



**Gaming Facility
Location Board**

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

January 3, 2023

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OVERVIEW

INTRODUCTION:

Dear Applicant:

The New York Gaming Facility Board issues this Request for Applications to solicit proposals for up to three casinos in New York State.

In 2013, the New York State Constitution was amended to authorize up to seven commercial casinos in the state. Subsequently, the State sited four destination resort casinos in upstate New York.

In 2022, the enacted New York State budget established a new siting process and criteria for the remaining three licenses. This process is similar to the previous processes – competitive, with clearly defined legislative purposes and intent. However, there are significant differences from the previous process – namely the requirement of a Community Advisory Committee’s approval and full completion of all zoning requirements before the Board may evaluate an application.

Revenue from new gaming facilities is expected to generate substantial fiscal benefit to New York’s public schools, local governments, and problem gambling treatment services. The jobs created by these casinos must deliver livable wages to help families live, stay, and prosper in New York.

The Board echoes Commission Chair Brian O’Dwyer’s sentiment that these projects can transform a community. The statutory prerequisites of obtaining approval from a separate, appointed Community Advisory Committee and successfully completing the municipal zoning and land-use processes ensures that only projects embraced by the community are placed before the Board for consideration.

As this process unfolds, the Board expects to hear a variety of viewpoints from communities potentially impacted by proposed projects. The Board welcomes such input and will consider all public comments received during the process.

The Board encourages responsible, ethical, innovative, and employee-minded businesses seeking to generate and expand access to economic opportunities in New York State to respond to this RFA.

As Chairman O’Dwyer has said, “this [process] is a tabula rasa.” We look forward to an open, transparent and competitive competition. On behalf of the State of New York, the Board thanks you for your interest in bringing more world-class casino gaming to the State.

Sincerely,
Quenia A. Abreu
Vicki L. Been
Stuart Rabinowitz
Gaming Facility Location Board

DUTIES OF THE BOARD:

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 Board is authorized by PML Section 1306 to, without limitation:

- Issue a RFA
- Assist the Commission in prescribing the information required in response to the RFA, including an Applicant’s “antecedents, habits, character, associates, criminal record, business activities and financial affairs, past or present”
- Develop criteria, in addition to those specified in the law, to assess which applications provide the highest and best value to the State, the zone and the region
- Determine the license fee
- Determine, 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
- Have the authority to conduct investigative hearings concerning the conduct of gaming and gaming operations
- Issue detailed findings of facts and conclusions demonstrating the reasons supporting its decisions to select Applicants for commission licensure
- Report annually to the Governor and Legislature
- Promulgate rules and regulations
- Administer oaths and examine witnesses
- Review criminal and background history information of entities applying for a gaming facility license.

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 Board may then select up to three Applicants as potential Gaming Facility licensees.

If the Board makes such selections, advancing such Applicants for licensure consideration, then the Commission shall undertake the licensing process. At that point, it is the Commission’s role to apply PML Section 1316 (as incorporated by PML Section 1321-f) to determine whether minimum license thresholds are met and to apply PML Sections 1317 and 1318 (as incorporated into PML Sections 1321-g and 1321-h) to determine that the applicant is suitable for licensure and not disqualified.

PML Section 1316 (as incorporated by PML Section 1321-f) provides for the following minimum license thresholds:

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

1. in accordance with the design plans submitted with the licensee’s application to the board, invest not less than the required capital under this article into the gaming facility;
2. own or acquire, within sixty days after a license has been awarded, the land where the gaming facility is proposed to be constructed; provided, however, that ownership of the land shall include a tenancy for a term of years under a

- lease that extends not less than sixty years beyond the term of the gaming license issued under this article;
3. meet the licensee deposit requirement;
 4. demonstrate that it is able to pay and shall commit to paying the gaming licensing fee;
 5. demonstrate to the commission how the applicant proposes to address problem gambling concerns, workforce development and community development and host and nearby municipality impact and mitigation issues;
 6. identify the infrastructure costs of the Host Municipality incurred in direct relation to the construction and operation of a gaming facility and commit to a community mitigation plan for the Host Municipality;
 7. identify the service costs of the Host Municipality incurred for emergency services in direct relation to the operation of a gaming facility and commit to a community mitigation plan for the Host Municipality;
 8. pay to the commission an application fee of one million dollars to defray the costs associated with the processing of the application and investigation of the applicant; provided, however, that if the costs of the investigation exceed the initial application fee, the applicant shall pay the additional amount to the commission within thirty 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;
 9. comply with state building and fire prevention codes;
 10. formulate for board approval and abide by a program to achieve diversity in the construction industry and to provide equal opportunity to jobs the casino construction generates whereby the applicant establishes specific goals for the utilization of minorities, women and veterans on construction jobs.

The Commission will not re-evaluate all of the Applicants, compare Applicants or consider, or re-consider, the selection criteria the Board will have considered and applied. The Commission will not substitute its judgment for that of the Board. The Commission will not decide whether it thinks the Board made the correct selections, nor will it exercise any review of the selection decisions the Board made. The Commission has no authority to select Applicants for gaming facility licensure consideration. The law gives the Board the sole power and authority to make those selections. The Commission is not an appellate body exercising review of the Board's processes or decision-making.

Rather, the Commission will consider only the Applicants that the Board will have selected and presented to the Commission. With respect to each of those Applicants, the law charges the Commission with determining whether each such Applicant is qualified for licensure, is not disqualified for licensure and has met statutory minimum qualifications for licensure. If the Commission concludes that those criteria are present for an applicant, the Commission will have the authority to grant a Gaming Facility license to such Applicant.

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 Gaming Facility licensee if a License is issued. Failure of the successful Applicant to accept these obligations may result in denial or revocation of a License.

STRUCTURE:

This RFA has two stages due to specific statutory requirements that must be met before the Gaming Facility Location Board may make an Applicant selection.

After the Return Date for this RFA, a Community Advisory Committee for each Application received may be formed pursuant to PML Section 1321-d(3)(a) and (b). The CAC will promptly receive a complete copy of the associated Application materials.

The Board cannot commence an evaluation of an Application unless:

- The applicable CAC has first approved the Applicant's Application with a two-thirds majority vote.
- The Applicant has presented evidence of compliance and approval with all required State and local zoning requirements.
- The Applicant, if applicable, has waived a potential recoverable license fee amount.
- The Applicant has paid the \$1 million application fee.

An Application received on or before the Return Date may not ultimately meet the CAC approval and zoning requirements and may not be considered by the Board.

Important components of the Application may depend upon understanding of the potential competitive landscape with other Applicants, which may only be gauged after the CAC and zoning processes have been completed.

Pursuant to PML Section 1321-j, the Board shall conduct an analysis of the revenue impact of each Applicant's proposed gaming facility on existing facilities and potential facilities.

Therefore, prior to the Supplement Return Date, the Board will provide Applicants with a scenario worksheet and request additional revenue and financial information.

Applicants will be asked to submit on the Supplement Return Date (Stage 2):

- Amended proposed tax rates
- An amended executive summary reflecting the proposed tax rate.
- A full independent market study
- A revenue study completed by an independent expert
- A description of the competitive environment in which the Applicant anticipates the proposed Gaming Facility will operate

These specific components are discussed in detail in the "**SUPPLEMENT RETURN DATE MATERIALS**" section.

SCHEDULE:

The statute on which this RFA is based requires each Applicant to successfully complete both the Community Advisory Committee and zoning processes before the Board may consider its application.

These processes are beyond the Board’s purview and control. Therefore, it is impossible – at the time of RFA issuance – to establish realistic timeframes relating to the completion of these processes.

Accordingly, the Board has determined to not implement certain deadlines in this RFA upon issuance, beyond the due date for the first set of questions due and the Application Return Date. As Applicants meet the below milestones, the Board may implement additional deadlines for remaining components.

Stage 1:

RFA issued	January 3, 2023
Applicants’ first set of questions due by 4:00 p.m. EST	February 3, 2023
Board responses to first set of questions	To be announced
Applicants’ second set of questions due by 4:00 p.m. EST	30 Days from the Board’s response to the first set of questions
Board responses to second set of questions	To be announced
Return Date: Applications due by 4 p.m. EDT	30 Days from the Board’s response to the second set of questions
CAC process begins	
Applicant submits revisions/updates based on CAC suggested changes (if applicable)	To be announced
CAC vote deadline	To be announced
Applicant submits proposal to applicable zoning authorities	To be announced

Stage 2:

Zoning completion deadline	To be announced
Board announces remaining Applicants	To be announced
Supplement Return Date: Supplements due by 4 p.m. ET	To be announced
Applicant public presentations to Board	To be announced
Board public comment event(s)	To be announced
Board selection of Applications to proceed to licensure consideration by the Commission	To be announced

PUBLIC PRESENTATIONS:

The Board reserves the right to require Applicants to publicly present an overview of the contents of the Application during Stage 2 and explain any particularly complex information, and highlight any specific areas it desires, including in the Supplement. 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 nycasinos.ny.gov the rules and procedures relating to the conduct of such presentations. These presentations are in addition to any presentations conducted by or mandated by the CAC.

PUBLIC HEARING:

The Board reserves the right to convene during Stage 2 a public hearing 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 community and nearby municipalities and the extent of required mitigation plans and receive input from members of the public from an impacted community.

Applicants and their agents and representatives are required to attend the public hearing(s), 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 and/or Supplement, including the scope and quality of the proposed gaming area and amenities, the integration of the proposed Gaming Facility into the community and nearby municipalities and the extent of required mitigation plans.

Representatives of the host community, 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 [on its website](#) 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.

LOBBYING RESTRICTIONS:

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.

Impermissible Contact with a Governmental Entity occurs when the Applicant contacts a person in a Governmental Entity who is not the designated contact person in an attempt to

influence the award. Any Applicant causing or attempting to cause a violation of those requirements may be disqualified from further consideration for selection.

The Commission reserves the right, in its sole discretion, to terminate a License if the Commission determines that the Lobbying certification filed by the Applicant was intentionally false or intentionally incomplete. Upon such determination, the Commission may exercise its termination right by providing written notification to the Gaming Facility licensee.

Note that the restricted period does not apply to an Applicant's provision of comments to proposed regulations of the Commission/Board or other responses by Applicants in reply to solicitations for public comment made by the Commission/Board.

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](#) are online.

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.

PERMISSIBLE CONTACTS:

The individual designated below is the only point 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:

Kristen Buckley
Kristen.Buckley@gaming.ny.gov
New York State Gaming Commission
One Broadway Center
Schenectady, NY 12301-7500

Communications with the Commission unrelated to the Application process (such as those made in the course of fulfilling statutory or regulatory reporting requirements) are not restricted.

QUESTIONS AND INQUIRIES:

Questions from Applicants in regard to this RFA must be submitted via electronic mail to Kristen.Buckley@gaming.ny.gov no later than the date(s) and time(s) specified in the **SCHEDULE** section of this RFA. Questions may be submitted at any time up to the applicable date(s) and time(s) in the **SCHEDULE**.

If questions are provided via an attachment to electronic mail, the questions must be provided in a Microsoft Word format. Neither faxed questions, telephone questions, nor questions submitted in a format other than Microsoft Word 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 Board's website](#).

An [Addendum Acknowledgement Form](#) is incorporated into this RFA only for informational purposes to 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 [Board's website](#) for updated information in regard 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.

CONTINUING DUTY TO UPDATE APPLICATION:

An Applicant must submit a Supplement of specific components to the Board at the beginning of Stage 2 of this RFA. Beyond these opportunities or requirements, 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 (including the Supplement) 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 (including the Supplement). 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 (including the Supplement) may be grounds for disqualification.

As a general rule, it is better to err on the side of over-reporting changes than to fail to report a change. Reporting a change will not, in and of itself, prejudice an Application or Supplement, but information provided will be evaluated against prior submissions and could affect the Board's evaluation positively or negatively, depending on the information provided.

NON-COLLUSIVE BIDDING REQUIREMENT:

An Applicant, by submitting an Application, warrants, under penalty of perjury, that its Application was arrived at independently and without collusion aimed at restricting competition. Each Applicant must further submit, at the time of the Supplement Return Date, a [Non-Collusive Bidding Certification](#).

PUBLIC NOTIFICATION/NEWS RELEASES:

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

CLARIFICATION PROCESS:

The Board, through its designees, reserves the right to contact any Applicant after the submission of its Application and/or Supplement exclusively for the purpose of clarifying any item submitted to ensure mutual understanding. This contact may include written questions, interviews, site visits, or requests for corrective pages in the Applications and/or Supplements. Responses must be submitted to the Board within the time specified in the request. As applicable, clarifications will be treated as addenda to the Applications and/or Supplements. Failure to comply with requests for additional information may result in rejection of the Applications as noncompliant.

STATE'S RESERVED AUTHORITY:

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

- Waive any requirement of this RFA that is not prescribed by the Act, or any defects of any Applications if, in the judgment of the Board, such waiver is deemed by the Board to further the policy objectives of the PML Article 13
- Eliminate any non-mandatory specification(s) that cannot be complied with by any of the Applicants
- Amend the RFA and direct Applicants to submit modifications to their Applications accordingly
- Change any of the scheduled dates stated in this RFA
- Reject any or all Applications received in response to this RFA, and reissue a modified version of this RFA
- Withdraw the RFA at any time, at the sole discretion of the Board
- Seek clarifications and revisions to Applications
- 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
- Disqualify any Applicant whose conduct and/or Applications fail to conform to the requirements of this RFA.

GAMING REGULATIONS:

Regulations governing commercial gaming in the State [may be found online](#).

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 Applications and/or Supplements, 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.

APPLICANT/LICENSEE DIFFERENTIATION:

Throughout this RFA, the terms Applicant and Gaming Facility licensee may be used 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 “Gaming Facility licensee.”

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 Operator 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.

APPLICANT INSTRUCTIONS:

GENERAL:

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 Operator, 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.

DURING THE APPLICATION PROCESS, NO APPLICANT, AGENT OF THE APPLICANT, QUALIFIER, OR OTHER ASSOCIATED INDIVIDUAL SHALL CONTACT A BOARD, COMMISSION OR (AFTER THE RETURN DATE) CAC MEMBER DIRECTLY CONCERNING THE SUBJECT MATTER OF THIS RFA. PLEASE REFER TO THE “PERMISSIBLE CONTACTS” SECTION OF THIS RFA.

To apply for a License:

- A completed Application and associated materials must be received by the Board via the Commission’s FTP server and/or physical delivery of a USB flash drive to the Commission’s Offices by 4 p.m. Eastern Daylight Time of the Return Date.
- A completed Supplement and associated materials must be received by the Board via the Commission’s FTP server and/or physical delivery of a USB flash drive to the Commission’s Offices by 4 p.m. Eastern Daylight Time of the Supplement Return Date.

The Board shall have no obligation to accept or review an Application and/or Supplement submitted after either Return Date.

The Applicant must submit by the Return Date:

- Completed Application and associated materials via the Commission’s high-speed file transfer system (specific guidance on uploading materials will be issued closer to the Return Date).
- Two USB flash drives, each with the Application and associated materials to the Commission’s Office.
- One hard copy of the Application and associated materials to the Commission’s Office.

The Applicant must submit on the Supplement Return Date:

- Completed Supplement and associated materials via the Commission’s high-speed file transfer system.
- Two USB flash drives, each with the Supplement and associated materials to the Commission’s Office.
- One hard copy of the Supplement and associated materials to the Commission’s Office.

FILE PARAMETERS/NAMING CONVENTIONS:

Files submitted in response to this RFA must follow specific requirements, including type and size parameters and naming conventions.

Naming convention:

- The Applicant must establish a standardized, short, easily distinguishable name to use as a prefix for all responsive file names (*i.e.*, the brand name of the project or parent company).
- Materials submitted in response to the BACKGROUND INVESTIGATION section must use “BG.” as the prefix before the standardized Applicant Name.
- File names must contain no spaces. Elements within each file name should be separated by a period (.).
- After the prefix for each file (as described in the first bullet, above), the remaining file name will be dictated by the instructions for each submission. (*e.g.*, BRAND.hotel.pdf)
- Files containing redactions must conclude with “.Redacted” before the applicable file extension suffix. (*e.g.*, BRAND.hotel.Redacted.pdf)
- Image files must employ the same naming convention and include a simple descriptor for what the image captures (*e.g.*, BRAND.hotel.lobby1.jpg)

File types and size:

- Generally, responsive files should be searchable .pdf files.
- Images should be submitted in .jpg format using the aforementioned naming convention.
- Each responsive file (.pdf or .jpg) should be no greater than 5MB.
- PDFs must be searchable.
- Within responsive files and wherever possible, Applicants should employ hyperlinks to supplemental, external, referenced and related materials.
- Videos must be uploaded to [YouTube](#), with links embedded as appropriate in Applicants’ materials.

Spreadsheets outlining models, forecasts, projections or tables should be organized so that the Board and the Board’s representatives may 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.

PUBLIC DISCLOSURE OF APPLICATION MATERIALS:

Upon both Return Dates, the Board will publicly announce the entities have submitted Applications and/or Supplements.

Applications, Supplements and associated materials will be treated as public records and, as soon as possible after both Return Dates, will be posted online for public review, with redactions of language exempt from disclosure pursuant to [New York State’s Freedom of](#)

Information Law (FOIL). Not subject to public disclosure, pursuant to FOIL, are materials that are:

- specifically exempted from disclosure by state or federal statute (§ 87(2)(a));
- those the disclosure of which would constitute an unwarranted invasion of personal privacy (§ 87(2)(b));
- those the disclosure of which would impair present or imminent contract awards or collective bargaining negotiations (§ 87(2)(c));
- trade secrets or information the disclosure of which would cause substantial injury to the competitive position of a commercial enterprise (§ 87(2)(d); see also PML Section 1312(2) (as incorporated by PML Section 1321-c));
- compiled for law enforcement purposes only to the extent that disclosure would:
 - interfere with law enforcement investigations or judicial proceedings;
 - deprive a person of a right to a fair trial or impartial adjudication
 - identify a confidential source or disclose confidential information relating to a criminal investigation
 - reveal criminal investigative techniques or procedures, except routine techniques and procedures (§ 87(2)(e));
- those that if disclosed could endanger the life or safety of any person (§ 87(2)(f));
- inter-agency or intra-agency materials which are not:
 - statistical or factual tabulations or data;
 - instructions to staff that affect the public;
 - final agency policy or determinations;
 - external audits, including but not limited to audits performed by the comptroller and the federal government (§ 87(2)(g));
- examination questions or answers which are requested prior to the final administration of such questions (§ 87(2)(h));
- those that, if disclosed, would jeopardize the capacity of an agency or an entity that has shared information with an agency to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures (§ 87(2)(i)); or
- are photographs, microphotographs, videotape or other recorded images exempted from disclosure (§ 87(2)(j) through (r)).

Redactions or excisions should be employed only in accordance with these specific exemptions from disclosure per FOIL. Generally:

- An Applicant's Application, Supplement and associated materials may contain some redacted material exempt from disclosure under the trade secret (§ 87(2)(d)), personal privacy (§ 87(2)(b)), and federal/state statutory exemptions (§ 87(2)(a)).
- An Applicant cannot claim the entire Application as confidential.
- Certain metrics, including but not limited to proposed employment figures, construction jobs, proposed investment, facility layout, etc., should not be redacted.
- The public should be able to determine the general nature of the material redacted and to retain as much of the proposal as possible.
- Applicants seeking additional information about compliance with FOIL should contact the [New York State Committee on Open Government](#).

If an Applicant designates any portion of an Application, Supplement or associated materials as exempt from disclosure or confidential pursuant to FOIL, the Applicant must:

- Submit both redacted and unredacted versions of each applicable file. The redacted file name must conclude with “.Redacted”. The redacted version will be posted online, while the unredacted version will remain confidential
- Conspicuously label each redacted section with the statutory reference for the applicable exemption (e.g., “87(2)(d)”)
- Submit a Statement of Necessity (.FOILStatement) with the Application that indexes each applicable exemption sought throughout the responsive materials, along with the name, address, email and phone number of the individual authorized by the Applicant to respond to any inquiries by the Board concerning the confidential status of the materials.

Unredacted portions of Applications, Supplements and associated materials will remain confidential as may be required by statute and reviewed by the Board, Commission staff and the CAC.

All determinations concerning whether Applications, Supplements and/or associated materials submitted in response to this RFA are subject to disclosure under FOIL will be made by the Board or the Commission, as applicable, in their sole discretion. The Board may retain outside counsel to assist in determining the applicability of disclosure exceptions set forth in FOIL, and any such expense shall be a cost associated with the processing of the application, within the meaning of PML Section 1321-d(2)(c).

REQUIRED WAIVERS:

WAIVER, RELEASE, COVENANT NOT TO SUE AND INDEMNIFICATION: As a condition to submitting an Application, each Applicant, Operator, and direct or indirect owner of an Applicant or Operator shall, by an authorized signatory, execute and submit as a PDF a [Waiver, Release, Covenant Not to Sue and Indemnification Agreement](#), referred to herein as the [State Waiver](#). (BRAND.StateWaiver.Applicant; BRAND.StateWaiver.Operator; etc.)

Pursuant to the State Waiver, each Applicant, Operator, and direct or indirect owners of an Applicant or Operator, on his, her, their, 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 State Waiver.

WAIVER OF SECTION 1311 RIGHTS: As required by PML Section 1321-d(2)(b), as a condition to submitting an Application, each Applicant, Operator, and direct or indirect owner of an Applicant or Operator shall, by authorized signatory, execute and deliver as a PDF a [Section 1311 Waiver, Release, Covenant Not to Sue and Indemnification Agreement](#) (BRAND.1311Waiver.Applicant; BRAND.1311Waiver.Operator; etc.).

Pursuant to the [Section 1311 Waiver](#), each Applicant, Operator, and direct or indirect owners of an Applicant or Operator, 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, in regard to any rights they have, had or may have to bring an action to recover a fee pursuant to PML Section 1311, and indemnify, defend and hold harmless the State, the Commission, the Board and their officials, agents, consultants and representatives and any Gaming Facility licensee as more specifically described in the Section 1311 Waiver.

BACKGROUND INVESTIGATION:

All Applicants for a License, and each 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 of its suitability and qualifications to hold a License or otherwise be qualified within the meaning of PML Article 13. In conducting the suitability investigation, pursuant to PML Section 1317 (as incorporated by PML Section 1321-g) the Commission shall consider the overall reputation of the Applicant including, without limitation:

- The integrity, honesty, good character and reputation of the Applicant.
- The financial stability, integrity and background of the Applicant.
- The business practices and the business ability of the Applicant to establish and maintain a successful Gaming Facility.
- Whether the Applicant has a history of compliance with gaming licensing requirements in other jurisdictions.
- Whether the Applicant, at the time of Application, is a defendant in litigation involving its business practices.
- The suitability of all parties in interest to the License, including Affiliates and Close Associates and the financial resources of the Applicant.
- Whether the Applicant is disqualified, pursuant to PML Section 1318 (as incorporated by PML Section 1321-h), from receiving a License; provided, however, that in considering the rehabilitation of an applicant for a gaming facility license, the commission shall not automatically disqualify an applicant if the applicant affirmatively demonstrates, by clear and convincing evidence, that the applicant has financial responsibility, character, reputation, integrity and general fitness as such to warrant belief by the commission that the applicant will act honestly, fairly, soundly and efficiently as a gaming licensee. The Commission shall consider the following disqualifying criteria as grounds for denial, subject to notice and an opportunity for hearing:
 - failure of the Applicant to prove by clear and convincing evidence that the Applicant is qualified in accordance with the provisions of PML Article 13;
 - failure of the Applicant to provide information, documentation and assurances required by PML Article 13 or requested by the Commission, or failure of the Applicant to reveal any fact material to qualification, or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria;
 - the conviction of the Applicant, or of any person required to be qualified, as determined by the Commission as a condition of a license, of any offense in any jurisdiction which is or would be a felony or other crime involving public integrity, embezzlement, theft, fraud or perjury;
 - committed prior acts which have not been prosecuted or in which the Applicant, or of any person required to be qualified, as determined by the Commission as a condition of a license, was not convicted but form a pattern of misconduct that makes the Applicant unsuitable for a license under this article; or
 - if the Applicant, or of any person required to be qualified under this article as a condition of a license, has affiliates or close associates that would not

qualify for a license or whose relationship with the Applicant may pose an injurious threat to the interests of the state in awarding a gaming facility license to the Applicant;

- any other offense under present state or federal law which indicates that licensure of the Applicant would be inimical to the policy of this article; provided, however, that the disqualification provisions of this section shall not apply with regard to any misdemeanor conviction;
- current prosecution or pending charges in any jurisdiction of the Applicant or of any person who is required to be qualified under this RFA as a condition of a license, for any of the offenses enumerated in the third bullet of this section; provided, however, that at the request of the Applicant or the person charged, the Commission may defer decision upon such application during the pendency of such charge;
- the pursuit by the Applicant or any person who is required to be qualified under this article as a condition of a license of economic gain in an occupational manner or context which is in violation of the criminal or civil public policies of this state, if such pursuit creates a reasonable belief that the participation of such person in gaming facility operations would be inimical to the policies of PML Article 13. For purposes of PML Section 1318 (as incorporated by PML Section 1321-h), occupational manner or context shall be defined as the systematic planning, administration, management, or execution of an activity for financial gain;
- the identification of the Applicant or any person who is required to be qualified under PML Article 13 as a condition of a license as a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates a reasonable belief that the association is of such a nature as to be inimical to the policy of PML Article 13. For purposes of PML Section 1318 (as incorporated by PML Section 1321-h), career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this state. A career offender cartel shall be defined as any group of persons who operate together as career offenders;
- the commission by the Applicant or any person who is required to be qualified under PML Article 13 as a condition of a license of any act or acts which would constitute any offense under the third bullet point of this section, even if such conduct has not been or may not be prosecuted under the criminal laws of this state or any other jurisdiction;
- flagrant defiance by the Applicant or any person who is required to be qualified under PML Article 13 of any legislative investigatory body or other official investigatory body of any state or of the United States when such body is engaged in the investigation of crimes relating to gaming, official corruption, or organized crime activity; and
- failure by the Applicant or any person required to be qualified under this section as a condition of a license to make required payments in accordance with a child support order, repay an overpayment for public assistance benefits, or repay any other debt owed to the state unless such

Applicant provides proof to the executive director's satisfaction of payment of or arrangement to pay any such debts prior to licensure.

The New York State Police will conduct the background investigations. The scope of background investigations required will depend upon the structure of the Applicant described in the Application.

An Applicant shall make a good faith effort to determine whether it and its respective related parties must submit background investigation forms as set forth in this section. If the Board determines that an Applicant has failed to provide background forms for a person or entity required to disclose, the Board will afford the Applicant the opportunity to submit promptly the necessary background forms for such person or entity. The Board may, in its discretion, waive disclosure requirements for certain qualified institutional and other passive investors that can demonstrate they obtained an interest in a relevant party for investment purposes only and do not have any intention to influence or affect the affairs of an Applicant, an Operator or any affiliated companies thereof.

On the Return Date, each Applicant and its respective Related Parties shall submit the following. Each responsive file for the Background investigation must begin "BG." followed by the Applicant's shorthand brand name and the designated file name listed in parenthesis for each responsive component (replacing the "XXX" placeholder):

- A complete and accurate [Gaming Facility License Application Form](#) for each of the following (BG.BRAND.LicenseApp.XXX)
 - the Applicant (.Applicant);
 - any direct and indirect parent entity of the Applicant including any holding company (.ParentHolding);
 - any Operator (.Operator);
 - any entity having a beneficial or proprietary interest of 5 percent or more in an Applicant or an Operator (.Interest); and
 - any other entity that may designated by the Commission (.Entity).
- A complete and accurate [Multi-Jurisdictional Personal History Disclosure Form](#) and [New York Supplemental Form](#) for each natural person who is (BG.BRAND.MJPH.XXX and BG.BRAND.NYSupp.XXX):
 - a director, manager, general partner or person holding an equivalent position with the Applicant, an Operator or any direct or indirect parent entity of the Applicant (.Director);
 - a Casino Key Employee (.CasinoKey);
 - a person having beneficial or proprietary interest of 5 percent or more of an Applicant or an Operator (.Interest);
 - designated by the Commission (.Extra1)

The Commission or the Board, in their sole discretion and as applicable to their respective duties under PML Article 13, 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.

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

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.

Each Applicant is required to submit Background Investigation Forms for, among others, persons having a beneficial or proprietary interest of 5 percent or more in an Applicant or Operator. The 5-percent-beneficial-or-proprietary-interest threshold is only an initial request, and the Commission and Board reserve the right to require submission of Background Investigation Forms for and investigate the suitability of any other Affiliate, Close Associate or Financing Source of the Applicant as the Commission and Board may in their discretion determine.

The Commission may in its discretion waive the licensing requirement for certain parties, such as qualified institutional investors, passive investors and lenders. See the Commission's regulations at 9 NYCRR § 5301.4 for specific conditions and requirements.

The \$1 million Application fee shall be used, in part, 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 and other uses of the application fee set forth in PML Section 1321-d(2)(c) exceed the initial application fee, then the Applicant shall pay the additional amount to the Commission within 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.

GENERAL INFORMATION

Each responsive file for the remainder of this RFA should begin with the Applicant's shorthand name (BRAND.XXX), followed by the designated file name listed in parenthesis for each responsive component.

EXECUTIVE SUMMARY:

Submit (.ExecutiveSummary):

An executive summary, not to exceed 4 pages in length, highlighting the principal terms of its Application. The Executive Summary should include specific metrics including but not limited to:

- Employment figures (including number of full-time and part-time jobs and median wage, weighted by full-time equivalents)
- Construction jobs
- Proposed investment
- Facility layout
- Details of amenities
- Anticipated annual gross gaming revenue

There should be no redactions in the Executive Summary.

On the Supplement Return Date: Submit (.ExecutiveSummary.Supplement):

An amended executive summary detailing any new revenue/financial information, including the proposed tax rate. There should be no redactions in the amended Executive Summary.

GENERAL APPLICANT INFORMATION:

On the Return Date: Submit (.ApplicantInformation) the following components:

- **NAME OF APPLICANT:** The Applicant's and, if applicable, the Operator'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.
- **CONTACT PERSON:** The name, title, email address and telephone number of the individual to be contacted in reference to the Application.
- **LOCATION OF THE PRINCIPAL PLACE OF BUSINESS:** The street address, city, state, zip code, telephone number and website for the Applicant's and, if applicable, the Operator's principal place of business.
- **LOCATION OF THE PROPOSED PROJECT:** The complete physical address of the proposed project. If an address is not available, provide GPS coordinates.
- **TYPE OF BUSINESS FORMATION:** The type of business entity under which the Applicant and, if applicable, the Operator, is formed (e.g., corporation, limited liability company, partnership, etc.), the state (or other jurisdiction) of formation and the Federal tax identification number.
- **EVIDENCE OF FORMATION:** Evidence of existence or formation as an entity (e.g., a certificate of good standing) as of a date not earlier than 10 days prior to the submission of the Application.

TABLE OF OWNERSHIP:

Submit (.Ownership):

A full and complete ownership chart for the Applicant and, if applicable, the Operator and their respective Affiliates including percentage ownership interests in the Applicant and the Operator 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 5 percent or more of the publicly held company.

ORGANIZATIONAL CHART:

Submit (.OrgChart):

An organizational chart of the Applicant and, if applicable, the Operator illustrating the organizational structure likely to be used by the Applicant or the Operator 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. PML Section 1301(8) defines “Casino key employee” as any natural person employed by a gaming facility licensee, or holding or intermediary company of a gaming facility licensee, and involved in the operation of a licensed gaming facility in a supervisory capacity and empowered to make discretionary decisions which regulate gaming facility operations.

DIRECTORS AND OFFICERS:

Submit (.Leadership):

The name, address, and title of each director, manager or general partner of the Applicant and, if applicable, the Operator, and each officer and Casino Key Employee of the Applicant or the Operator.

Submit (.PrincipalResumes):

Resumes of all principals and known individuals who will perform executive management duties or oversight of the Applicant or the Operator.

OWNERSHIP AND OTHER INTERESTS:

Submit (.OwnershipInterests):

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 Operator. Also, include a description of all such interests. For a publicly held company, disclosure of owners may be limited to owners owning 5 percent or more of the publicly held company.

PROMOTERS, SPONSORS AND OTHERS:

Submit (.PromotersSponsors):

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.

PROJECT FIRMS:

Submit (.ProjectFirms):

The names, addresses and relevant experience of the architects, engineers, contractors and designers of the proposed Gaming Facility and related proposed infrastructure improvements. Include the name, title, office address, email address, and direct phone number of the Applicant's or, if applicable, the Operator's principal contact individual at each such firm.

CONFLICTS OF INTEREST:

Submit (.Conflicts):

A description of any relationship or affiliation of the Applicant, the Operator or any of their respective Affiliates that currently exists or existed in the past 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 separately, in writing (and electronically), of such conflict.

The phrase "any relationship or affiliation" is intended to mean any connection, whether financial, contractual, ownership, professional, social or otherwise, between a person or entity and another person or entity. The phrase "conflict of interest" is intended to mean any relationship, affiliation or situation that could be reasonably interpreted to compromise the integrity of the Application selection process by creating a risk that professional judgment or actions will be influenced unduly by a secondary interest.

Applicants are encouraged to err on the side of disclosure of any relationship, affiliation or situation that could be a direct or indirect conflict of interest or perceived conflict of interest.

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 Operator, 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.

PUBLIC OFFICIALS:

Submit (.PublicOfficials):

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 Operator or their Affiliates. Include 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.

CONTRACTS WITH STATE OF NEW YORK:

Submit (.Contracts):

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.

CASINO OPERATOR:

Submit (.CasinoOperator) (only if an Operator that is different from the Applicant will manage the Gaming Facility):

A description of the relationship between the Operator and the Applicant including, without limitation, a summary of the terms of any and all agreements, contracts or understandings between the Operator and the Applicant. Attach any such written agreements, contracts or understandings.

ORGANIZATIONAL DOCUMENTS:

Submit the following documents that apply to the Applicant, the Applicant's owners, any Operator or any of the Operator's owners:

- Certified copy of its certificate of incorporation, articles of incorporation or corporate charter (.Incorporation);
- Bylaws as amended through the date of the Application (.Bylaws)
- Certified copy of its certificate of formation or articles of organization of a limited liability company (.CertifiedFormationOrganization);
- Limited liability company agreement or operating agreement as amended through the date of the Application (.LLCOperatingAgreement);
- Certified copy of its certificate of partnership (.CertificatePartnership);
- Partnership agreement as amended through the date of the Application (.PartnershipAgreementAmended);
- Certificate of limited partnership (.CertificateLimitedPartnership);
- Limited partnership agreement as amended through the date of the Application (.LimitedPartnershipAgreement);
- Other legal instrument of organization (.OtherOrg);
- Joint venture agreement (.JointVenture.pdf);
- Trust agreement or instrument, each as amended through the date of the Application (.TrustAgreement);
- Voting trust or similar agreement (.VotingTrust); and
- Stockholder, member or similar agreement (.StockholderAgreement)

MINIMUM CAPITAL INVESTMENT:

The Minimum Capital Investment is \$500 million.

Submit (.MinCapInvestment):

A summary document demonstrating that the Applicant meets or exceeds the Minimum Capital Investment for its Gaming Facility, using the criteria listed below. Include with such calculation a detailed description of the costs included in such calculation.

The Board has determined that for purposes of calculating the “Minimum Capital Investment,” the Applicant shall include only those costs related to:

- Actual construction of the Gaming Facility including any hotel, gaming area, restaurants, convention space, back-of-house and other amenities;
- Preparation of the site including demolition, excavation, clearing, grading, earthwork and abatement;
- Remediation of environmental conditions or hazardous materials;
- 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;
- 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;
- Design of the Gaming Facility including building design, interior design and exterior site design;
- 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.

The Board may consider private investments made previous to April 9, 2022 but reserves the right to discount a percentage of the investment made. These amounts shall not be included in the minimum capital investment calculation but submitted as a separate calculation. Submit a PDF (.PriorCapInvest) detailing:

- A description of any capital investment made by the Applicant prior April 9, 2022, including the date, type and dollar amount of any such investment and the reason for making the investment;
- The current fair market value of capital assets obtained from such prior capital investment;
- The amount of video lottery gaming capital award funds or other external reimbursement of such prior capital investment costs; and
- 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.

The Board has determined that the “Minimum Capital Investment” shall not include those costs related to:

- 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;
- Carried interest costs and other associated financing costs;
- Mitigating impacts on host and nearby municipalities whether directly attributable to a specific impact or not;
- 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;
- Legal fees;
- 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;
- 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;
- Marketing, advertising and promotions; and upfront costs designed to implement workforce development plans;
- 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;
- Applications for Federal, state and municipal permits;
- The safety, training, quality assurance, or testing incurred during the construction of the Gaming Facility; and
- The pre-opening bankroll, defined as unrestricted cash maintained in the cage or in cash and cash equivalent bank accounts that is readily available to meet prize payment obligations.

REQUIREMENTS BEFORE BOARD REVIEW:

By the Supplement Return Date, the following actions must take place for the Board to commence an official review:

EVIDENCE OF PUBLIC SUPPORT:

Prior to official review by the Board, each potential license Applicant must demonstrate public support via a vote by an applicable CAC established pursuant to PML Section 1321-d(3). The Applicant, Board and Commission will be notified of a finding of support in approval of the Application by the CAC consultant, pursuant to PML Section 1321-d(3)(f)(1).

Obligations of the CAC pursuant to PML Section 1321-d(3):

- Conduct all meetings under the open meetings provisions contained in Article 7 of the Public Officers Law;
- Review, solicit public comments and written submissions of such comments, and hold public hearings; and
- Upon a two-thirds vote, issue a finding either establishing public support approving or disapproving the application.

The Commission will issue separate guidance regarding the CAC process.

EVIDENCE OF COMPLIANCE WITH ZONING REQUIREMENTS:

Prior to official review by the Board, each potential license Applicant must prove compliance with all State and local zoning requirements, as set forth in PML Section 1321-k.

Submit (.ZoningCompliance):

A description of:

- The applicable zoning designation for the Project Site
- Any current local zoning approvals
- Any required rezoning or variances
- Any land-use approvals
- A detailed explanation of the status of any request for any of the foregoing with copies of all filings
- A specific schedule of applications for zoning approvals and anticipated approval dates
- A description of what will be required for entitlement to construct pursuant to applicable zoning law, including, without limitation, a realistic timeline and milestones for achievement of entitlement to construct.
- If commencement of zoning approvals is anticipated only after the Supplement Return Date, please so state.
- Any State and/or local permits or special use permits that the Applicant must obtain for the Project Site, and for such permits describe:
 - the procedure by which the Applicant shall obtain the permits; and
 - the estimated dates by which the Applicant will obtain the permits.

WAIVE A RECOVERY FEE:

On the Return Date, an Applicant must waive all rights it or any affiliated entity possess under PML Section 1311 to bring an action to recover a fee. See the 1311 Waiver description under the Applicant Instructions section.

PAY AN APPLICATION FEE:

On the Return Date, each Applicant is required to pay to the Commission an initial Application fee of \$1 million to defray the costs associated with the processing of the Application, Commission expenses related to the CACs, and investigation of the Applicant. Such Application fee must be paid concurrently with the submission of an Application. Wire instructions are available upon request from Permissible Contact Kristen Buckley.

A single Application Fee may govern multiple Applications, provided the financing, organizational structure, and principals and officers of the Applicant are identical within each Application. If there is any material disparity between the submitted Applications, each will require an independent Application Fee. If the costs of processing, Commission expenses, 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. Should the costs of such investigation and expenses not exceed the fee remitted, any unexpended portion shall be returned to the Applicant, all as required by PML Section 1321-d(2)(c).

An individual, entity, consortium or other party evincing interest becomes an Applicant upon payment of the \$1 million Application fee.

EVALUATION CRITERIA AND REQUIRED SUBMISSIONS

OVERVIEW:

For all the Applicants that receive approval from the applicable CAC and for local land use, the Board shall evaluate the proposals based on the criteria set forth in PML Section 1321-j.

Because this a competitive process, the Board will review Applications simultaneously after the Supplement Return Date.

In recommending an Applicant for license, the Board is required to evaluate and determine which Applicant(s) proposes to best advance the objectives listed under each technical factor.

Per PML Section 1321-j, the Board shall give consideration to the differences between a project that is a conversion of an existing video lottery gaming facility or a new facility construction, and the proposed location.

The following four sections require the provision of information that will permit the Board to evaluate Applications appropriately. In preparation of the proposal, the Applicant should pay special attention to the requirements and information being requested to respond fully to the RFA.

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 Board shall conduct an analysis of the revenue impact of each Applicant’s proposed gaming facilities on existing facilities and potential new facilities. This analysis will occur during Stage 2, when the pool of Applicants has completed the CAC and applicable zoning processes.

The decision by the Board to select an Applicant for potential licensure by the Commission shall be weighted by the following factors:

Factors	Weight
Economic activity and business development	70 percent
Local impact siting	10 percent
Workforce enhancement	10 percent
Diversity framework	10 percent

ECONOMIC ACTIVITY AND BUSINESS DEVELOPMENT

The decision by the Board to select an Applicant shall be weighted by 70 percent based on economic activity and business development factors.

CAPITAL INVESTMENT:

Submit (.CapitalInvestmentDetails) a summary detailing the capital investments that will be made prospectively if the Applicant receives a gaming license, including without limitation:

- Actual construction of the Gaming Facility including any hotel, gaming area, restaurants, convention space, back-of-house and other amenities;
- Preparation of the site including demolition, excavation, clearing, grading, earthwork and abatement;
- Remediation of environmental conditions or hazardous materials;
- Improvement of the existing or construction of new infrastructure, 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;
- 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;
- Design of the Gaming Facility including building design, interior design and exterior site design;
- 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; and
- A summary of the percentage of each investment that will be to firms located in the host community (which, for purposes of a municipality with a local community board, shall mean the area within the jurisdiction of such board), the host municipality and New York State.

MAXIMIZING STATE AND LOCAL REVENUES:

PML Section 1351(1-a) requires the Commission to determine a tax of gross gaming revenues for a gaming facility licensed pursuant to a competitive bidding process as outlined in PML Article 13, Title 2-A. Accordingly, an Applicant shall ultimately propose tax rates on gross gaming revenue that will be a component of its Application.

The Board recognizes, however, that the tax rates an Applicant ultimately proposes could depend on factors including but not limited to the competitive landscape of potential gaming facility competitors. Therefore, on the Return Date, an Applicant shall employ the minimum tax rates as described below. On the Supplement Return Date (when the competitive landscape will be more evident), an Applicant shall employ its proposed tax rates on the Supplement Return Date. (see "SUPPLEMENT RETURN MATERIALS")

For the first submission due on the Return Date, the Applicant shall assume a 25 percent tax rate on gross gaming revenue on slot machines and a 10 percent tax rate on gross gaming revenue from all other sources (e.g., table games) that would apply to its Gaming Facility. These are the minimum tax rates set forth in PML Section 1351(1-a).

On the Return Date, submit (.StateLocalRevenue):

A summary narrative illustrating the revenues that the State and localities will receive from its proposed gaming facility. Include an independent analysis of the annual projections of gaming revenues (including itemization of slot, table and gross revenues), marginal increase in State and local tax revenues (e.g., gaming, sales, income, real estate, hotel, entertainment and other taxes) over the existing use of land at the gaming facility site, annually for a period of at least the first 10 years after opening for gaming on a high-, average- and low-case basis.

- The high-case would assume that there are no comparable casino projects within 50 miles of the proposed facility.
- The average case would assume one similar casino project within 50 miles of the proposed facility and another comparable outside the 50-mile range.
- The low-case basis should assume two comparable casino projects within 50 miles of the proposed facility.

The Applicant does not have to include the full independent market study but shall include the key assumptions that were used to derive the projections.

For existing video lottery gaming facilities, the Applicant shall include the incremental revenue that the facility will generate after conversion. In addition, for existing video lottery gaming facilities, the assumption should be that education revenues (80 percent of the total) cannot be less than the total of education aid deposits into the State Lottery Fund from the video lottery gaming operations of such entity in FY 2022. Video lottery gaming operations of an entity shall include any hosted video lottery devices.

PROVIDING HIGHEST NUMBER OF QUALITY JOBS:

Submit (.JobQuality):

- 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.
- The 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:
 - The estimated number of total employees by full-time and part-time positions and full-time equivalents, broken down by job classification;
 - Each job classification and the pay rate and benefits therefor, including, without limitation, average and median pay weighted by the number of full-time equivalent employees receiving each wage; and

- The number of such positions that are anticipated to be filled by residents of the State, residents of the Region, residents of the Host Municipality, residents of the host community (which, for purposes of a municipality with a local community board, shall mean the area within the jurisdiction of such board), residents of nearby municipalities in which the Gaming Facility is to be located, and clients of local government workforce development programs. Describe the basis for these projections, for example, by comparison to similar projects.
- 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. Include any contracts, agreements or understandings evidencing such plans or commitments.

Note: For existing facilities, the Applicant shall separate the number of jobs that are currently employed at the gaming facility and the number of jobs that are projected to be employed after conversion.

GAMING FACILITY OF HIGHEST CALIBER WITH A VARIETY OF QUALITY AMENITIES:

Submit (.GamingCaliber):

Information related to the proposed gaming area (or areas, if more than one is being considered) including, but not limited to, the following:

- Square footage of each sub-area and a total for all gaming space.
- Total number of planned table games, with a breakdown by game type and number of positions per table.
- Total number of slot machines.
- The names of proposed vendors of gaming equipment.
- Number and description of other electronic gaming devices or specialty games being considered.
- Description of any special purpose rooms that are being considered (e.g., poker rooms, high-limit gaming areas, etc.).
- Layout of cage area, including number of windows, and a breakdown of special-use windows, if any.
- Description of size, layout, and location of count room.
- Layout of any players-club areas, include number of stations, location, etc.
- A description of any other gaming related amenities that are not included in this section but are relevant to operation.
- 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.
- 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).
- 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.

- A description of the attributes of the slot accounting system that is planned for Applicant's operation, which allows the Commission access for the purposes of auditing revenues and game status.
- Any details of casino operation that the Applicant believes should be included in the evaluation of its operation.

Submit (.Hotel):

Information related to the proposed hotel including, but not limited to, the following:

- 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.
- How the hotel(s) and hotel room(s) of the proposed Gaming Facility will compare in quality to other area hotels, as well as those included and offered in other competitive gaming facilities.
- 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.
- 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 Operator's branding and customer loyalty or patronage programs.
- 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 and substantiate their reasonableness.
- If any part of the hotel(s) is not to be managed or operated by the Applicant or the Operator, provide 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 Operator and such manager or operator.
- 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.
- 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.
- A description of any efforts—design, operations, and/or marketing—that are planned to differentiate the hotel from competitors and to maximize the potential of the market.
- Names of hotels of comparable quality to that of the proposed hotel(s) at the Gaming Facility.
- If linen supply, housekeeping, and laundry will be outsourced or retained within the Gaming Facility operations.
- 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.

Submit (.EntertainmentVenue):

Information related to the proposed entertainment venue(s) including, but not limited to, the following:

- 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.
- Any arrangements or agreements with promoters, artists, or performance companies or troupes. Substantiate (e.g., by comparison to analogous projects) the basis for such plans and estimates.
- 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 of identified live entertainment venues. A live entertainment venue is in whole or in part for the presentation of live concerts, comedy or theatrical performances. A live entertainment venue does not include local bars and clubs with live music.
- 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 community and nearby municipalities, including, without limitation, the estimated incremental or diminished revenue impact on existing entertainment venues.

Submit (.Restaurant):

Information related to the proposed restaurant(s) including, but not limited to, the following:

- A summary narrative a description of:
 - 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;
 - the proposed lounges and bars, including the approximate number, square footage and patron capacity and types;
 - the estimated average per-meal cost to patrons at each of the proposed restaurants;
 - the estimated incremental or diminished revenue impact on existing restaurants in proximity to the proposed location that patrons would frequent.

Submit (.RetailRecOther):

- information related to 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.
- information related to any proposed recreational facilities.
- information any other proposed and related facilities or amenities.

Note: If any of the above amenities are not proposed to be operated by the Applicant or the Operator, indicate the names of the proposed operators and provide copies of any

contracts, agreements or understandings between the Applicant and/or the Operator and such operator.

Submit (.CompareAreaFacilities):

A summary of how the hotel, hotel rooms, restaurants and other amenities that are part of the proposed Gaming Facility will compare in quality and price to other area hotels, restaurants and amenities as well as those included and offered in other competitive gaming facilities.

Submit (.HoursOperation):

The Applicant's proposed hours of operation for the various components of the proposed Gaming Facility including the casino, restaurants, bars and other amenities.

Submit (.LoyaltyProgram):

Information related to the proposed player database and loyalty program including, but not limited to, the following:

- Any Program maintained by the Applicant or, if applicable, the Operator for any casino the Applicant or Operator owns, operates or manages.
- Whether the Applicant or, if applicable, the Operator maintains a Database that tracks the play of its Program members.
- 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 Operator.
- 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.
- The number of rated players included in the Database that are located within 50-, 100-, 150- and 200-miles of the proposed Gaming Facility.
- How the Database and Program will be used to market, promote and advertise the Gaming Facility.

Submit (.InternalControls):

A full description of proposed internal controls and security systems for the proposed gaming facility and any related facilities. 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.

Submit (.Organization):

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.

Submit (.Layout):

The following information related to design and layout of the proposed gaming facility including, but not be limited to, the following:

- A site plan for the Project Site, including any off-site ancillary property to be used by Applicant in connection with the Gaming Facility.
- A full build out floor plans by building and floor including front- and back-of-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.
- Building elevations and perspectives (showing heights, relative scale and relationship to adjacent existing or proposed buildings and areas).
- 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).
- Proposed hardscape, landscape and landscape treatments including any off-site improvements required to implement the proposal.
- Exterior lighting design.
- Plans for parking structures, if any. For parking structure floors, a typical floor plan may be provided where floors are materially similar.
- 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.
- 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.
- 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.
- 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).
- 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. The designs submitted should reflect the flow and style of the gaming facility, but will be considered conceptual. The Board recognizes modifications are likely as construction progresses and a licensee shall provide regular updates to the Commission to document improvements to the facility design during construction. Because an Application will be evaluated and approved based on the initial design, changes that reduce the size, quality, or fit and finish of a facility will not be permitted. Drawings should be submitted in sufficient detail for the Board to understand the Applicant's vision for the facility. Plans should be to scale. To the extent feasible, specific locations

of buildings and features should be identified. Planned amenities should be identified in detail and back-of-house functions should be presented. Representations of finish details should be included.

- 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.
- 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.
- Interior and exterior photos or descriptions of analogous resort gaming facility projects in other jurisdictions, either of the Applicant or, if applicable, the Operator, or, if the Applicant or, if applicable, the Operator have few or no such analogous projects, of other operators of destination resort gaming facilities.

Submit (.BackOfHouseLoading):

- A description, including square footage, of back of house, security, kitchen and office facilities to support the remaining building program.
- A description of the planned dock and loading facilities, as well as armored car bay, including by square footage and schematic diagram and describe their adequacy to serve the planned program (e.g., by comparison to analogous facilities).

Submit (.ParkingTransport):

The following information related to parking and transportation infrastructure of the proposed gaming facility including, but not be limited to, the following:

- 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 “UTILIZING SUSTAINABLE DEVELOPMENT PRINCIPLES” in this RFA) the adequacy of parking and site circulation plans to service the projected visitor and employee demand.
- 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.

Submit (.PhysicalPlantMech):

The following information related to physical plant and mechanical systems of the proposed gaming facility including, but not be limited to, the following:

- 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.

HIGHEST AND BEST VALUE TO PATRONS TO CREATE A SECURE AND ROBUST GAMING MARKET:

Submit (.Marketing):

The following information related to marketing of the proposed gaming facility including, but not limited to, the following:

- The 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.
- A detailed description of the target market segments of the Gaming Facility.
- 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.
- Description of the Applicant's overall perspective and strategy for broadening the appeal of the region and the Host Municipality in which the gaming facility is located.

BENEFITS OF THE SITE LOCATION AND RECAPTURE RATE:

Submit (.LocationDetails.XXX):

The following information related to the land of the proposed gaming facility including, but not limited to, the following (Image files should be submitted separately):

- The address, legal description, maps, book and page numbers from the appropriate registry of deeds for the location of the Applicant's gaming facility. (.Description)
- 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. (.AssessedValue)
- A schedule of the real estate taxes paid on such property for the past 5 years. (.RealEstateTax)
- A description of, and aerial and surface photography (.AerialSurface) 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.

- Schematics/maps of topographical, geographic and vegetative features and facilities, improvements and infrastructure; schematics/maps illustrating (in scale) the relationship to surrounding development and infrastructure. (.SchematicsMaps).
- 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. An Application is for one Gaming Facility. If an Applicant's property comprises two non-contiguous parcels, gaming will be allowed on only one parcel. (.DimensionsTotalAcreage)
- 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. (.Defect).
- Links to 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 (.Environment).
- A description of all ownership interests in the land for the past 20 years, including all easements, options, encumbrances, and other interests in the property. Pursuant to PML Section 1316 (as incorporated by PML Section 1321-f), the Applicant must own or acquire the land where the Gaming Facility is proposed to be constructed within 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 60 years beyond 10 years for a License). (.LandOwnership)
- 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 (as defined in PML Section 1316, as incorporated in PML Section 1321-f), within 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. (.DeedLeaseOption)
- 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. (.TotalAmount)

Submit (.MasterPlan):

The following information related to the master plan and building program of the proposed gaming facility including, but not limited to, the following:

- 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.
- 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.
- 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.

Submit (.Infrastructure):

The following information related to the infrastructure requirements of the proposed gaming facility including, but not be limited to, the following:

- 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).
- A description of plans to address water and electricity use restrictions during peak-demand periods.
- A description of the electricity, sewer, water, and other utility improvements needed to adequately serve the Gaming Facility Site to include:
 - The estimated cost of the improvements
 - The estimated date of completion
 - The names of the parties, whether public or private, initiating the improvements
 - The names of the parties responsible for the costs of the improvements
 - If more than one party is responsible for the costs, the proportionate distribution of the costs among the parties.
- A description of the roadway and traffic improvements needed to ensure adequate access to the Gaming Facility Site to include:
 - The estimated cost of the improvements
 - The estimated date of completion
 - The names of the parties, whether public or private, initiating the improvements
 - The names of the parties responsible for the costs of the improvements
 - If more than one party is responsible for the costs, the proportionate distribution of the costs among the parties.
- A description of plans for management, detention and discharge of storm water on and from the Project Site to include:
 - The estimated cost of the improvements
 - The estimated date of completion

- The names of the parties, whether public or private, initiating the improvements
- The names of the parties responsible for the costs of the improvements
- If more than one party is responsible for the costs, the proportionate distribution of the costs among the parties.

Note: For the improvements described in this section:

- State whether local government approval is necessary for making the improvements
- Include a description of the procedure by which the local government approval is going to be obtained;
- Indicate all conditions likely to be placed on the local government approval
- Indicate the estimated date by which local government approval will be granted.

Submit (.MarketAnalysis):

A market analysis that:

- Details the benefits of the site location of the Applicant's Gaming Facility and the estimated recapture rate of gaming-related spending by NY residents travelling to out-of-state gaming facilities.
- Addresses how the site location of and marketing efforts on behalf of the gaming facility will secure a customer base and enable the gaming facility to compete successfully against other facilities and promote the State, region and Host Municipality.
- Includes a focus on out-of-state visitors and anticipated gaming and non-gaming gross revenues the Applicant anticipates from out-of-state visitors during each of the first five years of gaming facility's operations on a low-, average- and high-case scenario.

CONSTRUCTION SCHEDULE AND BUDGET:

PML Section 1321-j(1)(g) requires the Board to consider whether an Applicant is offering a reasonable and feasible construction schedule to completion of the full Gaming Facility.

Submit (.ConstructionTimeline):

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.
- 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 timeframes or deadlines associated therewith.
- 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.

Submit (.PostLicenseConstruction):

A summary on 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.

Submit (.Opening):

A proposed timeframe for the proposed Gaming Facility to open for gaming and indicate major risks to such proposed opening timeframe 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 timeframe for each phase and/or what conditions each such opening will be contingent upon. Provide Applicant's commitment for a proposed outside timeframe, notwithstanding any delays, for substantial completion of the initial fully operational phase of the proposed Gaming Facility.

Submit (.ConstructionBudget):

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.

DEMONSTRATING ABILITY TO FINANCE THE PROJECT:

In this section, PDFs with hyperlinks to responsive files (with a brief summary of each) are acceptable.

Submit (.Financial):

A detailed financial forecast in the form of a pro-forma information that includes:

- A statement of material revenue lines, material expense categories, EBITDA and net income.
- A balance sheet and calculation of debt-to-equity ratio.
- A statement of cash flows, each, annually for a period of at least the first 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 aforementioned independent expert's gaming market study.
- All assumptions relevant to the pro-forma forecasted financial information and relevant projected operating statistics, including but not limited to:
 - operating margins;
 - liquidity;

- margins;
- growth;
- revenue;
- visitation;
- win per day;
- hold percentages;
- number of slot and table positions; and
- 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.

For financing plans, highly confident letters, financing commitments and financing arrangements or agreements in the form of any syndicated debt facility or underwritten offering, the arrangers, agents, book runners and underwriters are Financing Sources for which the Application should include the disclosures to be made as to Financing Sources. For third-party financings and offerings that are not syndicated or underwritten, the individual participants are each a Financing Source for which the Application should include the disclosures to be made.

Submit (.5YearPlan):

A qualitative 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.

Submit (.FinancingSourceDetails):

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.

Submit (.CostsInvestmentsFees):

A detailed description of how the project will be financed, including 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 submitted in response to this RFA, including reasonable and customary contingencies, and the Pro-Forma forecasted financial information submitted in response to this RFA.

Submit (.ProFormaFinancingSources):

A statement of financing sources and uses, annually, for at least the first 3 years after beginning gaming operations using each of the high-, average- and low-case scenarios included in the pro-forma forecasted financial information submitted in response to this RFA. Expressly identify the funding source to cover any forecasted operating losses.

Submit (.FinancingPlanDescription):

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 3 years of operation of the proposed Gaming Facility.

Submit (.DebtFinancing):

For debt financing, 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.

Submit (.DebtCommitment):

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.

Submit (.PublicPrivateEquity):

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 3 years of operation of the proposed Gaming Facility.

Submit (.ConfidentLetters):

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 3 years of operation of the proposed Gaming Facility.

Submit (.FinancialPlanAnalysis):

An analysis of how the financing plans for the Application fee, Application and suitability investigation expenses, license fee, capital investment deposit, construction and first 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.

Submit (.FinancingSourceSchedule)

A schedule of the Financing Sources' anticipated capital structure after construction and first 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.

Submit for each Financing Source:

- Audited annual financial statements prepared by an independent registered public accounting firm in accordance with GAAP for each of the last 5 fiscal years (.AuditedAnnualFinancialStatement)
- For any fiscal quarter(s) of the current fiscal year that have ended before the date Applications are due, unaudited quarterly financial statements. (.QuarterlyFinancialStatement)

- If, for any entity, audited annual financial statements are unavailable for any given period, provide unaudited annual financial statements prepared in accordance with GAAP. (.UnauditedAnnualFinancialStatement)
- For any individual, provide annual financial statements along with an attestation by such individual that such statements are true and accurate. (.IndividualFinancialStatements)

Submit (.IndependentAudit):

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 5 years.

Submit (.FinancialStability):

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 that, pursuant to PML Section 1313(1)(e) (as incorporated into PML Section 1321-c), present clear and convincing evidence of financial stability.

Submit (.FinancialReferences):

At least 3 financial references from banks or other financial institutions attesting to each Financing Source's creditworthiness.

Submit (.SecurityCreditReports):

Securities analysts' and credit rating agencies' reports for the past 3 years, if any, covering any Financing Source.

Submit (.SEC):

All SEC reports, if any, for the Financing Sources, for the 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 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 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.

Submit (.Legal):

The following information relating to legal actions of any Applicant Party:

- 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.
- A brief description of any settled or closed legal actions, whether civil, criminal or administrative in nature, against the Applicant Party over the past 10 years.
- A description of any judgments against the Applicant Party within the past 10 years, including the case name, number, court, and what the final ruling or determination was from the court, administrative body or other tribunal.
- 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.
- 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 10 years.
- 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 10 years.

Submit (.Bankruptcies):

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 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.

Submit (.ContractBreach):

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

Submit (.TaxDelinquencies):

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 10 years by an Applicant Party.

Submit (.FinancialCommitmentGuarantee):

A description of all financial commitments and guarantees the Applicant or, if applicable, the Operator, or its Affiliates is prepared to provide to the Commission over and above the deposit or bond required by PML Section 1321-e(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 Operator or their Affiliates commit to provide in connection with the Gaming Facility.

EXPERIENCE:

Submit (.Experience.pdf):

- A description of the Applicant's and, if applicable, the Operator'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 3 years, total non-gaming revenues for the last 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.
- A brief description of any casino or other gaming projects that the Applicant and, if applicable, the Operator, 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 Operator expects to acquire or develop such project.
- 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.
- A description of any disciplinary action brought against an Applicant Party by any gaming licensing authority during the past 5 years.

LOCAL IMPACT SITING

The decision by the Board to select an Applicant shall be weighted by 10 percent based on local impact siting factors including the following:

MITIGATING POTENTIAL IMPACTS ON MUNICIPALITIES:

Submit (.EconImpactStudy):

An economic impact study completed by an independent expert. The study 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. If the study depends on visitation or revenues, it should include analysis of the high-, average- and low-cases analogous to the same used for the revenue and tax studies. The study should explain the methodology, report its results and compare its results to actual observed conditions in similar built projects. The study should include:

- The proposed Gaming Facility's overall economic incremental benefit to the Region, the State, and surrounding localities including the manner in which the facility will generate new revenues as opposed to taking revenues from other New York businesses.
- The proposed Gaming Facility's positive and negative impacts on the local and regional economy, and on the host community and nearby municipalities including impacts on incremental job creation, unemployment rates, cultural institutions, small businesses and non-profit organizations.

Submit (.LocalEconImpactStudy):

A local economic impact study completed by an independent expert. The 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 high-, average- and low-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. The study should include:

- The proposed Gaming Facility's cost to the host community, 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).

- The local and regional impacts of the proposed Gaming Facility in each of the following areas: traffic and roadway infrastructure; sidewalk congestion; street and sidewalk cleanliness; bicycle lane access and congestion; noise; water demand, supply and infrastructure capacity; wastewater production, discharge, and infrastructure capacity; storm water discharge and management; electricity demand and infrastructure capacity; protected habitats and species; and light pollution.
- A description of Applicant’s commitments to mitigate impacts of the proposed Gaming Facility (during construction and operation) on each host community 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 this RFA. Provide copies of any contracts, agreements or other understandings evidencing such mitigation commitments.
- 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.
- An assessment of the likely impact on the housing stock in each host community 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. Such assessment should be broken down by effects on rents (including market-rate rentals, rent-regulated rentals and income-restricted affordable housing rentals) and residential property purchase prices. Such assessment should include anticipated effects of potential displacement, broken down by demographic categories (including race, ethnicity, income level and age).
- An assessment of the likely impact on small businesses.
- An assessment of the likely impact on neighborhood amenities such as historic structures, cultural facilities, parks and gardens.
- An assessment of the likely impact on school populations in the host community 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, including, without limitation, after-school programs, childcare programs and demographic impact (e.g., effects on share of school population qualifying for free or reduced-price lunches). Provide copies of any contracts, agreements or other understandings evidencing such mitigation commitments.
- An assessment of the likely impact on nearby entertainment venues, restaurants and hotels.
- An assessment of the likely impact on local nonprofit services.

Submit (.RegionalEconomicPlan):

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.

Submit (.Communities):

- A description of measures to mitigate impact of the facility on underserved communities, including examples of such work in other locations.
- Describe the metrics and/or milestones used to measure the facility's impact on the community, and what remediation steps will the Applicant take if metrics are not met.

FULL DIVERSIFIED REGIONAL TOURISM:

Submit (.Tourism):

A description of plans for promoting local businesses in the host community and nearby municipalities including developing cross-marketing strategies with local restaurants, small businesses, hotels and retail facilities, including, without limitation, any plans for coordination with local tourism-promotion entities. Provide copies of any contracts, agreements or other understandings evidencing such cross-marketing.

Submit (.LocalBusiness):

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.

Submit (.LocalAgreements):

Local agreements designed to expand Gaming Facility draw (*i.e.*, number of patrons brought to the Region).

Submit (.CrossMarketing):

A description of plans for cross-marketing with other attractions. Provide copies of any contracts, agreements or other understandings evidencing such cross-marketing commitment.

Note: For existing facilities, the Applicant should make clear which partnerships are existing and which are new based on a potential conversion.

PARTNERSHIPS WITH LIVE ENTERTAINMENT VENUES:

Submit (.LiveEntertainmentPartnerships):

- Any and all contracts, agreements, MOUs or other understandings with live entertainment venues (or a consortium of 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.
- 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.
- Details of any entertainment venue (or consortium of venues) 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.

Note: For existing facilities, the Applicant should make clear which partnerships are existing and which are new based on a potential conversion.

WORKFORCE ENHANCEMENT

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

WORKFORCE DEVELOPMENT PLAN:

Submit (.WorkforceTable):

A table indicating by trade and calendar quarter the number of construction hours, the average daily number of FTE 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. Describe how the plan utilizes the existing labor force in the State, Host Municipality and local neighborhood.

Submit (.JobOpportunities):

The Applicant's and, as applicable, the Operator's strategy to provide on-the-job opportunities and training and with respect to regional and local demographic groups with high unemployment.

Submit (.MWBE):

The Applicant's and, as applicable, the Operator's, specific goals for the utilization of minorities, women and service-disabled veterans on construction jobs and an overall workforce diversity framework. It is expected that such goals meet or exceed New York State's 30 percent utilization goal of Minority and Women-Owned Business Enterprise contracts. The specifics of such goals and framework will be evaluated in the Diversity Framework section.

Submit (.WorkforceTraining):

A description of the Applicant's and, as applicable, the Operator's workforce training programs that will be offered, which should include training programs that serve the unemployed. In addition, the Applicant and, as applicable, the Operator, should include the methods used for accessing employment, including those that are unemployed.

PROBLEM GAMBLING PREVENTION MEASURES:

Submit (.ProblemGambling):

- 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.
- 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 Addiction Services and Supports HOPEline (1-877-8-HOPENY).
- 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 in obtaining help for those problems.

- 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.
- 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. Provide copies of any contracts, agreements or other understandings evidencing such coordination plans.
- 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.
- A description of whether the Applicant and, as applicable, the Operator plans to establish employee assistance programs, including those relative to substance abuse and problem gaming.

UTILIZING SUSTAINABLE DEVELOPMENT PRINCIPLES:

Submit (.LEED):

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.

Submit (.Traffic):

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.

Submit (.Water):

A description of the efforts that will be made to conserve water and manage storm water by including:

- 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.
- 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.

Submit (.EnergyStar):

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.

Submit (.Electricity):

A description of plans for procuring or generating on-site at least 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).

Submit (.Renewable):

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. Describe how the gaming facility will comply with applicable local laws regulating energy efficiency (e.g., New York City Local Law 97 of 2019, as amended).

DEVELOPMENT OF A SKILLED AND DIVERSE WORKFORCE:

Submit (.WorkforceDevelopment):

How the Applicant 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:

- 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
- 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;
- establishes an on-site child day care program.
- identifies whether the Applicant and, as applicable the Operator, plans to establish employee assistance programs, including those concerning substance abuse and problem gaming.

DOMESTICALLY MANUFACTURED SLOT MACHINES

Submit (.DomesticallyManufacturedSlotMachines):

The Applicant's plans for purchasing, whenever possible, domestically manufactured slot machines for installation in the gaming facility.

ORGANIZED LABOR AGREEMENTS:

Submit (.Employees):

The number of employees to be employed at the proposed Gaming Facility and all infrastructure improvements related to the project, including detailed information on the pay rate and benefits for employees and contractors. Include:

- The estimated number of total employees by full-time and part-time positions and full-time equivalents, broken down by job classification;
- Each job classification and the pay rate and benefits therefor, including, without limitation, average and median pay weighted by the number of full-time equivalent employees receiving each wage; and

- The number of such positions that are anticipated to be filled by residents of the State, residents of the Region, residents of the Host Municipality, residents of the host community (which, for purposes of a municipality with a local community board, shall mean the area within the jurisdiction of such board), residents of nearby municipalities in which the Gaming Facility is to be located, and clients of local government workforce development programs. Describe the basis for these projections, for example, by comparison to similar projects.

Submit (.LaborHarmony):

Detailed plans for assuring labor harmony during all phases of the construction, reconstruction, renovation, development and operation of the Gaming Facility.

Submit (.LaborPeaceAgreement):

A copy of any labor peace agreements with labor organizations that are actually engaged in representing gaming or hospitality industry workers in the State. If the Applicant 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.

Submit (.OrganizedLabor):

A statement as to whether the Applicant has, is subject to, or is negotiating any contract with organized labor, including hospitality services, and whether the Applicant or, as applicable, the Operator has the support of organized labor for its Application. Provide a copy of each such contract.

DIVERSITY FRAMEWORK

The decision by the Board to select an Applicant shall be weighted by 10 percent based on a workforce diversity framework including the following:

WORKFORCE DEMOGRAPHICS:

Submit (.Demographics):

The gender, racial, ethnic and service-disabled-veteran composition of the workforce at the Applicant's, and, as applicable, the Operator's, existing gaming facilities in North America, broken down by part-time and permanent positions at each gaming facility. Include a three-year history for 2020, 2021 and 2022 for each facility.

DIVERSITY IN OWNERSHIP AND LEADERSHIP

Submit (.OwnershipLeadership):

The gender, racial and service-disabled veteran composition of ownership and leadership (board of directors and upper-management) of the Applicant's and, as applicable, the Operator's, corporate entity and relevant parent entities.

CURRENT AND PLANNED DIVERSITY EFFORTS

Submit (.AnticipatedComposition):

Describe the anticipated gender, racial and service-disabled-veteran composition of the proposed gaming facility in New York.

Submit (.Mentorship):

How the Applicant and, as applicable, the Operator, will establish mentorship opportunities and other business development programs.

Submit (.EqualOpportunity):

How the Applicant and, as applicable, the Operator, will incorporate a 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 minorities, women and persons with disabilities.

Minority and Women-Owned Business Enterprises: Applicants are expected to demonstrate through the next three submissions how they will meet or exceed New York State's 30 percent utilization goal of Minority and Women-Owned Business Enterprise contracts.

Submit (.MWBEConstructionGoals):

The Applicant's and, as applicable, the Operator's specific goals for the inclusion of minorities, women and veterans on construction job for this gaming facility.

Submit (.MWBEContracts):

How the Applicant and, as applicable, the Operator, plans to ensure that any contractors or subcontractors to any contractor make good faith efforts to provide minorities, women and veterans an opportunity to participate in the workforce.

Submit (.MWBEPartnerships):

How the Applicant and, as applicable, the Operator, will continue to work and partner with minority-owned businesses.

Submit (.DiversityBusinessModel):

The key components of the Applicant's and, as applicable, the Operator's, plan of action that shall promote diversity in its business model, financing, employment goals, and other social and economic equity roles in the gaming industry.

Submit (.Recruitment):

- A description of how the Applicant and, as applicable, the Operator, will leverage partnerships to recruit from diverse communities and support workers hired from such communities. Provide a copy of any agreement reflecting such partnerships.
- A description of the Applicant's and, as applicable, the Operator's, target percentages, thresholds, etc. for the hiring of people from historically marginalized communities into entry and mid-level positions
- A description of plans to recruit diversly abled populations
- Describe the Applicant's and, as applicable, the Operator's, diversity, equity and inclusion accessibility plans.

Submit (.ProfessionalDevelopment):

- A description of the Applicant's and, as applicable, the Operator's, plans to recruit and train diverse individuals for employment.
- A description of the Applicant's and, as applicable, the Operator's, professional development opportunities/programs to support employees' career pathways
- A description of how the Applicant and, as applicable, the Operator, will inform employees of available career-growth opportunities
- A description of the design and structure of the on-site childcare program and how it will support the workforce
- A description of measures to ensure reasonable accommodations, transportation needs and other critical support for employees
- A description of practices and policies employed by the Applicant's and, as applicable, the Operator's human resources office to support employees' mental health and wellbeing

SUPPLEMENT RETURN DATE MATERIALS:

Pursuant to PML Section 1321-j, the Board shall conduct an analysis of the revenue impact of each Applicant's proposed gaming facility on existing facilities and potential facilities.

The Board may contract with a consultant to assist in the analysis of applications submitted for gaming facility licenses, pursuant to PML Section 109-a(6)(b).

Prior to the Supplement Return Date, the Board will provide Applicants with a scenario worksheet.

On the Supplement Return Date:

Submit (.ExecutiveSummary.Supplement):

An amended executive summary, not to exceed 4 pages in length, detailing the proposed tax rate and changes to revenue/financial information from the original Executive Summary. There should be no changes to any other metrics and there should be no redactions in the Executive Summary.

Submit (.StateLocalRevenue.Supplement):

- An updated high-, average- and low-case basis for each scenario. The Applicant shall propose the tax rates on gross gaming revenue for slots and all other gaming sources it proposes for its gaming facility, which can be the same tax rate as in the Return Date submission or a higher tax rate. In none of the scenarios can revenues be less than what was provided in the Return Date submission for the low-case basis. The Commission will set the final tax rate, as set forth in PML Section 1351(1-a).
- An updated summary narrative and table of incremental gaming revenue for the Applicant and existing facilities for each of the scenarios.
- An updated summary narrative illustrating the revenues that State and localities will receive from the project based on each scenario.
- None of the proposal parameters submitted in the first submission (including but not limited to: jobs, capital investment, gaming facility of the highest caliber) should be amended based on the tax rate selected by the Applicant.
- Include an independent analysis of the 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 10 years after opening for gaming on an average high-, average- and low-case basis.

Submit (.MarketStudy.Supplement):

A full independent market study that 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.

Submit (.RevenueStudy.Supplement)

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 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 continue to develop as to trend without the Applicant's proposed Gaming Facility) and build scenario with express enumeration of assumptions.
- Analysis of the high-, average- and low-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 operating projects.

To be considered an "independent expert," a third party should maintain appropriate credentialing and be so experienced as to make credible, independent findings and determinations. A third party is not considered to be an independent expert merely by having been retained by an Applicant.

Submit (.Competitive10Years.Supplement):

A description of the competitive environment in which the Applicant anticipates the proposed Gaming Facility will operate over the 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.*, Commercial Casinos, video lottery gaming facilities, tribal casinos, racetracks) or other New York businesses. The Applicant should describe how it intends to expand the relevant market by bringing in new visitors, as opposed to merely shifting visitors from existing gaming venues in the region.

POST-LICENSURE RESPONSIBILITIES

DEPOSIT AMOUNT:

Upon award of a gaming facility license by the Commission, an Applicant must deposit no less than 5 and no more than 10 percent of the total investment proposed in the Application into an interest-bearing escrow account approved by the Commission. The Commission will, by regulation, determine the deposit amount.

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 ensuring that the deposit shall be forfeited to the State if the Applicant is unable to complete the Gaming Facility.

LICENSING FEE AND TERM:

PML Section 1321-a states that the initial license term shall be no less than 10 years but no more than 30 years based on the proposed total investment of the Applicant's project. PML Section 1321-e(3) states that the Board shall determine a licensing fee to be paid by a licensee within 30 days after the award of the license.

The Board has determined that the license fee will be \$500 million.

An Applicant may propose to pay a higher license fee.

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.

OBTAIN AND MAINTAIN CASINO KEY EMPLOYEE LICENSES:

A Gaming Facility licensee, or a holding or intermediary company of a gaming facility 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.

REGISTER EMPLOYEES:

Each gaming and non-gaming employee of a gaming Facility licensee must have a valid registration on file with the Commission.

LICENSE VENDOR ENTERPRISES:

Any business to be conducted with an Applicant or Gaming facility 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 Gaming Facility licensee, its employees or agents (subject to other timing as determined by the Commission).

LICENSE AND REPORT ON JUNKET OPERATORS:

A Gaming Facility 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.

OBTAIN OPERATION CERTIFICATE:

A Gaming Facility licensee must obtain an operation certificate in order to open or remain open to the public.

MAINTAIN RECORD OF AGREEMENTS:

A Gaming Facility licensee must maintain a record of all agreements in regard to the project.

ENTER LABOR PEACE AGREEMENT:

A Gaming Facility 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 Gaming Facility 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.

PAY ANNUAL MACHINE AND TABLE FEES:

A Gaming Facility licensee for **Zone 1** must pay an annual license fee of \$750 per slot machine and table game at the Gaming Facility and a Gaming Facility licensee in **Zone 2** shall pay an annual license fee of \$500 per slot machine and table game, as provided in

PML Section 1348. The fee shall be imposed on July first of each year for all approved slot machines and tables and shall be assessed a pro rata basis for any slot machine or table approved for use thereafter. The Commission may annually adjust the fee for inflation.

REGULATORY INVESTIGATORY FEE:

A Gaming Facility 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.

ADDITIONAL REGULATORY COSTS:

The Gaming Facility 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 Gaming Facility licensees in proportion to the number of gaming positions at each Gaming Facility. Each Gaming Facility licensee shall pay the amount assessed against it within 30 days after the date of a notice of assessment from the Commission.

TAX ON GAMING REVENUES BASED ON ZONE AND REGION:

For a Gaming Facility licensed for one of the additional casino licenses (Title 2-A), the tax rate imposed on gross gaming revenues shall be determined by the Commission pursuant to the competitive bidding process specified in this RFA. However, the tax rate from slot machines shall be no less than 25 percent and the tax rate on all other sources shall be no less than 10 percent.

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.

PAY RACING INDUSTRY SUPPORT PAYMENTS:

Pursuant to PLM 1355(3), the Commission shall determine the obligations of an entity or entities required to maintain certain racing support payments at the same dollar level realized in 2019, to be adjusted annually pursuant to changes in the consumer price index for all urban consumers.

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 a form

determined by the Commission that confirms that the statements, affirmations and agreements made in the Applicant's RFA remain true and correct.

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.

HOLD-HARMLESS PAYMENT:

If a video lottery gaming facility is awarded any of the three additional gaming facility licenses, the education amount received from gaming operations in a given state fiscal year cannot be less than the full 12-month period immediately preceding its opening date as a gaming facility or the education aid total from the video lottery gaming operations of such entity for state fiscal year 2022, whichever is greater. If the amount is less than the total required, such entity shall remit the necessary payment to the Commission for deposit into the commercial gaming revenue fund no later than the next occurring May first. The first year of operations will be prorated based on the number of months of operation in that state fiscal year.

COMMUNITY ADVISORY COMMITTEES

The Board will issue separate guidance regarding the CAC process. For each application submitted, a CAC will be created to review the application, gauge local support, and ultimately vote on whether to issue a finding establishing public support approving the proposed Application. In accordance with PML Section 1321-d(3)(a) and (b), the make-up of the local CAC shall consist of applicable members being appointed by the following elected officials:

Within New York City (*i.e.*, Bronx, Kings, New York, Richmond, Queens Counties), six members appointed by:

- Governor
- NYC Mayor
- Applicable New York State Senator
- Applicable New York State Assemblymember
- Applicable Borough President
- Applicable City Councilmember

Outside New York City, five members appointed by:

- Governor
- Applicable County Executive
- Applicable New York State Senator
- Applicable New York State Assemblymember
- Applicable locality's senior elected official:
 - o City: Mayor
 - o Town: Town Supervisor
 - o Village: Jointly by the Village Mayor and the Town Supervisor

Each CAC will:

- Elect a Chair at its first meeting
- Solicit and review public comments (written, electronic, oral, etc.)
- Hold public meetings and hearings, as it may deem advisable.

All meetings and public hearings of the CAC will be subject to the New York State Open Meetings Law.

Ultimately, each CAC must submit to the Board, the Commission and the Applicant evidence of a finding reached by majority vote—with a two-thirds threshold—that establishes public support either approving or disapproving the application. A two-thirds vote indicating community support of a project is a requirement for the Application to be considered by the Board.

If the CAC votes in support of an Application, the CAC and/or CAC consultant shall notify the Applicant, Board and Commission.

The Commission has begun the process of hiring a consultant to ensure the creation and operation of a CAC for each Applicant and manage the overall CAC process. Duties and

services performed by the CAC consultant are expected to include, without limitation:

- Notify the appropriate appointing authorities of their responsibility to submit appointments for each required CAC.
- Ensure the formation of, and provide administrative support and technical assistance for, the establishment and activities of each CAC
- Receive and maintain applications for proposed facilities from the Board
- Assign applications to each appropriate CAC
- Organize, produce and advise of all CAC public events in accordance with the open meetings provisions contained in Article 7 of the Public Officers Law
- Assist the CAC in reviewing and soliciting public comments and written submissions of such comments
- Manage public hearings on behalf of each CAC
- Following the CAC voting process, the Consultant will then inform the Applicant, Gaming Facility Location Board and Commission of the CAC finding.

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 Operator; (iii) any person or entity that has a direct or indirect ownership interest in the Applicant or the Operator equal to or greater than 5 percent; and (iv) any Casino Key Employee.

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

“**Background Investigation Forms**” means the [Gaming Facility License Application Form](#), [Multi-Jurisdictional Personal History Disclosure Form](#) and [New York Supplemental Form](#), as provided by the Commission, all of which are labeled as such in this RFA and provided in a link within this RFA.

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

“**CAC**” means a Community Advisory Committee established pursuant to PML Section 1321-d(3).

“**Casino Key Employee**” means any person employed (or to be employed) by a Gaming Facility 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 Gaming Facility 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.

“**Database**” means a casino-customer-relationship-management system and database.

“**Effective Date**” means April 9, 2022, the effective date of Title 2-A of Article 13 of the PML.

“**Financing Source**” means each of: (i) the Applicant; (ii) the Operator, 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.

“**FTE**” means a full-time equivalent employee position.

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

“**GAAP**” means Generally Accepted Accounting Principles in the United States.

“**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.

“**Operator**” 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.

“**Program**” means a loyalty, reward or similar frequent-player program.

“**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 the regions set forth in PML Section 1310.

“**Related Party**” means a related parties in interest to an Applicant, including Affiliates, Close Associates and financial resources of the Applicant.

“**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.

“**Return Date**” means 30 Days from the Board’s response to the second set of questions.

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

“**SEC**” means the United States Securities and Exchange Commission.

“**Section 1311 Waiver**” means the document labeled as such in this RFA and provided in a link within this RFA.

“**State**” means the State of New York.

“**State Waiver**” means the document labeled as such in this RFA and provided in a link within this RFA.

“**Supplement**” means a completed response in Stage 2 of this RFA, in accordance with this RFA.

“**Supplement Return Date**” means a date to be announced by the Board pursuant to the Stage 2 schedule.

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 and Section 5300.1 of the Commission’s regulations.