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FIRM and AFFILIATE OFFICES

FRANK A. DIGIACOMO
DIRECT DIAL: +1 856 874 4205
E-MAIL: fdigiacomo@duanemorris.com

www.duanemorris.com

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July 1, 2015

VIA HAND DELIVERY

Ms. Gail Thorpe and Ms. Stacey Relation
New York State Gaming Commission
One Broadway Center
Schenectady, NY 12305

Re: Tioga Downs Racetrack, LLC – RFA Submission and Request for Confidentiality of Materials Provided Therein

Dear Ms. Thorpe and Ms. Relation:

On behalf of Tioga Downs Racetrack, LLC, I am pleased to submit the enclosed response to the Request for Applications to Develop and Operate a Gaming Facility in New York State dated March 23, 2015 (“RFA”). This letter will address three issues with respect to the enclosed RFA submission by Tioga Downs: (1) confidential materials submitted as part of the submission; (2) conflicts of interest relative to certain experts of the New York State Gaming Facility Location Board and confidential treatment of Tioga Downs’ expert models related thereto; and (3) fingerprints requested by individuals submitted background applications in connection with this submission.

I. Confidential Materials Submitted in Tioga Downs’ RFA Submission

Pursuant to Section IV.B.7.a of the RFA, Tioga Downs is requested to enumerate the specific grounds in the New York State Freedom of Information Law (“FOIL”) that support treatment of certain material in Tioga Downs’ RFA submission as exempt from public disclosure.

This request for the treatment of certain material in its RFA submission as exempt from public disclosure is consistent with FOIL. While FOIL generally ensures general access to public information (*See* Public Officers Law §84), FOIL contains certain exemptions. Specifically, Section 87(2) of the FOIL provides that an agency may deny access to records that:

DUANE MORRIS LLP

1540 BROADWAY NEW YORK, NY 10036-4086
DM1\5802034.1 N1959/00001

PHONE: +1 212 692 1000 FAX: +1 212 692 1020

(a) are specifically exempted from disclosure by state or federal statute;

(b) if disclosed would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eighty-nine of Article 6;

(d) are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise;

(f) if disclosed could endanger the life or safety of any person...

Section 89(2)(b) of FOIL provides that an unwarranted invasion of personal privacy includes, but shall not be limited to:

i. disclosure of employment, medical or credit histories or personal references of applicants for employment;

ii. disclosure of items involving the medical or personal records of a client or patient in a medical facility;

iii. sale or release of lists of names and addresses if such lists would be used for solicitation or fund-raising purposes;

iv. disclosure of information of a personal nature when disclosure would result in economic or personal hardship to the subject party and such information is not relevant to the work of the agency requesting or maintaining it;

v. disclosure of information of a personal nature reported in confidence to an agency and not relevant to the ordinary work of such agency;

vi. information of a personal nature contained in a workers' compensation record, except as provided by section one hundred ten-a of the workers' compensation law; or

vii. disclosure of electronic contact information, such as an e-mail address or a social network username, that has been collected from a taxpayer under section one hundred four of the real property tax law.

These provisions recognize that, at times, public disclosure of certain documents or information provided by an applicant or licensee to the Board and the New York State Gaming Commission would be detrimental and, in turn, outweigh the benefit of public disclosure. Similarly, these provisions are consistent with the fundamental purpose behind all gaming licensure application and investigation processes, which is to instill public confidence and trust in the gaming industry by ensuring that the individuals and entities seeking licensure are suitable and qualified. This process best serves the public interest when applicants for licensure are able to provide full, candid and complete disclosures to regulators.

For the foregoing reasons, Tioga Downs identifies the following specific grounds under FOIL that support treatment of certain material in Tioga Downs' RFA submission as exempt from public disclosure:

- 1. Exempt from disclosure by state or federal statute;**
- 2. Unwarranted invasion of personal privacy;**
- 3. Trade secrets or would cause substantial injury to the competitive position of the subject enterprise; and**
- 4. Endangers the life or safety of any person.**

Attached as Exhibit A is a detailed log of each exhibit of Tioga Downs' RFA submission for which confidential treatment is sought detailing which of the specific grounds outlined above support the treatment of the exhibit as exempt from public disclosure.

Furthermore, with respect to the Multi-Jurisdictional Personal History Disclosure Forms ("MJPHDF"), New York Supplements to the MJPHDF of Casino Key Employees and the Gaming Facility License Application Forms, Tioga Downs anticipates that the Commission and Board will follow the same process followed last year by not making these highly confidential forms available for inspection by the public. In case the Commission and Board are considering not following its own process from 2014, Tioga Downs suggests that making these forms available for public inspection serves no legitimate regulatory purpose. The stated legislative declaration of the New York Gaming Law is that "[c]asinos will be tightly and strictly regulated by the commission to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state." PML Article 13.

In order to achieve these standards of integrity and public confidence, the Commission need not make available to the public portions of individual qualifiers' personal information. To

July 1, 2015
Page 4

the contrary, such disclosures undermines the Commission's ability to achieve the highest standards of integrity in its investigation process. The fundamental purpose behind all gaming licensure application and investigation processes is to provide public confidence and trust in the gaming industry by ensuring that the individuals and entities seeking licensure are suitable and qualified. These objectives are best accomplished when applicants for licensure (and associated individuals and entities) are willing to provide full, candid and complete disclosures to regulators. Consequently, the regulatory process calls for the disclosure of information that is highly private and confidential, particularly when individuals are involved. Simply stated, individuals are much more likely to make timely, full, and candid disclosures when they are assured that their personal information will only be shared with the regulators rather than the public.

This assurance of absolute, non-public disclosure of individual qualifiers' application forms has been followed by all major gaming regulatory agencies in the United States and elsewhere, including the gaming regulatory agencies in the three largest U.S. gaming markets, Nevada, Pennsylvania and New Jersey. The requirements of these agencies to maintain as confidential personal disclosure forms and entity forms, has served those jurisdictions well in developing and maintaining gaming industries with the utmost integrity while enabling those agencies to efficiently and effectively enforce the requirements of their gaming laws. Each of those jurisdictions throughout their regulatory histories, have effectively excluded and not licensed unqualified persons and entities in large part due to the confidentiality protections afforded their applicants in connection with the investigation process. It simply does not serve the best interests of New York or the Board or Commission to impose such a public disclosure process which discloses individual's applications forms and which only serves to undermine the gaming law's primary objective of ensuring integrity in the gaming licensing process.

For the foregoing reasons, Tioga Downs submits that the entire MJPHDF, NY Supplement and Entity Applications should not be made publicly available - similar to the process followed in 2014. In an abundance of caution, Tioga Downs identifies the following items in the MJPHDF, NY Supplement and the Entity Applications that contain confidential information that is exempt from public disclosure under FOIL and such items are partially redacted or redacted in their entirety for the reasons sets forth below:

MJPHDF

Redacted in whole or in part for unwarranted invasion of personal privacy: Personal Data; Item 3 (relating to Casino Key Employee's current and past residences); Item 4 (relating to Casino Key Employee's marital status); Item 5 (relating to Casino Key Employee's children); Item 6 (relating to Casino Key Employee's parents); Item 7 (relating to Casino Key Employee's siblings); Item 10 (Military Service Data); Item 12 (relating to the offices and positions held by Casino Key Employee); Item 14 (relating to Casino Key Employee's gaming-related employment history); Item 15 (relating to Casino Key Employee's employment history); Item 16 (relating to discharges/suspensions from employment); Item 17 (relating to Casino Key

July 1, 2015

Page 5

Employee's spouse's employment); Item 18 (relating to trustee/fiduciary officer positions of Casino Key Employee and spouse); Item 19 (a and b) (relating to Casino Key Employee's denial of, suspension/removal from trustee/fiduciary officer positions); Item 21 (permit suspensions/revocations); Item 22 (relating to denials/suspensions/revocations/conditions of licenses held by entities of which Casino Key Employee is a director, officer or owner); Item 23 (relating to business ownership interests); Item 26 (relating to business interest applied for licensing in the gaming or alcohol industries); Item 27 (a and b) (relating to members of Casino Key Employee's family in the gaming and alcohol industries); Item 28 (Arrests and Charges); Item 29 (indictments); Item 30 (relating to investigations); Item 31 (relating to testimony); Item 32 (relating to the receipt of pardons); Item 33 (relating to arrests or charges against a Casino Key Employee's family); Item 36 (related to citations for violation of statute other than criminal statute); Item 37 (relating to whether a Casino Key Employee has ever been barred or excluded relating to any gaming license); Item 38 (vehicle operator data); Item 39 (Liens/debts); Item 40 (Bankruptcies); Item 41 (Business entity bankruptcies); Item 42 (Individual/partnership liquidation); Item 43 (Wages garnished); Item 44 (property repossessed); Item 45 (administration of an estate); Item 46 (interests in trusts); Item 47 (control of any trusts); Item 48 (ownership of account outside country of residency); Item 49 (Loans in excess of \$25,000); Item 50 (Loans made in excess of \$10,000); Item 51 (Exchange of currency of more than \$10,000); Item 52 (brokerage or margin accounts); Item 53 (insurance claims over \$100,000); Item 54 (Gifts received exceeding \$10,000); Item 55 (Safe deposit box information); Item 56 (Referral or finder's fees received in excess of \$10,000); Item 57 (co-signatory on debt); Item 58 through Item 74 (Net Worth Statement); Item 75 (relating to personal references); and Item 76 (Additional Information).

NY Supplement

Redacted in whole or in part for unwarranted invasion of personal privacy: Item 4 (Citizenship information); Item 5B (Business Interests); Attachment 4A (Certificate of Naturalization); Attachment 4B (USCIS Documentation); Attachment 5B (Certain business and other interests); Attachment 7 (References).

Exempt from disclosure by state or federal statute and redacted in whole or in part for unwarranted invasion of personal privacy: Item 6 (Taxation); Item 8 (Attachments); Attachment 6A (IRS Form 1040); Attachment 6B (Audit Narrative); Attachment 6C (Failure to File Narrative); Attachment 6D (Foreign tax returns and schedules).

Entity Application

Redacted in whole or in part for unwarranted invasion of personal privacy: Item and Attachment 24 (Criminal History); Item and Attachment 25 (Testimony, Investigations or Polygraphs); Item and Attachment 26 (Testimony, Investigations or Polygraph Refusals); Attachment 1B (Persons Forming the Entity); Attachment 5 (Directors and Trustees);

July 1, 2015

Page 6

Attachment 6 (Former Directors and Trustees); Attachment 7 (Officers); Attachment 8 (Former Officers).

Redacted in whole or in part for trade secrets or would cause substantial injury to the competitive position of the subject enterprise: Item 31 (Contributions and Disbursements of Entity); Attachment 3 (Description of Business); Attachment 15 (Debt Information); Attachment 16 (Holder of Long Term Debt); Attachment 17 (Other Indebtedness and Security Device); Attachment 18 (Holders of Other Indebtedness); Item 19 (Securities Options); Item 20 (Financial Institutions); Item 21 (Contracts and Suppliers); Item 22 (Other Ownership Interests Held by the Entity); Item 23 (Insider Transactions); Attachment 32 (Financial Statements); Attachment 33 (Annual Reports); Attachment 39 (Reports of Accountants); Attachment 40 (Articles of Incorporation, Charter, By-Laws); Attachment 41A (Ownership Chart); Attachment 41B (Organizational Chart).

Redacted in whole or in part for for unwarranted invasion of personal privacy and trade secrets or would cause substantial injury to the competitive position of the subject enterprise: Item 43 (Attachments); Attachment 9 (Compensation of Officers and Directors); Attachment 10 (Compensation over \$250,000); Attachment 13 (Voting Owners); Attachment 14 (Non-Voting Owners).

Exempt from disclosure by state or federal statute and redacted in whole or in part for trade secrets or would cause substantial injury to the competitive position of the subject enterprise: Item 42 (Tax Returns).

II. Conflicts of Interest between Experts and Confidential Treatment of Information Provided By Tioga Downs' Expert

In order to comply with the requirements of the RFA, Tioga Downs hired various experts, including Global Gaming & Hospitality, LLC, Morowitz Gaming Advisors, LLC and Leisure Dynamics Research, LLC. These consultants have prepared expert reports that are included in Tioga Downs' RFA submission. In developing their respective expert reports, Tioga Downs' consultants relied on proprietary methods and trade secrets, which are highly confidential and competitively sensitive. Accordingly, Tioga Downs, on behalf of its consultants, requests that the Board and Commission consider the information contained in Tioga Downs' RFA submission, specifically information requested pursuant to Section IV.B.3 of the RFA, to be proprietary and trade secret. As a result, this information shall be withheld from public disclosure pursuant to N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1313.2 and N.Y. Public Officers Law § 87.

Additionally, Tioga Downs and its consultants consider Christiansen Capital Advisors, Macomber International, Inc. and Houlihan Lokey Capital, Inc. to be direct competitors of Tioga Downs' consultants. Accordingly, all proprietary information and/or trade secrets provided by Tioga Downs' consultants should not be provided to Christiansen, Macomber or Houlihan

July 1, 2015
Page 7

Lokey, as expressly contemplated by the Board in the 2014 RFA. Specifically, the Board expressly contemplated the confidentiality of models utilized by applicants' experts in connection with the RFA. Answer 68 of the Round 1 – Questions and Answers dated April 23, 2014 provided that:

The Board or the Commission will determine whether a model alleged to be proprietary is a trade secret that is permitted to be withheld from public disclosure under N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1313.2 and N.Y. Public Officers Law § 87. The applicant has the burden of demonstrating the proprietary nature of the model asserted to be a trade secret and the burden of demonstrating that its consultants are competitors of the Board or Commission's consultants.

If the Board or the Commission determines that the consultants of an applicant are competitors of consultants retained by the Board or the Commission, models deemed to be trade secrets **will not be disclosed** to such consultants shown to be competitors of the applicant's consultants. (**Emphasis added**).

Tioga Downs appreciates the recognition of the Board and Commission regarding the competitive nature of the gaming industry and understanding that sharing forecasting models used by industry experts with direct competitors would be detrimental to the businesses of gaming experts and the industry as a whole. Tioga Downs relied on the guidance of the Board and Commission in providing similar information in 2014 and again relies on this guidance in providing this information as part of this RFA submission. For the reasons detailed below and consistent with the guidance of the Board and Commission outlined in Answer 68, Tioga Downs and its consultants request that confidential, proprietary information submitted by Tioga Downs in its RFA response be shielded from public disclosure as well as not shared with the Board's consultants.¹

¹ Should the Board and/or the Commission determine that the information for which this letter is premised is not confidential and/or proprietary (or is otherwise able to be shared with Christiansen, Houlihan Lokey and/or Macomber), Tioga Downs requests that the Board and Commission provide notice immediately to the undersigned counsel so that Tioga Downs may consider and take all measures provided by New York law to prevent the dissemination of the information in question.

July 1, 2015
Page 8

A. Expert Models Are Trade Secrets That Should Be Shielded From Disclosure Pursuant to N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1313.2 and N.Y. Public Officers Law § 87.

Section IV.B.3 of the RFA requests that applicants provide interactive electronic files of:

[E]ach revenue, construction, employment, financial, traffic, infrastructure or similar model, forecast, projection or table presented in an Application so as to enable the Board and the Board's representatives to analyze and tie the calculations and formulas used to produce such model, projection, forecast or table.

The models, forecasts, projections and tables used by Tioga Downs' consultants requested in Section IV.B.3 of the RFA are undoubtedly trade secrets and proprietary information exempt from disclosure under N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1313.2 and N.Y. Public Officers Law § 87.

Section 1313.2 of the N.Y. Racing, Pari-Mutuel Wagering and Breeding Law provides that:

Applications for licenses shall be public records; provided however, that trade secrets, competitively-sensitive or other proprietary information provided in the course of an application for a gaming license under this article, the disclosure of which would place the applicant at a competitive disadvantage, may be withheld from disclosure pursuant to [Section 87(2)(d) of N.Y. Public Officers Law].

While FOIL generally ensures general access to public information, FOIL contains certain exemptions. Section 87 of FOIL recognize that, at times, public disclosure by the Board or Commission of certain documents or information provided by an applicant or licensee to the Board and Commission would be detrimental and, in turn, outweigh the benefit of public disclosure. Specifically, Section 87(2)(d) of FOIL provides that an agency may deny access to records that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise."

New York courts universally apply a common law definition of "trade secret," derived from the Restatement of Torts §757. *Monovis, Inc. v. Aquino*, 905 F. Supp. 1205, 1223 (W.D.N.Y 1994) citing *Integrated Cash Mgmt. Serv. v. Digital Transactions*, 920 F.2d 171, 173 (2d Cir. 1990). Comment b to Section 757 of the Restatement of Torts provides that a "trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it."

July 1, 2015

Page 9

There is no question that the information provided by Tioga Downs' experts and required to be provided by Tioga Downs pursuant to Section IV.B.3 of the RFA are trade secrets. The models and formulas found in the Microsoft Excel spreadsheets and other forms of compilation of information provided pursuant to Section IV.B.3 of the RFA are themselves trade secrets. Additionally, these spreadsheets all contain compiled information which are trade secrets both in the information and in the format in which the information is compiled. Tioga Downs' experts have developed modeling that contains expert assumptions based on decades of experience in the gaming industry. Gaming industry consultants take great pride in the detail and time spent developing, editing and perfecting these models and go to great lengths to shield this information from disclosure to their competitors. Further, the public availability of such information would almost certainly destroy the viability of the experts' businesses. For these reasons, the information provided in Tioga Downs' RFA submission pursuant to Section IV.B.3 of the RFA is both trade secret and if disclosed would cause substantial injury to the competitive position of Tioga Downs' experts.

B. Tioga Downs' Consultants Are Direct Competitors of Christianson, Macomber and Houlihan Lokey.

Christiansen, Macomber and Houlihan Lokey are well-established, well-known gaming-industry consultants that provide a wide range of economic, financial, market, and strategic planning services – the same services also provided by Tioga Downs' consultants. Given the uniqueness and limited size of the gaming industry, Tioga Downs' consultants are competing with Christiansen, Macomber and Houlihan Lokey on virtually each and every opportunity for public and private sector work.

There is no doubt these gaming consultants are among the top in the industry. For the foregoing reason, the Commission and Board must follow the issued guidance and protect confidential information from dissemination to competitors – Christiansen, Macomber and Houlihan Lokey.

III. Fingerprints of Individuals Submitting Background Applications in connection with Tioga Downs' RFA Submission

Tioga Downs is the only applicant that has an operating already in place that is regulated and licensed by the Commission. As a licensed entity regulated by the Commission, Tioga Downs' key employees are already licensed by the Commission and have been for years. In addition, the key employees identified in Tioga Downs' RFA submission all submitted fingerprints to the Board and Commission in 2014. Tioga Downs respectfully requests that the Board accept the previously submitted fingerprint cards.

July 1, 2015
Page 10

Please feel free to contact me should you have any questions. Thank you for your consideration.

Very truly yours,

DUANE MORRIS LLP



Frank A. DiGiacomo

FAD:dk
Enclosures

EXHIBIT A

| | EXHIBIT | EXHIBIT DESCRIPTION | REASON FOR EXEMPTION FROM DISCLOSURE |
|----|---------------------|---|---|
| 1 | Exhibit VI.D. | Type of Business Formation | Specifically exempted from disclosure by state or federal statute; Would constitute an unwarranted invasion of personal privacy |
| 2 | Exhibit VI.E. | Table of Ownership | Trade secret and would cause substantial injury to the competitive position; Would constitute an unwarranted invasion of personal privacy |
| 3 | Exhibit VI.F. | Organizational Chart | Trade secret and would cause substantial injury to the competitive position |
| 4 | Exhibit VI.G. | Names, Addresses and Experience of Directors and Officers | Would constitute an unwarranted invasion of personal privacy |
| 5 | Exhibit VI.H. | Names, Addresses and ownership and other interests | Would constitute an unwarranted invasion of personal privacy |
| 6 | Exhibit VI.L. | Public Officials | Would constitute an unwarranted invasion of personal privacy |
| 7 | Exhibit VI.P.3. | Certified copy of its certificate of formation or articles of organization of a limited liability company | Trade secret and would cause substantial injury to the competitive position |
| 8 | Exhibit VI.P.4. | limited liability company agreement or operating agreements | Trade secret and would cause substantial injury to the competitive position |
| 9 | Exhibit VIII.A.2.a. | Applicant Minimum Capital Investment | Trade secret and would cause substantial injury to the competitive position |
| 10 | Exhibit VIII.A.2.b. | Prior Capital Investment | Trade secret and would cause substantial injury to the competitive position |
| 11 | Exhibit VIII.A.3. | Market/Revenue Study | Trade secret and would cause substantial injury to the competitive position |
| 12 | Exhibit VIII.A.4. | Pro-Forma Financial Information | Trade secret and would cause substantial injury to the competitive position |
| 13 | Exhibit VIII.A.5. | Business Plan | Trade secret and would cause substantial injury to the competitive position |
| 14 | Exhibit VIII.A.6.a. | Financing Source Schedule | Trade secret and would cause substantial injury to the competitive position |
| 15 | Exhibit VIII.A.6.b. | Financing Description | Trade secret and would cause substantial injury to the competitive position |
| 16 | Exhibit VIII.A.6.c. | Financing plan, arrangements and agreements | Trade secret and would cause substantial injury to the competitive position |
| 17 | Exhibit VIII.A.6.d. | Financing plan analysis | Trade secret and would cause substantial injury to the competitive position |
| 18 | Exhibit VIII.A.6.e. | Anticipated Financing Sources | Trade secret and would cause substantial injury to the competitive position |
| 19 | Exhibit VIII.A.7.a. | Financing Source Financing Statements | Trade secret and would cause substantial injury to the competitive position |

| | EXHIBIT | EXHIBIT DESCRIPTION | REASON FOR EXEMPTION FROM DISCLOSURE |
|----|----------------------|--|---|
| 20 | Exhibit VIII.A.8.b. | Financing Source Audit Reports | Trade secret and would cause substantial injury to the competitive position |
| 21 | Exhibit VIII.A.8.c. | Security analysts' and credit rating agencies reports | Trade secret and would cause substantial injury to the competitive position |
| 22 | Exhibit VIII.A.10. | Legal Actions | Trade secret and would cause substantial injury to the competitive position; Would constitute an unwarranted invasion of personal privacy |
| 23 | Exhibit VIII.A.12. | Breach of Contract | Trade secret and would cause substantial injury to the competitive position |
| 24 | Exhibit VIII.A.13. | Tax Audit | Specifically exempted from disclosure by state or federal statute |
| 25 | Exhibit VIII.A.14.a. | Gaming Licenses | Trade secret and would cause substantial injury to the competitive position |
| 26 | Exhibit VIII.A.14.b. | Disciplinary Actions | Trade secret and would cause substantial injury to the competitive position; Would constitute an unwarranted invasion of personal privacy |
| 27 | Exhibit VIII.B.1. | Market Analysis | Trade secret and would cause substantial injury to the competitive position |
| 28 | Exhibit VIII.B.2. | Player Database and Loyalty Program | Trade secret and would cause substantial injury to the competitive position |
| 29 | Exhibit VIII.B.3.a. | Municipality, Region and State economic benefit impact studies | Trade secret and would cause substantial injury to the competitive position |
| 30 | Exhibit VIII.B.3.b. | Local and regional economic impact study | Trade secret and would cause substantial injury to the competitive position |
| 31 | Exhibit VIII.B.4. | Projected Tax Revenue to State | Trade secret and would cause substantial injury to the competitive position |
| 32 | Exhibit VIII.B.6. | New York State Subcontractors and Suppliers | Trade secret and would cause substantial injury to the competitive position |
| 33 | Exhibit VIII.B.7.a. | Tables for total employees/pay rate/in-region and in state employees | Trade secret and would cause substantial injury to the competitive position |
| 34 | Exhibit VIII.B.9.b. | Marketing plans | Trade secret and would cause substantial injury to the competitive position |
| 35 | Exhibit VIII.B.9.c. | Strategy to ensure maximum use | Trade secret and would cause substantial injury to the competitive position |
| 36 | Exhibit VIII.C.1.f. | Phase I or Phase II environmental reports | Trade secret and would cause substantial injury to the competitive position; Could endanger the life or safety of any person |
| 37 | Exhibit VIII.C.2.b. | Status of land | Trade secret and would cause substantial injury to the competitive position |

| | EXHIBIT | EXHIBIT DESCRIPTION | REASON FOR EXEMPTION FROM DISCLOSURE |
|----|----------------------|--|--|
| 38 | Exhibit VIII.C.5.a. | Design and Layour - Proposed Gaming Facility | Trade secret and would cause substantial injury to the competitive position; Could endanger the life or safety of any person |
| 39 | Exhibit VIII.C.5.b. | Overall architectural and building plans | Trade secret and would cause substantial injury to the competitive position; Could endanger the life or safety of any person |
| 40 | Exhibit VIII.C.6.a. | Casino - Description of proposed gaming area | Trade secret and would cause substantial injury to the competitive position; Could endanger the life or safety of any person |
| 41 | Exhibit VIII.C.6.d. | Attributes of slot accounting system | Trade secret and would cause substantial injury to the competitive position |
| 42 | Exhibit VIII.C.13. | Back of House | Could endanger the life or safety of any person |
| 43 | Exhibit VIII.C.15. | Dock and Loading | Could endanger the life or safety of any person |
| 44 | Exhibit VIII.C.16. | Physical Plant and Mechanical System | Trade secret and would cause substantial injury to the competitive position; Could endanger the life or safety of any person |
| 45 | Exhibit VIII.C.17.a. | Estimated fresh water and electricity demand | Trade secret and would cause substantial injury to the competitive position; Could endanger the life or safety of any person |
| 46 | Exhibit VIII.C.17.c. | Necessary utility improvements | Could endanger the life or safety of any person |
| 47 | Exhibit VIII.C.17.d. | Necessary roadway and traffic improvements | Trade secret and would cause substantial injury to the competitive position |
| 48 | Exhibit VIII.C.19. | Construction Budget | Trade secret and would cause substantial injury to the competitive position; Could endanger the life or safety of any person |
| 49 | Exhibit VIII.C.20.a. | Proposed construction timeline | Trade secret and would cause substantial injury to the competitive position |
| 50 | Exhibit VIII.C.21. | Construction Jobs | Trade secret and would cause substantial injury to the competitive position |
| 51 | Exhibit VIII.C.22. | Gaming Equipment Vendors | Trade secret and would cause substantial injury to the competitive position |
| 52 | Exhibit VIII.D.1.a. | Proposed internal controls | Trade secret and would cause substantial injury to the competitive position; Could endanger the life or safety of any person |

| | EXHIBIT | EXHIBIT DESCRIPTION | REASON FOR EXEMPTION FROM DISCLOSURE |
|----|--|--|---|
| 53 | Exhibit VIII.D.1.b. | Proposed table of organization | Trade secret and would cause substantial injury to the competitive position; Could endanger the life or safety of any person |
| 54 | Exhibit IX.A.1.b. | Other evidence of local support | Would constitute an unwarranted invasion of personal privacy |
| 55 | Exhibit IX.A.2.a. | Cost to host municipalities and State | Trade secret and would cause substantial injury to the competitive position |
| 56 | Exhibit IX.A.4. | Housing | Trade secret and would cause substantial injury to the competitive position |
| 57 | Exhibit IX.A.5. | School Population | Trade secret and would cause substantial injury to the competitive position |
| 58 | Exhibit IX.B.1. | Local Business Promotion | Trade secret and would cause substantial injury to the competitive position |
| 59 | Exhibit IX.B.2.a. | Agreements with impacted entertainment venues | Trade secret and would cause substantial injury to the competitive position |
| 60 | Exhibit IX.B.4. | Local Agreements | Trade secret and would cause substantial injury to the competitive position |
| 61 | Exhibit IX.B.5. | Cross Marketing | Trade secret and would cause substantial injury to the competitive position; Would constitute an unwarranted invasion of personal privacy |
| 62 | Exhibit X.A.4. | Self-Exclusion Policies | Trade secret and would cause substantial injury to the competitive position; Could endanger the life or safety of any person |
| 63 | Exhibit X.B.1. | Human Resource Practices | Trade secret and would cause substantial injury to the competitive position |
| 64 | Exhibit X.B.2. | Affirmative Action Plan | Trade secret and would cause substantial injury to the competitive position |
| 65 | Exhibit X.B.5. | Organized Labor Contracts | Trade secret and would cause substantial injury to the competitive position; Would constitute an unwarranted invasion of personal privacy |
| 66 | Exhibit X.B.6. | Labor Harmony | Trade secret and would cause substantial injury to the competitive position |
| 67 | Exhibit X.C.8. | Domestic Slot Machines | Trade secret and would cause substantial injury to the competitive position |
| 68 | Attachment 1 | Affirmation | Would constitute an unwarranted invasion of personal privacy |
| 69 | Attachment 2 | Addendum Acknowledgment Form | Would constitute an unwarranted invasion of personal privacy |
| 70 | Attachment 3 | Waiver, Release, Covenant Not to Sue and Indemnification | Would constitute an unwarranted invasion of personal privacy |
| 71 | Attachment 4 | Acknowledgment of Amendments to RFA | Would constitute an unwarranted invasion of personal privacy |
| 72 | Disclosure and Certification | | Would constitute an unwarranted invasion of personal privacy |
| 73 | Non-Collusion Affidavit | | Would constitute an unwarranted invasion of personal privacy |
| 74 | Multi-Jurisdictional Personal History Disclosure Forms | | Specifically exempted from disclosure by state or federal statute; Would constitute an unwarranted invasion of personal privacy |
| 75 | New York Supplemental Forms to MJPHD | | Specifically exempted from disclosure by state or federal statute; Would constitute an unwarranted invasion of personal privacy |
| 76 | Entity Applications | | Trade secret and would cause substantial injury to the competitive position |