



**REQUEST FOR APPLICATIONS
TO DEVELOP AND OPERATE
A GAMING FACILITY
IN NEW YORK STATE**

March 31, 2014

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Dear Applicant:

New York Governor Andrew M. Cuomo has made reviving Upstate New York's long-stagnant economy a priority of his administration.

In 2012, recognizing the importance and potential that expanded gaming could bring to the residents and business of New York State, Governor Cuomo proposed an amendment to the State constitution to permit casino gaming. The constitutional amendment process—passage of legislation by two consecutive legislatures followed by a public referendum—culminated in November 2013, when voters approved the constitutional amendment.

On July 30, 2013, Governor Cuomo signed into law The Upstate New York Gaming Economic Development Act of 2013, which outlined the process and criteria for siting no more than four destination gaming resorts to create jobs, reduce unemployment in disadvantaged areas of the State, enhance the State's tourism industry and generate substantial revenue for public education and taxpayer relief. In order to fully capitalize on the beneficial aspects of legalized gambling, the legislature determined that Upstate New York is where the jobs and economic development are most needed. The law established the eligible Regions of the State where such gaming resorts could be sited, while respecting boundaries established with Native American Tribes that have exclusivity over gaming rights in various parts of the State. The purpose of the law's siting criteria was to provide the highest impact and best value to the State and to those localities where a gaming resort is to be located.

The Act provides for the Gaming Commission to award up to four Gaming Facility licenses within three Regions of the State: Hudson Valley/Catskill area, Capital Region, and Eastern Southern Tier.

The Act establishes clear and competitive criteria by which Applicants will put forth their best proposals to be evaluated and recommended for licensure by an independent Gaming Facility Location Board. This Request for Applications is the first step of the competitive process.

New York State is removing the barriers and red tape that, for too long, inhibited doing business in the State. This Request for Applications was designed in that spirit. The Request for Applications clearly enumerates the required components in a format that is responsive to the spirit and the letter of the law.

On behalf of the State of New York, we thank you for your interest in bringing world-class destination gaming resorts to Upstate New York, helping to create economic growth across the State, and in providing the maximum beneficial impact to those localities in Upstate New York that need the jobs, revenues, and development.

New York State Gaming Facility Location Board

Paul Francis
Stuart Rabinowitz
William C. Thompson, Jr.

I. INITIAL REQUIREMENT OF LOCAL SUPPORT

As a condition of filing an Application, each Applicant must submit to the Board a resolution passed by the local legislative body of its Host Municipality supporting the Application. For purposes of this requirement, local support means a post-November 5, 2013 resolution passed by the local legislative body of the Host Municipality supporting the Application.

For purposes of this requirement, the Host Municipality of a Project Site located in a city is the city. The Host Municipality of a Project Site located in a town, outside a village, is the town. The Host Municipality of a Project Site located in a village is the village and the town in which the Project Site is located.

An Applicant's demonstration of local support in fulfillment of this initial requirement is only a component part of the twenty (20) percent Local Impact and Siting Factors criteria to be used by the Board in evaluating Applications. In weighing local support and opposition under this criteria, the Board will consider public statements and declarations, letters or resolutions from the Host Municipality, nearby local governments, private organizations, community, religious and civic groups, charitable organizations, entertainment venues, chambers of commerce, local businesses, labor organizations, etc.

II. DEFINITIONS

Unless otherwise defined herein, the following terms have the following meanings:

“Affiliate” means with respect to a particular person or entity, any person or entity that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, such person or entity.

“Applicant” means an entity or person submitting this Application. As used in this RFA, Applicant shall also mean any prospective Applicant, as the context may require.

“Applicant Party” means each of: (i) the Applicant; (ii) the Manager; (iii) any person or entity that has a direct or indirect ownership interest in the Applicant or the Manager equal to or greater than five (5) percent; and (iv) any Casino Key Employee.

“Application” means a completed response to this RFA or an application for a Gaming Facility License, as the context may require.

“Board” means the New York State Gaming Facility Location Board.

“Casino Key Employee” means any person employed (or to be employed) by a Licensee, or holding or intermediary company of a Licensee, and involved in the operation of a licensed Gaming Facility in a supervisory capacity and empowered to make discretionary decisions that regulate Gaming Facility operations; or any other employee so designated by the Commission for reasons consistent with the policies of PML Article 13.

“Close Associate” means a person who, or entity that, holds a relevant financial interest in, or is entitled to exercise power in, the business of an Applicant or Licensee and, by virtue of that interest or power, is able to exercise significant influence over the management or operation of a Gaming Facility or business licensed under PML Article 13.

“Commission” means the New York State Gaming Commission.

“Effective Date” means January 1, 2014, the effective date of the Upstate New York Gaming Economic Development Act of 2013.

“Financing Source” means each of: (i) the Applicant; (ii) the Manager, if applicable; and (iii) any person or entity that will provide, or is expected to provide, any equity, debt, credit support or credit enhancement for the proposed Gaming Facility.

“FOIL” means the New York Freedom of Information Law, Sections 84-90 of the New York Public Officers Law.

“Gaming Facility” means the premises approved under a License which includes the gaming area and any other non-gaming structure related to the gaming area and may include, without limitation, hotels, restaurants or other amenities.

“Host Municipality” means each town, village or city in the territorial boundaries of which any portion of the Project Site described in an Application is located. For Project Sites located in a village, the host municipality includes both the village and the town in which the Project Site is located.

“Immediate Family Member” means a person’s spouse, parents, grandparents, children, grandchildren, siblings, uncles, aunts, nephews, nieces, fathers-in-law, daughters-in-law, sons-in-law, sisters-in-law, brothers-in-law, and mothers-in-law whether by the whole or half blood, marriage, adoption or natural relationship.

“License” means a license to operate a Gaming Facility in the State or an occupational license to be qualified under a requirement of Article 13 of the PML, as the context may require.

“Manager” means any entity engaged or to be engaged by an Applicant to operate and manage the casino of the Gaming Facility.

“PML” means the New York Racing, Pari-Mutuel Wagering and Breeding Law.

“Project Site” means the site upon which the Gaming Facility will be constructed.

“Public Official” means a person who: (i) is authorized to perform an official function and is paid by a governmental entity; (ii) is elected or appointed to office to discharge a public duty for a governmental entity; or (iii) with or without compensation, is appointed in writing by a public official to act in an advisory capacity to a governmental entity concerning a contract or purchase to be made by the entity. The term does not include a person appointed to an honorary advisory or honorary military position.

“Region” means each of Region One, Region Two and Region Five of Zone Two of the State of New York established by to PML Section 1310.

“Region One” means the region comprised of the following counties of the State: Counties of Columbia, Delaware, Dutchess, Greene, Orange, Sullivan and Ulster.

“Region Two” means the region comprised of the following counties of the State: Counties of Albany, Fulton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie and Washington.

“Region Five” means the region comprised of the following counties of the State: Counties of Broome, Chemung (east of State Route 14), Schuyler (east of State Route 14), Seneca, Tioga, Tompkins and Wayne (east of State Route 14).

“Restricted Period” means the period of time beginning with the public release of this RFA through (i) such time as the Board selects an Applicant or Applicants other than the Applicant to proceed to Commission consideration of suitability for a License to operate a Gaming Facility in the Region in which an Applicant has sought such a License or (ii) the final decision of the Commission on the suitability of the Applicant for a License, if the Board selects the Applicant to proceed to Commission consideration of suitability for a License, as the case may be.

“RFA” means this Request for Applications to Develop and Operate a Gaming Facility in New York State.

“State” means the State of New York.

Any other terms used throughout this RFA that are not otherwise defined in this RFA shall have the meaning ascribed to such terms as provided in PML Section 1301.

III. OVERVIEW

A. INTRODUCTION

Chapter 174 of the Laws of 2013, known as the Upstate New York Gaming Economic Development Act of 2013, as amended by Chapter 175 of the Laws of 2013 (collectively, the “Act”), sets forth, among other things, statutory requirements for casino gaming in New York State.

The Act authorizes four Upstate destination gaming resorts to enhance tourism development. The Act amends the PML by adding a new Article 13, which became effective January 1, 2014 and which authorizes casino gaming. Article 13 provides for the Commission to award up to four Licenses within three Regions of the State: Hudson Valley/Catskill Region, Capital Region and Eastern Southern Tier Region (including portions of the Finger Lakes region).

PML Section 109-a provides that, “the commission shall establish a separate board to be known as the New York state gaming facility location board to perform designated functions under article thirteen of this chapter.” The duties and authority of the Board include, without limitation, issuing this RFA for Licenses; assisting the Commission in prescribing the form of the Application; developing criteria, in addition to those outlined in the Act, to assess which Applications provide the highest and best value to the State, the Zone and the Region in which a Gaming Facility is to be located; determining a Gaming Facility license fee to be paid by an Applicant; and determining, with the assistance of the Commission, the sources and total amount of an Applicant’s proposed capitalization to develop, construct, maintain and operate a proposed Gaming Facility license under the Act.

The Board, on behalf of the State, issues this RFA to solicit Applications from Applicants seeking a License to develop and operate a Gaming Facility in the State. The Commission shall undertake the licensing process after the Board recommends Applicants for licensure.

The Board is the only entity authorized to clarify, modify, amend, alter or withdraw any of the provisions of this RFA. The Board may, in its discretion, designate staff, consultants or other agents to communicate to Applicants and to the public any clarifications, modifications, amendments, alterations or withdrawals of any of the provisions of this RFA.

In this RFA, the Board sets forth requirements and an evaluation approach in conformance with State statutes and State regulations. The contents of this RFA, any modifications thereof made by the Board, and the respective Application and any changes thereto approved by the State will become obligations of the Licensee if a License is issued. Failure of the successful Applicant to accept these obligations may result in denial or revocation of a License.

Each Applicant will be required to pay to the Commission an Application fee of \$1 million to help defray the costs associated with the processing of the Application and investigation of the Applicant; provided, however, that if the costs of processing, investigation and related costs exceed the initial Application fee, the Applicant shall pay the additional amount to the Commission within 30 days after notification of insufficient fees or the Application shall be rejected and further provided that should the costs of such investigation not exceed the fee remitted, any unexpended portion shall be returned to the Applicant, all as required by PML Section 1316.8.

An individual, entity, consortium or other party evincing interest becomes an Applicant upon payment of the \$1 million Application fee. Such Application fee must be paid on or before **April 23, 2014**. Wire instructions are available upon request from the New York State Gaming Commission Finance Office. Please contact Frank Roddy at (518) 388-3354 or Frank.Roddy@gaming.ny.gov for such instructions.

If an Applicant pays the \$1 million fee and does not complete and submit its Application on or before June 30, 2014, the Commission will return the fee *less* any reasonable costs the Commission will have already incurred related to processing, including overhead and administrative expenses.

The term of an initial License granted by the Commission after selection for recommendation by the Board will be ten (10) years, as set forth in PML Section 1311.1. The Commission shall determine the term of any renewal of a License.

B. SCHEDULE

The following dates are established for informational and planning purposes. The Board reserves the unilateral right to make adjustments to this schedule.

| | |
|---|---------------------------|
| RFA Issued | March 31, 2014 |
| Applicant's First Questions Due by 4:00 p.m. EDT | April 11, 2014 |
| Board Responses to First Questions | April 23, 2014 |
| Mandatory Applicant Conference | April 30, 2014 |
| Written Summary of Applicant Conference | May 2, 2014 |
| Applicant's Second Questions Due by 4:00 p.m. EDT | May 7, 2014 |
| Board Responses to Second Questions | May 14, 2014 |
| Applications Due by 4:00 p.m. EDT | June 30, 2014 |
| Oral Presentations of Applications | on or after July 21, 2014 |
| Selection of Gaming Facility Operator | Early fall |

C. PROCUREMENT LOBBYING RESTRICTIONS

As required by the Procurement Lobbying Law (Sections 139-j and 139-k of the New York State Finance Law), this RFA includes and imposes certain restrictions on communications between the Commission/Board and an Applicant during the Application process. An Applicant is restricted from making contacts during the Restricted Period with anyone at the Commission or the Board other than designees of the Commission's staff, unless the contact is permitted by the statutory exceptions set forth in Section 139-j.3.a. of the New York State Finance Law. Designated staff members are identified in the "PERMISSIBLE CONTACTS" section of this RFA. Other designees may be made in the future.

Commission employees are permitted to communicate with Applicants concerning this RFA only under circumstances described in the New York State Procurement Lobbying Law. Any Applicant causing or attempting to cause a violation of those requirements may be disqualified from further consideration for selection.

Board members and Commission members and employees are required to obtain certain information when contacted during the Restricted Period and to make a determination of the responsibility of the Applicant pursuant to Sections 139-j and 139-k. A violation can result in a determination of non-responsibility, which can result in disqualification for selection to proceed to consideration of a License award. In the event of two determinations of non-responsibility within a four-year period, an Applicant will be debarred for a period of four years from obtaining a governmental procurement award.

Further information about these requirements can be found at: www.ogs.state.ny.gov/acpl.

The Commission reserves the right, in its sole discretion, to terminate a License in the event that the Commission determines that the certification filed by the Applicant in accordance with Section 139-k of the New York State Finance Law was intentionally false or intentionally incomplete. Upon such determination, the Commission may exercise its termination right by providing written notification to the licensee.

D. REGISTRATION OF LOBBYISTS

As set forth in PML Section 1329, in addition to any other registration and reporting required by law, each lobbyist seeking to engage in lobbying activity on behalf of a client or a client's interest before the Commission shall first register with the secretary of the Commission. The secretary shall cause a registration to be available on the Commission's website within five days of submission. The applicable form for registration and instructions can be found at:

www.gaming.ny.gov/pdf/NYSGCLobbyingRegistrationForm.docx.

For purposes of this section, the terms "**lobbyist**", "**lobbying**", "**lobbying activities**" and "**client**" shall have the same meaning as New York Legislative Law Section 1-c defines those terms.

E. PERMISSIBLE CONTACTS

Consistent with the public policy established by the Procurement Lobbying Law, the Supervisor of Contract Administration and the Contract Management Specialist designated below are the only points of contact with regard to matters relating to this RFA unless the Board designates additional points of contact.

ALL COMMUNICATIONS CONCERNING THIS REQUEST FOR APPLICATION MUST BE ADDRESSED IN WRITING TO THE SUPERVISOR OF CONTRACT ADMINISTRATION OR THE CONTRACT MANAGEMENT SPECIALIST NOTED BELOW:

**New York State Gaming Commission
Contracts Office
One Broadway Center
Schenectady, NY 12301-7500**

**Gail P. Thorpe, Supervisor of Contract Administration
gail.thorpe@gaming.ny.gov**

or

Stacey Relation, Contract Management Specialist
stacey.relation@gaming.ny.gov

F. QUESTIONS AND INQUIRIES

Questions from Applicants in regard to this RFA must be submitted via electronic mail no later than the date and time specified in the “**OVERVIEW - SCHEDULE**” section of this RFA. If questions are provided via an attachment to electronic mail, the questions must be provided in a Microsoft Word format. Neither faxed nor telephone questions will be accepted.

Applicants are cautioned that an RFA inquiry must be written in generic terms and must not contain specific information about an Application or proposed Application in an inquiry. The Board reserves the right to answer or refrain from answering questions in its discretion.

Responses to questions and any changes to the RFA resulting from such questions will be communicated via published addenda, which will be posted on the Commission’s website, www.gaming.ny.gov. An Addendum Acknowledgement Form, a form of which is incorporated into this RFA only for informational purposes as Attachment 2, will be provided with each addendum. An Applicant is required to include with its Application a signed Addendum Acknowledgement Form for each addendum issued to this RFA.

Applicants are responsible for checking the Commission’s website for updated information relative to the RFA and the Application selection process. Neither the Commission nor the Board will be responsible for an Applicant’s failure to obtain updated information.

G. MANDATORY APPLICANT CONFERENCE

A mandatory conference of Applicants will be held on April 30, 2014 as provided in the “**OVERVIEW - SCHEDULE**” section of this RFA. Any Applicant wishing to participate in the selection process is required to attend this conference. **Also, as provided in this RFA, payment of the \$1 million Application fee is a condition of the Applicant’s admission to the conference.**

Formal notification of the conference and details pertaining to the conference relative to the time, and location, as well as how to register to attend, will be posted on the Commission’s website, www.gaming.ny.gov, following release of this RFA.

H. BACKGROUND INVESTIGATION

All Applicants for a License, and all related parties in interest to the Applicant, including Affiliates, Close Associates and financial resources of the Applicant (each a “**Related Party**”), shall be subject to a thorough background investigation into the suitability of such persons and entities by the Commission or by the Commission’s designated agents. Each Applicant and Related Party must prove by clear and convincing evidence its suitability and qualifications to hold a License. In conducting the suitability investigation, pursuant to PML Section 1317 the

Commission shall consider the overall reputation of the Applicant including, without limitation: (i) the integrity, honesty, good character and reputation of the Applicant; (ii) the financial stability, integrity and background of the Applicant; (iii) the business practices and the business ability of the Applicant to establish and maintain a successful Gaming Facility; (iv) whether the Applicant has a history of compliance with gaming licensing requirements in other jurisdictions; (v) whether the Applicant, at the time of Application, is a defendant in litigation involving its business practices; (vi) the suitability of all parties in interest to the License, including Affiliates and Close Associates and the financial resources of the Applicant; and (vii) whether the Applicant is disqualified, pursuant to PML Section 1318, from receiving a License.

The Application fee shall be used to defray the costs associated with the processing of the Application and investigation of the Applicant and Related Parties and related costs. If the allocable costs of the foregoing exceed the initial application fee, then the Applicant shall pay the additional amount to the Commission within thirty (30) days after notification of insufficient funds. If payment of the additional amount is not made timely, then the Application may be rejected in the discretion of the Commission. If an additional amount is paid to the Commission for the foregoing and the costs do not exceed the amount remitted, any unexpended portion of such additional amount shall be returned to the Applicant.

To assist the Commission in conducting its suitability investigations, each Applicant and its respective Related Parties shall submit with its Application the following (collectively, the **“Background Investigation Forms”**):

1. A complete and accurate Gaming Facility License Application Form for each of: (i) the Applicant; (ii) any direct and indirect parent entity of the Applicant including any holding company; (iii) any Manager; (iv) any entity having a beneficial or proprietary interest of five (5) percent or more in an Applicant or a Manager; and (v) any other entity that may be designated by the Commission; and
2. A complete and accurate Multi Jurisdictional Personal History Disclosure Form and New York Supplemental Form for each natural person who is (i) a director, manager, general partner or person holding an equivalent position with the Applicant, a Manager or any direct or indirect parent entity of the Applicant; (ii) a Casino Key Employee; (iii) a person having beneficial or proprietary interest of five (5) percent or more of an Applicant or a Manager; or (iv) designated by the Commission.

Each of the Background Investigation Forms is available on the Commission’s website at www.gaming.ny.gov. The Commission or the Board, in their sole discretion and as applicable to their respective duties under the Act, shall determine the persons and entities qualifying as the Applicant and any Related Parties including determining whether to grant temporary or permanent exemptions for particular persons or entities such as certain institutional investors, passive investors, stockholders of publicly held corporations or other circumstances.

The Board and/or the Commission may initiate investigations into the backgrounds of the Applicant and any Related Parties including, without limitation, persons or entities related to any officers, directors, members, principals, investors, owners, financing sources, subcontractors, employees, or any other individuals or entities related to the Applicant, as the Commission or the Board may deem appropriate, in the discretion of the Commission or the Board, as the case may be. Such background investigations may include fingerprint

identification by the New York State Division of Criminal Justice Services and the Federal Bureau of Investigation, and such additional investigation as may be required.

The Commission may reject an Application based upon the results of these background checks and suitability investigations. Each Applicant is advised that any Applicant or Related Party who knowingly provides false or intentionally misleading information in connection with any investigation by the Commission may cause the Application to be rejected, or a License to be canceled, revoked or suspended by the Commission, in the sole discretion of the Commission.

Applicants are obligated to establish their suitability for a License and the suitability of all Related Parties by clear and convincing evidence.

If after review of an Applicant's Application and the related Background Information Forms, the Commission determines that persons or entities are Related Parties but such persons or entities have not filed the appropriate Background Information Forms, the Commission may require that such persons or entities file such Background Information Form within a time period designated by the Commission. If the additional Background Information Forms are not timely filed, the Board or the Commission may determine to disqualify the Applicant and/or such persons or entities.

I. CONTINUING DUTY TO UPDATE APPLICATION

After the submission of an Application and prior to the award of the Licenses, each Applicant has a continuing duty to disclose to the Board promptly, in writing (and electronically), any changes or updates to the information submitted in its Application or any related materials submitted in connection therewith. Upon receipt of any updated materials, the Board may, in its sole discretion, determine to accept the update as an amendment to the Application. The Board, however, is not under any requirement to accept any such information. Failure to promptly notify the Board of any changes or updates to information previously submitted in its Application may be grounds for disqualification.

J. NON-COLLUSIVE BIDDING REQUIREMENT

In accordance with Section 139-d of New York State Finance Law, if a selection of an Applicant by the Board for licensure consideration by the Commission is made based upon the submission of Applications, the Applicant must warrant, under penalty of perjury, that its Application was arrived at independently and without collusion aimed at restricting competition.

K. PUBLIC NOTIFICATION/NEWS RELEASES

No results of the selection process may be released without prior approval by the Board and then only to persons and entities designated by the Board.

L. CLARIFICATION PROCESS

The Board, through its designees, reserves the right to contact any Applicant after the submission of its Application exclusively for the purpose of clarifying any item submitted in its Application to ensure mutual understanding. This contact may include written questions, interviews, site visits, or requests for corrective pages in the Application. Responses must be

submitted to the Board within the time specified in the request. As applicable, clarifications will be treated as addenda to an Application. Failure to comply with requests for additional information may result in rejection of the Application as noncompliant.

M. STATE'S RESERVED AUTHORITY

In addition to any authority set forth elsewhere in this RFA, the Board reserves the authority to:

1. Waive any requirement of this RFA that is not prescribed by the Act, or any defects of any Application if, in the judgment of the Board, such waiver is deemed by the Board to further the policy objectives of the Act;
2. Eliminate any non-mandatory specification(s) that cannot be complied with by any of the Applicants;
3. Amend the RFA and direct Applicants to submit modifications to their Applications accordingly;
4. Change any of the scheduled dates stated in this RFA;
5. Reject any or all Applications received in response to this RFA, and reissue a modified version of this RFA;
6. Withdraw the RFA at any time, at the sole discretion of the Board;
7. Seek clarifications and revisions to Applications;
8. Use information obtained through site visits, management interviews, the State's investigation of an Applicant's qualifications, experience, ability or financial standing, any material or information submitted by the Applicant in response to the request by the Board for clarifying information in the course of evaluation and/or selection under this RFA or otherwise; and
9. Disqualify any Applicant whose conduct and/or Application fails to conform to the requirements of this RFA.

N. WAIVER, RELEASE, COVENANT NOT TO SUE AND INDEMNIFICATION

As a condition to submitting an Application, each Applicant, Manager, and direct or indirect owner of an Applicant or Manager shall execute and deliver a Waiver, Release, Covenant Not to Sue and Indemnification Agreement in the form attached hereto as Attachment 3 ("Waiver"). Pursuant to the Waiver, each Applicant, Manager, and direct or indirect owners of an Applicant or Manager, on his, her or its own behalf and on behalf of its agents, servants, representatives, affiliates, parents, subsidiaries, directors, officers and employees, assigns predecessors and successors, (and their heirs, estates, executors, spouses), shall covenant and agree to release, waive, covenant not to sue or make any claim for damages, costs, fees, expenses or any relief whatsoever including, but not limited to, equitable relief, not to seek any appeal, review or reconsideration of any decision of the State, the Commission and the Board, and indemnify, defend and hold harmless the State, the Commission and the Board and their officials, agents, consultants and representatives as more specifically described in the Waiver attached to this RFA as Attachment 3.

O. APPLICANT/LICENSEE DIFFERENTIATION

Throughout this RFA, the terms Applicant and Licensee may be used interchangeably in reference to the preparation and submission of the Application and any requirements preceding the award of

the final License. In describing post-License award requirements, an effort is made to use the term "Licensee."

P. HEADINGS/SECTIONS OF THIS RFA

The headings used in this RFA are for convenience only and shall not affect the interpretation of any of the terms and conditions of this RFA. Further, the division of this RFA into headings, sections and items, which may roughly correspond to items required to be included in the Application as provided under the PML, is only for the convenience of Applicants and the Board. The request from or provision by Applicants of information under or in connection with any section, heading or item of this RFA shall not imply or be construed to limit the applicability of such information to such section, heading or item or any apparently corresponding provision of the PML. The Board and its representatives and designees shall have the right, in their discretion, to use or consider any information provided or disclosed anywhere in an Application or otherwise provided by an Applicant or Manager for any purpose under the PML notwithstanding the heading, section or item of this RFA to which such information may respond or its apparent relevance, or lack thereof, to any other heading, section or item.

IV. APPLICATION INSTRUCTIONS

A. GENERAL

This Application is divided into the following sections:

- Applicant Information
- Economic Activity and Business Development
 - Finance and Capital Structure
 - Economics
 - Land, Construction and Design of Physical Plant
 - Internal Controls and Security Systems
- Local Impact and Siting Factors
 - Assessment of Local Support and Mitigation of Local Impact
 - Regional Tourism and Attractions
- Workforce Enhancement Factors
 - Measures to Address Problem Gambling
 - Workforce Development
 - Sustainability and Resource Management

To the extent that an Applicant is a newly formed entity or to date has been a largely non-operational entity, any information required to be provided by the Applicant shall, at a minimum, be provided by the most relevant party or parties, such as the Manager, the primary controlling and/or operating entities/persons of the proposed Gaming Facility and/or its significant business units.

This RFA does not constitute an offer of any nature or kind to any Applicant or its agents. The Commission is under no obligation to issue a License to any of the Applicants. By submitting an Application, the Applicant is deemed to agree to all of the terms of the RFA and the process the RFA and the Act describes. In accordance with PML Section 1314.3, "Within any development region, if the commission is not convinced that there is an applicant that has met the eligibility criteria or the board finds that no applicant has provided substantial evidence that its proposal will provide value to the region in which the gaming facility is proposed to be located, no gaming facility license shall be awarded in that region."

DURING THE APPLICATION PROCESS, NO APPLICANT, AGENT OF THE APPLICANT, QUALIFIER, OR OTHER ASSOCIATED INDIVIDUAL SHALL CONTACT A BOARD OR COMMISSION MEMBER DIRECTLY. PLEASE REFER TO THE "PERMISSIBLE CONTACTS" SECTION OF THIS RFA.

B. OFFICIAL SUBMISSION

To apply for a License, a completed Application must be received by the Board by June 30, 2014 at 4:00 p.m. Eastern Daylight Time. The Board shall have no obligation to accept or review an Application submitted after the established deadline.

The Applicant must submit:

1. twenty (20) identical hard copies of its Application including copies of all executed Attachments;
2. ten (10) electronic copies of its Application, including copies of all executed Attachments, in PDF format submitted via ten (10) separate USB flash drives;
3. ten (10) additional USB flash drives or sets of USB flash drives (e.g., separate flash drives may be supplied, for example, for financial materials and for engineering or traffic materials) must be submitted containing interactive electronic versions (e.g., in Microsoft Excel or other file formats commonly used for the production of such material) of each revenue, construction, employment, financial, traffic, infrastructure or similar model, forecast, projection or table presented in an Application so as to enable the Board and the Board's representatives to analyze and tie the calculations and formulas used to produce such model, projection, forecast or table. To the extent supporting tabs, worksheets or data are required to make the supplied model, projection, forecast or table functional in the supplied file format, those supporting tabs, worksheets and data must also be included. A table of contents should accompany each such additional USB flash drive clearly describing the contents of each file (or set of files) included thereon, the respective file format, and the software application used to produce such file or used to be used to open, display and interact with such file;
4. in addition to the images, renderings and schematics describing the architectural program, site, layout and other physical features of the Gaming Facility that are included in the hard and PDF copies of an Application, submit separately two (2) sets of high-quality files of each such image, rendering or schematic suitable for large-format printing and audio-visual display and two (2) sets of medium-quality files of each such image, rendering or schematic suitable for printing and web publication. Provide each set (i.e. four (4) sets total – two (2) high-quality sets and two (2) low-quality sets) on one or more USB flash drives. A table of contents should accompany each such additional USB flash drive clearly describing the contents of each file (or set of files) included thereon and the respective file format;
5. if your Application includes information that is exempt from disclosure under the FOIL (see "PUBLICLY AVAILABLE APPLICATION MATERIALS" below), then also submit:
 - a. a letter enumerating the specific grounds in the FOIL that support treatment of the material as exempt from disclosure and providing the name, address, and telephone number of the person authorized by the Applicant to respond to any inquiries by the Board concerning the confidential status of the materials;
 - b. two (2) identical hard copies of the REDACTED Application, each clearly marked "REDACTED Application"; and
 - c. two (2) electronic copies of the REDACTED Application be submitted via two (2) separate USB flash drives, each clearly labeled "REDACTED Application";
6. an originally executed copy of the Affirmation (Attachment 1 hereof) executed by the Applicant;
7. an originally executed Addendum Acknowledgement Form (in the form of Attachment 2 to this RFA) executed by the Applicant for each addendum issued to this RFA;

8. an original executed copy of the Waiver (Attachment 3 to this RFA) executed in counterparts by each of the Applicant, the Manager and any direct or indirect owner of the Applicant and the Manager (excluding any equity holders of any publicly-held company);*
9. two (2) hard copies of each Background Information Form; and
10. two (2) electronic copies of each Background Information Form in PDF format submitted via two (2) separate USB flash drives.

C. APPLICATION FORMAT

Each hard copy version of the Application must be submitted in three-ring binders. Each set of hard copies shall have a minimum of three sub-binders:

1. Primary Binder: Information required to be submitted under the headings, “EXECUTIVE SUMMARY” and “APPLICANT INFORMATION”, and a copy of the executed version of each form attached as an Attachment to this RFA.
2. Sub-Binder 1: Information required to be submitted under the heading “ECONOMIC ACTIVITY AND BUSINESS DEVELOPMENT” and including information under the subheadings:
 - a. “FINANCE AND CAPITAL STRUCTURE”
 - b. “ECONOMICS”
 - c. “LAND, CONSTRUCTION AND DESIGN OF PHYSICAL PLANT”
 - d. “INTERNAL CONTROLS AND SECURITY SYSTEMS”
3. Sub-Binder 2: Information required to be submitted under the heading “LOCAL IMPACT AND SITING FACTORS” and including information under the subheadings:
 - a. “ASSESSMENT OF LOCAL SUPPORT AND MITIGATION OF LOCAL IMPACT”
 - b. “REGIONAL TOURISM AND ATTRACTIONS”
4. Sub-Binder 3: Information required to be submitted under the heading “WORKFORCE ENHANCEMENT FACTORS” and including information under the subheadings:
 - a. “MEASURES TO ADDRESS PROBLEM GAMBLING”
 - b. “WORKFORCE DEVELOPMENT”
 - c. “SUSTAINABILITY AND RESOURCE MANAGEMENT”

NOTE:

If information to be included in a particular binder cannot fit in a single binder, that section may be split between multiple binders, but more than one section may not appear in a single binder.

* The Board may require that other parties also execute and deliver a Waiver in the form of Attachment 3.

Each binder must be clearly labeled with the Applicant's name, the section name, and the words "Binder # of #" if one section comprises multiple binders.

Each exhibit included within each binder shall be tabbed and the tab must clearly identify the corresponding exhibit number.

All Applications must be submitted by private delivery service, in person delivery, or by U.S. Postal Service to:

**Gail P. Thorpe
Supervisor, Contract Administration
New York State Gaming Commission
One Broadway Center
Schenectady, NY 12301-7500**

Applications may NOT be submitted by email or other electronic means.

D. PUBLIC PRESENTATIONS

After the June 30, 2014 submission deadline, but no earlier than July 21, 2014, each Applicant will be required to make an informational introductory presentation of its Application to the Board. The presentation is intended to afford the Applicant an opportunity to provide the Board with an overview of the contents of the Application, explain any particularly complex information, and highlight any specific areas it desires. The Board will have the opportunity to ask Applicants questions following their presentations. Timing and scheduling of introductory presentations will depend upon the Applications received. The order of the presentations will be drawn by lot in a public manner at the direction of the Board. Additionally, prior to the presentations, the Board will post to the Commission's website the rules and procedures relating to the conduct of such presentations.

E. PUBLIC HEARING

The Board expects to convene public hearings in each Region to provide the Board with the opportunity to address questions and concerns relative to the proposal of an Applicant to build a Gaming Facility, including the scope and quality of the gaming area and amenities, the integration of the Gaming Facility into the Host Municipality and nearby municipalities and the extent of required mitigation plans and receive input from members of the public from an impacted community.

The Applicants for each Region and their agents and representatives are required to attend the public hearing(s) for that Region, may make a presentation and respond to questions of the Board or public comments as directed by the Board or the Board's designee. Each Applicant must have at least one individual available who, based on actual knowledge, is prepared to respond on behalf of the Applicant to such questions or public comments that can reasonably be anticipated in regard to the contents of its Application, including the scope and quality of the proposed gaming area and amenities, the integration of the proposed Gaming Facility into the Host Municipality and nearby municipalities and the extent of required mitigation plans.

Representatives of the Host Municipalities, representatives of nearby municipalities and representatives of any impacted live entertainment venue may attend the public hearing, may make presentations and may respond to questions as directed by the Board or the Board's designee.

Others may attend the public hearing and may make a presentation at the discretion of the Board. Before the hearing, the Board will prescribe the manner in which it will receive comments from members of the public, and may take the opportunity during the hearing to read into the record any letters of support, opposition or concern from members of the public in the vicinity of the proposed Gaming Facility.

F. PUBLIC DISCLOSURE OF APPLICATION MATERIALS

The Board intends to treat Applications as public records and will make them available to the public, with applicable exemptions pursuant to the FOIL.

The FOIL provides for certain exemptions from public disclosure including, among others, an exemption from disclosure for trade secrets or information the disclosure of which would cause substantial injury to the competitive position of a commercial enterprise. This exemption applies both during and after the evaluation process. The FOIL also provides an exemption for records that are "specifically exempted from disclosure by state or federal statute." PML Section 1313.2, provides an exemption from disclosure under the FOIL for "trade secrets, competitively sensitive or other proprietary information provided in the course of an application for a gaming license, the disclosure of which would place the applicant at a competitive disadvantage." See also, Section 87.2.(d) of the New York Public Officers Law

Any Application submitted that contains confidential information must be conspicuously marked on the outside as containing confidential information, and each page upon which confidential information appears must be conspicuously marked as containing confidential information. Identification of the entire Application as confidential may be deemed non-responsive and may disqualify the Applicant. If an Applicant designates any portion of an Application as confidential, the Applicant must submit copies of its Application from which the confidential information has been excised or redacted. These copies of an Application are referred to as the "REDACTED" copies as described herein under "APPLICATION INSTRUCTIONS – OFFICIAL SUBMISSION". The confidential material must be redacted or excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the proposal as possible.

All determinations concerning whether Applications and/or related documents submitted in response to this RFA are subject to disclosure under the FOIL will be made by the Board or the Commission, as applicable, in their sole discretion.

G. GAMING REGULATIONS

For the benefit of Applicants, the Commission anticipates releasing, prior to the submission deadline for Applications in response to this RFA, an outline of the approach the Commission plans to follow in establishing regulations governing commercial gaming in the State.

H. INCURRED EXPENSES AND ECONOMY OF PREPARATION

Neither the Commission, the Board nor the State is responsible for any costs incurred by an Applicant in preparing and submitting an Application, responding to requests for clarification, in making an oral presentation or attending or participating in any hearing, in providing a demonstration, completing the Commission's background investigation, or in performing any other activities related to this RFA. Applications should be prepared simply and economically, providing a straightforward and concise description of how the Applicant proposes to meet the requirements of this RFA.

V. EXECUTIVE SUMMARY

Each Applicant shall submit as Exhibit V of its Application, an executive summary, not to exceed four (4) pages in length, highlighting the principal terms of its Application.

VI. APPLICANT INFORMATION

A. NAME OF APPLICANT

Submit as Exhibit VI. A. the Applicant's and, if applicable, the Manager's, full name as it appears on its certificate of incorporation, charter, by-laws or other official document. Also include any d.b.a. or trade name.

B. CONTACT PERSON

Submit as Exhibit VI. B. the name, title, email address and telephone number of the individual to be contacted in reference to this Application.

C. LOCATION OF THE PRINCIPAL PLACE OF BUSINESS OF THE APPLICANT

Submit as Exhibit VI. C. the street address, city, state, zip code and telephone number for the Applicant's and, if applicable, the Manager's principal place of business. Also include the URL for any website maintained by or for the Applicant and, if applicable, the Manager.

D. TYPE OF BUSINESS FORMATION

Submit as Exhibit VI. D. the type of business entity under which the Applicant and, if applicable, the Manager, is formed (e.g., corporation, limited liability company, partnership, etc.), the state (or other jurisdiction) of formation and the Federal Tax Identification Number. Also, attach evidence of existence or formation as an entity (e.g., a certificate of good standing) as of a date not earlier than ten (10) days prior to the submission of the Application.

E. TABLE OF OWNERSHIP

Submit as Exhibit VI. E. a full and complete ownership chart for the Applicant and, if applicable, the Manager and their respective Affiliates including percentage ownership interests in the Applicant and the Manager by their respective direct and indirect owners illustrating the ultimate owners and real parties in interest. For a publicly held company, disclosure of owners may be limited to owners owning five (5) percent or more of the publicly held company.

F. ORGANIZATIONAL CHART

Submit as Exhibit VI. F. an organizational chart of the Applicant and, if applicable, the Manager illustrating the organizational structure likely to be used by the Applicant or the Manager in the event that the Applicant is awarded a License. The organizational chart should include all Casino Key Employees. Further, specify which executives are anticipated to be on-site in New York and which will be based in other jurisdictions but assisting in oversight of New York operations.

G. NAMES, ADDRESSES AND EXPERIENCE OF DIRECTORS AND OFFICERS

Submit as Exhibit VI. G. the name, address, and title of each director, manager or general partner of the Applicant and, if applicable, the Manager, and each officer and Casino Key Employee of the Applicant or the Manager. Also, provide resumes of all principals and known individuals who will perform executive management duties or oversight of the Applicant or the Manager.

H. NAMES, ADDRESSES AND OWNERSHIP AND OTHER INTERESTS

Submit as Exhibit VI. H. the name and business address of each person or entity that has a direct or indirect ownership or other proprietary interest (financial, voting or otherwise) in the Applicant and, if applicable, the Manager. Also, include a description of all such interests. For a publicly held company, disclosure of owners may be limited to owners owning five (5) percent or more of the publicly held company.

I. NAMES AND ADDRESSES OF PROMOTERS, SPONSORS AND OTHERS

Submit as Exhibit VI. I. the name and business address of all promoters, sponsors, personnel, consultants, sales agents or other entities involved in aiding or assisting the Applicant's efforts to obtain a License pursuant to this RFA.

J. REGION AND HOST MUNICIPALITIES

Submit as Exhibit VI. J. the Region and the Host Municipalities in which the Gaming Facility is proposed to be located. Also provide the name, business address, email address, telephone number and fax number of the Applicant's primary contact at the Host Municipalities.

K. CONFLICTS OF INTEREST

The Board desires to ensure that there is no real or perceived conflict of interest at any time during the RFA process. Submit as Exhibit VI. K. a description of any relationship or affiliation of the Applicant, the Manager or any of their respective Affiliates that currently exists or existed in the past five (5) years with any member, employee, consultant or agent of the Board or the Commission that is a conflict of interest or may be perceived as a conflict of interest during the RFA process. Further, if any such conflict should arise during the term of the RFA process, the Applicant shall notify the Board, in writing, of such conflict.

The Board shall make the final determination as to whether any activity constitutes a conflict of interest pursuant to this provision. The Board's decision shall be final and without recourse; however, the Board will not make any such decision without providing the Applicant or the Manager, as applicable, with an opportunity to present comments.

If an Applicant does not identify any direct or indirect conflict of interest, or perceived conflict of interest, the Applicant shall state that no conflict or perceived conflict of interest exists with respect to its proposal. If the Applicant identifies a conflict of interest or perceived conflict of interest, the Applicant shall disclose the conflict and the steps the Applicant will take to resolve such conflict.

L. PUBLIC OFFICIALS

Submit as Exhibit VI. L. a list of names, titles, addresses and telephone numbers of any Public Officials or officers or employees of any governmental entity, and Immediate Family Member(s) of said Public Officials, officers or employees, who, directly or indirectly, own any financial interest in, have any beneficial interest in, are the creditors of, hold any debt instrument issued by, or hold or have an interest, direct or indirect, in any contractual or service relationship with the Applicant, the Manager or their Affiliates. Also submit a statement listing all persons and entities not listed in the immediately preceding sentence who or that have any arrangement, written or oral, to receive any compensation from anyone in connection with the Application, the RFA process or obtaining of a License from the State, describing the nature of the arrangement, the service to be provided and the amount of such compensation, whether actual or contingent.

M. APPLICATION FEE

All Applicants are required to pay an Application fee of \$1 million to the Commission to defray the costs associated with the processing of the Application, the investigation of the Applicant and related matters. If the costs of processing, investigation and related matters exceed the initial application fee, the Applicant shall pay an additional amount to the Commission within thirty (30) days after notification of insufficient fees or the Application may be rejected.

Payment of the Application fee is required in order to attend the mandatory applicant conference described in the “OVERVIEW” section of this RFA. The Application fee must be paid by electronic funds transfer to an account designated by the Commission and must be received by April 23, 2014. If an Applicant pays the \$1 million fee and does not complete and submit an Application on or before June 30, 2014, the Commission will return the fee *less* any reasonable costs the Commission will have already incurred related to processing Applications, including overhead and administrative expenses.

N. CONTRACTS WITH STATE OF NEW YORK

Submit as Exhibit VI. N. a list of any current or previous contracts that the Applicant has had with, and any current or previous licenses that the Applicant has been issued by or under, any department or agency of the State. Include the contract or license name and number and a concise explanation of the nature of the contract or license.

O. CASINO MANAGER

If a Manager that is different from the Applicant will manage the Gaming Facility, submit as Exhibit VI. O. a description of the relationship between the Manager and the Applicant including, without limitation, a summary of the terms of any and all agreements, contracts or understandings between the Manager and the Applicant. Attach copies of any such written agreements, contracts or understandings.

P. ORGANIZATIONAL DOCUMENTS

Submit as Exhibits VI. P.1. through VI. P.13., as applicable, copies of the following documents that apply to the Applicant, the Applicant's owners, any Manager or any of the Manager's owners:

1. certified copy of its certificate of incorporation, articles of incorporation or corporate charter;
2. bylaws as amended through the date of the Application;
3. certified copy of its certificate of formation or articles of organization of a limited liability company;
4. limited liability company agreement or operating agreement as amended through the date of the Application;
5. certified copy of its certificate of partnership;
6. partnership agreement as amended through the date of the Application;
7. certified copy of its certificate of limited partnership;
8. limited partnership agreement as amended through the date of the Application;
9. other legal instrument of organization;
10. joint venture agreement;
11. trust agreement or instrument, each as amended through the date of the Application;
12. voting trust or similar agreement; and
13. stockholder, member or similar agreement.

VII. EVALUATION CRITERIA AND SELECTION PROCESS

In recommending an Application for License, the Board is required to follow the provisions of the PML, which require the evaluation of the Applications using the factors specified in the Act. The following Sections require the provision of information that will permit the Board to evaluate Applications appropriately.

The Board may also engage the assistance of various consultants including, without limitation, engineers, financial advisors, market analysts, or other advisors to assist with its review.

The decision by the Board to award a recommendation for License shall be weighted by:

A. ECONOMIC ACTIVITY AND BUSINESS DEVELOPMENT FACTORS

(Statutory Value: 70 percent)

The decision by the Board to select an Applicant shall be weighted by seventy (70) percent based on economic activity and business development factors including the following:

1. realizing the maximum capital investment exclusive of land acquisition and infrastructure improvements;
2. maximizing revenues received by the State and localities;
3. providing the highest number of quality jobs in the Gaming Facility;
4. building a Gaming Facility of the highest caliber with a variety of quality amenities to be included as part of the Gaming Facility;
5. offering the highest and best value to patrons to create a secure and robust gaming market in the Region in which the Gaming Facility is located and the State;
6. providing a market analysis detailing the benefits of the site location of the gaming facility and the estimated recapture rate of gaming-related spending by residents travelling to an out-of-state Gaming Facility;
7. offering the fastest time to completion of the full Gaming Facility;
8. demonstrating the ability to fully finance the Gaming Facility; and
9. demonstrating experience in the development and operation of a quality Gaming Facility.

B. LOCAL IMPACT AND SITING FACTORS

(Statutory Value: 20 percent)

The decision by the Board to select an Applicant shall be weighted by twenty (20) percent based on local impact and siting factors including the following:

1. mitigating potential impacts on host and nearby municipalities that might result from the development or operation of the Gaming Facility;
2. gaining public support in the host and nearby municipalities that may be demonstrated through the passage of local laws or public comment received by the Board or the Applicant;
3. operating in partnership with and promoting local hotels, restaurants and retail facilities so that patrons experience the full diversified regional tourism industry; and
4. establishing a fair and reasonable partnership with live entertainment venues that may be impacted by a Gaming Facility under which the Gaming Facility actively supports the mission and the operation of the impacted entertainment venues.

C. WORKFORCE ENHANCEMENT FACTORS

(Statutory Value: 10 percent)

The decision by the Board to select an Applicant shall be weighted by ten (10) percent based on workforce enhancement factors including the following:

1. implementing a workforce development plan that utilizes the existing labor force, including the estimated number of construction jobs a proposed Gaming Facility will generate, the development of workforce training programs that serve the unemployed and methods for accessing;
2. employment at the Gaming Facility;
3. taking additional measures to address problem gambling including, without limitation, training of gaming employees to identify patrons exhibiting problems with gambling;
4. utilizing sustainable development principles including, without limitation:
 - a. having new and renovation construction certified under the appropriate certification category in the Leadership in Energy and Environmental Design Green Building Rating System created by the United States Green Building Council;
 - b. efforts to mitigate vehicle trips;
 - c. efforts to conserve water and manage storm water;

- d. demonstrating that electrical and HVAC equipment and appliances will be Energy Star labeled where available;
 - e. procuring or generating on-site ten (10) percent of its annual electricity consumption from renewable sources; and
 - f. developing an ongoing plan to submeter and monitor all major sources of energy consumption and undertake regular efforts to maintain and improve energy efficiency of buildings in their systems;
5. establishing, funding and maintaining human resource hiring and training practices that promote the development of a skilled and diverse workforce and access to promotion opportunities through a workforce training program that:
- a. establishes transparent career paths with measurable criteria within the Gaming Facility that lead to increased responsibility and higher pay grades that are designed to allow employees to pursue career advancement and promotion;
 - b. provides employee access to additional resources, such as tuition reimbursement or stipend policies, to enable employees to acquire the education or job training needed to advance career paths based on increased responsibility and pay grades; and
 - c. establishes an on-site child day care program;
6. purchasing, whenever possible, domestically manufactured slot machines for installation in the Gaming Facility;
7. implementing a workforce development plan that:
- a. incorporates an affirmative action program of equal opportunity by which the Applicant guarantees to provide equal employment opportunities to all employees qualified for licensure in all employment categories, including persons with disabilities;
 - b. utilizes the existing labor force in the state;
 - c. estimates the number of construction jobs a Gaming Facility will generate and provides for equal employment opportunities and that includes specific goals for the utilization of minorities, women and veterans on those construction jobs;
 - d. identifies workforce training programs offered by the Gaming Facility; and
 - e. identifies the methods for accessing employment at the Gaming Facility; and
8. demonstrating that the Applicant has an agreement with organized labor, including hospitality services, and has the support of organized labor for its Application, which specifies:

- a. the number of employees to be employed at the Gaming Facility, including detailed information on the pay rate and benefits for employees and contractors in the Gaming Facility and all infrastructure improvements related to the project; and
- b. detailed plans for assuring labor harmony during all phases of the construction, reconstruction, renovation, development and operation of the Gaming Facility.

VIII. ECONOMIC ACTIVITY AND BUSINESS DEVELOPMENT

(Statutory Value: 70 percent)

A. FINANCE AND CAPITAL STRUCTURE

1. CAPITAL INVESTMENT

- a. **Minimum Investment.** Within ten (10) business days after the Applicants' conference, the Board will promulgate the Minimum Capital Investment required.
- b. **Calculating Minimum Capital Investment.** The Board has determined that for purposes of calculating the "Minimum Capital Investment," the Applicant shall include only those costs related to:
 1. actual construction of the Gaming Facility including any hotel, gaming area, restaurants, convention space, back-of-house and other amenities;
 2. preparation of the site including demolition, excavation, clearing, grading, earthwork and abatement;
 3. remediation of environmental conditions or hazardous materials;
 4. improvement of the existing or construction of new infrastructure inside the property boundaries of the site of the Gaming Facility including those related to drainage, utility support, roadways, parking, interchanges, fill and soil or groundwater or surface water contamination issues, sewer, storm water, landscaping and public transportation;
 5. pre-opening purchase of furniture, fixtures, equipment, gaming equipment, information technology equipment and personal property to be used within the Gaming Facility including those within hotels, restaurants, retail and other components associated with the Gaming Facility;
 6. design of the Gaming Facility including building design, interior design and exterior site design; and
 7. professional and management fees including for engineers, architects, developers, contractors, or operators to the extent that they represent indirect and overhead costs related to the development of the Gaming Facility and do not represent profits or payout as part of partnership agreements;

- c. **Exclusions from Minimum Capital Investment Calculation.** The Board has determined that the “Minimum Capital Investment” shall not include those costs related to:
1. the purchase or lease or optioning of land where the Gaming Facility will be located including costs relative to registering, appraising, transferring title, or obtaining title insurance for the land;
 2. carried interest costs and other associated financing costs;
 3. mitigating impacts on host and nearby municipalities whether directly attributable to a specific impact or not;
 4. designing, improving or constructing the infrastructure outside the property boundaries of the site of the Gaming Facility including those related to drainage, utility support, roadways, interchanges, fill and soil or groundwater or surface water contamination issues, sewer, storm water, landscaping, and public transportation whether or not such costs are the result of any agreement with a Host Municipality or nearby municipality;
 5. legal fees;
 6. promotional, communications and marketing costs prior to and attributable to the efforts to obtain support for the Gaming Facility project including costs associated of obtaining local support for the Gaming Facility;
 7. payments to the Board or the Commission including, without limitation, the application fee, investigation fees and other fees and other similar fees paid to municipalities;
 8. marketing, advertising and promotions; and upfront costs designed to implement workforce development plans;
 9. consulting and due diligence necessary to fund studies to devise engineering solutions in accordance with the Act including traffic studies, environmental studies and other associated mitigation studies;
 10. applications for Federal, state and municipal permits;
 11. the safety, training, quality assurance, or testing incurred during the construction of the Gaming Facility; and
 12. the pre-opening bankroll.

2. APPLICANT MINIMUM CAPITAL INVESTMENT

- a. Submit as Exhibit VIII. A.2.a. a calculation of Applicant’s Minimum Capital Investment for its Gaming Facility (which capital investment shall not be less than the applicable

Minimum Capital Investment for the particular Region in which the Gaming Facility will be located). Include with such calculation a detailed description of the costs included in such calculation. Applicants may propose an aggregate capital investment in excess of the Minimum Capital Investment.

- b. For purposes of providing the information required in Exhibit VIII. A.2.a. the Applicant shall not include costs incurred prior to the Effective Date of the Act. Rather, the Applicant shall submit as Exhibit VIII. A.2.b. (i) a description of any capital investment made by the Applicant prior to the Effective Date including the date, type and dollar amount of any such investment and the reason for making the investment; (ii) the current fair market value of capital assets obtained from such prior capital investment; (iii) the amount of VLT Capital Award funds or other external reimbursement of such prior capital investment costs; and (iv) state whether the Applicant believes such capital investment(s) should be included in calculating the Applicant's Minimum Capital Investment and if yes, the reasons why such amounts should be included. Pursuant to PML Section 1315, the Board may, in its sole discretion, determine what portion, if any, of such capital investments may be included toward computing the Applicant's Minimum Capital Investment.

3. MARKET/REVENUE STUDY

Submit as Exhibit VIII. A.3. a study completed by an independent expert assessing the size of the potential gaming market for the proposed Gaming Facility. Include annual projections of gaming patronage (e.g. by gaming visitor count) and gaming revenues (including itemization of slot, table and gross revenues) annually for a period of at least the first ten (10) years after opening for gaming on a high-, average- and low-case basis. The high-, average- and low-case bases should be the same as used for tax revenue analysis provided by the Applicant pursuant to Item VIII. B.4 hereof.

Include a description of all assumptions that are material to the expert's projections. Substantiate the bases and reasonableness of all such assumptions, for example, by comparison to comparable gaming facilities in comparable gaming markets. The study should explain the model or methodology used to derive the projections, identify the sources and robustness of input data, report the results of projections and include a comparison of those results to actual observed visitation and revenue performance against the most comparable gaming facilities in other jurisdictions for which data are available.

4. PRO-FORMA FINANCIAL INFORMATION

Submit as Exhibit VIII. A.4. for the proposed Gaming Facility, a detailed financial forecast in the form of a pro-forma (i) statement of material revenue lines, material expense categories, EBITDA and net income, (ii) balance sheet and calculation of debt-to-equity ratio, and (iii) statement of cash flows, each, annually for a period of at least the first ten (10) years after opening for gaming on a high-, average- and low-case basis. The high-, average- and low-case pro-forma forecasted financial information should be presented for the high-, average- and low-case revenue and gaming patronage projections for such years that are reported in the independent expert's gaming market study provided pursuant to Item VIII. A.3. of this RFA.

Detail all assumptions relevant to the pro-forma forecasted financial information and relevant projected operating statistics, including but not limited to: (i) operating margins; (ii) liquidity; (iii) margins; (iv) growth; (v) revenue; (vi) visitation; (vii) win per day; (viii) hold percentages; (ix) number of slot and table positions; and (x) customer database growth. Substantiate the bases and reasonableness of all such assumptions, for example, by comparison to the Applicant's other gaming facilities currently in operation or by comparison to the most comparable gaming facilities for which data are available.

5. BUSINESS PLAN

Submit as Exhibit VIII. A.5. a qualitative five (5) year business plan for the proposed Gaming Facility describing, at least, the components and projected results of the material revenue lines and expense categories of the proposed Gaming Facility, the Applicant's sources and availability of financing, the principal business and financing risks of the proposed Gaming Facility and plans to mitigate those risks.

6. CAPITAL AND FINANCING STRUCTURE

- a. Submit as Exhibit VIII. A.6.a. a schedule for each Financing Source that is an entity, describing such entity's current capital structure, including secured debt, unsecured debt, and equity. Indicate maturity dates, interest rates, preferred dividends or distributions and key covenants. For each Financing Source that is a trust or individual, provide evidence of financial wherewithal to participate in the proposed financing. Describe and quantify any other material financial commitments, obligations and guarantees that would materially impact such wherewithal.
- b. Submit as Exhibit VIII. A.6.b. a detailed description of how the project will be financed. Provide a statement of financing sources and uses for the Application fee, Application and suitability investigation expenses, license fee, capital investment deposit, and construction of the proposed Gaming Facility based on the proposed construction budget and timeline provided pursuant to Items VIII.C.19. and VIII.C.20. of this RFA, including reasonable and customary contingencies, and the pro-forma forecasted financial information provided pursuant to Item VIII.A.4. of this RFA. Provide a statement of financing sources and uses, annually, for at least the first three (3) years after beginning gaming operations using each of the high-, average- and low-case scenarios included in the pro-forma forecasted financial information provided pursuant to Item VIII.A.4. of this RFA. Expressly identify the funding source to cover any forecasted operating losses.
- c. Submit as Exhibit VIII. A.6.c. a description of the financing plans, arrangements and agreements for the Application fee, Application and suitability investigation expenses, license fee, capital investment deposit, construction and first three (3) years of operation of the proposed Gaming Facility. For debt financing, describe the material terms, conditions and covenants of any debt commitment letter or debt financing facility agreement that the Applicant has entered into or, if not providing such letters and/or agreements, the anticipated material terms, conditions and covenants of the anticipated debt financing arrangements. Provide a copy of each debt commitment letter and debt facility agreement. For equity other than common equity, describe the material terms and economic rights of each class and series of equity. Provide a copy of each legal

- document defining such terms and economic rights. Provide a copy of any term sheets, offering documents or similar documents describing the material terms of any current or contemplated public or private offering of equity the proceeds of which may be used to finance the construction and first three (3) years of operation of the proposed Gaming Facility. Provide copies of any highly confident or other similar letters or representations from financial advisors describing the likely availability of debt and equity financing for the application fee, Application and suitability investigation expenses, license fee, capital investment deposit, construction and first three (3) years of operation of the proposed Gaming Facility.
- d. Submit as Exhibit VIII. A.6.d. an analysis of how the financing plans for the Application fee, Application and suitability investigation expenses, license fee, capital investment deposit, construction and first three (3) years of operation of the proposed Gaming Facility will affect each Financing Source's compliance with the financial covenants under its current financing arrangements.
 - e. Submit as Exhibit VIII. A.6.e. a schedule of the Financing Sources' anticipated capital structure after construction and first three (3) years of operation of the proposed Gaming Facility, including secured debt, unsecured debt, and equity. Provide an analysis supporting the Financing Source's ability to service their contemplated post-opening capital structure and material financial commitments, obligations and guarantees.

7. FINANCIAL STATEMENTS AND AUDIT REPORT

- a. Submit as Exhibit VIII. A.7.a. for the Applicant and each Financing Source, (i) audited annual financial statements prepared by an independent registered public accounting firm in accordance with U.S. Generally Accepted Accounting Principles ("GAAP") for each of the last five (5) fiscal years; and (ii) for any fiscal quarter(s) of the current fiscal year that have ended before the date Applications are due, unaudited quarterly financial statements. If, for any entity, audited annual financial statements are unavailable for any given period, provide unaudited annual financial statements prepared in accordance with GAAP. For any individual, provide annual financial statements along with an attestation by such individual that such statements are true and accurate.
- b. Submit as Exhibit VIII. A.7.b. for the Applicant, an independent audit report of all financial activities and interests including, but not limited to, the disclosure of all contributions, donations, loans or any other financial transactions to or from a gaming entity or operator in the past five (5) years.

8. DOCUMENTATION OF FINANCIAL SUITABILITY AND RESPONSIBILITY

- a. Submit as Exhibit VIII. A.8.a. any bank references, business and personal income and disbursement schedules, tax returns and other reports filed with government agencies and business and personal accounting check records and ledgers pursuant to PML Section 1320.1.(e).

- b. Submit as Exhibit VIII. A.8.b. at least three (3) financial references from banks or other financial institutions attesting to each Financing Source's creditworthiness.
- c. Submit as Exhibit VIII. A.8.c. copies of securities analysts' and credit rating agencies' reports for the past three (3) years, if any, covering any Financing Source.

9. U.S. SECURITIES AND EXCHANGE COMMISSION FILINGS; NOTICES AND REPORTS TO FINANCING SOURCES AND EQUITY HOLDERS

Submit as Exhibit VIII. A.9. copies of all U.S. Securities and Exchange Commission ("SEC") filings, if any, for the Financing Sources, for the three (3) fiscal years ended before the date Applications are due and any interim period between the end of the most recent fiscal year and the date Applications are due, including any SEC filings made by the Financing Sources on a voluntary basis. To the extent not duplicative of the preceding sentence, provide copies of all notices and reports delivered by the Financing Sources to financing sources and agents, equity holders or others for the three (3) fiscal years ended before the date Applications are due and for any interim period between the end of the most recent fiscal year and the date Applications are due that describe the Financing Sources' general business, business risks, results of operation and financial condition, material agreements, employment arrangements and other similar matters that are required to be included in annual, quarterly and periodic reports filed with the SEC by public companies. Omit from such SEC filings and notices and reports delivered to financing sources and agents, equity holders and others the financial statements for any period covered by the financial statements provided pursuant to Item VIII.A.7. of this RFA, but indicate such omission by inserting a page in such SEC filings where the omission occurs that briefly describes the financial statements so omitted. In lieu of physical submissions, an Applicant may provide links to all responsive materials.

10. LEGAL ACTIONS

Submit as Exhibit VIII. A.10. the following information relating to legal actions of any Applicant Party:

- a. A statement as to whether there are any pending legal actions, whether civil, criminal or administrative in nature, to which the Applicant Party is a party and a brief description of any such actions;
- b. A brief description of any settled or closed legal actions, whether civil, criminal or administrative in nature, against the Applicant Party over the past ten (10) years;
- c. A description of any judgments against the Applicant Party within the past ten (10) years, including the case name, number, court, and what the final ruling or determination was from the court, administrative body or other tribunal;
- d. In instances where litigation is ongoing and the Applicant Party has been directed not to disclose information by the court, provide the name of the judge, location of the court, and case name and number;

- e. A statement whether the Applicant Party was indicted, accused or convicted of a crime or was a subject of a grand jury or criminal investigation during the past ten (10) years; and
- f. A statement whether the Applicant Party was the subject of any order, judgment or decree of any court, administrative body or other tribunal of competent jurisdiction permanently or temporarily enjoining it from or otherwise limiting its participation in any type of business, practice or activity during the past ten (10) years.

11. BANKRUPTCY OR OTHER INSOLVENCY MATTERS

Submit as Exhibit VIII. A.11. a description of any bankruptcies (voluntary or involuntary), assignments for the benefit of creditors, appointments of a receiver or custodian or similar insolvency proceedings made, commenced or pending during the past ten (10) years by or involving any Applicant Party. Provide the name of the parties, the case number, the name of the court, and a description of the matter and its status.

12. BREACH OF CONTRACT

Submit as Exhibit VIII. A.12. a description of any contract, loan agreement or commitment that any Applicant Party has breached or defaulted on during the past ten (10) years and provide information for any lawsuit, administrative proceeding or other proceeding that occurred as a result of the breach or default.

13. TAX AUDIT

Submit as Exhibit VIII. A.13. a description of any delinquencies in the payment of or in dispute over the filings concerning or the payment of any fees or tax required under any Federal, state or municipal law within the past ten (10) years by an Applicant Party.

14. LICENSES IN OTHER JURISDICTIONS

- a. Submit as Exhibit VIII. A.14.a. a description of any gaming-related licenses issued in any jurisdiction to an Applicant Party. Also, state whether an Applicant Party has ever had a gaming-related license denied, suspended, withdrawn or revoked, or if there is a pending proceeding that could lead to any of these conditions. If yes, provide a detailed summary of each denial, suspension, revocation, withdrawal or relevant documents in connection with such pending proceedings.
- b. Submit as Exhibit VIII. A.14.b. a description of any disciplinary action brought against an Applicant Party by any gaming licensing authority during the past five (5) years.

15. PROOF OF ADVANCING OBJECTIVES

In order to be awarded a Gaming Facility license, an Applicant must demonstrate that it has sufficient business ability and experience to create the likelihood of establishing and maintaining a successful Gaming Facility.

- a. Submit as Exhibit VIII. A.15.a. a description of the Applicant's and, if applicable, the Manager's experience, training and expertise in developing, constructing and operating casinos and related facilities (e.g., hotels, restaurants and entertainment facilities). For each such project, include the name and location, the total dollar investment, number of gaming devices, number of hotel rooms, amenities, total gaming revenues for the last three (3) years, total non-gaming revenues for the last three (3) years, number of full-time employees, and approximate size of the site on which the project is located. For any such project no longer owned or operated, include a description of the disposition of the project or termination of its operations
- b. Additionally, submit as Exhibit VIII. A.15.b. a brief description of any destination casino resort or other gaming projects that the Applicant and, if applicable, the Manager, has publicly announced that it is in the process of acquiring, developing or proposing to acquire or develop. For each such project, include the name and location, the estimated total dollar investment, number of gaming devices, number of hotel rooms, amenities, and the timeframe within which Applicant or Manager expects to acquire or develop such project.

16. **ADDITIONAL FINANCIAL COMMITMENTS**

Submit as Exhibit VIII. A.16. a description of all financial commitments and guarantees the Applicant or, if applicable, the Manager, or its Affiliates is prepared to provide to the Commission over and above the deposit or bond required by PML Section 1315.1 to ensure that the Gaming Facility is completed, license conditions are fulfilled and sufficient working capital is available to allow continuous operation in manner described in the Applicant's financial forecasts. Include examples of letters of credit, construction completion guaranties, performance bonds, keep-well agreements, MOUs or other agreements or commitments the Applicant, the Manager or their Affiliates commit to provide in connection with the Gaming Facility.

B. ECONOMICS

Four Upstate Gaming Facilities will boost economic development, create thousands of well-paying jobs and provide added revenue to the State. These Gaming Facilities are intended to attract non-New York residents and bring downstate New Yorkers to Upstate, which will enhance the tourism industry and the State's economic infrastructure. The Act contemplates increases in potential State and local tax revenue. It also contemplates maximum economic and other benefits to the Host Municipalities and nearby municipalities, including incremental job creation and a reduction in unemployment rates.

1. MARKET ANALYSIS

One of the principal objectives of the Act is to recapture gaming-related spending by New York residents at out-of-state gaming facilities. Submit as Exhibit VIII. B.1. a market analysis showing the benefits of the site location of the Applicant's Gaming Facility and the estimated recapture

rate of gaming-related spending by New York residents travelling to out-of-state gaming facilities. In addition, such market analysis must describe:

- a. the components of the Applicant's marketing plan that focus on out-of-state visitors and the anticipated gaming and non-gaming gross revenues the Applicant anticipates from out-of-state visitors during each of the first five (5) years of the Gaming Facility's operations on a low-, average- and high-case scenario and clearly explain how this recapture rate was determined;
- b. how the Applicant plans to compete with other nearby gaming facilities in New York and other jurisdictions; and
- c. the Applicant's overall perspective and strategy for broadening the appeal of the Region and the Host Municipality in which its Gaming Facility is located and the State to travelers inside and outside of New York.

2. PLAYER DATABASE AND LOYALTY PROGRAM

Submit as Exhibit VIII. B.2. the following:

- a. describe any loyalty, reward or similar frequent player program (a "**Program**") maintained by the Applicant or, if applicable, the Manager for any casino the Applicant or Manager owns, operates or manages;
- b. state whether the Applicant or, if applicable, the Manager maintains a casino customer relationship management system and database (a "**Database**") that tracks the play of its Program members;
- c. indicate whether the Program and Database will be available for the marketing, promotion and advertising of the Gaming Facility and whether they are "exclusive" to the Applicant and/or, if applicable, the Manager;
- d. indicate the number of "active" (those who have played within the past 12 months) and "inactive" (those who have played over 12 months ago) members in the Database;
- e. indicate the number of rated players included in the Database that are located within 50-, 100-, 150- and 200-miles of the proposed Gaming Facility; and
- f. describe how the Database and Program will be used to market, promote and advertise the Gaming Facility.

3. STUDIES AND REPORTS

- a. A major goal of the Act is to enhance the financial condition of localities in the State that have suffered from economic hardships. Submit as Exhibit VIII. B.3.a. economic impact studies completed by an independent expert showing the proposed Gaming Facility's overall economic incremental benefit to the Region, the State, and the Host Municipality and nearby municipalities including the manner in which the facility will generate new revenues as opposed to taking revenues from other New York businesses; and

- b. Submit as Exhibit VIII. B.3.b. economic impact studies completed by an independent expert showing the proposed Gaming Facility's positive and negative impacts on the local and regional economy, and on the host and nearby municipalities including impacts on incremental job creation, unemployment rates, cultural institutions and small businesses.

Each of the above studies should include a description of the background conditions in the comparable year (*i.e.*, assuming economic, traffic, etc. continues to develop as to trend without the Applicant's proposed project) and build a scenario with express enumeration of assumptions. Where independent studies depend on visitation or revenues, they should include analysis of the low-, average- and high-cases analogous to the same used for the revenue and tax studies. Studies should explain their methodology, report their results and compare those results to actual observed conditions in similar built projects.

4. PROJECTED TAX REVENUE TO THE STATE

Submit as Exhibit VIII. B.4. a study completed by an independent expert providing projections for all estimated State, county and local tax revenue (e.g., gaming, sales, income, real estate, hotel, entertainment and other taxes) for a period of at least the first five (5) years of operations on a high -, average- and low-case basis, identifying the source of each element of these tax revenues.

The study should include a description of the background conditions in the comparable year (*i.e.*, assuming economic conditions and demographics continues to develop as to trend without the Applicant's proposed Gaming Facility) and build scenario with express enumeration of assumptions. Include analysis of the low-, average- and high-cases used for the revenue study and financial forecasts. Studies should explain their methodology, report their results and compare those results to actual observed conditions in similar built projects.

5. REGIONAL ECONOMIC PLAN COORDINATION

Submit as Exhibit VIII. B.5. a statement as to whether the Applicant's proposed Gaming Facility is part of a regional or local economic plan, and, if yes, provide documentation demonstrating the Applicant's inclusion within, and coordination with, regional economic plans.

6. NEW YORK STATE SUBCONTRACTORS AND SUPPLIERS

Applicants are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the License. Such partnering may be as subcontractors, suppliers or other supporting roles.

Submit as Exhibit VIII. B.6. a description of the Applicant's plans and minimum commitments (expressed in terms of annual biddable spend) for use of New York-based suppliers and materials both in the construction and furniture, fixtures, and equipment furnishing phase of the Applicant's project and in the operational phase of Applicant's project. Provide copies of any contracts, agreements or understandings evidencing such plans or commitments.

7. EMPLOYEES

- a. Submit as Exhibit VIII. B.7.a. tables for each low-, average-, and high-revenue cases modeled in the revenue study and financial forecasts reporting for each functional area of operation of the Gaming Facility following construction: (i) the estimated number of total employees by full-time and part-time positions and full-time equivalents; (ii) each job classification and the pay rate and benefits therefor; and (iii) the number of such positions that are anticipated to be filled by residents of the State, residents of the Region and residents of the Host Municipality or nearby municipalities in which the Gaming Facility is to be located. Describe the bases for these projections, for example, by comparison to similar projects.
- b. Submit as Exhibit VIII. B.7.b. a description of how the Applicant proposes to ensure that it provides a high number of quality jobs in the Gaming Facility and the Applicant's commitment to hire a minimum number of employees, both full-time and part-time, at the opening of the Gaming Facility.

8. COMPETITIVE ENVIRONMENT

Submit as Exhibit VIII. B.8. a description of the competitive environment in which the Applicant anticipates the proposed Gaming Facility will operate over the ten (10) years after opening and how the Applicant plans to succeed in that environment while limiting the impact on revenues at other New York gaming establishments (e.g., VLT facilities, tribal casinos, race tracks) or other New York businesses.

9. MARKETING PLANS

- a. Submit as Exhibit VIII. B.9.a. a detailed description of the target market segments of the Gaming Facility.
- b. Submit as Exhibit VIII. B.9.b. the Applicant's marketing plans for the proposed Gaming Facility with specific reference to pre-opening marketing and opening celebrations. Include the minimum annual dollar amounts, kinds and types of general promotion and advertising campaigns that will likely be undertaken, and the proposed market to be reached; the number of visitors who are projected to stay overnight at the Gaming Facility; and other examples of joint marketing ventures, if any, undertaken by the Applicant in other jurisdictions.
- c. Submit as Exhibit VIII. B.9.c. a description of the strategies to be used by the Applicant to deal with the cyclical/seasonal nature of tourism demand and ensure maximum use of the Gaming Facility project throughout the entire calendar year.

10. SUPPLEMENTAL TAX PAYMENT

For a Gaming Facility in Zone Two, PML Section 1351 imposes a tax on Gross Gaming Revenues. The tax imposed is as set forth below:

- a. For a Gaming Facility located in Region Two, forty-five (45) percent of Gross Gaming Revenue from slot machines and ten (10) percent of Gross Gaming Revenue from all other sources.
- b. For a Gaming Facility located in Region One, thirty-nine (39) percent of Gross Gaming Revenue from slot machines and ten (10) percent of Gross Gaming Revenue from all other sources.
- c. For a Gaming Facility located in Region Five, thirty-seven (37) percent of Gross Gaming Revenue from slot machines and ten (10) percent of Gross Gaming Revenue from all other sources.

PML Section 1351, however, allows an Applicant, in its Application, to agree to supplement the tax by providing in its Application to pay a binding supplemental fee, which is in addition to the tax imposed by PML Section 1351.

Submit as Exhibit VIII. B.10. a statement as to whether the Applicant agrees to pay a binding supplemental fee if the Applicant is awarded a License. If yes, describe the amount of the binding supplemental fee. Any agreement to pay a binding supplemental fee will become a condition to the License. If the Applicant does not agree to pay a binding supplemental fee, it should explicitly state such.

11. LICENSING FEE

A Licensee must pay a minimum licensing fee, set below, within thirty (30) days after the award of a License. However, nothing shall prohibit an Applicant from agreeing to pay an amount in excess of the fees listed below:

| For a Gaming Facility located in: | The minimum licensing fee is: |
|---|--------------------------------------|
| <u>REGION 1</u> | |
| Region 1 in Dutchess or Orange Counties | \$70,000,000 |
| If no License is awarded for a Gaming Facility located in Dutchess or Orange Counties, then for the remaining portion of Region 1 (comprising Columbia, Delaware, Greene, Sullivan and Ulster Counties) | \$50,000,000 |
| If a License is awarded for a Gaming Facility located in Dutchess or Orange Counties, then for the remaining portion of Region 1 (comprising Columbia, Delaware, Greene, Sullivan and Ulster Counties) | \$35,000,000 |
| <u>REGION 2</u> | \$50,000,000 |
| <u>REGION 5</u> | |
| Region 5 in Broome, Chemung, Schuyler, Tioga or Tompkins Counties | \$35,000,000 |

Region 5 in Wayne or Seneca Counties \$50,000,000

If a License is awarded for a Gaming Facility located in Wayne or Seneca Counties, then for the remaining portion of Region 5 (comprising Broome, Chemung, Schuyler, Tioga and Tompkins Counties) \$20,000,000

If an Applicant agrees to pay a licensing fee in excess of the fee set forth above for its proposed Gaming Facility, the Applicant shall submit as Exhibit VIII. B.11. a statement as to the Applicant's agreement to pay a licensing fee in excess of the amount set forth above and state the amount Applicant agrees to pay. If an Applicant agrees to pay only the licensing fee set forth above for its proposed Gaming Facility, then the Applicant shall so state.

The Board, if requested by an Applicant or Applicants at the mandatory applicant conference, may, in its discretion, thereafter choose to establish an alternative licensing fee required of a Licensee in a Region in the event that the Board selects two Applicants from such Region to proceed to the Commission for consideration of licensure.

C. LAND, CONSTRUCTION AND DESIGN OF PHYSICAL PLANT

1. DESCRIPTION OF LAND

- a. Submit as Exhibit VIII. C.1.a. the address, legal description, maps, book and page numbers from the appropriate registry of deeds for the location of the Applicant's gaming facility.
- b. Submit as Exhibit VIII. C.1.b. the assessed value of each parcel of the land for the proposed gaming facility and of the existing facilities, improvements and infrastructure thereon, if any, as of the time of the Application. Provide a schedule of the real estate taxes paid on such property for the past five (5) years.
- c. Submit as Exhibit VIII. C.1.c. a description of, and aerial and surface photography demonstrating, the salient topographic, geographic, and vegetative characteristics of the land for the proposed gaming facility as well as any significant existing facilities, improvements or infrastructure thereon. Provide schematics/maps of topographical, geographic and vegetative features and facilities, improvements and infrastructure. Describe and provide schematics/maps illustrating (in scale) the relationship to surrounding development and infrastructure.
- d. Submit as Exhibit VIII. C.1.d. a reasonably detailed description, including the dimensions and total acreage, and provide a schematic/map illustrating the boundary of the area of the land constituting the Project Site.
- e. Submit as Exhibit VIII. C.1.e. a description of any geological or structural defect of the Project Site, and include a description of the engineering, design, and construction plans

- to remedy the defect. Indicate whether or not any of the Project Site is proposed to be located in a floodplain and, if so, include a description of the flood history of the site.
- f. Submit as Exhibit VIII. C.1.f. copies of any Phase I and II reports or any other investigations of site, sub-surface, geotechnical or environmental conditions or hazardous materials that have been completed relating to the condition of the Project Site.

2. OWNERSHIP OF LAND

- a. Submit as Exhibit VIII. C.2.a. a description of all ownership interests in the land for the past twenty (20) years, including all easements, options, encumbrances, and other interests in the property.

Pursuant to PML Section 1316, the Applicant must own or acquire the land where the Gaming Facility is proposed to be constructed within sixty (60) days after a License has been awarded (an Applicant shall be deemed to own the land if it has entered into a tenancy for a term of years under a lease that extends not less than sixty (60) years beyond ten (10) years for a License).

- b. Submit as Exhibit VIII. C.2.b. copies of any lease, deed, option, or other documentation and provide an explanation as to the status of the land upon which the proposed Gaming Facility will be constructed. If the Applicant does not currently possess an ownership interest in the land, provide an agreement and description of its plan as to how it intends to own or acquire, within sixty (60) days after a License has been awarded, the land where the Gaming Facility is proposed to be constructed. Further, state whether the land that the Applicant purchased or intends to purchase is publicly owned.
- c. Submit as Exhibit VIII. C.2.c. the total amount the Applicant has spent or proposes to spend to acquire or occupy the land for the proposed Gaming Facility. If other than a lump sum, provide a table indicating the amount spent or proposed to be spent in each year. If different from the amount spent, describe Applicant's total investment in the land.

3. ZONING

- a. Submit as Exhibit VIII. C.3.a. copies of current local zoning approvals and any rezoning or variances that are required and any land use approvals, a detailed explanation of the status of any request for any of the foregoing with copies of all filings, including a specific schedule of applications for zoning approvals and anticipated approval dates.
- b. Submit as Exhibit VIII. C.3.b. a description of the applicable zoning designation for the Project Site.
- c. Submit as Exhibit VIII. C.3.c. a list of any State and/or local permits or special use permits that the Applicant must obtain for the Project Site, and for such permits describe: (i) the procedure by which the Applicant shall obtain the permits; (ii) what conditions, if any, are likely to be placed on the permits; and (iii) the estimated dates by which the Applicant will obtain the permits.

4. MASTER PLAN AND BUILDING PROGRAM

- a. Submit as Exhibit VIII. C.4.a. a description of, and provide schematics illustrating, the Applicant's master plan for the land and the Project Site showing major activities and functions. Provide a phasing plan for the proposed components of the master plan, if applicable.
- b. Submit as Exhibit VIII. C.4.b. a detailed analysis of the suitability of the proposed Project Site for the proposed Gaming Facility and the ways in which the proposed Gaming Facility supports revitalization, if applicable, and the proposed relationship of the Project Site to adjoining land uses and proposed land uses to ensure compatibility with those adjoining land uses.
- c. Submit as Exhibit VIII. C.4.c. a description of, and provide a table indicating, the building program of the proposed Gaming Facility and master plan by major function/activity/use and square footage. Substantiate the basis for the proposed building program with reference to the projected visitation and gaming revenues in the gaming market study by, for example, comparison to comparable existing facilities and/or to capacity standards customary and reasonable in the gaming and hospitality industries.

5. DESIGNS AND LAYOUT

- a. Submit as Exhibit VIII. C.5.a. designs for the proposed Gaming Facility as follow:
 1. a site plan for the Project Site, including any off-site ancillary property to be used by Applicant in connection with the Gaming Facility.
 2. full build out floor plans by building and floor including front- and back- of-the-house areas with major function/activity/use and approximate square footage thereof denoted. For repetitive activities like a hotel tower, a typical floor plan may be provided where floors are materially similar.
 3. building elevations and perspectives (showing heights, relative scale and relationship to adjacent existing or proposed buildings and areas).
 4. cross-sections sufficient to illustrate the interrelation of principal building program components (e.g. of a hotel room tower, if any, to circulation areas, the hotel lobby and/or gaming floor).
 5. proposed hardscape, landscape and landscape treatments including any off-site improvements required to implement the proposal.
 6. exterior lighting design.
 7. plans for parking structures, if any. For parking structure floors, a typical floor plan may be provided where floors are materially similar.

8. surface parking and Project Site traffic circulation plan, including denotation of pick-up/drop-off areas for hotel and casino patrons, buses and valet parking and of parking areas for employees, patrons, valet-parked vehicles and buses if separate parking areas are to be provided.
- 9 high-quality, color perspective renderings of the exterior of the proposed Gaming Facility showing general massing and context of the overall building program layout from each of the principal exterior approaches.
- 10 at least one high-quality, color perspective rendering of the exterior of the proposed Gaming Facility at night showing the effect of the proposed exterior lighting design.
11. high-quality, color perspective renderings of significant interior spaces providing general orientation and a sense of layout including, for example, the main entrance lobby, gaming floor, convention lobby/ballroom and principal circulation space(s).
- 12 Project Site access plan indicating adjacent properties and buildings, streets, automobile and pedestrian access and site circulation, parking, building footprints, service areas, vegetation, tour bus drop-off facilities and other related infrastructure and access to and egress from all major traffic arterials and freeways identifying those off-site improvements required to implement the proposal.

Please do not provide any physical models.

- b. Submit as Exhibit VIII. C.5.b. a narrative description of the basis of the overall architectural and building plan, any unique or defining exterior and interior themes or characteristics and prevailing style. Describe how various aspects of the proposed plans are designed to interrelate and principal decisions as to the layout of the building program, consolidation or segregation of major functions/activities/uses and configuration of the building program to meet any constraints or opportunities presented by the Project Site. Describe how the programmatic and architectural decisions contribute to an overall superior customer experience or address unique challenges or opportunities of the proposed Gaming Facility and Project Site.
- c. Submit as Exhibit VIII. C.5.c. a description of the types of materials, finishes and furnishings that are proposed and how those complement or interrelate with the chosen style or theme.
- d. Submit as Exhibit VIII. C.5.d. interior and exterior photos or descriptions of analogous resort gaming facility projects in other jurisdictions, either of the Applicant or, if applicable, the Manager, or, if the Applicant or, if applicable, the Manager have few or no such analogous projects, of other operators of destination resort gaming facilities.

6. CASINO

- a. Submit as Exhibit VIII. C.6.a., a description of the proposed gaming area (or areas, if more than one is being considered). The description should include, but not be limited to, the following:
 1. Square footage of each sub-area and a total for all gaming space.
 2. Total number of planned table games, with a breakdown by game type and number of positions per table.
 3. Total number of slot machines.
 4. Number and description of other electronic gaming devices or specialty games being considered.
 5. Description of any special purpose rooms that are being considered (e.g., poker rooms, high-limit gaming areas, etc.).
 6. Layout of cage area, including number of windows, and a breakdown of special-use windows, if any.
 7. Description of size, layout, and location of count room.
 8. Layout of any players-club areas, include number of stations, location, etc.
 9. Include a description of any other gaming related amenities that are not included in this section, but are relevant to operation.
 10. If the plan is to build the facility in different phases, the information provided should be broken out to explain the details of each phase, and then the Applicant should show a final description of the finished product. All descriptions should include plans created with a Computer Aided Design type of software.
- b. Submit as Exhibit VIII. C.6.b. a description of any plans for special high limit or VIP programs and amenities, including areas such as club member lounges, dining areas, restrooms, or VIP hotel check-in area(s).
- c. Submit as Exhibit VIII. C.6.c. a description of any particular efforts (e.g., design, operations, and/or marketing) that are planned to differentiate the casino from competitors and to maximize the potential of the market.
- d. Submit as Exhibit VIII. C.6.d. a description of the attributes of the slot accounting system that is planned for Applicant's operation, which allows the Gaming Commission access for the purposes of auditing revenues and game status.
- e. Submit as Exhibit VIII. C.6.e. any details of casino operation that the Applicant believes should be included in the evaluation of its operation.

7. HOTEL

- a. Submit as Exhibit VIII. C.7.a. a description of the proposed hotel(s), including the types of rooms, the numbers and proposed square footage of each type of room at full build-out and for each phase, if applicable. Describe the level of service and, if known, the flag or brand of the proposed hotel. If more than one level of service and/or flag or brand is intended, describe each level of service and/or flag or brand and how they will be developed, operated, and marketed separately but may be operationally combined. Provide copies of any arrangements or agreements relating to branding, franchising and hotel loyalty or patronage programs planned in connection to the proposed hotel(s) that are different from the Applicant's or the Manager's branding and customer loyalty or patronage programs.
- b. Submit as Exhibit VIII. C.7.b. copies of any forecast, projections, analysis or studies used to determine the number and type of hotel rooms, level(s) of service and flag(s) or brand(s). Describe any assumptions and the bases thereof. Substantiate their reasonableness.
- c. If any part of the hotel(s) is not to be managed or operated by the Applicant or the Manager, submit as Exhibit VIII. C.7.c. the name of the proposed manager or operator of such part and provide copies of any contracts, agreements or understandings between the Applicant and/or the Manager and such manager or operator.
- d. Submit as Exhibit VIII. C.7.d. a forecast of the number of hotel rooms that will be used for casino and other forms of marketing or reserved for gaming establishment promotions and substantiate the basis of such forecast, for example, by comparison to comparable facilities.
- e. Submit as Exhibit VIII. C.7.e. a description, including square footage, any proposed spa, fitness and pool facilities for the hotel(s). If a pool is proposed, describe plans, if any, to mitigate water and energy (for heating) resource demands.
- f. Submit as Exhibit VIII. C.7.f. a description of any particular efforts – design, operations, and/or marketing – that are planned to differentiate the hotel from competitors and to maximize the potential of the market.
- g. Submit as Exhibit VIII. C.7.g. names of hotels of comparable quality to that of the proposed hotel(s) at the Gaming Facility.
- h. Specify in Exhibit VIII. C.7.h. whether linen supply, housekeeping, and laundry will be outsourced or retained within the Gaming Facility operations.

8. MEETING AND CONVENTION FACILITIES

- a. Submit as Exhibit VIII. C.8.a. a description of any proposed meeting and convention spaces, including attached back of house and catering facilities, by square footage and approximate participant capacity of each space.

- b. Submit as Exhibit VIII. C.8.b. a description of any proposed business center facilities.

9. ENTERTAINMENT VENUES

- a. Submit as Exhibit VIII. C.9.a. a description of the entertainment venues proposed for the Project Site whether located inside or outside the Gaming Facility, the square footage and patron capacity of each (minimum/maximum), admission charges/price, the contemplated frequency of events (e.g., number of entertainment events and entertainment days), and uses/types of entertainment to which the venues will be dedicated. Describe and provide copies of any arrangements or agreements with promoters, artists, or performance companies or troupes. Substantiate (e.g., by comparison to analogous projects) the bases for such plans and estimates.
- b. As a major goal of the Act is to enhance the State's live entertainment venues, submit as Exhibit VIII. C.9.b. a description of how the entertainment venues proposed for the Project Site are distinguished (whether by design or intended use) and intended to complement the impacted live entertainment venues identified pursuant to Item IX.B.2.
- c. Submit as Exhibit VIII. C.9.c. a description of the extent to which entertainment venues and plans are contemplated to be used for casino and/or other marketing. Include the manner in which the Gaming Facility will enhance entertainment venues already existing in the Host Municipality and nearby municipalities.

10. NON-GAMING AMENITIES

- a. Submit as Exhibit VIII. C.10.a. a description of:
 - 1. the proposed restaurants, including the approximate number, square footage and patron capacity, types and themes and the identity of any restaurateurs the Applicant anticipates will operate the restaurants.
 - 2. the proposed retail spaces, including the approximate number, square footage and types of retail shops and how such retail development will serve the general community.
 - 3. the proposed lounges and bars, including the approximate number, square footage and patron capacity and types.
 - 4. any proposed recreation facilities.
 - 5. any other proposed and related facilities or amenities.

If any of the above amenities are not proposed to be operated by the Applicant or the Manager, indicate the names of the proposed operators and provide copies of any contracts, agreements or understandings between the Applicant and/or the Manager and such operator.

- b. Submit as Exhibit VIII. C.10.b. a description of plans, if any, to highlight Host Municipality local and regional products, brands and cuisine in restaurants, lounges,

bars, retail spaces and ancillary amenities. Describe any proposed tie-ins or ventures with Host Municipality, local and regional establishments. Provide copies of any agreements or arrangements for the same. Describe how the Gaming Facility will complement and be compatible with the Host Municipality's culture and how it will showcase, stimulate and improve the use of existing and future attractions, including tourism and convention facilities within the Host Municipality and nearby municipalities

11. QUALITY OF AMENITIES

Submit as Exhibit VIII. C.11. a statement as to how the hotels, hotel rooms, restaurants and other amenities that are part of the proposed Gaming Facility will compare in quality to other area hotels, restaurants and amenities as well as those included and offered in other competitive gaming facilities.

12. HOURS OF OPERATION

Submit as Exhibit VIII. C.12. a description of the Applicant's proposed hours of operation for the various components of the proposed Gaming Facility including the casino, restaurants, bars and other amenities.

13. BACK OF HOUSE

Submit as Exhibit VIII. C.13. a description, including square footage, of back of house, security, kitchen and office facilities to support the remaining building program.

14. PARKING AND TRANSPORTATION INFRASTRUCTURE

- a. Submit as Exhibit VIII. C.14.a. a description of the approximate number, location and accessibility of parking spaces and structures for employees, patrons, valet-parked vehicles and buses. Substantiate (e.g. by inclusion of discussion in the independent traffic study to be provided pursuant to Item IX.A.2.b. of this RFA) the adequacy of parking and site circulation plans to service the projected visitor and employee demand.
- b. Submit as Exhibit VIII. C.14.b. a description of traffic circulation plans for the Project Site including ingress and egress of casino patrons, employees and suppliers including plans for tour bus, limousine and valet drop-off areas, plans for service vehicle parking, satellite parking and other related transportation infrastructure, and plans to offer refueling, overnight bus parking, disabled vehicle assistance, and convenience store facilities on site.

15. DOCK AND LOADING

Submit as Exhibit VIII. C.15. a description of the planned dock and loading facilities, as well as armored car bay, including by square footage and schematic diagram. Describe their adequacy to serve the planned program (e.g. by comparison to analogous facilities).

16. PHYSICAL PLANT AND MECHANICAL SYSTEMS

Submit as Exhibit VIII. C.16. a brief description of plans for mechanical systems and on-site infrastructure, with particular emphasis on unique features (e.g. district hot or cold water, on-site power generation, on-site water or waste treatment, etc.). Indicate whether the project relies on distributed or building HVAC, chilled and hot water, and other systems. Describe plans for systems redundancy, if any. Describe significant dedicated physical plant spaces by location and approximate square footage. Describe plans for emergency power generation and uninterruptable power supply.

17. INFRASTRUCTURE REQUIREMENTS

- a. Submit as Exhibit VIII. C.17.a. studies of independent engineers or other experts reporting projections of estimated fresh water and electricity demand (base and peak-period) and sanitary sewer and storm water discharge, each, for the proposed Gaming Facility. Include in those reports an assessment of the feasibility of any plans to accommodate that demand onsite (e.g. by onsite production of electricity, treatment of fresh or waste water, or detention of storm water).
- b. Submit as Exhibit VIII. C.17.b. a description of plans to address water and electricity use restrictions during peak demand periods.
- c. Submit as Exhibit VIII. C.17.c. a description of the electricity, sewer, water, and other utility improvements needed to adequately serve the Gaming Facility Site to include: (i) the estimated cost of the improvements; (ii) the estimated date of completion; (iii) the names of the parties, whether public or private, initiating the improvements; (iv) the names of the parties responsible for the costs of the improvements; and (v) if more than one party is responsible for the costs, the proportionate distribution of the costs among the parties.
- d. Submit as Exhibit VIII. C.17.d. a description of the roadway and traffic improvements needed to ensure adequate access to the Gaming Facility Site to include: (i) the estimated cost of the improvements; (ii) the estimated date of completion; (iii) the names of the parties, whether public or private, initiating the improvements; (iv) the names of the parties responsible for the costs of the improvements; and (v) if more than one party is responsible for the costs, the proportionate distribution of the costs among the parties.
- e. Submit as Exhibit VIII. C.17.e. a description of plans for management, detention and discharge of storm water on and from the Project Site to include (i) the estimated cost of the improvements; (ii) the estimated date of completion; (iii) the names of the parties, whether public or private, initiating the improvements; (iv) the names of the parties responsible for the costs of the improvements; and (v) if more than one party is responsible for the costs, the proportionate distribution of the costs among the parties.

For the improvements described in this section: (i) state whether local government approval is necessary for making the improvements; (ii) include a description of the procedure by which the local government approval is going to be obtained; (iii) indicate

all conditions likely to be placed on the local government approval; and (iv) indicate the estimated date by which local government approval will be granted.

18. PROJECT FIRMS

- a. Submit as Exhibit VIII. C.18.a. names, addresses and relevant experience of the architects, engineers, contractors and designers of the proposed Gaming Facility and related proposed infrastructure improvements.
- b. Submit as Exhibit VIII. C.18.b. the name, title, office address, email address, direct phone number and fax number of the Applicant's or, if applicable, the Manager's principal contact individual at each such firm.

19. CONSTRUCTION BUDGET

Submit as Exhibit VIII. C.19. a detailed construction budget showing the total costs of the Gaming Facility project including hard costs (e.g., land acquisition, site preparation, remediation of environmental conditions or hazardous materials; excavation, grading and earth works; foundation; erection of structures; materials and labor; equipment HVAC; electrical; plumbing; furnishings; landscaping; and site improvements, including infrastructure in direct relation to both construction and operations), construction soft costs (e.g., architectural, engineering and consulting fees; real estate commissions; recordation fees and transfer taxes; insurance; contingency reserve, etc.), financial and other expenses (e.g., financing fees; interest; legal; etc.) and pre-opening expenses (e.g., training, pre-opening marketing; and initial working capital), and timing of such expenditures, together with a construction cash flow analysis.

20. TIMELINE FOR CONSTRUCTION

- a. Submit as Exhibit VIII. C.20.a. a proposed timeline of construction of the proposed Gaming Facility that includes detailed stages of construction for opening phase of the Gaming Facility and non-gaming structures and all related infrastructure improvements. Include major events/milestones/deadlines, including design plans completed, construction bid award, construction financing received, site secured, start site mitigation/remediation if necessary, excavation, grading and earth works, start construction, approvals, infrastructure completion dates, permanent financing executed, certificate of occupancy, training start, building loading, system testing, dry runs, and the like, and the dates or deadlines associated therewith. Describe any proposed construction phasing plan, including the proposed sequence of any phases, whether any phases are dependent upon future events, and if so, clearly describe such future events, and the approximate dates of beginning and completion of each phase.
- b. Submit as Exhibit VIII. C.20.b. a description of anticipated street and sidewalk closures, plans for redirecting traffic, impacts on existing parking, if any, noise and dust impacts, and plans for mitigating such impacts both during and following construction. Describe measures that will be taken to mitigate all construction impacts on the local community.

In the event the financing for any further phase is not included in Item VIII.A.6. of this RFA, indicate the anticipated sources of financing for such phase and the details of such financing.

- c. Submit as Exhibit VIII. C.20.c. an explanation as to how quickly after issuance of a License the Applicant would expect to commence construction of the Gaming Facility and explain conditions precedent to be satisfied prior to the Applicant being able to commence said construction.
- d. If the Applicant's plan for the proposed Gaming Facility is expected to displace or relocate any existing businesses, tenants or services, submit as Exhibit VIII. C.20.d. the Applicant's plans for relocating or compensating such displaced parties.
- e. Submit as Exhibit VIII. C.20.e. a proposed date for the proposed Gaming Facility to open for gaming and indicate major risks to such proposed opening date and the range of probable delays associated with each. Describe plans to mitigate such risks. Indicate whether the proposed Gaming Facility will open in phases or all at one time. If the facility is to open in phases, provide a detailed description of what will open in each phase and the proposed opening date for each phase and/or what conditions each such opening date will be contingent upon. Provide Applicant's commitment for a proposed outside date, notwithstanding any delays, for substantial completion of the initial fully operational phase of the proposed Gaming Facility.

21. CONSTRUCTION JOBS

Submit as Exhibit VIII. C.21. a table indicating by trade and calendar quarter the number of construction hours, the average daily number of full time equivalent ("FTE's") workers expected to work on the project, the average monthly compensation and benefits per FTE, the average monthly total labor cost per FTE (compensation plus benefits). Provide overall and by trade the total construction hours, FTEs, compensation, benefits, and labor cost for the entire construction period.

22. GAMING EQUIPMENT VENDORS

Realizing that formal plans may not be finalized, submit as Exhibit VIII. C.22. the names of all proposed vendors of gaming equipment to the best of your present knowledge and belief, including, without limitation, slot machines, table games, bases and chairs, signage, cage and count room equipment, player club systems, accounting and TITO systems, etc.

D. INTERNAL CONTROLS AND SECURITY SYSTEMS

1. INTERNAL CONTROLS AND SECURITY SYSTEMS

- a. The Commission will develop regulations governing internal controls for all gaming facilities in the near future. To assist the Board in its evaluation of the Applicant, the Board is interested in knowing what standards the Applicant anticipates adhering to at its Gaming Facility. Accordingly, subject to any adjustments required upon promulgation of the future regulations, submit as Exhibit VIII. D.1.a. a full description of

- the proposed internal controls, electronic surveillance systems, and security systems for the proposed Gaming Facility and any related facilities, including, for example, any contemplated internal audits, independent external audits, separation of accounting and cage processes for independent verifications, cage and count room supervision, gaming floor drop processes, and other asset preservation and secure cash handling systems and processes. Where third-parties are to be engaged (e.g., external audit and law enforcement/safety entities), so indicate. Indicate how these efforts will achieve risk management/control goals at the enterprise/Licensee level as well as regulatory, law enforcement, and other local, regional, State, and Federal levels as applicable.
- b. Submit as Exhibit VIII. D.1.b. a projected table of organization for the entire project. For compliance, accounting, audit (both financial and internal control), security, and surveillance show additional detail that includes staffing levels and identifies the critical departments of detailed organization charts for each control/risk management related activity (e.g., positions in compliance, accounting, cage, cashiering, count room(s), credit issuance, credit collection, asset management, and income control), data processing, internal audit, compliance and security, and surveillance. Show staffing levels for each position. If risk management/control is vested in other departments, functions or activities, identify them and describe their role. Indicate which staff position(s) would be responsible for communications with the Commission.

IX. LOCAL IMPACT AND SITING FACTORS

(Statutory Value: 20 percent)

A. ASSESSMENT OF LOCAL SUPPORT / MITIGATION OF LOCAL IMPACT

1. ASSESSMENT OF LOCAL SUPPORT

As stated previously as a condition of acceptance of this Application, local support must be demonstrated through a post-November 5, 2013 vote of the local legislative body of each Host Municipality.

- a. Submit as Exhibit IX. A.1.a. a copy of a resolution passed by the local legislative body of each Host Municipality supporting the Application.
- b. Submit as Exhibit IX. A.1.b. a list of any other evidence of local support including public statements and declarations, letters or resolutions from the Host Municipality, nearby municipalities, private organizations, community, religious and civic groups, charitable organizations, entertainment venues, chambers of commerce, local businesses, labor organizations, etc.

NOTE: Referring to the November 5, 2013 election results for Proposition 1 of a specific locality or the Host Municipality is NOT an acceptable demonstration of local support and will not be considered as part of the evaluation.

2. LOCAL IMPACTS AND COSTS

- a. Submit as Exhibit IX. A.2.a. studies completed by independent experts showing the proposed Gaming Facility's cost to each Host Municipality, nearby municipalities and the State for the proposed Gaming Facility including, without limitation, the incremental effect on local government services (police, fire, EMS, health and building inspection, schools, public health and addiction services and general government services); and
- b. Submit as Exhibit IX. A.2.b. studies completed by independent experts showing the local and regional impacts of the proposed Gaming Facility in each of the following areas: traffic and roadway infrastructure; water demand, supply and infrastructure capacity; waste water production, discharge, and infrastructure capacity; storm water discharge and management; electricity demand and infrastructure capacity; protected habitats and species; and light pollution.

Each independent expert's study should describe the background, qualifications and experience on similar projects of the preparer and contain a description of the background conditions in

the comparable year (i.e. assuming economic, traffic, and demographic conditions, etc. continue to develop as to trend without the proposed Gaming Facility) and under the build scenario with express enumeration of assumptions. The report should include a comparison to similar projects or scenarios. The build scenario and assumptions should reasonably correspond to the description of the proposed Gaming Facility, revenue and visitation projections, and expense and employment estimates included in the Application. That is, the Applicant and the various independent studies should present comparable assumptions and build scenarios. Where independent studies depend on visitation or revenue assumptions, they should include analysis of the low-, average- and high-cases analogous to the same used for the gaming market and tax studies. Studies should explain their methodology, report their results and compare those results to actual observed conditions in similar built projects. The reports should critique and analyze the adequacy of the Applicant's proposed mitigation plans to address the identified impacts of the build conditions.

3. MITIGATION OF IMPACT TO HOST MUNICIPALITY AND NEARBY MUNICIPALITIES

Submit as Exhibit IX. A.3. a description of Applicant's commitments to mitigate impacts of the proposed Gaming Facility (during construction and operation) on each Host Municipality and the nearby municipalities including for traffic mitigation, infrastructure costs, costs of increased emergency services and the other impacts identified in the studies included in Item IX.A.2.b of this RFA. Provide copies of any contracts, agreements or other understandings evidencing such mitigation commitments.

4. HOUSING

Submit as Exhibit IX. A.4. an assessment of the likely impact on the housing stock in each Host Municipality and nearby municipalities resulting from the new jobs the Gaming Facility provides, and the Applicant's plans and commitments to remedy or mitigate any negative impacts. Provide copies of any contracts, agreements or other understandings evidencing such mitigation commitments.

5. SCHOOL POPULATION

Submit as Exhibit IX. A.5. an assessment of the likely impact on school populations in the Host Municipality and nearby municipalities resulting from new jobs the Gaming Facility provides, and the Applicant's plans and commitments to remedy or mitigate any negative impacts. Provide copies of any contracts, agreements or other understandings evidencing such mitigation commitments.

B. REGIONAL TOURISM AND ATTRACTIONS

1. LOCAL BUSINESS PROMOTION

Submit as Exhibit IX. B.1. a description of plans for promoting local businesses in Host Municipality and nearby municipalities including developing cross-marketing strategies with local restaurants, small businesses, hotels and retail facilities. Provide copies of any contracts, agreements or other understandings evidencing such cross-marketing.

2. PARTNERSHIPS WITH LIVE ENTERTAINMENT VENUES

A major goal of the Act is to enhance the State's live entertainment venues.

- a. Submit as Exhibit IX. B.2.a. copies of any and all contracts, agreements, MOUs or other understandings with live entertainment venues that may be impacted by the Gaming Facility. Contracts, agreements, MOUs and understandings shall include terms and conditions governing cross marketing, coordination of performance schedules, booking of performers, arrangements or agreements with promoters, promotions and ticket prices. Also explain how the Gaming Facility intends to actively support the mission and operation of impacted live entertainment venues including any minimum dollar commitments and/or special efforts the Applicant will make to promote live entertainment venues.
- b. Submit as Exhibit IX. B.2.b. the identity of any entertainment venue that requested an agreement which the Applicant declined. Explain the reason for the declination, and describe the nature of the discussions or negotiations the Applicant had with the entertainment venue. Include any materials or statements from the venue that requested the agreement as to why it merited treatment as an impacted live entertainment venue.

3. LOCAL BUSINESS OWNERS

Submit as Exhibit IX. B.3. a description of plans for contracting with local business owners for provision of goods and services to the Gaming Facility, including developing plans designed to assist businesses in the State in identifying the needs for goods and services to the Gaming Facility.

4. LOCAL AGREEMENTS

Submit as Exhibit IX. B.4. copies of local agreements designed to expand Gaming Facility draw (i.e., number of patrons brought to the Region).

5. CROSS MARKETING

Submit as Exhibit IX. B.5. a description of plans for cross-marketing with other attractions. Provide copies of any contracts, agreements or other understandings evidencing such cross-marketing commitment.

X. WORKFORCE ENHANCEMENT FACTORS

(Statutory Value: 10 percent)

A. MEASURES TO ADDRESS PROBLEM GAMBLING

1. ON-SITE RESOURCES FOR PROBLEM GAMBLING

Submit as Exhibit X. A.1. a description of on-site resources that will be available to those affected by gambling-related problems, including procedures for the exclusion of self-identified problem gamblers who request that they be prohibited from entering facilities throughout the State's various gaming venues.

2. PROBLEM GAMBLING SIGNAGE

Submit as Exhibit X. A.2. a description of signs, alerts and other information that will be available in the proposed Gaming Facility to identify resources available for those affected by gambling related problems, including the New York State Office of Alcoholism and Substance Abuse Services (OASAS) HOPEline (1-877-8-HOPENY).

3. IDENTIFICATION OF PROBLEM GAMBLING

Submit as Exhibit X. A.3. a description of the initial and ongoing training that will be used to help Gaming Facility employees identify those who may have gambling-related problems, or self-identify, and assist them to obtain help for those problems.

4. SELF-EXCLUSION POLICIES

Submit as Exhibit X. A.4. a description of the exclusion policies that will be available for Gaming Facility patrons and employees, including the process to notify individuals of the availability of self-exclusion, the steps that will be taken to assist those who request exclusion and steps that will be taken to assure that excluded patrons are identified before gaining access to the gaming floor.

5. TREATMENT AND PREVENTION

Submit as Exhibit X. A.5. a description of plans to coordinate with local providers to facilitate assistance and treatment for those with gambling-related problems and plans to develop prevention programs targeted toward vulnerable populations.

6. HISTORICAL EFFORTS AGAINST PROBLEM GAMBLING

Submit as Exhibit X. A.6. a description of the processes proposed to address problem gambling at the other facilities it owns or controls, the effectiveness of those processes, and the metrics the Applicant will use to determine the effects.

B. WORKFORCE DEVELOPMENT

1. HUMAN RESOURCE PRACTICES

Submit as Exhibit X. B.1. a statement of whether the Applicant or, as applicable, the Manager has prepared, and how the Applicant or, as applicable, the Manager proposes to establish, fund and maintain human resource hiring and training practices at the proposed Gaming Facility that promote the development of a skilled and diverse workforce and access to promotion opportunities through a workforce training program that:

- a. establishes transparent career paths with measurable criteria within the Gaming Facility that lead to increased responsibility and higher pay grades that are designed to allow employees to pursue career advancement and promotion;
- b. provides employee access to additional resources, such as tuition reimbursement or stipend policies, to enable employees to acquire the education or job training needed to advance career paths based on increased responsibility and pay grades; and
- c. establishes an on-site child day-care program.

Further, identify whether the Applicant and, as applicable, the Manager plans to establish employee assistance programs, including those relative to substance abuse and problem gaming.

2. AFFIRMATIVE ACTION PLAN

Submit as Exhibit X. B.2. how the Applicant and, as applicable, the Manager proposes to establish and implement an affirmative action program that identifies specific goals for the engagement of minorities, women, persons with disabilities and veterans on construction jobs and service and professional jobs during operation.

3. JOB OPPORTUNITIES AND TRAINING FOR UNEMPLOYED

Submit as Exhibit X. B.3. the Applicant's and, as applicable, the Manager's strategy to provide on-the-job opportunities and training in areas, and with respect to regional and local demographic groups with high unemployment.

4. EXPERIENCE WITH HIRING UNEMPLOYED

Submit as Exhibit X. B.4. a description of the Applicant's and, as applicable, the Manager's approach and experience in the last ten (10) years with hiring in general, and with particular respect to demographic groups evidencing high unemployment.

5. ORGANIZED LABOR CONTRACTS

Submit as Exhibit X. B.5. a statement as to whether the Applicant and, as applicable the Manager has, is subject to, or is negotiating any contract with organized labor, including hospitality services, and whether the Applicant or, as applicable, the Manager has the support of organized labor for its Application, which specifies:

- a. the number of employees to be employed at the proposed Gaming Facility, including detailed information on the pay rate and benefits for employees and contractors,
- b. the total amount of investment in the proposed Gaming Facility and all infrastructure improvements related to the project,
- c. completed studies and reports including an economic benefit study, for the State, the Region, and the Host Municipality, and
- d. detailed plans for assuring labor harmony during all phases of the construction, reconstruction, renovation, development and operation of the Gaming Facility.

6. LABOR HARMONY

Submit as Exhibit X. B.6. a statement as to whether the Applicant or, as applicable, the Manager has entered into labor peace agreements with labor organizations that are actually engaged in representing gaming or hospitality industry workers in the State. Provide copies of any such agreements. If the Applicant or, as applicable, the Manager has not entered into such agreements, provide an instrument stating that it will enter into such labor peace agreements and maintain such labor peace agreements in place during the term of a License.

C. SUSTAINABILITY AND RESOURCE MANAGEMENT

1. TRAFFIC MITIGATION

Submit as Exhibit X. C.1. a description of the steps, plans and measures, including infrastructure improvements, to mitigate traffic flow and vehicle trips in the vicinity of the Gaming Facility. Include a description of plans to use public or alternate transportation methods and transportation demand management.

2. LEED CERTIFICATION

Submit as Exhibit X. C.2. a description of plans, including all proposed baseline and improved building design elements and measures, for its Gaming Facility to become certified under a certification category in the Leadership in Environmental and Energy Design (LEED) program created by the United States Green Building Council.

3. ENERGY EFFICIENT EQUIPMENT

Submit as Exhibit X. C.3. a description of Applicant's plans for ensuring use of Energy Star-rated equipment and high-efficiency HVAC equipment and appliances throughout the Gaming Facility complex.

4. STORM WATER

Submit as Exhibit X. C.4. a description of plans for management of storm water including any plans to use Institute for Sustainable Infrastructure techniques to minimize impact of storm water and maximize its reuse.

5. WATER CONSERVATION

Submit as Exhibit X. C.5. a description of plans for water efficiency and conservation at the Gaming Facility including, without limitation, plans to use low-flow water fixtures, water efficient appliances, and implement water conservation at the Gaming Facility.

6. RENEWABLE ENERGY

Submit as Exhibit X. C.6. a description of plans for procuring or generating on-site at least ten (10) percent of the facility's annual electricity consumption from renewable energy sources qualified by the New York State Energy Research and Development Authority (NYSERDA).

7. ENERGY CONSUMPTION MONITORING

Submit as Exhibit X. C.7. a description of plans for developing an ongoing system that will submeter and monitor all major sources of energy consumption and for undertaking regular and sustained efforts throughout the life-cycle of the facility to maintain and improve energy efficiency and reliance on renewable sources of power in all buildings and equipment that are part of the facility.

8. DOMESTIC SLOT MACHINES

Submit as Exhibit X. C.8. a description of plans for purchasing, whenever possible, domestically manufactured slot machines for installation in the Gaming Facility.

XI. POST-LICENSURE RESPONSIBILITIES

A. DEPOSIT TEN (10) PERCENT OF TOTAL INVESTMENT

Upon award of a License by the Commission, an Applicant must deposit ten (10) percent of the total investment proposed in the Application into an interest-bearing escrow account approved by the Commission.

This deposit will be held in escrow until the final stage of construction, as detailed in the timeline of construction submitted with the Application and approved by the Commission, at which time the deposit plus interest earned shall be returned to the Applicant to be applied for the final stage of construction.

In the event the Applicant is unable to complete the Gaming Facility, the deposit shall be forfeited to the State.

In place of a cash deposit, an Applicant may secure a deposit bond in a form acceptable to the Board insuring that ten (10) percent of the proposed capital investment shall be forfeited to the State if the Applicant is unable to complete the Gaming Facility.

B. PAY LICENSING FEE

A Licensee must pay a minimum licensing fee, set below, within thirty (30) days after the award of a License. However, nothing shall prohibit an Applicant from agreeing to pay an amount in excess of the fees listed below:

| For a Gaming Facility located in: | The minimum licensing fee is: |
|--|--------------------------------------|
| <u>REGION 1</u> | |
| Region 1 in Dutchess or Orange Counties | \$70,000,000 |
| If no License is awarded for a Gaming Facility located in Dutchess or Orange Counties, then for the remaining portion of Region 1 (comprising Columbia, Delaware, Greene, Sullivan and Ulster Counties): | \$50,000,000 |
| If a License is awarded for a Gaming Facility located in Dutchess or Orange Counties, then for the remaining portion of Region 1 (comprising Columbia, Delaware, Greene, Sullivan and Ulster Counties): | \$35,000,000 |
| <u>REGION 2</u> | \$50,000,000 |
| <u>REGION 5</u> | |
| Region 5 in Broome, Chemung, Schuyler, Tioga, Tompkins Counties | \$35,000,000 |

| | |
|--------------------------------------|--------------|
| Region 5 in Wayne or Seneca Counties | \$50,000,000 |
|--------------------------------------|--------------|

| | |
|---|--------------|
| If a License is awarded for a Gaming Facility located in Wayne or Seneca Counties, then for the remaining portion of Region 5 (comprising Broome, Chemung, Schuyler, Tioga and Tompkins Counties) | \$20,000,000 |
|---|--------------|

C. BEGIN GAMING OPERATIONS WITHIN TWO (2) YEARS

Any Licensee that fails to begin gaming operations within twenty-four (24) months following License award shall be subject to suspension or revocation of the License and may, after being found by the Commission, after notice and opportunity for a hearing, to have acted in bad faith in its Application, be assessed a fine of up to \$50 million.

D. ESTABLISH QUALIFICATIONS FOR CERTAIN PERSONS

Licensees must provide and satisfy all requests for information pertaining to qualification; waive liability as to the Commission, the Board and the State and its instrumentalities and agents, for any damages resulting from any disclosure or publication; consent to inspections, searches and seizures while at a Gaming Facility; supply handwriting exemplars; provide, on a continuing basis, any assistance or information required by the Commission; cooperate in any inquiry, investigation or hearing conducted by the Commission; be photographed and fingerprinted for identification and investigation purposes; and inform the Commission of any action believed to constitute a violation.

E. OBTAIN AND MAINTAIN CASINO KEY EMPLOYEE LICENSES

A Licensee, or a holding or intermediary company of a Licensee, may only employ as a “Casino Key Employee” individuals who hold valid Casino Key Employee licenses. Applicants for such license must produce information, documentation and assurances concerning qualification criteria. Criteria include, among others, financial stability, integrity and responsibility of the Applicant, good character, honesty and integrity.

F. REGISTER GAMING EMPLOYEES

Each gaming employee of a Licensee must have a valid registration on file with the Commission.

G. LICENSE VENDOR ENTERPRISES

Any business to be conducted with an Applicant or Licensee by a vendor offering goods or services that directly relate to gaming activity, including gaming equipment manufacturers, suppliers, repairers and independent testing labs, shall be licensed as a casino vendor enterprise prior to conducting any business with an Applicant or Licensee, its employees or agents (subject to other timing as determined by the Commission).

H. LICENSE AND REPORT ON JUNKET OPERATORS

A Licensee must file a report describing the operation of all junkets engaged in on the premises. Junket representatives must be licensed as Casino Key Employees.

I. OBTAIN OPERATION CERTIFICATE

A Licensee must obtain an operation certificate in order to open or remain open to the public.

J. MAINTAIN RECORD OF AGREEMENTS

A Licensee must maintain a record of all agreements in regard to the project.

K. ENTER LABOR PEACE AGREEMENT

A Licensee must produce documentation that it has entered into a labor peace agreement with each labor organization that is actively engaged in representing and attempting to represent gaming and hospitality industry workers in the State. This is an ongoing material condition of licensure. A Licensee must also ensure that operations conducted by contractors, subcontractors, licensees, assignees, tenants or subtenants and that involve gaming or hospitality industry employees will be done under a labor peace agreement.

L. PAY ANNUAL MACHINE AND TABLE FEES

A Licensee must pay an annual license fee of \$500 per slot machine and table at the Gaming Facility, as adjusted by the Commission for inflation as provided in PML Section 1348.

M. PAY REGULATORY INVESTIGATORY FEE

A Licensee must pay fees and charges established by the Commission for any investigations including, but not limited to, billable hours of the Commission staff involved in the investigation and costs of services, equipment and other expenses incurred during the investigation.

N. PAY ADDITIONAL REGULATORY COSTS

The Licensee bears any remaining costs of the Commission necessary to maintain regulatory control over gaming facilities that are not covered by the fees set forth in PML Section 1349; any other fees assessed under such section; or any other designated sources of funding, shall be assessed annually on Licensees in proportion to the number of gaming positions at each Gaming Facility. Each Licensee shall pay the amount assessed against it within thirty (30) days after the date of a notice of assessment from the Commission.

O. PAY TAX ON GAMING REVENUES BASED ON ZONE AND REGION

For a Gaming Facility in Zone two, PML Section 1351 imposes a tax on Gross Gaming Revenues. The amount of such tax imposed is as set forth below; provided, however, should a Licensee

have agreed within its Application to supplement the tax with a binding supplemental fee payment exceeding the aforementioned tax rate, such tax and supplemental fee shall apply for a Gaming Facility:

1. In Region Two, forty-five (45) percent of Gross Gaming Revenue from slot machines and ten (10) percent of Gross Gaming Revenue from all other sources.
2. In Region One, thirty-nine (39) percent of Gross Gaming Revenue from slot machines and ten (10) percent of Gross Gaming Revenue from all other sources.
3. In Region Five, thirty-seven (37) percent of Gross Gaming Revenue from slot machines and ten (10) percent of Gross Gaming Revenue from all other sources.

P. RETAIN UNCLAIMED FUNDS AND DEPOSIT IN THE COMMERCIAL GAMING REVENUE FUND

Unclaimed funds, cash and prizes shall be retained by the Gaming Facility licensee for the person entitled to the funds, cash or prize for one year after the game in which the funds, cash or prize was won. If no claim is made for the funds, cash or prize within one year, the funds, cash or equivalent cash value of the prize shall be deposited in the commercial gaming revenue fund established under PML Section 1352.

Q. PAY RACING INDUSTRY SUPPORT PAYMENTS

A Licensee that possesses a pari-mutuel wagering franchise or license awarded pursuant to PML Article 2 or Article 3, or who possessed in 2013 a franchise or a license awarded pursuant to PML Article 2 or Article 3 or is an articulated entity or such Applicant, shall maintain:

1. Payments made from video lottery gaming operations to the relevant horsemen and breeders organizations at the same dollar level realized in 2013, to be adjusted annually pursuant to changes in the consumer price index for all urban consumers, as published annually by the United States Department of Labor Bureau of Labor Statistics; and
2. Racing activity and race dates pursuant to PML Articles 2 and 3.

A Licensee that does not possess either a pari-mutuel wagering license or franchise awarded pursuant to PML Article 2 or Article 3 is issued a License, the Licensee shall pay:

1. an amount to horsemen for purses at the licensed racetracks in the region that will assure the purse support from video lottery gaming facilities in the region to the licensed racetracks in the region to be maintained at the same dollar levels realized in 2013 to be adjusted by the consumer price index for all urban consumers, as published annually by the United States Department of Labor Bureau of Labor Statistics; and
2. amounts to breeding and development funds to maintain payments from video lottery gaming facilities in the region to the funds to be maintained at the same dollar levels realized in 2013 to be adjusted by the consumer price index for all urban consumers, as published annually by the United States Department of Labor Bureau of Labor Statistics.

R. CONFIRMATORY AFFIDAVIT

All Applicants are advised that if a License is awarded as a result of this RFA, the successful Applicant will be required to complete a Confirmatory Affidavit in form determined by the Commission that confirms that the statements, affirmations and agreements made in the Applicant's RFA remain true and correct.

S. ISSUANCE OF LICENSES

When the Board recommends to the Commission which Applicants are to be considered for licensure, the Commission will undertake its licensing process. If the Commission finds an Applicant suitable for licensing, the Commission will issue a license, including any terms and conditions the Commission may require. All terms and conditions contained in the RFA, any amendments to the RFA, the Application, and the Board's decision statement shall be obligations and requirements of a Licensee.

XII. LIST OF REQUIRED EXHIBITS

| Number | Descriptive | Check If Included |
|-------------------|--|-------------------|
| Exhibit V | EXECUTIVE SUMMARY | |
| Exhibit VI.A. | NAME OF APPLICANT | |
| Exhibit VI.B. | CONTACT PERSON | |
| Exhibit VI.C. | LOCATION OF THE PRINCIPAL PLACE OF BUSINESS OF THE APPLICANT | |
| Exhibit VI.D. | TYPE OF BUSINESS FORMATION | |
| Exhibit VI.E. | TABLE OF OWNERSHIP | |
| Exhibit VI.F. | ORGANIZATIONAL CHART | |
| Exhibit VI.G. | NAMES, ADDRESSES AND EXPERIENCE OF DIRECTORS AND OFFICERS | |
| Exhibit VI.H. | NAMES, ADDRESSES AND OWNERSHIP AND OTHER INTERESTS | |
| Exhibit VI.I. | NAMES AND ADDRESSES OF PROMOTERS, SPONSORS AND OTHERS | |
| Exhibit VI.J. | REGION AND HOST MUNICIPALITIES | |
| Exhibit VI.K. | CONFLICTS OF INTEREST | |
| Exhibit VI.L. | PUBLIC OFFICIALS | |
| Exhibit VI.N. | CONTRACTS WITH STATE OF NEW YORK | |
| Exhibit VI.O. | CASINO MANAGER | |
| Exhibit VI.P. | ORGANIZATIONAL DOCUMENTS | |
| | 1. Certified copy of its certificate of incorporation, articles of incorporation or corporate charter | |
| | 2. Bylaws as amended through the date of the Application | |
| | 3. Certified copy of its certificate of formation or articles of organization of a limited liability company | |
| | 4. Limited liability company agreement or operating agreement as amended through the date of the Application | |
| | 5. Certified copy of its certificate of partnership | |
| | 6. Partnership agreement as amended through the date of the Application | |
| | 7. Certified copy of its certificate of limited partnership | |
| | 8. Limited partnership agreement as amended through the date of the Application | |
| | 9. Other legal instrument of organization | |
| | 10. Joint venture agreement | |
| | 11. Trust agreement or instrument, each as amended through the date of the Application | |
| | 12. Voting trust or similar agreement | |
| | 13. Stockholder, member or similar agreement | |
| Exhibit VIII.A.2. | APPLICANT MINIMUM CAPITAL INVESTMENT | |
| | a. Minimum Capital Investment | |
| | b. Prior Capital Investment | |

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| Exhibit VIII.A.3. | MARKET/REVENUE STUDY | |
| Exhibit VIII.A.4. | PRO-FORMA FINANCIAL INFORMATION | |
| Exhibit VIII.A.5. | BUSINESS PLAN | |
| Exhibit VIII.A.6. | CAPITAL AND FINANCING STRUCTURE | |
| | a. Financing Source Schedule | |
| | b. Financing Descriptive | |
| | c. Financing plans, arrangements and agreements | |
| | d. Financing plan analysis | |
| | e. Anticipated Financing Sources | |
| Exhibit VIII.A.7. | FINANCIAL STATEMENTS AND AUDIT REPORT | |
| | a. Financing Source Financial Statements | |
| | b. Financing Source Audit Reports | |
| Exhibit VIII.A.8. | DOCUMENTATION OF FINANCIAL SUITABILITY AND RESPONSIBILITY | |
| | a. Financial reports filed with government agencies and check records/ledgers | |
| | b. Financial references | |
| | c. Securities analysts' and credit rating agencies reports | |
| Exhibit VIII.A.9. | U.S. SECURITIES AND EXCHANGE COMMISSION FILINGS; NOTICES AND REPORTS TO FINANCING SOURCES AND EQUITY HOLDERS | |
| Exhibit VIII.A.10. | LEGAL ACTIONS | |
| Exhibit VIII.A.11. | BANKRUPTCY OR OTHER INSOLVENCY MATTERS | |
| Exhibit VIII.A.12. | BREACH OF CONTRACT | |
| Exhibit VIII.A.13. | TAX AUDIT | |
| Exhibit VIII.A.14. | LICENSES IN OTHER JURISDICTIONS | |
| | a. Gaming licenses issued | |
| | b. Disciplinary actions brought | |
| Exhibit VIII. A.15. | PROOF OF ADVANCING OBJECTIVES | |
| | a. Past similar Applicant/Manager experience | |
| | b. Publically announced acquisition, development or proposed competing gaming projects | |
| Exhibit VIII.A.16. | ADDITIONAL FINANCIAL COMMITMENTS | |
| Exhibit VIII.B.1. | MARKET ANALYSIS | |
| Exhibit VIII.B.2. | PLAYER DATABASE AND LOYALTY PROGRAM | |
| Exhibit VIII.B.3. | STUDIES AND REPORTS | |
| | a. Municipality, Region and State economic benefit impact studies | |
| | b. Local and regional economic impact study | |
| Exhibit VIII.B.4. | PROJECTED TAX REVENUE TO THE STATE | |
| Exhibit VIII.B.5. | REGIONAL ECONOMIC PLAN COORDINATION | |
| Exhibit VIII.B.6. | NEW YORK STATE SUBCONTRACTORS AND SUPPLIERS | |
| Exhibit VIII.B.7. | EMPLOYEES | |
| | a. Tables for total employees/pay rate/in-region and in state employees | |
| | b. Commitment to hire minimum number of employees | |
| Exhibit VIII.B.8. | COMPETITIVE ENVIRONMENT | |

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|--------------------|-----------------------------------|---|--|
| Exhibit VIII.B.9. | MARKETING PLANS | | |
| | a. | Target market | |
| | b. | Marketing plans | |
| | c. | Strategy to ensure maximum use | |
| Exhibit VIII.B.10. | SUPPLEMENTAL TAX PAYMENT | | |
| Exhibit VIII.B.11. | LICENSING FEE | | |
| Exhibit VIII.C.1. | DESCRIPTION OF LAND | | |
| | a. | Location information | |
| | b. | Assessed value of land | |
| | c. | Description of land | |
| | d. | Description of Project Site | |
| | e. | Geological or structural defect in Project Site | |
| | f. | Phase I or Phase II environmental reports | |
| Exhibit VIII.C.2. | OWNERSHIP OF LAND | | |
| | a. | All ownership interest in past 20 years | |
| | b. | Status of land | |
| | c. | Total amount spent/proposed to spend | |
| Exhibit VIII.C.3. | ZONING | | |
| | a. | Current zoning/proposed rezoning or variance | |
| | b. | Applicable zoning designation | |
| | c. | Necessary permits | |
| Exhibit VIII.C.4. | MASTER PLAN AND BUILDING PROGRAM | | |
| | a. | Master plan for land | |
| | b. | Suitability of Project Site | |
| | c. | Gaming Facility building program and | |
| Exhibit VIII.C.5. | DESIGNS AND LAYOUT | | |
| | a. | Designs | |
| | b. | Overall architectural and building plan | |
| | c. | Description of materials | |
| | d. | Photos/descriptions of analogous resorts | |
| Exhibit VIII.C.6. | CASINO | | |
| | a. | Description of proposed gaming area | |
| | b. | High limit | |
| | c. | Plans to differentiate casino | |
| | d. | Attributes of slot accounting system | |
| | e. | Additional details | |
| Exhibit VIII.C.7. | HOTEL | | |
| | a. | Description of proposed hotel | |
| | b. | Determination of number of rooms/service/etc. | |
| | c. | Proposed manager of hotel | |
| | d. | Usage and allotment of hotel rooms | |
| | e. | Spa, fitness and pool areas | |
| | f. | Plans to differentiate hotel from competitors | |
| | g. | Names of hotels of comparable quality | |
| | h. | Outsourcing of linen, housekeeping and laundry | |
| Exhibit VIII.C.8. | MEETING AND CONVENTION FACILITIES | | |
| | a. | Proposed meeting and convention space | |
| | b. | Proposed business center facilities | |

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| Exhibit VIII.C.9. | ENTERTAINMENT VENUES | |
| | a. | Description of entertainment venues |
| | b. | Marketing of entertainment venues |
| | c. | Entertainment venues contemplated |
| Exhibit VIII.C.10. | NON-GAMING AMENITIES | |
| | a. | Proposed restaurant/retail/lounges/bars/recreation/etc. |
| | b. | Promotion of local and regional amenities |
| Exhibit VIII.C.11. | QUALITY OF AMENITIES | |
| Exhibit VIII.C.12. | HOURS OF OPERATION | |
| Exhibit VIII.C.13. | BACK OF HOUSE | |
| Exhibit VIII.C.14. | PARKING AND TRANSPORTATION INFRASTRUCTURE | |
| | a. | Description of parking spaces and structures |
| | b. | Description traffic circulation plans |
| Exhibit VIII.C.15. | DOCK AND LOADING | |
| Exhibit VIII.C.16. | PHYSICAL PLANT AND MECHANICAL SYSTEMS | |
| Exhibit VIII.C.17. | INFRASTRUCTURE REQUIREMENTS | |
| | a. | Estimated fresh water and electricity demand |
| | b. | Peak demand plans |
| | c. | Necessary utility improvements |
| | d. | Necessary roadway and traffic improvements |
| | e. | Storm water management |
| Exhibit VIII.C.18. | PROJECT FIRMS | |
| | a. | Information on associated project firms |
| | b. | Contact information for associated project firms |
| Exhibit VIII.C.19. | CONSTRUCTION BUDGET | |
| Exhibit VIII.C.20. | TIMELINE FOR CONSTRUCTION | |
| | a. | Proposed construction timeline |
| | b. | Proposed closures |
| | c. | Commencement of construction |
| | d. | Dislocation due to construction |
| | e. | Proposed opening date of Gaming Facility |
| Exhibit VIII.C.21. | CONSTRUCTION JOBS | |
| Exhibit VIII.C.22. | GAMING EQUIPMENT VENDORS | |
| Exhibit VIII.D.1. | INTERNAL CONTROLS AND SECURITY SYSTEMS | |
| | a. | Proposed internal controls |
| | b. | Projected table of organization |
| Exhibit IX.A.1. | ASSESSMENT OF LOCAL SUPPORT | |
| | a. | Copies of resolution |
| | b. | Other evidence of local support |
| Exhibit IX.A.2. | LOCAL IMPACTS AND COSTS | |
| | a. | Cost to host municipalities and State |
| | b. | Local and regional impacts |
| Exhibit IX.A.3. | MITIGATION OF IMPACT TO HOST MUNICIPALITY AND NEARBY MUNICIPALITIES | |
| Exhibit IX.A.4. | HOUSING | |
| Exhibit IX.A.5. | SCHOOL POPULATION | |
| Exhibit IX.B.1. | LOCAL BUSINESS PROMOTION | |
| Exhibit IX.B.2. | PARTNERSHIPS WITH LIVE ENTERTAINMENT VENUES | |

| | | | |
|-----------------|----|--|--|
| | a. | Agreements with impacted entertainment venues | |
| | b. | Declined agreements | |
| Exhibit IX.B.3. | | LOCAL BUSINESS OWNERS | |
| Exhibit IX.B.4. | | LOCAL AGREEMENTS | |
| Exhibit IX.B.5. | | CROSS MARKETING | |
| Exhibit X.A.1. | | ON-SITE RESOURCES FOR PROBLEM GAMBLING | |
| Exhibit X.A.2. | | PROBLEM GAMBLING SIGNAGE | |
| Exhibit X.A.3. | | IDENTIFICATION OF PROBLEM GAMBLING | |
| Exhibit X.A.4 | | SELF-EXCLUSION POLICIES | |
| Exhibit X.A.5. | | TREATMENT AND PREVENTION | |
| Exhibit X.A.6 | | HISTORICAL EFFORTS AGAINST PROBLEM GAMBLING | |
| Exhibit X.B.1. | | HUMAN RESOURCE PRACTICES | |
| Exhibit X.B.2. | | AFFIRMATIVE ACTION PLAN | |
| Exhibit X.B.3. | | JOB OPPORTUNITIES AND TRAINING FOR UNEMPLOYED | |
| Exhibit X.B.4. | | EXPERIENCE WITH HIRING UNEMPLOYED | |
| Exhibit X.B.5. | | ORGANIZED LABOR CONTRACTS | |
| Exhibit X.B.6. | | LABOR HARMONY | |
| Exhibit X.C.1. | | TRAFFIC MITIGATION | |
| Exhibit X.C.2. | | LEED CERTIFICATION | |
| Exhibit X.C.3. | | ENERGY EFFICIENT EQUIPMENT | |
| Exhibit X.C.4. | | STORM WATER | |
| Exhibit X.C.5. | | WATER CONSERVATION | |
| Exhibit X.C.6. | | RENEWABLE ENERGY | |
| Exhibit X.C.7. | | ENERGY CONSUMPTION MONITORING | |
| Exhibit X.C.8. | | DOMESTIC SLOT MACHINES | |
| Attachment 1 | | AFFIRMATION | |
| Attachment 2 | | ADDENDUM ACKNOWLEDGEMENT FORM | |
| Attachment 3 | | WAIVER, RELEASE, COVENANT NOT TO SUE AND INDEMNIFICATION | |

ATTACHMENT 1: AFFIRMATION

I, _____, on behalf of _____, hereby affirm under the penalty of perjury and subject to Section 210.10 of New York Penal Law, (Perjury in the Second Degree, a class E felony), that the information contained in this RFA Application and all materials accompanying said Application are true and accurate to the best of my knowledge and understanding; that I have reviewed the information contained in the RFA Application for accuracy; that I read and understand the questions and responses on the RFA Application; that any document accompanying this RFA Application that is not an original document is a true copy of the original document; that I have read and understood all applicable provisions of PML Sections 1317 and 1318; that the Applicant agrees to all terms, conditions, and obligations made applicable to all Applicants for a Gaming Facility license; that in the event that the Applicant is awarded a Gaming Facility license it agrees to all obligations, terms, and conditions imposed upon a successful Applicant; and that I am authorized to submit this Application on behalf of the Applicant.

APPLICANT

REPRESENTATIVE SIGNATURE

ATTACHMENT 2: ADDENDUM ACKNOWLEDGEMENT FORM

Addendum Number

Date Addendum Issued

Summary:

By signing below, the Applicant attests to receiving and responding to the addendum number indicated above.

APPLICANT

REPRESENTATIVE SIGNATURE

ATTACHMENT 3: WAIVER, RELEASE, COVENANT NOT TO SUE AND INDEMNIFICATION

This Waiver, Release, Covenant Not to Sue and Indemnification Agreement (“**Agreement**”) is entered into by and between the New York State Gaming Facility Location Board (“**Board**”) and _____, as (Manager) (Applicant) (indirect owner of Manager), (indirect owner of Applicant) (direct owner of Manager) (direct owner of Applicant) (hereinafter “**Proposer**”).

WHEREAS, Proposer is, or has a proprietary or direct or indirect ownership relationship with, a Manager or an Applicant that is filing or has filed an application (“**Application**”) for a gaming facility license (“**License**”) pursuant to Chapter 174 of the Laws of 2013, Upstate New York Gaming Economic Development Act of 2013, as amended by Chapter 175 of the Laws of the 2013, each of the State of New York (the “**Act**”);

WHEREAS, in consideration of the Board’s acceptance of the Application for review, the Board has required the Proposer to agree to release, indemnify and hold harmless the Board and the New York State Gaming Commission, and the State of New York and their respective representatives, agents, employees, officers, directors, elected or appointed officials commissioners, consultants and board members (collectively the “**New York Agencies**”), as more fully set forth below, and to waive any current or future, known and unknown, claim, appeal, review or reconsideration concerning, related to, or in any way involving: (i) the Act, the Application process, the consideration, selection and evaluation of any Application, and the administration of the Act; (ii) the investigation of any Applicant, Manager or Related Party with respect to any Application; (iii) the release or disclosure of any information provided by any Applicant or Manager or owner of an Applicant or Manager, or otherwise obtained during the Application and investigation process; (iv) the issuance of any License; or (v) the use, investigation or processing of any information found or provided during the Application and investigation process.

WHEREAS, the Proposer is a sophisticated business/person, has been represented by counsel and other advisors and/or consultants and has not relied upon anything the New York Agencies have communicated but instead on its own investigation, review and inquiry and determined to submit his/her/its Application and to release, waive and surrender any claim, past, present or future, and to indemnify and defend the New York Agencies from any claim involving the Application or the Application process.

WHEREAS, the Proposer acknowledges and agrees that the receipt and acceptance by the Board of the Application is full and adequate consideration for the promises, covenants and undertakings in this Agreement.

NOW, THEREFORE, it is hereby agreed:

1. The recitals are incorporated herein and made a part of the Agreement;
2. Proposer, on behalf of himself/herself/itself and his/her/its agents, servants, representatives, affiliates, parents, subsidiaries, directors, officers, employees, assigns, predecessors and successors (and their heirs, estates, executors, spouses), covenants and agrees to release, waive, covenant not to sue or make any current or future, known and unknown, claim for damages, costs, fees, expenses or request any relief whatsoever, including but not limited to equitable relief arising from, related to or otherwise involving: (i) the Act, the Application process, the consideration, selection and evaluation of any Application and the administration of the Act; (ii) the investigation of any Applicant, Manager or Related Party with respect to any Application; (iii) the release or disclosure of any information provided by any Applicant or Manager or

- owner of an Applicant or Manager or otherwise obtained during the Application and investigation process; (iv) the issuance of any License; or (v) the use, investigation or processing of any information found or provided during the Application and investigation process.
3. The Proposer on behalf of himself/herself/itself and his/her/its agents, servants, representatives, affiliates, parents, subsidiaries, directors, officers, employees, assigns, predecessors and successors (and their heirs, estates, executors, spouses) covenants and agrees not to seek appeal, review or reconsideration of any decision or action of the New York Agencies.
 4. Proposer, on behalf of himself/herself/itself and his/her/its agents, servants, representatives, affiliates, parents, subsidiaries, directors, officers, employees, assigns, predecessors and successors (and their heirs, estates, executors, spouses) covenants and agrees to indemnify, defend and hold the New York Agencies harmless from and against any current or future, known and unknown, claim, cause, suit, cause of action, damages, costs, damages and expense, including attorney's fees, (whether known or unknown, suspected or unsuspected, contingent or liquidated) arising from or related to or otherwise involving: (i) the Act, the Application process, the consideration, selection and evaluation of any Application and the administration of the Act; (ii) the investigation of any Applicant, Manager or Related Party with respect to any Application; (iii) the release or disclosure of any information provided by any Applicant or Manager or owner of an Applicant or Manager or otherwise obtained during the Application and investigation process; (iv) the issuance of any License; or (v) the use, investigation or processing of any information found or provided during the Application and investigation process.
 5. Each of the promises, covenants and agreements set forth in Paragraphs 1-4 above run in favor of the New York Agencies.
 6. Capitalized terms used but not defined in this Agreement shall have the meanings defined in the Board's Request for Applications under the Act dated March 31, 2014, as the same may be amended from time to time.

NEW YORK GAMING FACILITY LOCATION BOARD

By: _____
Its: _____

Dated: _____

Applicant

Manager

Owner*

Dated: _____

* The legal guardian of any minor owner must execute on his or her behalf.