made up of problem players who are already experiencing negative consequences as a result of their gambling. These players benefit from access to Voluntary Self Exclusion, which excludes them from participating in gambling activities and community-based resources should they wish to seek professional help.



The MGC released a third party evaluation of the program that found that nearly three in five (59%) patrons surveyed reported learning something new about gambling from the GameSense Advisor. As a result of this interaction, 22% reported having changed how they gamble. One in three (33%) patrons who had an in-depth conversation with a GameSense Advisor said this conversation caused them to think about their own gambling. Self-reports of such change are an important step in confirming that patrons are gambling responsibly, but a more direct connection is needed to associate changes in actual behavior with the information provided by the GameSense Advisor.

The GameSense Advisor team has grown to twenty-seven across all three casino properties. They possess various professional and education backgrounds, and collectively speak 9 different languages. Their primary responsibilities include engaging with casino players and staff, and administering Voluntary Self Exclusion and PlayMyWay programs. All new Advisors participate in an intensive, four-week training which explores various topics such as responsible and problem gambling, program procedures and motivational interviewing.

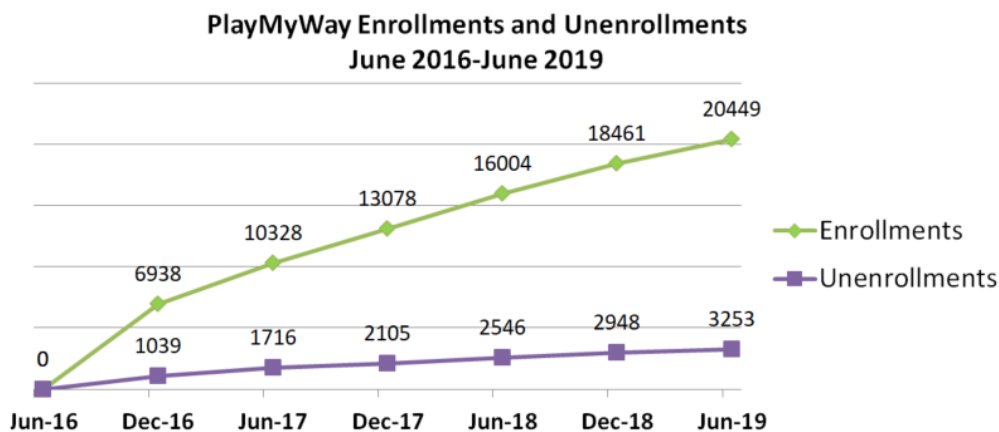
This year, Gamesense Advisors took an active role in leading outreach efforts within the community. This work entails meeting with and presenting to groups who are at an increased risk of developing gambling problems. To complement their work and ensure that information is accessible to all players, GameSense collateral and Voluntary Self Exclusion forms were translated into five different languages.

## PLAYMYWAY

PlayMyWay is a digital play management program that prompts rewards card holders to voluntarily choose a daily, weekly and/or monthly budget to track their spending. Currently only available at PPC, technical teams and executive staff at the MGC and across all gaming licensees have been collaborating to launch the program at MGM Springfield and Encore Boston Harbor by September 2020.

Enrolled participants receive automatic notifications after they reach 50% and 75% of the spend budget. Players will also receive a notification when they reach 100% of the budget, and if they continue to play, notifications will be received at 25% intervals. A player can choose to stop at any point or keep playing. There is no penalty or consequence for playing beyond the set budget as it is intended to help players make decisions and monitor their gambling in real time.

As of June 2019 approximately 20,449 PPC patrons have enrolled in PlayMyWay representing 7.5% of eligible players. Of the number of people who have enrolled, 3,253 (or 16%) have unenrolled.



*During FY2019, there were 4,445 people enrolled in the PMW program and 707 unenrolled which represented a 15.9% un-enrollment rate.*

## CASINO PROPERTY & PROJECT SUMMARIES

### PLAINRIDGE PARK CASINO

PPC is the Category 2 licensee in Plainville, Massachusetts. The facility also hosts the Standardbred live racing and simulcasting operations.

**Conditional Award of the License** February 2014

**Operations Certificate/Date Opened** June 24, 2015

**Gaming Space** 43,800 square feet

**Capital Investment Amount** \$250 million

**Employees** 503 employees as follows: 35 Key Gaming Employees, 190 Gaming Employees and 278 Service Employees

**Tax on Gross Gaming Revenues** 49%

**Slots/Gaming Positions** 1,250 slots/1,414 Gaming Positions

**Table Games** N/A

**Additional Amenities** 2 Full-Service Restaurants ("Flutie's Sports Bar" and "Slack's Oyster House & Grill") 3 food court style eateries ("B-Good" "Dunkin' Donuts" "Slice") Live Entertainment ("Revolution Lounge") Additional racing concessions/outlets

### ENCORE BOSTON HARBOR

Encore Boston Harbor is a Category 1 licensee for Region A in Everett, MA. The facility sits on the formerly contaminated site on the banks of the Mystic River at the site of the former Monsanto plant.

**Conditional Award of the License:** September 2014

**Opening Date** June 23, 2019

**Gaming Space** 190,461 square feet

**Total Investment Amount** \$2.6 billion

**Total Employment** 5,266 permanent jobs (as of September 2019)

**Tax on Gross Gaming Revenues** 25%

**Slots** 3,100 Slot Machines

**Table Games** 144 gaming tables, 74 poker tables

**Additional amenities** 5-star hotel (671 rooms), 77,250 sf retail space, 12 outlets of Food & Beverage, 3 bars & lounges, multipurpose venue, spa/gym, convention space, extensive outdoor and waterfront space with pavilion and public harbor walk, indoor garden

## **MGM SPRINGFIELD**

MGM Springfield is a Category 1 licensee for Region B in Springfield, MA. The facility is located on approximately 14 acres in downtown Springfield in the congregation of parcels bound by Main, State, Union and East Columbus streets.

**Conditional Award of the License** June 2014

**Opening Date** August 24, 2018

**Gaming Space** 126,262 square feet

**Total Gross Area** 759,157 square feet

**Total Investment Amount** \$960 million\*

**Tax on Gross Gaming Revenues** 25%

**Parking** 3,375 covered on site

**Total Employment** 2,100 permanent jobs

**Slots** 3,000

**Table Games** 100

**Other Amenities** 4-star hotel (250 rooms), 8 outlets for Food & Beverage, 26,000 sf of retail space, bowling alley, cinema and 54 residential units

\*Does not include \$60.7 million for Land and \$75.5 million for Capitalized Interest

## **RACING OPERATIONS**

MGC is also responsible for the operational and fiscal oversight of the Standardbred and Thoroughbred racing operations and pari-mutuel facilities in the Commonwealth (under M.G.L. c 128A & 128C).

FY19 marked the fifth year that the Race Horse Development Fund had monies available to supplement purses, and accordingly the Commission approved disbursements for the prescribed purposes.

### **LIVE RACING AND SIMULCASTING AT LICENSED FACILITIES**

#### **STANDARDDBRED RACING**

Calendar year 2019 will see 108 days of racing. For the meet, the Racing Division will issue approximately 1,000 occupational licenses.

The 2019 harness racing season saw the revival of the \$250,000 Spirit of Massachusetts Trot, and the inaugural \$100,000 Clara Barton Pace. Approximately \$800,000 will be distributed as purses in the finals of the races for Massachusetts bred horses, known as the Sire Stakes.

For the upcoming 2020 calendar year, Plainridge is planning on 110 race days, up two days from 2019.

#### **THOROUGHBRED RACING**

For the calendar year 2019, live Thoroughbred racing was conducted at Suffolk Downs for a total of 6 days. For the meet, the Division of Racing issued approximately 860 occupational licenses. This will most likely be the last year of racing at Suffolk Downs, which originally opened in 1935. Several groups are interested in continuing Thoroughbred racing at other sites in Massachusetts, but it is unclear if there will be any live Thoroughbred racing in 2020 (see recommendations for legislative action in page 6 of this report).

#### **SIMULCASTING**

Simulcasting and account wagering is conducted year-round at the following facilities:

- Plainridge Park Casino, including Hollywood Races
- Raynham Park
- Suffolk Downs, including Twin Spires, TVG, Xpressbets, NYRA Bets, Wonderland

For 2019, total pari-mutuel handle in the Commonwealth is expected to reach \$221 million (approximately a 0.89% decrease from the prior year).

During 2019, the Division of Racing continued efforts to enhance the safety and welfare of racing participants, as well as monitor and regulate the racing operations in the Commonwealth. Key activities included:

- Participation in the annual Association of Racing Commissioners International (ARCI) conference, and continuing education; the annual Organization of Racing Investigators conference and training; the Racing Officials accreditation program; RMTTC and NTRA Safety & Integrity Alliance's Regulatory Veterinarian Continuing Education Conference and the Thoroughbred Racing Protective Bureau/ARCI Wagering Technology and Security Conference
- Cutting edge updates to racing regulations

**DISBURSEMENTS OUT OF THE RACE HORSE DEVELOPMENT FUND**

During FY19, the Commission made disbursements in accordance with c. 23K and the recommendations for the split (between Standardbred and Thoroughbred horsemen) of the statutory Horse Racing Committee. The distributions out of the Race Horse Development Fund were as follows:

ENTITY	AMOUNT	STATUTORY PURPOSE
HARNESS HORSEMEN'S ASSOCIATION	422,864	Health & Welfare of Harness Horsemen
MASSACHUSETTS THOROUGHBRED BREEDERS ASSN	1,127,637	Thoroughbred Breeders Program
NEW ENGLAND HORSEMEN'S BENEVOLENT	281,909	Health & Welfare Thoroughbred Horsemen
PLAINVILLE GAMING AND REDEVELOPMENT LLC	8,457,278	Standardbred Live Racing Purses
STANDARDDBRED OWNERS OF MASSACHUSETTS	1,691,909	Standardbred Breeders Program
STERLING SUFFOLK	5,092,072	Thoroughbred Live Racing Purses
<b>Grand Total</b>	<b>\$17,073,216</b>	

## TAX COLLECTIONS & AGENCY FINANCES

MGC's Division of Administration and Finance (A&F), led by the Chief Financial and Accounting Officer, is responsible for the strict oversight of the revenues at the casino and the collection of taxes due to the Commonwealth from those operations. The taxes and assessments on gross gaming revenues for the Category 2 licensee is 49%. The tax on Category 1 licensees is 25%.

The division is also in charge of completing all financial transactions and coordinating with other functional areas to complete administrative functions including, but not limited to:

- Accounting,
- Budgeting,
- Payroll, and
- HR, inclusive of classification and compensation within the MGC structure.

### GAMING REVENUES AND TAX COLLECTIONS

From July 1, 2018 through June 30, 2019, the Category 2 licensee reported \$168.67M in gross gaming revenues which generated \$67.47M in tax dollars to local aid and \$15.18M in assessments to the racehorse development fund.

Both Category 1 Licensees operated for less than 12 months in FY19. MGM Springfield operated for a little over ten (10) months, and reported \$232.4M in gross gaming revenue which generated \$58.1M in taxes for the Commonwealth. Encore Boston Harbor opened on June 23rd, operated just one week in FY19 and reported \$16.78M in gross gaming revenue, which generated \$4.19M in taxes

Below are charts by month by licensee. The same information can be found on the MGC website under the revenue section.

### CATEGORY 1 LICENSEE REVENUE

#### MGM Springfield FY19

MONTH	Total Slot and Table GGR	Total (25%) in collected state taxes
August 23-31 2018	\$ 9,456,976.90	\$ 2,364,244.23
September	\$ 26,952,096.39	\$ 6,738,024.10
October	\$ 22,242,742.41	\$ 5,560,685.60
November	\$ 21,247,914.09	\$ 5,311,978.52
December	\$ 21,583,225.04	\$ 5,395,806.26
January 2019	\$ 19,698,053.88	\$ 4,924,513.47
February	\$ 21,500,878.30	\$ 5,375,219.58
March	\$ 25,684,173.99	\$ 6,421,043.50
April	\$ 21,818,086.34	\$ 5,454,521.59
May	\$ 22,285,565.57	\$ 5,571,391.39
June	\$ 19,954,469.30	\$ 4,988,617.33
TOTAL FY19	\$ 232,424,182.21	\$ 58,106,045.57

## Encore Boston Harbor FY19

Month	Total Slot and Table GGR	Total (25%) in collected state taxes
June 23-30 2019	\$16,789,943.88	\$ 4,197,485.97
<b>TOTAL FY19</b>	<b>\$16,789,943.88</b>	<b>\$ 4,197,485.97</b>

## CATEGORY 2 LICENSEE REVENUE

### Plainridge Park Casino (PPC) FY19

Month	Slot GGR	Total in collected state taxes (40%)	Total in collected race horse dev fund (9%)
July 2018	\$ 15,149,925.77	\$ 6,059,970.31	\$ 1,363,493.32
August	\$ 15,380,183.28	\$ 6,152,073.31	\$ 1,384,216.50
September	\$ 14,319,232.42	\$ 5,727,692.97	\$ 1,288,730.92
October	\$ 13,525,789.45	\$ 5,410,315.78	\$ 1,217,321.05
November	\$ 12,852,262.82	\$ 5,140,905.13	\$ 1,156,703.65
December	\$ 14,089,866.43	\$ 5,635,946.57	\$ 1,268,087.98
January 2019	\$ 12,379,114.94	\$ 4,951,645.98	\$ 1,114,120.34
February	\$ 12,594,203.49	\$ 5,037,681.40	\$ 1,133,478.31
March	\$ 15,937,424.66	\$ 6,374,969.86	\$ 1,434,368.22
April	\$ 14,062,059.86	\$ 5,624,823.94	\$ 1,265,585.39
May	\$ 14,842,949.69	\$ 5,937,179.88	\$ 1,335,865.47
June	\$ 13,542,525.14	\$ 5,417,010.06	\$ 1,218,827.26
<b>Total FY19</b>	<b>\$168,675,537.95</b>	<b>\$67,470,215.18</b>	<b>\$15,180,798.42</b>

It is possible that PPC could see revenues lower than the prior year, due to increased competition from Encore Boston Harbor, MGM and the Tiverton RI casino.

## AGENCY FY19 FINANCIAL RESULTS

The Massachusetts Gaming Commission approved a FY19 budget for the Gaming Control Fund of \$33.4M which required an initial assessment of \$28.3M on licensees. After three quarters of adjustments, and increases for hiring related to the opening of Encore Boston Harbor (EBH), the MGC's revised final budget was \$37.81M and the revenue projections were \$37.64M, which included a \$29.6M assessment on licensees. The Commission was relying on at least \$163K in reversions to bridge the gap between anticipated spending and anticipated revenues.

Actual spending for FY19 in the gaming control fund was \$36.34M and revenues (after balancing forward \$3.93M of FY20 slot fees received in FY19) were \$37.78M. The result is a \$1.44M excess of revenue in FY19, which will be a credit towards the FY20 assessment on licensees.



## 10500001 — GAMING CONTROL FUND

SPENDING	BUDGET PROJECTIONS	ACTUALS
<b>10500001--Gaming Control Fund</b>		
<b>MGC Regulatory Cost</b>		
AA REGULAR EMPLOYEE COMPENSATION	\$ 7,468,556.69	\$ 7,066,754.94
BB REGULAR EMPLOYEE RELATED EXPEN	\$ 89,400.00	\$ 62,235.85
CC SPECIAL EMPLOYEES	\$ 135,000.00	\$ 92,019.00
DD PENSION & INSURANCE RELATED EX	\$ 2,737,019.46	\$ 2,510,546.94
EE ADMINISTRATIVE EXPENSES	\$ 601,607.48	\$ 428,059.68
FF PROGRAM, FACILITY, OPERATIONAL SUPPIES	\$ -	\$ 50,849.74
GG ENERGY COSTS AND SPACE RENTAL	\$ 1,271,894.58	\$ 1,294,914.72
HH CONSULTANT SVCS (TO DEPTS)	\$ 1,500,644.48	\$ 3,068,621.82
JJ OPERATIONAL SERVICES	\$ 8,147,343.37	\$ 6,967,934.24
KK EQUIPMENT PURCHASES	\$ 96,000.00	\$ 22,592.80
LL EQUIPMENT LEASE-MAINTAIN/REPAR	\$ 36,824.00	\$ 39,093.47
NN NON-MAJOR FACILITY MAINTENANCE REPAIR	\$ 2,500.00	\$ 21,605.33
PP STATE AID/POL SUB/OSD	\$ 150,000.00	\$ 145,000.00
TT PAYMENTS & REFUNDS	\$ -	\$ -
UU IT Non-Payroll Expenses	\$ 4,778,210.49	\$ 4,394,996.61
<b>MGC Regulatory Cost Subtotal:</b>	<b>\$ 27,015,000.55</b>	<b>\$ 26,165,225.14</b>
EE--Indirect Costs	\$ 2,037,294.23	\$ 2,284,899.42
<b>Office of Attorney General</b>		
ISA to AGO	\$ 2,760,000.00	\$ 2,289,048.53
TT Reimbursement for AGO 0810-1024	\$ -	\$ 322,102.35
AGO State Police	\$ 1,096,997.20	\$ 808,757.66
<b>Office of Attorney General Subtotal:</b>	<b>\$ 3,856,997.20</b>	<b>\$ 3,419,908.54</b>
<b>Research and Responsible Gaming/Public Health Trust Fund</b>		
AA REGULAR EMPLOYEE COMPENSATION	\$ 201,973.00	208,072.17
BB REGULAR EMPLOYEE RELATED EXPEN	\$ 6,000.00	7,771.83
CC SPECIAL EMPLOYEES	\$ -	-
DD PENSION & INSURANCE RELATED EX	\$ 75,012.77	74,807.97
EE ADMINISTRATIVE EXPENSES	\$ 32,995.23	23,474.14
FF PROGRAMMATIC FACILITY OPERATONAL SUPPLIES	\$ 1,000.00	59.11
HH CONSULTANT SVCS (TO DEPTS)	\$ 2,454,000.00	2,159,356.43
JJ OPERATIONAL SERVICES	\$ -	3,242.76

<b>KK EQUIPMENT PURCHASES</b>			<b>5,035.00</b>
<b>MM PURCHASED CLIENT/PROGRAM SVCS</b>	\$	10,000.00	
<b>PP STATE AID/POL SUB</b>	\$	2,045,000.00	\$ 1,001,792.00
<b>UU IT Non-Payroll Expenses</b>	\$	-	\$ 1,135.00
<b>ISA to DPH</b>	\$	-	\$ 990,567.57
<b>Research and Responsible Gaming/Public Health Trust Fund Subtotal:</b>	\$	<b>4,825,981.00</b>	<b>\$ 4,475,313.98</b>
<b>ISA to ABCC</b>	\$	<b>75,000.00</b>	\$ -
<b>Gaming Control Fund Total Costs</b>	\$	<b>37,810,272.98</b>	<b>\$ 36,345,347.08</b>
<b>4000-1101</b>			
<b>ISA From EHHS (Public Health Trust Fund)</b>			<b>\$ 999,999.98</b>

<b>REVENUES</b>	<b>BUDGET PROJECTIONS</b>		<b>ACTUALS</b>
<b>Gaming Control Fund Beginning Balance 0500</b>	\$	947,361.22	\$ 947,361.22
<b>Phase 1 Collections (restricted) 0500</b>	\$	1,432,715.66	\$ 1,252,326.49
<b>Phase 1 Refunds 0500</b>	\$	-	\$ (13,685.97)
<b>Phase 2 Category 1 Collections (restricted) 0500</b>	\$	-	\$ 1,243.90
<b>Region C Phase 1 Investigation Collections 0500</b>	\$	-	\$ -
<b>Region C Phase 2 Category 1 Collections 0500</b>	\$	-	\$ -
<b>Grant Collections (restricted) 0500</b>	\$	50,000.00	\$ -
<b>Region A slot Machine Fee 0500</b>	\$	1,945,200.00	\$ 1,945,200.00
<b>Region B Slot Machine Fee 0500</b>	\$	1,800,000.00	\$ 1,800,000.00
<b>Slots Parlor Slot Machine Fee 0500</b>	\$	750,000.00	\$ 750,000.00
<b>Gaming Employee License Fees (GEL) 3000</b>	\$	674,402.81	\$ 1,050,462.57
<b>Key Gaming Executive (GKE) 3000</b>	\$	6,000.00	\$ 48,175.00
<b>Key Gaming Employee (GKS) 3000</b>	\$	64,700.00	\$ -
<b>Non-Gaming Vendor (NGV) 3000</b>	\$	65,000.00	\$ 92,856.10
<b>Vendor Gaming Primary (VGP) 3000</b>	\$	144,000.00	\$ 189,210.67
<b>Vendor Gaming Secondary (VGS) 3000</b>	\$	10,000.00	\$ 14,325.00
<b>Gaming School License (GSB)</b>	\$	-	\$ -
<b>Gaming Service Employee License (SER) 3000</b>	\$	75,000.00	\$ 3,075.00
<b>Subcontractor ID Initial License (SUB) 3000</b>	\$	-	\$ -
<b>Temporary License Initial License (TEM) 3000</b>	\$	-	\$ 15,000.00
<b>Veterans Initial License (VET) 3000</b>	\$	-	\$ -
<b>Transfer of Licensing Fees to CMF 0500</b>	\$	-	\$ -
<b>Assessment 0500</b>	\$	29,621,766.51	\$ 29,621,766.52
<b>Misc/Bank Interest 0500</b>	\$	61,018.22	\$ 67,333.84
<b>FY20 Slot Fees received in FY19</b>			<b>\$ 3,934,200.00</b>

Grand Total	\$ 37,647,164.42	\$ 41,718,850.34
Less FY20 Slot Fees Received in FY19		\$ (3,934,200.00)
	FY19 Revenue	\$ 37,784,650.34
FY19 Surplus [FY19 Revenue - FY19 Spending]		\$ 1,439,303.26

## WORKFORCE, SUPPLIER & DIVERSITY DEVELOPMENT

Our office of Workforce, Supplier and Diversity Development works with stakeholders, licensees, state and local groups as well as community groups to maximize the benefits associated with employment and supplier spend. Efforts in these areas can be divided into (1) Diversity Monitoring & Compliance of Licensees and (2) Workforce Development Efforts.

### DIVERSITY MONITORING AND COMPLIANCE

MGC established processes and systems to ensure the Gaming Act's goals for business & workforce development and diversity during construction and operations are realized. MGC's efforts and those of licensees include requirements to (1) set goals and submit strategic plans for the inclusion of minority, women and veterans (2) Regularly report progress towards those goals, (3) Support workforce development programs and affirmative action plans for the training and hiring of underemployed and unemployed and (4) Strategize with stakeholders the hiring of Massachusetts residents and contracting with local diverse small businesses.

This year we focused on Pre-Opening Compliance, given the completion of the construction phase of MGM (August 2018) and Encore (June 2019). The reviews included conducting detailed oversight of systems and examination of reports to ensure compliance with the RFA-2 Gaming License, Affirmative Action Plan, Supplier Diversity and Local Commitments Plans. These reviews were performed and documented as part of the issuance of the Commission's operations certificate to licensees. The compliance review included the following key aspects:

- **Wages and Benefits:** detailed review of current wages averaged by position to demonstrate compliance with estimated wages provided during the 2014 license award. The review also included medical and dental benefits, and comparison with those benefits provided in the region.
- **Regional Tourism, Marketing & Hospitality Plan:** Licensees are required to produce a regional tourism, marketing and hospitality plan in consultation with the regional tourism council and the Massachusetts Office of Travel & Tourism. Staff ensured the submission was consistent commitments previously made in the RFA2 application and included related local requirements, and reviewed and enhanced the plan in consultation with the key stakeholders.
- **Workforce Development Plan/Affirmative Action Program:** This year, we reviewed Encore's plan to identify and market employment opportunities to under and unemployed residents of the Commonwealth. MGC staff worked with Encore HR representatives to incorporate MGC feedback and a robust public comment into the plan, which was approved by the Commission on June 2018.
- **Operational Hiring Commitments:** MGC staff also monitored Encore's hiring commitments in the casino application regarding employees hired; diversity goals, preferences for host and

surrounding community residents, and the commitment to hire 75% of their employees within a 30 mile radius as well as other hiring preferences for Suffolk Downs employees.

We continue convening an Access and Opportunity Committee (AOC) as part of those efforts. MGC held a final meeting of this committee for the MGM project on October 2018 to review and celebrate the successful outcomes of workforce and supplier diversity (see chart below). During FY19 we continued to convene the AOC to monitor the construction diversify of Encore Boston Harbor.

The AOC brings together state officials and community leaders, diversity advocates and licensees to help ensure that diversity goals are achieved through open, inclusive dialogue. During this fiscal year, MGC convened 10 monthly Access and Opportunity Meetings. At each meeting Encore Boston Harbor provided detailed diversity reports on the percentage of minority, women and veterans working on the construction of the resort casinos and the dollar amount contracted with MBE, WBE and VBE's compared to the initial goals. Specific items addressed at the AOC include:

- Detailed report on hours by trade and subcontractor participation for each project
- Discussion of recommended actions to increase the numbers and participation
- Discussion of timeline and upcoming contracting and hiring opportunities

Diversity Audit: For the first three months of 2019, MGC conducted a comprehensive review of **Encore Boston Harbor's** construction diversity reporting. This review included an evaluation of the methods by which diversity data is collected, disseminated and reported to the MGC by the licensees, as well as verification of the accuracy of the data. The review also included an assessment of the controls in place, and testing of the supporting documentation at the subcontractor level. The review team was satisfied that the diversity numbers reported to MGC for the construction period fairly represent the actual numbers contracted and there is enough documentation at the licensee to support those figures.

PPC Workforce Commitment and Diversity Plan Review: During this fiscal year, MGC reviewed **Plainridge Park's** amended Workforce Diversity Plan. The new plan takes into account lower unemployment rates, a more competitive gaming market, the neighboring Rhode Island economy, as well as recent changes to the Massachusetts minimum wage. The Commission approved the revised plan in June 2019. PPC revised hiring goals are as follows:

- Hire 35% of PPC workforce from host and designated surrounding communities (adjusted from a best efforts goal of 90% that was never reached)
- 15% of PPC workforce be comprised of individuals from ethnic minority groups (revised from an original goal of 10%)
- 50% of PPC workforce will be women (new goal)
- 2% of PPC workforce will be veterans (new goal)
- Hire 65% of PPC workforce from Massachusetts (new goal)

The plan included several enhanced strategies and tactics to meet the proposed goals (career fairs, college fairs, partnership with career centers and hiring events). MGC will continue to monitor compliance with the activities described in the plan.

Build to Last: Best Practices for Diversity in the Construction Industry. The MGC issued an RFR for the production of a "Diversity Best Practices" document to create a lasting legacy chronicling the equity and inclusion practices during casino construction – a road map for other projects to follow. The consultant

created an analysis and report of the construction diversity monitoring process of the casinos and other related efforts. We captured the lessons learned and how the licensees achieved and in most cases exceeded the workforce goals.

## OTHER WORKFORCE DEVELOPMENT EFFORTS

On October 2018 we released a **“Hospitality Pipeline Workforce Grant”** RFR with individual awards of up to \$50,000 and a total of \$100,000 available to support and place under and unemployed Massachusetts residents into quality jobs in the hospitality sector. We received 11 responses. Grants award included:

Jewish Vocational Services (JVS): A \$45,000 grant to add a second hospitality training session in the Spring of 2019 to prepare individuals pursue employment in greater Boston’s hospitality industry. Funding provided training to 28 students with a 100% completion rate. Additionally, 46% of students were unemployed when admitted to the program. 95% of students were placed in employment including Encore Boston Harbor, Fairmont Copley Plaza, Homewood Suites, Renaissance Boston and others in a wide range of positions.

## RESULTS ON DIVERSITY HIRING & CONTRACTING

### MGM SPRINGFIELD SUPPLIER DIVERSITY/WORKFORCE

#### MGM SUPPLIER DIVERSITY

#### CONSTRUCTION

Demographic	Goal	Payments	Company Count	Value
MBE	5%	7.6%	49	\$41 million
WBE	10%	20.6%	81	\$113.1 million
VBE	2%	6.3%	25	\$34.7 million

MGM Springfield payments totaled \$568.5 million (inclusive of \$116.5M in plan approved exemptions) **with a \$196.5 million in qualified contracts to M/W/VBEs.** Figures are as of the end of construction September 2018.

#### MGM TOTAL PROJECT WORKFORCE

#### CONSTRUCTION

Demographic	Goal	Results
Minority	15.3%	21.78%
Women	6.9%	8.55%
Veteran	8%	8.71%

#### MGM SUPPLIER DIVERSITY

#### OPERATIONS

Demographic	Goal	Results
Minority	10%	2.83%
Women	15%	9.06%
Veteran	2%	4.29%

MGM Springfield has awarded payments of \$1.7 million to diverse suppliers, with \$10.3 million identified as biddable spend. Of such spend, \$11.5 million was spent with MA suppliers.

#### **MGM WORKFORCE\***

#### **OPERATIONS**

<b>Demographic</b>	<b>Goal</b>	<b>Results</b>
Minority	50%	54.6%
Women	50%	44.3%
Veteran	2%	6.1%
Springfield Resident	35%	39.3%

\* Figures as of May 2019. MGM had 2,303 employees, of which 1,734 were MA residents

### **ENCORE BOSTON HARBOR SUPPLIER DIVERSITY/WORKFORCE**

#### **ENCORE SUPPLIER DIVERSITY**

#### **DESIGN**

#### **CONSTRUCTION**

<b>Demographic</b>	<b>Goal</b>	<b>Results</b>	<b>Goals</b>	<b>Results</b>
MBE	7.9%	8.5%	5%	5.8%
WBE	10%	8.2%	5.4%	12.5%
VBE	1%	6.0%	1%	2.8%

As of June 30, 2019, Encore Boston Harbor had awarded contracts (design and construction) totaling \$1.32 billion **with \$278.3 million in qualified contracts to M/W/VBES.**

#### **ENCORE WORKFORCE**

#### **CONSTRUCTION**

<b>Demographic</b>	<b>Goal</b>	<b>Results</b>
Minority	15.3%	25%
Women	6.9%	7.2%
Veteran	3%	5.3%

As of June 30, 2019, over 5,980,774 work hours had been completed on the Encore project by 7,740 individuals

### **PLAINRIDGE PARK CASINO SUPPLIER DIVERSITY/WORKFORCE**

#### **SUPPLIER DIVERSITY**

#### **OPERATIONS**

<b>Demographic</b>	<b>Goal</b>	<b>Results</b>
Minority	6%	6%
Women	12%	17%
Veteran	3%	4.5%

<b>WORKFORCE</b>	<b>OPERATIONS</b>	
<b>Demographic</b>	<b>Goal</b>	<b>Results</b>
Minority	15%	26%
Women	50%	51%
Veteran	2%	5%

### **AGENCY HEADCOUNT & DIVERSITY**

The chart below represents the recent and current headcount by the department. The numbers below do not include state police assigned to the Commission, or FTEs in the Attorney General's Gaming Enforcement Division.

<b>HEADCOUNT BY DEPARTMENT/DIVISION</b>	<b>HEADCOUNT FY17</b>	<b>HEADCOUNT FY18</b>	<b>HEADCOUNT FY19</b>
Commissioners & Staff	5	5	5
Executive Director & Staff	6	6	5
Communications	2	2	2
Investigations & Enforcement	22	35	45
Licensing	5	6	6
General Counsel, Legal & Policy	12	12	12
Human Resources	2.5	3.5	2.5
Finance	5.5	5.5	6.5
Information Technology	5	6	7
Racing <sup>1</sup>	3	2	3
	<b>68</b>	<b>84</b>	<b>94</b>

<sup>1</sup>Racing numbers do not include seasonal employees

### **REGULAR EMPLOYEES**

The chart below depicts the diversity and gender ratios of the Commission as of the end of FY16 & FY17.

<b>DEMOGRAPHIC</b>	<b>FY18</b>	<b>FY19</b>
Caucasian	76%	83%
Diverse	24%	17%
Female	49%	50%
Male	51%	50%

## LITIGATION MATTERS

### CITY OF BOSTON/REVERE/MOHEGAN SUN ET AL. V. MGC

On September 22, 2015, Judge Sanders, in the Suffolk Superior Court- Business Litigation session, heard oral argument on the MGC's motions to dismiss concerning the claims asserted by the City of Boston, City of Revere, Mohegan Sun, the International Brotherhood of Electrical Workers 103 ("IBEW") and the individual citizens. These claims (by the non-Boston entities) included allegations that the MGC failed to follow the gaming act, that the gaming act and certain of its regulations were unconstitutional and that the MGC violated the open meeting law.

On December 3, 2015 the MGC's motion was granted and all of Boston's claims were **dismissed**. On that same date, the Court dismissed all of the claims of the IBEW, Revere, Mohegan Sun and the individual citizen plaintiffs except for Mohegan's claim of a right to certiorari review. All of the parties except for Boston appealed to the single justice of the Appeals Court but were denied. The MGC then appealed to the full Appeals Court and also sought direct appellate review by the Supreme Judicial Court. The other dismissed plaintiffs (aside from Boston) have appealed their respective dismissals to full Appeals Court.

The Supreme Judicial Court heard oral argument on December 5, 2016 and published a decision on March 10, 2017. In its decision the Supreme Judicial Court affirmed the dismissal of Revere and the Union's claims against the MGC while remanding the citizen claims of open meeting law violations and Mohegan Sun's certiorari claim back to the Superior Court. The administrative record in the certiorari claim has now been assembled; however, the plaintiffs recently moved to amend their complaint to assert additional claims relating to the Investigation and Enforcement Bureau's report on the Wynn investigation and the subsequent suitability hearing that took place in April 2019. The MGC has opposed this motion but there is not yet a confirmed date for argument.

The Open Meeting Law claims have been bifurcated from the certiorari claim. The parties filed cross-motions for summary judgment in December 2018 and the court held a hearing on May 14, 2019. **The court granted the MGC's motion for summary judgment on July 12, 2019, dismissing the open meeting claims.**

### FBT V. MGC

On November 14, 2016, the Commission was sued for tortious interference with respect to the plaintiff's agreement to sell property to the licensee for the Category 1 facility in Everett. The plaintiff is requesting damages as determined at trial. On April 7, 2017, the Commission filed a motion to dismiss the suit, which was granted by the court on June 7, 2017; however, the plaintiff filed an amended complaint while the court was in the process of issuing its decision. The court's decision stands and the Commission has filed a motion to dismiss the claims in the amended complaint. The Commission's motion to dismiss was argued in October 2017. In his order on the motion, Judge Leibensperger raised questions concerning whether he had subject matter jurisdiction necessary to rule on the motion. The parties jointly had the matter reassigned to a judge in Middlesex county to remedy the jurisdictional questions and the motion was argued again in front of Judge Kaplan. In May 2018, Judge Kaplan dismissed the FBT plaintiff's claims for a per se taking and impairment of contract rights but allowed their regulatory taking claims to survive. The Commission filed an Answer as to the surviving count on June 15, 2018, and on July 5, 2018, filed a Third Party Complaint adding Wynn MA, LLC as a defendant.



Wynn MA, LLC was served with the Third Party Complaint and filed a motion to dismiss the Third Party Complaint in August 2019. The MGC is in the process of drafting an opposition to this motion. A hearing on the motion to dismiss is scheduled for November 18, 2019. Written discovery is ongoing but depositions have not yet begun. The Court recently held a status conference on this case and scheduled another status conference for May 20, 2020.

## **OTHER MATTERS — THE LAND-IN-TRUST CHALLENGE TO THE TRIBE**

### **LITTLEFIELD ET AL. V. UNITED STATES DEPT. OF THE INTERIOR ET AL. (D. MASS. 2016)**

MGC is not a party to this legal challenge, but as an interested observer and as directed by Statute, the MGC will continue to monitor the developments and status of the Mashpee Wampanoag Tribe (“Mashpee” or “Tribe”) and their efforts to build a casino in Taunton.

In this matter, the plaintiffs and defendants filed cross-motions for summary judgment on the plaintiff’s first cause of action concerning the Tribe’s eligibility as beneficiaries under the Indian Reorganization Act (“IRA”) and the authority of the Secretary of Interior to take land into trust for their benefit. In finding for the plaintiffs, Judge Young interpreted the definition of “Indian” set forth in section 479 of the IRA. The definition states:

The term “Indian” as used in this Act shall include [1] all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and [2] all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include [3] all other persons of one half or more Indian blood.

The Supreme Court decision in Carcieri v. Salazar previously held that the term “now under Federal jurisdiction” refers to those tribes that were under federal jurisdiction when the IRA was enacted in 1934. The Mashpee, in this case, were arguing that they qualified as Indian under the IRA under the second definition; however, such an argument necessarily turns on the interpretation of the term “such members.” The plaintiffs argued that the term “such members” referred to the preceding use of “members” and thus the descendant of a recognized Indian tribe could only qualify as Indian for land in trust purposes if that tribe was under federal jurisdiction in 1934. The Mashpee were not federally recognized until 2007. The government, in turn, argued that the term “such members” was ambiguous.

Judge Young reviewed the definition and use of the word “such” in several other cases ultimately concluding that the Secretary erred in finding that the Mashpee fell within the second definition of “Indian” in the IRA. He explained that the Mashpee were not a tribe under federal jurisdiction in 1934 (taking them out of the first definition) and that the term “such members” from the second definition referred back to the use of members in the first definition. Given that recognition under the second definition requires descent from members of a tribe under Federal Jurisdiction in 1934 and the Mashpee were not recognized until nearly 70 years later, **Judge Young concluded that the Secretary lacked the authority to acquire land in trust for the Mashpee** and remanded the matter to the Secretary for further proceedings consistent with his opinion.

The Bureau of Indian Affairs filed a motion for reconsideration, which was denied by the District Court, and the Mashpee Wampanoag filed a motion to intervene, which was granted. In December 2016, the U.S. Department of the Interior and the Mashpee Wampanoag each filed a notice of appeal to the U.S. Court of Appeals for the First Circuit. On April 24, 2017, the Mashpee Wampanoag filed an assent to the motion to stay briefing pending the revised decision from the Department of the Interior. On May 8, 2017, the federal appellants in this matter moved to withdraw their appeal. The Department

of the Interior has not issued a revised decision but instead has requested a further briefing from the parties. The Mashpee Wampanoag have asked the court to further stay the matter pending a decision from the Department of the Interior, and the court has agreed to the requested stay.

On September 7, 2018, the Department of the Interior produced a revised decision in accordance with the request of the United States District Court for the District of Massachusetts. After evaluation of the voluminous materials submitted by the tribe, the Department concluded that the tribe did not satisfy the “under Federal jurisdiction” requirement of the first definition of “Indian” as put forth by the IRA. Specifically, the assistant secretary wrote that “The record before me contains little indicia of Federal jurisdiction beyond the general principle of plenary authority, and little if any evidence demonstrating that the United States took any actions establishing or reflecting Federal obligations, duties, responsibilities for or authority over the Tribe in or before 1934.” The combination of the Department’s finding and the District Court’s ruling that the Tribe did not qualify under the second definition of “Indian” in IRA, could result in the tribe losing its land in trust and its official tribal status entirely. In accordance with the instructions provided by the First Circuit Court of Appeals, the tribe was required to explain how, following the Department’s decision, the tribe can be qualified to have land taken in trust by the federal government.

On September 27, 2018, the Tribe filed a separate Complaint in the U.S. District Court for the District of Columbia challenging the conclusion of the new record of decision by the DIA and the citizen group plaintiffs from the Massachusetts case intervened without opposition. The tribe recently filed a motion for summary judgement in that case arguing that the 2018 DOI record of decision be vacated. Opposition briefs are pending. As a result of the initiation of the District of Columbia action, the First Circuit requested that the parties file briefs to show cause as to why the First Circuit action was not mooted. Both parties filed briefs on this issue in September 2019 but no formal decision has issued.

## **CHALLENGE TO THE AQUINNAH WAMPANOAG TRIBE’S PLAN TO INTRODUCE ELECTRONIC BINGO GAMING ON THE TRIBE’S MARTHA’S VINEYARD LANDS**

### **COMMONWEALTH OF MASSACHUSETTS, ET AL V. THE WAMPANOAG TRIBE OF GAY HEAD (AQUINNAH), ET AL (D. MASS. 2015)**

The case originated in 2015 on a complaint by the Commonwealth, joined by a local Martha’s Vineyard community organization and the Town of Aquinnah (collectively, the “Commonwealth Plaintiffs”), to block the Aquinnah Tribe’s stated intention to open an electronic bingo facility on its reservation land. The Tribe had obtained approval from the National Indian Gaming Commission to do so pursuant to the federal Indian Gaming Regulatory Act (IGRA). (Under IGRA, a federally recognized Tribe may sponsor electronic bingo games — so called, “Class 2” gaming — on its lands without the approval of state authorities. For conventional casino gaming, for example in a resort with table games, state approval under IGRA is required through a formal compact process.)

The principal basis of the Commonwealth Plaintiffs’ complaint was that the Aquinnah Tribe had surrendered whatever rights it otherwise would have had to conduct gaming on its tribal lands on account of the Tribe in 1987 having entered into an agreement to settle pending litigation involving the Tribe’s claims to substantial portions of Martha’s Vineyard. The Tribe alleged that these lands had been conveyed to non-tribal members over a period of many decades in violation of federal law restricting the transfer of Indian land to non-Indians. That settlement agreement was incorporated into a federal statute, the Indian Claims Settlement Act of 1987 (the “1987 Federal Act”).

The Tribe acknowledged that pursuant to the settlement agreement it waived its right to conduct gaming on the property transferred to it in the settlement. However, the Tribe submitted that the 1987 Federal Act was impliedly repealed and superseded by the permissive provisions of IGRA, which was passed and became law a year later in 1988.

In November 2015, the U.S. District Court in Boston (Saylor, J.) granted the Commonwealth Plaintiffs' motion for summary judgment. The Court concluded that the Tribe had exercised insufficient governmental authority over its lands to qualify for IGRA-approved gaming. It also concluded that, in any event, the Tribe was bound by the terms of its 1987 settlement agreement because IGRA did not repeal the 1987 Federal Act.

In April 2017, however, the First Circuit Court of Appeals reversed the District Court, rejecting its conclusion as to the insufficiency of the Tribe's exercise of governmental authority and finding that, in fact, IGRA did impliedly repeal the 1987 Federal Act.

The Commonwealth Plaintiffs' motion for *en banc* review by the First Circuit was denied.

On August 8, 2017, the Commonwealth Plaintiffs filed an application for certiorari review before the Supreme Court of the United States. The application was denied.

In February 2019 the Tribe started clearing land for construction of the facility. They were challenged in federal court in Massachusetts by the town of Aquinnah for failing to comply with local permitting laws. In June 2019, the Tribe was ordered to follow the local permitting requirements related to construction of the bingo facility. The Tribe appealed this ruling in August 2019.