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STATE OF MARYLAND
VIDEO LOTTERY FACILITY LOCATION COMMISSION

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**Award of the Prince George's County Video Lottery Facility Operation License
Decision Statement**

Summary of Proposals

The Video Lottery Facility Location Commission (Commission) has reviewed and evaluated the proposals for a Video Lottery Operation License submitted in response to its Request For Proposals #2013-0101 – *Request for Proposals for a Video Lottery Operation License in Prince George's County* (the RFP). A video lottery facility (facility) in Prince George's County must be located within a four-mile radius of the intersection of Bock and St. Barnabas Roads. State Gov't (SG) § 9-1A-36(h)(1)(vi). Proposals were submitted on May 10, 2013 by: Prince George's Racing Ventures, LLC, Hollywood Casino Resort at Rosecroft Raceway (Rosecroft); Maryland Casino, LLC, Parx Casino Hotel & Spa (Parx); and MGM National Harbor, LLC (MGM).

Rosecroft. Rosecroft proposed a facility for 3,000 video lottery terminals (VLTs) and 140 table games to be located at Rosecroft Raceway. Rosecroft paid the required initial license fee of \$18,000,000¹ for 3,000 VLTs. Rosecroft proposed to construct a facility on the property of the existing Rosecroft Raceway. The facility's amenities would include a hotel, restaurants, retail, and a 2,500-seat entertainment venue. Construction on the facility would be completed for a facility opening in July 2016.

Rosecroft subsequently amended its proposal to remit 100% of the facility's profits, after applicable taxes, management/operational fees, debt service, and expenses, to assist in underwriting the operating expenses of the new Prince George's Hospital System and its planned community healthcare satellite system. In addition to the hospital, it offered to create a supplemental pension/retirement, defined contribution plan for Prince George's County Teachers. The profits would be split 50/50 between the two programs. It also proposed to provide \$200,000 annually to local Prince George's County charities.

¹ Revised October 24, 2013 based on additional \$15,000,000 deposit received.

Parx. Parx proposed a facility for 4,750 VLTs and 170 table games to be located at 7707 Kaydot Road in Fort Washington, at the intersection of Indian Head Highway and Old Fort Road. Parx paid the required initial license fee of \$28,500,000 for 4,750 VLTs and proposed an operator retention-rate of 33%, rather than the statute's allowance of 38%. Parx proposed to construct a new facility, and the amenities would include a hotel, retail, restaurants, and an entertainment venue. Construction on the facility would be phased in, with the facility opening its first phase with approximately 3,000 VLTs in July 2016. The second phase of construction would include the hotel and the additional VLTs to reach the total 4,750 VLTs, for completion by 2019. Parx twice amended its proposal to commit to front the project costs already identified by the State and County for two intersection improvements to Indian Head Highway and adjacent roads (estimated at \$200 million). Parx requested that it be able to recoup any costs in excess of \$100 million from the local impact grant funding in the statute dedicated to improvements on MD Route 210.

MGM. MGM proposed a facility for 3,600 VLTs and 140 table games. MGM paid the required initial license fee of \$21,600,000 for 3,600 VLTs. MGM proposed to construct a new facility at National Harbor that would have amenities including a hotel, restaurants, retail, and entertainment venues. Construction on the facility would be completed for a facility opening in July 2016.

Applicants' qualifications and other restrictions

The Commission cannot award a license until the Maryland Lottery and Gaming Control Commission has found the applicant and the applicant's principals qualified to hold a video lottery operation license, and notified the Commission of the applicant's qualifications. SG § 9-1A-36(m), (n). The qualifying criteria include the applicant's financial stability, integrity, and responsibility; good character, business ability and experience; and execution of labor peace agreement(s). SG §§ 9-1A-07 and -08.

On October 10, 2013, the Maryland Lottery and Gaming Control Commission conducted qualification hearings for all three applicants, and found each applicant and its principals qualified. This Commission was notified of the qualification decisions.

The holder of an operation license may apply to the Commission for an additional license if its application includes a plan of divesting from the currently-held video lottery operation license. SG § 9-1A-05(d)(4)(ii). Rosecroft is the only applicant to which the divestiture requirement arguably applies because Penn National Gaming, Rosecroft's parent company, has held the Cecil County operation license at Hollywood Casino Perryville. If Rosecroft were awarded the license, it would be required to clearly demonstrate that there has been an adequate divestiture from Hollywood Casino Perryville. The Commission decided not to address this issue unless and until the Commission determined that Rosecroft's proposal was the preferred applicant. As a consequence of the evaluation, the Commission did not evaluate, and has not evaluated, whether Rosecroft fulfilled this requirement.

Evaluation of proposals

In evaluating the proposals, the Commission was guided by the statutory criteria and the best interests of the State. Under SG § 9-1A-36(k), the Commission must evaluate the following factors in awarding a license: business and market factors (70% weight); economic development factors (15% weight); and location siting factors (15% weight).

The Commission conducted a site visit, heard the applicants' presentations, and took public comment for each of the sites. These public site visits and meetings were conducted on October 21, 23, and 25, 2013.

The Commission's review of the proposals also included analyses conducted by six different consultants, each of whom have special training or experience in evaluating different aspects or impacts of gaming proposals. The consultants evaluated the applicants' proposals and conducted analyses of each proposal's: (1) gaming revenue projections; (2) impacts on existing Maryland casino licensees; (3) ancillary and non-gaming development; (4) impact to State and local government units; (5) economic impact in Prince George's County and the State; and (6) traffic flow studies.

The consultants were not asked to, and did not review, the proposals' specific compliance with each of the statutory criteria in SG § 9-1A-36(k). The consultants' reports were intended to assist and inform the Commissioners in their evaluation of the proposals. The Chairman reminded the Commissioners that they could give the consultants' reports the weight and value they believed appropriate, and that they were not obligated to give them any weight at all.

On or about November 27, 2013, the consultants distributed their draft reports to Commission staff, who distributed them to the Commission and the applicants. On December 6, 2013, the consultants presented their reports at a public meeting of the Commission, where Commissioners had the opportunity to question the consultants and the applicants were permitted to make a brief statement addressing the consultants' evaluations. The applicants were invited to submit additional information to the Commission based on the consultants' reports, and on December 12, 2013, during a public teleconference meeting of the Commission, the consultants responded to the applicants' additional information. The applicants had the opportunity to further respond in writing to the consultants' evaluations. The consultants submitted their final reports to the Commission on December 18, 2013.

The Commissioners evaluated the applicants' proposals against the weighted criteria in SG § 9-1A-36(k).

There were no closed session meetings of the Commission during which an evaluation of any of the applicants' proposals was conducted. All Commission meetings were recorded.

Public meeting December 20, 2013

On December 20, 2013, the Commission held its final meeting, during which it publicly considered the applicants' proposals. All seven Commissioners were present. Each Commissioner discussed his or her views – favorable or unfavorable – of the proposals.

At the meeting, the Commissioners acknowledged generally that all three proposals were attractive in certain regards, and that each would likely be a great asset to the State. A number of Commissioners stated that while there was wide support for one of the applicants, Rosecroft, in consideration of the horse racing industry, the Commissioners, although sympathetic to the plight of horse racing, indicated that it was not expressly stated as a factor to consider in the statutory license award criteria. Notwithstanding concerns about the horseracing industry, however, the Commissioners made clear that their analysis of the proposals focused on the criteria that the statute (SG § 9-1A-36(k)) requires them to apply to the proposals.

Regarding Rosecroft, Commissioners pointed out that, although the community was apparently quite supportive of the proposal – and that it would of course benefit Maryland's horseracing industry – it was not as well capitalized as the other facilities. Further, Rosecroft's marketing process left something to be desired regarding its ability to draw casino patrons rather than only horseracing customers.

Concern was expressed that the location of the facility was too insulated for it to actually become a tourist destination.

Some Commissioners found Rosecroft's economic projections confusing as compared to the consultants' projections. Its own revenue projections placed it below the consultants' estimates, and lower than Parx and MGM. Concern was also raised regarding how a for-profit entity such as Rosecroft would give away its net profits to the community raising the issue of how much motivation there would be to maximize the amount of revenue return for the State of Maryland if the profit factor was negated from this business model. Additionally, it was pointed out that if Rosecroft were not selected it would benefit from the highest producing gaming facility given that the State's gaming revenues actually benefit the horseracing industry due to the required allocations of gaming revenue (see SG §§ 9-1A-28 (purse dedication account) and -29 (racetrack facility renewal account)).

Regarding Parx, the Commissioners found Parx's presentation impressive, and acknowledged its financial stability, its proven success at the Pennsylvania facility, and the higher tax rate it proposed for this facility. Commissioners acknowledged that should the Parx proposal be constructed it would ultimately benefit the County and the local infrastructure. The overwhelming concern with Parx's proposal was its location related to Indian Head Highway and the documented traffic and infrastructure problems that were already there and that the additional casino traffic would likely exacerbate.

A component of the consultants' analyses was the conclusion that driving to the Parx casino would require three to four more minutes of drive time than reaching the MGM casino, and that this fact rendered the Parx proposal less desirable. Several Commissioners specifically

rejected this conclusion, noting that if Parx were “the only game in town”, customers would still make the trip to the casino.

Commissioners were impressed by Parx’s offer to finance the costs of roadway improvements set forth in the State’s plans. But Commissioners were wary about the real possibility that, because the current County government could not bind the County to reimburse Parx in the future for its expenditures as a local impact grant (see SG § 9-1A-36(c)), and because this Commission cannot force the County to do so, the funding may not materialize.

Commissioners were also concerned that Parx’s phasing (hotel construction and the additional complement of VLTs to reach the total 4,750 VLTs) may not materialize in the future. It was noted that a failure to complete the proposal may not be attributable to Parx, but to problems or delays with necessary sign-offs, including State or federal permitting and eminent domain concerns. Although an applicant is bound to perform the terms of its proposal, as a practical matter if Parx were not able or willing to complete its second phase, this Commission and the Maryland Lottery and Gaming Control Commission would be confronted with how best to enforce this aspect of Parx’s performance.

Two Commissioners made clear that they favored the Parx proposal above the other two applicants. Locating the casino off Indian Head Highway and implementing the State’s recommended infrastructure improvements would be a tremendous advantage to the County, as the improvements would spur small business development along the Indian Head Highway corridor. MGM would not spur small business in this regard, as visitors would exit the highway, go to the casino, utilize the amenities there, and return to the highway.

Commissioners commented that MGM’s proposal and existing infrastructure was substantively excellent and would entice in-state gamblers as well as the Washington, DC market, which may include high-rollers visiting the DC area. It was noted that MGM would bring the highest income to the State. MGM’s location would not need extensive infrastructure improvement and would not further develop the County’s infrastructure. The ease with which gamblers could reach the MGM Casino National Harbor – as opposed to the traffic snarls affecting ease of accessing the Parx casino – was a positive factor.

Commissioners commented positively on MGM’s experience as a casino operator, its strong marketing approach, and its access to the other large number of casinos’ player databases in the MGM network. Commissioners also commented on the attractiveness of the proposed MGM casino as a tourist destination, noting that its aesthetics would be visible from the highway.

The Commissioners agreed that all three proposals were adequate in terms of the statute’s Minority Business Enterprise requirements. See SG § 9-1A-36(l).

Motions

1. Allocation of VLTs

The Gaming Law provides that the Commission generally may not allocate more than 3,000 VLTs for a location in Prince George's County. SG § 9-1A-36(i)(1)(iv). However, the statute specifically provides that the Commission may allocate VLTs in a different manner on a determination that the market factors and other factors evaluated under SG § 9-1A-36(k) warrant the different allocation, and provided that no one location may be allocated more than 4,750 video lottery terminals. SG § 9-1A-36(i)(2).

In light of the fact that two of the applicants proposed greater than 3,000 VLTs, Commissioner Kramer moved to make a specific determination that the market and other factors listed in the statute warrant an allocation above 3,000 VLTs and that such an allocation is in the public interest and consistent with the purposes of the Gaming Law. Based on the information presented to the Commission, Commissioner Kramer stated her belief that there was sufficient evidence to support a determination to warrant an allocation above 3,000 VLTs. Commissioner Kramer's motion was seconded by Commissioner King. There was no discussion, and the motion carried unanimously.

2. License award

Commissioner Poole made a motion to award the Prince George's County license to MGM, and Commissioner Miller seconded the motion. There was a brief discussion, during which Commissioner Poole commented that, while this was not clear cut, it was his view that MGM was the best applicant. Commissioners Miller, Pierce, Poole, Read and Chairman Fry voted in favor, and Commissioners King and Kramer voted against the motion. The motion carried.

3. Delegation

Commissioner Kramer made a motion to delegate to Chairman Fry the authority to draft the Decision Statement and transmit it to Rosecroft, Parx and MGM. The motion was seconded by Commissioner King. The motion carried unanimously.

Refund of initial license fee

As provided in Section 2.9.1.2 of the RFP, an unsuccessful applicant that has properly fulfilled all requirements of the RFP process will be refunded its initial license fee within 45 days after the award of the license by the Video Facility Location Commission, unless the unsuccessful applicant challenges the award. The amount of the unsuccessful applicant's refund will be the applicant's initial license fee minus any unpaid costs for application and background investigation costs incurred by the State.

Appeal rights

An unsuccessful applicant for the Prince George's license may seek, under Title 15 of the State Finance and Procurement Article, review by the State Board of Contract Appeals (Board) of the awarding of the operation license. SG § 9-1A-36(q). An action for review by the Board must be filed no later than ten days after the unsuccessful applicant's receipt of this Decision.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dm Fry".

Donald C. Fry, Chairman
December 23, 2013

