



STATE OF MARYLAND  
VIDEO LOTTERY FACILITY LOCATION COMMISSION

**MGM National Harbor, LLC**  
**Award of a Video Lottery Operation License**

**Addendum to the December 23, 2013 Decision Statement**

**December 30, 2014**

**Background**

On December 20, 2014, the Video Lottery Facility Location Commission voted to award a License to MGM National Harbor, LLC ("MGM") to own and operate a video lottery facility in Prince George's County, located at National Harbor. The effective date of the License Award ("Award") was December 23, 2013, which is the date the Commission issued the written Decision Statement for the Award. The Decision Statement provided that MGM's "[c]onstruction on the facility would be completed for a facility opening in July 2016." The Award contained no contingency. The Decision Statement is incorporated into this Addendum.

**MGM's Request**

By letter dated December 5, 2014, MGM requested that the Commission amend the Decision Statement to make September 2, 2014 the effective date of the Award for purposes of the statutory requirement that the facility open 30 months after the award (State Gov't Art. ("SG") § 9-1A-11(b)(3)), which would make March 2, 2017 the target opening date of the facility. By operation of law, the Commission terminates on January 1, 2015. SG § 9-1A-36(t). The Commission convened a public meeting on December 22, 2014 at which it considered MGM's request. MGM clarified that it was not asking to change its proposal or delay opening and that it wants to open as soon as legally permissible and logically possible. MGM presented two reasons to the Commission in support of its request.

First, the two statutes that establish the date by which MGM would be required to commence operations create a conundrum that requires clarification. SG § 9-1A-04(h) provides that the facility may not open before July 1, 2016, but SG § 9-1A-11(b)(3) provides that the facility must open no more than 30 months after the Award, which would be June 23, 2016. Taken together, SG §§ 9-1A-04(h) and 9-1A-11(b)(3) require the impossible: that MGM commence operations no *later* than June 23, 2016, but no *earlier* than July 1, 2016.

Second, although Prince George's County has been very cooperative with MGM, the County's routine local community approval, agreement and permit processes have affected MGM's target

date for opening the facility after the Commission's Award in December 2013. The County Council enacted two bills in April and May 2014 which imposed additional requirements on MGM by including requirements of percentage levels and monitoring of local and minority participating during construction, and required the County Council's approval of a Community Benefits Agreement ("CBA") before construction could begin. The practical effect of these new requirements was that, until the County Council approved the CBA on July 23, 2014, final construction hiring, planning and ramp-up could not be completed, and that this impacted the phasing, logistics and pace of MGM's construction schedule. The facility's Detailed Site Plan ("DSP") was approved on August 12, 2014, the building permit was issued on August 14, 2014, and the period for appealing the DSP expired on September 2, 2014.

MGM takes the view that the effective date of the Decision Statement should be September 2, 2014, and that such an amendment to the Award would be consistent with the Commission's imposition of contingencies on the awards of the Allegany and Anne Arundel Counties, and Baltimore City, licenses. MGM advised the Commission that it is on target for opening the facility during the second half of calendar year 2016.

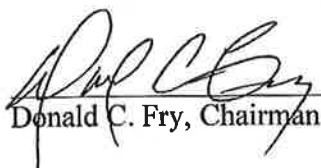
#### **Decision**

The Commission's obligation to the public is to commence operation of the Prince George's County facility as soon as possible to begin generating revenue for the State. However, the Commission recognizes that although the County was cooperative with MGM, there were necessary local post-Award permitting processes that impacted MGM's construction timeline and will therefore move the facility opening date beyond July 2016.

Amending the effective date of the Prince George's County Award to acknowledge post-Award events is not inconsistent with the contingencies imposed on the license awards for Allegany and Anne Arundel Counties and Baltimore City. In those cases, the Commission was aware at the time of license award that certain events could delay the onset of construction. For those awards, the time within which the facilities were required to open started to run when the contingency was satisfied. This is consistent with the contingent awards made to earlier licensees.

There is a need to clarify expectations of MGM's target opening date. Amending the December 23, 2013 Award to August 14, 2014 – the date the building permit was issued – affords MGM some relief and ties the Award date to the date that facility construction could commence.

This Commission lacks the authority to authorize an opening date more than 18 months from the date of the Award. If necessary, MGM would be required to request the relief of delaying commencement of operations for up to two additional six-month periods from the Maryland Lottery and Gaming Control Commission.

  
Donald C. Fry, Chairman

12/30/14  
(date)

**Maryland Video Lottery Facility Location Commission**

**MOTIONS**

**To amend the December 23, 2013 Decision Statement awarding the Prince George's County Video Lottery Operation License to MGM National Harbor, LLC effective upon the County's issuance of the building permit to MGM on August 14, 2014.**

Motion By: Kramer

Seconded By: Miller

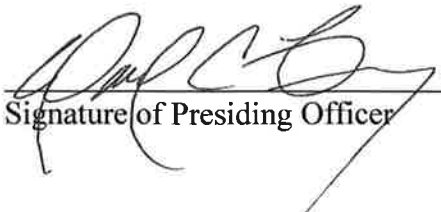
	AYE	NAY	ABSTAIN	ABSENT
Chairman Donald C. Fry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner James J. King	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Commissioner Rona E. Kramer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Michael G. Miller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Ella H. Pierce	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner D. Bruce Poole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Linda S. Read	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**To delegate to the Chairman the authority to draft an appropriate Addendum to the December 23, 2013 Decision Statement and to transmit the Addendum to MGM National Harbor, LLC.**

Motion By: Kramer

Seconded By: Pierce

	AYE	NAY	ABSTAIN	ABSENT
Chairman Donald C. Fry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner James J. King	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Commissioner Rona E. Kramer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Michael G. Miller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Ella H. Pierce	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner D. Bruce Poole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Linda S. Read	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

  
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 Signature of Presiding Officer