

**COMMONWEALTH OF VIRGINIA  
VIRGINIA LOTTERY**



**BUSINESS ENTITY DISCLOSURE FORM  
for Preferred Casino Gaming Operator**

CONFIDENTIAL

## **Business Entity Disclosure Form**

Pamunkey Indian Tribal Gaming Authority

NAME OF BUSINESS ENTITY (DO NOT ABBREVIATE)

Pamunkey Indian Tribal Gaming Authority

Name as it appears on the Certificate of Incorporation, charter, by-laws, partnership agreement, formation documents or other official document.

Pamunkey Gaming Authority

D/B/A or Trade Name(s)

### **PERSON TO BE CONTACTED IN REFERENCE TO THIS APPLICATION:**

Frederick T. Langston, Chairperson, Pamunkey Gaming Authority

Name and Title

indian21948@gmail.com

E-Mail Address

(804) 843-4179

Telephone (Area Code) Number

none

Fax Number

### **PRINCIPAL BUSINESS ADDRESS OF THE BUSINESS ENTITY:**

1054 Pocahontas Trail, Pamunkey Indian Reservation, King William, VA 23086

STREET LOCATION

Number/Street

City

State

Zip Code

MAILING ADDRESS (if different)

Number/Street

City

State

Zip Code

COUNTRY TELEPHONE

Area Code

Number

Fax Number

WEBSITE (URL)

### **ADDRESS FROM WHICH THE BUSINESS ENTITY IS OR WILL BE CONDUCTING ANY BUSINESS, AS PART OF AN AGREEMENT WITH A CASINO HOTEL:**

1054 Pocahontas Trail, Pamunkey Indian Reservation, King William, VA 23086

STREET LOCATION

Number/Street

City

State

Zip Code

United States

(804) 843-4179

none

COUNTRY TELEPHONE

Area Code

Number

Fax Number

ITEM 1. INCORPORATION OR FORMATION

- A. Provide the date and place of incorporation or formation:

May 21, 2020

Date

Pamunkey Indian Reservation, King William, VA

Place of incorporation or formation

ITEM 2. OTHER NAMES AND ADDRESSES OF THE BUSINESS ENTITY

- A. List all other names under which the business entity has done business and give the approximate time periods during which these names were being used:

None

- B. Use Attachment 2B to provide the following information about all other addresses presently used by the business entity and all addresses from which the business entity is presently doing business:

NUMBER AND STREET	CITY	STATE	ZIP CODE
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- C. Use Attachment 2C to provide the following information on all addresses, other than those listed in Item 2B, which the business entity held, or from which it was conducting business during the last 10 year period, and give the approximate time periods during which such addresses were held:

NUMBER AND STREET	CITY	STATE	ZIP CODE	DATES	
				FROM	TO

**ITEM 3.            DESCRIPTION OF PRESENT BUSINESS**

Provide as Attachment 3, a description of the business done and intended to be done by the business entity and its parent, holding, subsidiary and intermediary companies or business entities and the general development of such business during the past five years, or such shorter period as the business entity or its parent, subsidiary and intermediary companies or business entities may have been engaged in business. The description shall include information on matters such as the following:

- A. Competitive conditions in the industry or industries involved and the competitive position of the business entity, if known.
- B. The principal products produced and services rendered by the business entity and its parent, intermediary and subsidiary companies, the principal markets for said products or services and the methods of distribution.
- C. The sources and availability of raw materials essential to the business of the entity.
- D. The importance to the business and the duration and effect of, all material patents, trademarks, licenses, franchises, and concessions held.
- E. In describing developments, provide information such as the following: the nature and results of any bankruptcy, receivership or similar proceedings with respect to the business entity or its parent, intermediary or subsidiary companies; the nature and results of any other material reorganization, readjustment or succession of the business entity or any of its subsidiaries; the acquisition or disposition of any material amount of assets otherwise than in the ordinary course of business; and any material changes in the mode of conducting the business.

**See Attachment 3 and Attachment 3 (A)**

**ITEM 4.            DESCRIPTION OF FORMER BUSINESS**

Provide as Attachment 4, a description of any former business, not listed in response to Item 3, which the business entity or any parent, intermediary or subsidiary company engaged in during the last 10 year period and the reasons for the cessation of such business. Also indicate the approximate time period during which each such business was conducted.

**See Attachment 4**

ITEM 5. DESCRIPTION OF LONG TERM DEBT

Provide as Attachment 5, a description of the nature, type, terms, covenants, conditions and priorities of all outstanding bonds, loans, mortgages, trust deeds, notes, debentures, or other forms of indebtedness issued or executed (including loans made by shareholders, or to be issued or executed by the business entity, which mature more than one year from the date of issuance or which, by their terms, are renewable for a period of more than one year from the date of issuance (or, in the space below, provide a specific cross-reference to the applicable document(s) filed with this application that contain(s) all of the requested information.

See Attachment 5

ITEM 6. HOLDERS OF LONG TERM DEBT

Use Attachment 6 to provide the following information for each person or entity holding any outstanding bonds, loans, mortgages, trust deeds, notes, debentures, or other forms of indebtedness executed or issued by the business entity, which mature more than one year from the date of issuance or which, by their terms, are renewable for a period of more than one year from the date of issuance.

See Attachment 6

NAME AND ADDRESS	DATE OF BIRTH	TYPE AND CLASS OF DEBT INSTRUMENT HELD	DOLLAR AMOUNT OF DEBT HELD (Both Original Amount and Current Balance)
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ITEM 7. OTHER INDEBTEDNESS AND SECURITY DEVICES - NONE

Provide as Attachment 7, a description of the nature, type, terms, conditions and covenants of all outstanding loans, mortgages, trust deeds, pledges, lines of credit, or other evidence of indebtedness or security devices utilized by the business entity other than those described in response to Items 5 and 6 (or, in the space below, provide a specific cross-reference to the applicable document(s) filed with this application that contain(s) all of the requested information).

ITEM 8. HOLDERS OF OTHER INDEBTEDNESS - NONE

Use Attachment 8 to provide the following information with respect to each holder of any outstanding loan, mortgage, trust deed, pledge or other evidence of indebtedness or security device described in response to Item 17. (Note: At the time the casino license application is submitted, some or all of the persons listed in response to this item may be required by the Lottery to submit a completed Personal History Disclosure Form 1 or Business Entity Disclosure Form, as the case may be).

NAME AND ADDRESS	DATE OF BIRTH	TYPE OF DEBT INSTRUMENT HELD	DOLLAR AMOUNT OF DEBT HELD (Both Original Amount and Current Balance)
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ITEM 9. SECURITIES OPTIONS - NONE

A. Provide as Attachment 9A, a detailed description of any options existing or to be created with respect to securities issued by the business entity, which description shall include, but not be limited to, the title and amount of securities subject to option, the year or years during which the options were or will be granted, the conditions under which the options were or will be granted, the consideration for granting the option and the year or years during which, and the terms under which, optionees became or will become, entitled to exercise the options, and when such options expire (or include as Attachment 19A copies of any outstanding option plans or proxy statements that provide the requested information). (Note: For the purpose of this application, option shall mean right, warrant or option to subscribe to or purchase any securities issued by the business entity).

B. Use Attachment 9B to provide the following information regarding all persons holding the options described in Item 9A.

NAME	BENEFICIAL OWNER'S ADDRESS	OPTIONS HELD	MARKET VALUE (AT ISSUANCE)
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ITEM 10. FINANCIAL INSTITUTIONS - NONE

Use Attachment 10 to provide the following information with respect to each bank, savings and loan association or other financial institution, whether domestic or foreign, in which the business entity has or has had an account over the last 10 year period, regardless of whether such account was held in the name of the business entity, a nominee of the business entity or was otherwise under the direct or indirect control of the business entity.

NAME AND ADDRESS	TYPE OF ACCOUNT(S)	ACCOUNT NUMBER(S)	TIME PERIOD ACCOUNT HELD	
			FROM	TO

.	.	.	.	.
.	.	.	.	.
.	.	.	.	.

ITEM 11. SECURITIES OR OTHER OWNERSHIP INTEREST HELD BY THE BUSINESS ENTITY - NONE

Use Attachment 11 to provide the following information about each company in which the business entity holds shares or an interest.

NAME AND ADDRESS OF COMPANY	TYPE OF SECURITIES OR OTHER OWNERSHIP INTEREST HELD	PURCHASE PRICE PER SHARE OR INTEREST	NUMBER OF SHARES HELD	% OF OWNERSHIP MORE THAN 5%
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ITEM 12. EXISTING LITIGATION - NONE

Provide as Attachment 12, a description of all existing civil litigation to which the business entity, its parent or any subsidiary, is presently a party, whether in this state or in another jurisdiction. Do not include any litigation in which the damages may not reasonably be expected to exceed \$100,000, or litigation in which damages may be expected to exceed \$100,000, but which involve claims against the business entity which are fully and completely covered under an insurance policy held by the business entity with a licensed insurance carrier. This description must include the title and docket number of the litigation, the name and location of the court before which it is pending, the identity of all parties to the litigation, and the general nature of all claims being made.

ITEM 13. ANTITRUST, TRADE REGULATION AND SECURITIES JUDGMENTS; STATUTORY AND REGULATORY VIOLATIONS - NONE

A. Has the business entity ever had a judgment, order, consent decree or consent order, pertaining to a violation or alleged violation of the federal antitrust, trade regulation or securities laws, or similar laws of any state, province or country entered against it?

☐ Yes ☒ No

B. In the past 10 years, has the business entity had a judgment, order, consent decree or consent order, pertaining to a violation or alleged violation of any state or federal statute, regulation or code that resulted in a fine or penalty of \$50,000 or more, entered against it?

☐ Yes ☒ No

If yes to either question, use Attachment 13 to provide the following information for each judgment, order, consent decree or consent order:

DATE OF OFFENSE	NATURE OF OFFENSE	TITLE OF CASE AND DOCKET NUMBER	NAME AND ADDRESS OF COURT OR AGENCY	NATURE OF JUDGMENT, DECREE OR ORDER	DATE ENTERED
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ITEM 14. BANKRUPTCY OR INSOLVENCY PROCEEDINGS AND APPOINTED RECEIVER, AGENT OR TRUSTEE

A. Has the business entity, its parent or any intermediary company, had any petition under any provision of the Federal Bankruptcy Code or under any state insolvency law, filed by or against it in the last 10-year period?

☐ Yes ☒ No

B. Has the business entity, its parent or any intermediary company, sought relief under any provision of the Federal Bankruptcy Code or under any state insolvency law in the last 10-year period?

☐ Yes ☒ No

If yes to either question, use Attachment 14A to provide the following information for each bankruptcy or insolvency proceeding:

DATE PETITION FILED OR RELIEF SOUGHT	TITLE OF CASE AND DOCKET NUMBER	NAME AND ADDRESS OF COURT OR AGENCY	NATURE OF JUDGMENT OR RELIEF	DATE ENTERED
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ITEM 14. BANKRUPTCY OR INSOLVENCY PROCEEDINGS AND APPOINTED RECEIVER, AGENT OR TRUSTEE (Continued)

- C. Has any receiver, fiscal agent, trustee, reorganization trustee or similar officer, been appointed in the last 10-year period by a court for the business or property of the business entity or its parent, holding, intermediary or subsidiary companies?

☐ Yes ☒ No

If yes to any of the above questions, use Attachment 14C to provide the following information for each proceeding:

NAME OF PERSON APPOINTED	DATE APPOINTED	COURT	REASON FOR APPOINTMENT
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ITEM 15. LICENSES

- A. During the last 10-year period, has the business entity, its parent or any subsidiary, ever had any license or certificate issued by a government agency in this state or any other jurisdiction, denied, suspended or revoked?

☐ Yes ☒ No

If yes, use Attachment 15A to provide the following information for each license or certificate denied, suspended or revoked.

TYPE OF LICENSE OR CERTIFICATE	NAME AND LOCATION OF GOVERNMENTAL AGENCY	ACTION TAKEN	DATE	REASON FOR ACTION TAKEN
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- B. Has the business entity, its parent or any subsidiary, ever applied in any jurisdiction for a license, permit, or other authorization, to participate in lawful gambling operations (including casino gaming, horse racing, dog racing, pari-mutuel operation, lottery, sports betting, etc.)?

☐ Yes ☒ No

If yes, use Attachment 15B to provide the following information for each license, permit or other authorization applied for:

NAME AND ADDRESS OF LICENSING AGENCY	DATE OF APPLICATION	DISPOSITION (GRANTED, DENIED, PENDING)	TYPE OF GAMBLING ACTIVITY	IF ISSUED, GIVE APPROPRIATE LICENSE, PERMIT, OR OTHER SUCH NUMBER, AND THE EXPIRATION DATE
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***Neither the Authority nor the Tribe has ever applied in any jurisdiction for a license, permit, or other authorization to participate in lawful gambling operations. Golden Eagle President Jon Yarbrough has held gaming licenses issued by dozens of Indian tribes as well as the states of Illinois, Louisiana, and Oklahoma.***

ITEM 16. FINANCIAL STATEMENTS - NONE

- A. Provide as Attachment 16A, an audited financial statement which shall include but not be limited to, an income statement, balance sheet, statement of sources, and application of funds and all notes to such statements and related financial schedules, for the last fiscal year prepared in accordance with the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, and the Investment Company Act of 1940.
- B. Provide as Attachment 16B, copies of all financial statements prepared in the last five years, with respect to the business entity and any exceptions taken to such statements by the independent auditor retained by the business entity and the management response thereto.

ITEM 17. ANNUAL REPORTS - NONE

- A. Provide as Attachment 17A, a copy of all annual reports of the business entity that were submitted to shareholders or other persons during the last five years.
- B. In addition to the information required in Item 17A, a business entity that is a registrant under the Securities Act of 1933 or the Securities Exchange Act of 1934, is to submit a copy of all annual reports prepared on Form 10K, pursuant to Sections 13 or 15(d) of the Securities Exchange Act of 1934 and filed within the last five years. Identify these as Attachment 18B.

ITEM 18. QUARTERLY REPORTS - NONE

Provide as Attachment 18, a copy of the last quarterly, unaudited financial statements prepared by or for the business entity. If the business entity is a registrant with the Securities and Exchange Commission (SEC), a copy of the Form 10Q last filed with the SEC may be provided in response to this item.

ITEM 19. INTERIM REPORTS - NONE

Provide as Attachment 19, a copy of any current report prepared due to the occurrence of any of the following events: change in control of the business entity; acquisition or disposition of assets; bankruptcy or receivership proceedings; changes in the business entity's certifying accountant or other material events. If the business entity is a registrant with the SEC, a copy of the most recent Form 8K filed with the SEC may be provided in response to this item.

ITEM 20. PROXY AND INFORMATION STATEMENT - NONE

Provide as Attachment 20, a copy of the last definitive Proxy or Information Statement filed pursuant to Section 14 of the Securities Exchange Act of 1934.

ITEM 21. REGISTRATION STATEMENT - NONE

Provide as Attachment 21, a copy of all Registration Statements filed in the last five years pursuant to the Securities Act of 1933.

ITEM 22. REPORTS OF ACCOUNTANTS - NONE

Provide as Attachment 22, a copy of all reports and correspondence, other than those previously included in this application, submitted in the last five years by independent auditors for the business entity which pertain to the issuance of financial statements, managerial advisory services, or internal control recommendations. Include the name, address and telephone number of the current outside auditor(s).

ITEM 23. FORMATION DOCUMENTS - NONE

Provide as Attachment 23, a certified copy of the Articles of Incorporation, Charter and Bylaws of the corporation, the partnership agreement of the partnership, or formation documents of the business entity, as applicable, with all amendments and proposed amendments to date.

ITEM 24. ORGANIZATIONAL CHART - See Attachment 24 (A) and (B)

- A. Provide as Attachment 24A, a current ownership organizational chart of the business entity, its parent company and each subsidiary of the business entity.
- B. Provide as Attachment 24B, a functional Table of Organization for the business entity filing this Business Entity Disclosure Form, including position descriptions and the names of persons holding such positions.

ITEM 25. TAX RETURNS - NONE

Provide as Attachment 25, a copy of all 1120 Forms (U.S. Corporate Income Tax Return ), 1065 (Partnership Tax Return Limited Liability Company Return) and 941 Forms (Employer's Quarterly Federal Tax Return) as applicable, submitted to the Internal Revenue Service in the last five years.

ITEM 26. LETTER OF COMMITMENT

Provide as Attachment 26, a copy of the firm commitment letter signed and issued to the business entity in connection with the proposed casino project by the lender institution, stating the terms and conditions of the loan agreement.

**See Attachment 26**

**ITEM 27.       AFFIDAVITS AND SIGNATURES**

The following documents must be sworn to or affirmed, signed and dated, before a person legally competent to take an oath or affirmation, who shall him- or herself date the signature of the affiant and indicate the basis of his/her authority to take oaths and affirmations:

**AFFIDAVIT**

**WAIVER OF LIABILITY**

The President or any officer of the business entity authorized to affirm may complete the affidavit. The remaining documents are to be signed by the President or Chief Executive Officer.

ITEM 28. BUSINESS ENTITY DISCLOSURE FORM – ATTACHMENTS

On the following chart, indicate with a checkmark which attachments are included with this application. If an attachment is not applicable, indicate N/A. Please note that attachment numbers with an asterisk (\*) are attachments you are to provide or create and do not contain corresponding charts.

Attachment Number	Attachment Description	✓ if attached N/A if not attached
2B	Other names and addresses of the business entity (presently used)	N/A
2C	Other names and addresses of the business entity (past 10 years)	N/A
3*	Description of business done and intended to be done	✓
4*	Description of any former business engaged in during the last 10 years and the reason for the cessation of the business	✓
5*	Description of long-term debt	✓
6	Holders of long-term debt	✓
7*	Other indebtedness and security devices	N/A
8	Holders of other indebtedness	N/A
9A*	Securities options – description	N/A
9B	Persons holding securities options	N/A
10	Financial institutions	N/A
11	Securities or other ownership interest held by the business entity	N/A
12	Existing litigation	N/A
13	Antitrust, trade regulations and securities judgments, statutory and regulatory violations	N/A
14A	Bankruptcy or insolvency proceedings and appointed receiver, agent or trustee (bankruptcy or insolvency)	N/A
14C	Bankruptcy or insolvency proceedings and appointed receiver, agent or trustee (appointed receiver, agent or trustee)	N/A
15A	Licenses (Government)	N/A
15B	Licenses (other gambling)	N/A
16A*	Audited financial statements for the last fiscal year	N/A
16B*	Financial statements for the last five years	N/A
17A*	Annual reports for the last five years	N/A
17B*	Annual reports prepared on the SEC's Form 10K for the last five years	N/A
18*	A copy of the last quarterly unaudited financial statement	N/A
19*	Copy(ies) of any interim reports	N/A
20*	A copy of the last definitive proxy or information statement (SEC)	N/A
21*	A copy of all registration statements for the last five years filed in accordance with the Securities Act of 1933	N/A
22*	Copies of all other reports prepared in the last five years by independent auditors of the business entity	N/A
23*	Formation documents and all amendments and proposed amendments	✓
24A*	Organizational chart	✓
24B*	Table of organization	✓
25*	Copies of forms filed with the IRS in the last five years	N/A
26*	Lender's letter of commitment	✓

**AFFIDAVIT**

STATE OF Virginia  
City Richmond  
COUNTY OF Richmond

SS:

I, Frederick T. Langston, the Chairman of the business entity,  
Name Title/Position

being first duly sworn according to law, on my oath, depose and say that I make this statement on behalf of the business entity, and that the above statements are true and correct to the best of my knowledge and belief, and that this statement is executed with the knowledge that any misrepresentation or failure to reveal information may be deemed sufficient cause for the refusal to issue, or the revocation of, preliminary approval for the eligible host city to proceed to referendum. Further, that I am voluntarily submitting this statement and understand that misleading statements may subject me to criminal or other sanctions or punishment.

Pamunkey Indian Tribal Gaming Authority

Name of Business Entity

By: Frederick T. Langston  
Signature

Chairman  
Title

n/a  
Accountant preparing form, if applicable

Subscribed and sworn to before me

this 1st day of June, 2020

Tracy Gibrall Craddock  
Notary Public

\_\_\_\_\_  
Attorney preparing form, if applicable



## WAIVER OF LIABILITY

On behalf of Pamunkey Indian Tribal Gaming Authority,  
Name of Business Entity

I, Frederick T. Langston, hereby waive liability as to the Commonwealth of Virginia and its  
President/CEO

instrumentalities and agents, for any damages resulting to the said business entity from any disclosure or publication in any manner, other than a willful, unlawful disclosure or publication, of any material or information acquired during the preliminary review process.

06/04/2020  
Date

Frederick T. Langston  
Signature

Subscribed and sworn to before me

this 1st day of June, 2020.

Tracy Gibrall Craddock  
Notary Public



### **ATTACHMENT 3.     DESCRIPTION OF PRESENT BUSINESS**

Provide as Attachment 3, a description of the business done and intended to be done by the business entity and its parent, holding, subsidiary and intermediary companies or business entities and the general development of such business during the past five years, or such shorter period as the business entity or its parent, subsidiary and intermediary companies or business entities may have been engaged in business. The description shall include information on matters such as the following:

- A. Competitive conditions in the industry or industries involved and the competitive position of the business entity, if known.

**See third-party independent feasibility work, prepared by Klas Robinson Q.E.D. and provided to the City (Attachment Item 3 (A))**

- B. The principal products produced and services rendered by the business entity and its parent, intermediary and subsidiary companies, the principal markets for said products or services and the methods of distribution.

**The Applicant produces no products. The Applicant intends to provide casino-gaming services by bringing a world-class resort and casino to the Downtown Waterfront.**

**The planned \$500 million Resort will be the largest full-scale resort casino development in the region. The Resort will feature exceptional offerings and amenities, including many dining choices, a spa, and other entertainment options. It will be creatively themed and will draw a wide range of patrons who are looking for an excellent and varied entertainment experience. We intend to make the Resort the highest quality entertainment destination in the region.**

- C. The sources and availability of raw materials essential to the business of the entity.

**No raw materials are essential to the intended gaming services of the Applicant.**

- D. The importance to the business and the duration and effect of, all material patents, trademarks, licenses, franchises, and concessions held.

**The most important designations for the Applicant is its selection by the City of Norfolk as its preferred casino gaming operator and the license to operate the**



**Resort sought from the Virginia Lottery Board. This designation and license will allow the Applicant to operate a world-class casino gaming facility along the waterfront in the City of Norfolk, which will be the premier gaming facility in the region. The casino-gaming license duration will be the initial term of the license with automatic renewal under Virginia Law.**

**The Applicant will seek trademarks on any unique branding that it creates. Specific branding for the Resort will be developed and the Applicant will trademark its unique brand name. In addition, any word, name, symbol, device, or any combination, used or intended to be used to identify and distinguish the Resort services from those of others will be trademarked or service marked. To the extent the Applicant seeks to obtain the permitted use rights of a registered trademarks held by another entity, these will be obtained in the ordinary and customary means of trademark licensing.**

- E. In describing developments, provide information such as the following: the nature and results of any bankruptcy, receivership or similar proceedings with respect to the business entity or its parent, intermediary or subsidiary companies; the nature and results of any other material reorganization, readjustment or succession of the business entity or any of its subsidiaries; the acquisition or disposition of any material amount of assets otherwise than in the ordinary course of business; and any material changes in the mode of conducting the business.

**The Applicant has no history of bankruptcy, receivership, or similar proceeding.**

**The Pamunkey Indian Tribe established the Applicant, the Pamunkey Indian Tribal Gaming Authority, as a wholly owned non-corporate entity of the Tribe to own and operate a gaming facility for the Tribe. The Gaming Authority serves an essential governmental function of the Tribe. The Authority is governed by a three-member board, a majority of whose members must be members of the Tribal Council. Currently, there are two members of the Tribal Council and one Tribal member serving on the Board.**

**The Gaming Authority will operate the facility in accordance with Virginia law and in an ordinary and customary commercial fashion. The Authority is empowered to do all things necessary for the acquisition, undertaking, financing, construction, maintenance, and operation of the Resort.**

**The Pamunkey Indian Tribe has engaged Golden Eagle to provide the financial, development, and management expertise necessary to deliver a world-class**

**project to the City of Norfolk. The Golden Eagle Executive Team, led by Jon Yarbrough, brings decades of know-how, experience, and expertise to developing and operating a best-in-class organization and resort casino.**

**ATTACHMENT 3 (A)**

**Feasibility Study  
KlasRobinson Q.E.D.**

May 19, 2020

Jon Yarbrough  
President  
Golden Eagle Consulting II, LLC  
1901 Sixth Avenue North, Suite 1400  
Birmingham, Alabama 35203

Dear Mr. Yarbrough:

We have completed our market summary for a planned gaming development in Norfolk, Virginia. Enclosed are our findings, recommendations, revenue projections and estimates of economic impact for the project.

**Project Highlights**

- ∴ A \$500.0 million, first-class casino resort development with 3,000 slot machines, 150 table games, 300-unit connected hotel tower and commensurate facilities, services and amenities.
- ∴ Total annual revenues are estimated to equal between \$415.0 million and \$485.0 million, including gaming revenues of between \$350.0 million and \$400.0 million - on a stabilized basis.
- ∴ Approximately 2,500 permanent employees with annual earnings of almost \$100.0 million.
- ∴ Between \$22.5 million and \$26.0 million annually to the City of Norfolk on stabilized basis from the Gaming Proceeds Fund paid to the Commonwealth of Virginia by the proposed Norfolk casino. The City of Norfolk will also receive between \$3.7 million and \$4.8 million annually in combined sales related taxes on a stabilized basis.
- ∴ Estimated annual purchases of \$92.0 million in goods and services for on-going operations, including more than \$52.5 million from in-state vendors.
- ∴ Estimated 6.2 million visits annually - 78.0 percent will originate from outside the City of Norfolk, including almost 15.0 percent from outside of Virginia.

∴ Quod erat demonstrandum "which was to be proved"

### **Site Analysis and Market Characteristics**

The site for the planned development is located in the Waterside District – Norfolk’s revitalized waterfront - and is bordered by Harbor Park Stadium to the west, Interstate 264 to the north, Lyon Shipyard and then U.S. Highway 460 to the east and the Elizabeth River to the south. The site is clearly visible from I-264/U.S. 460/SR 337 (Berkley Bridge) to the west, Interstate 264 to the north, U.S. 460/SR 166/SR 168 (Campostella Bridge) to the east and the Elizabeth River to the south. The hotel tower component of the planned development will enhance project’s visibility, as well as that of the Waterside District itself.

Interstate 264 provides the project direct access to the major transportation routes and of the region including Interstate 64, Interstate 464, Interstate 664, U.S. Highway 13, U.S. Highway 17, U.S. Highway 58, U.S. Highway 460, State Highway 165, State Highway 166, State Highway 168, State Highway 246, State Highway 247, State Highway 337, and State Highway 407. The maps on the following pages present the subject site in relation to the surrounding area, as well as an aerial view of the project site.

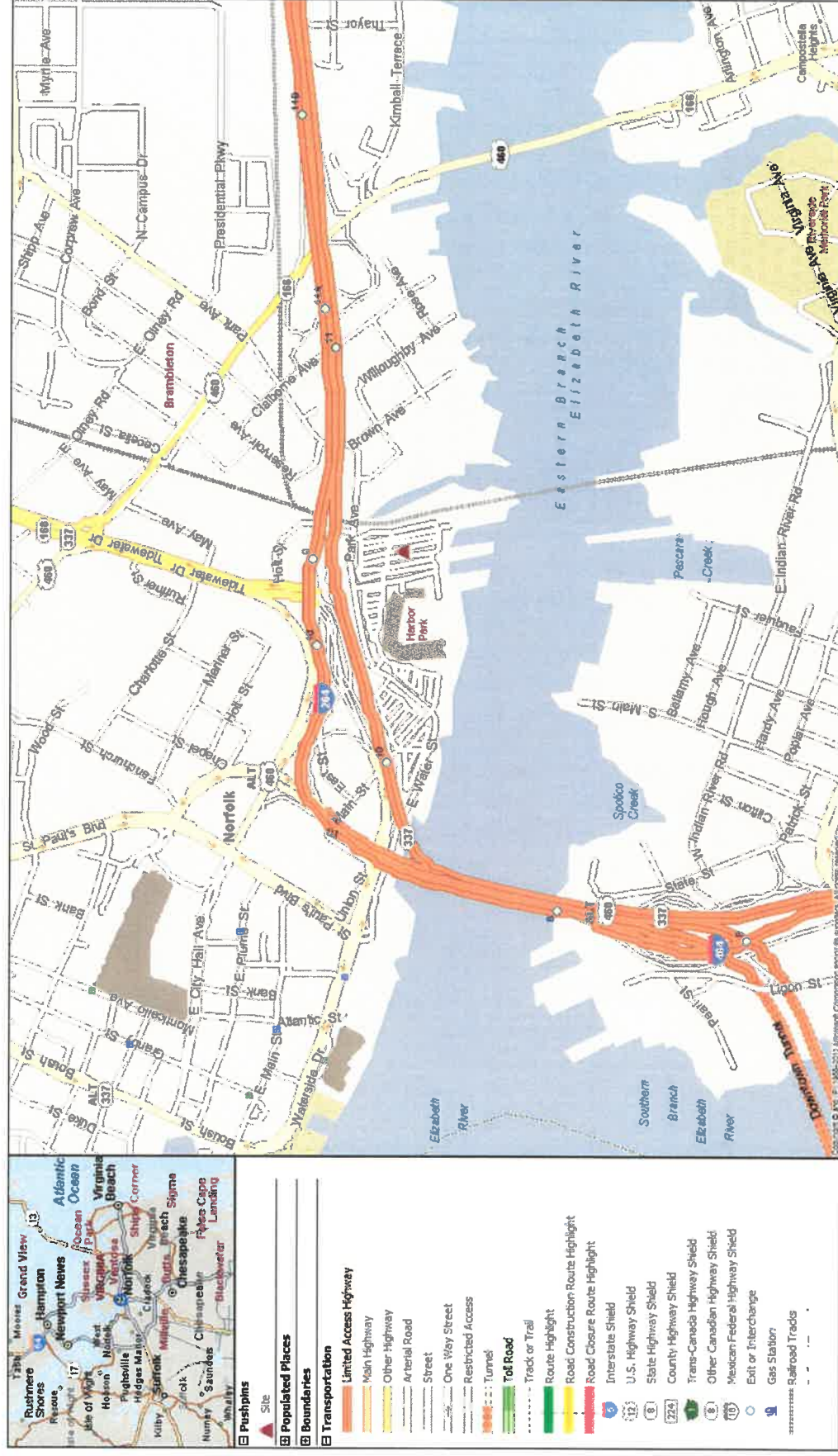
According to the Virginia Department of Transportation, in 2019 an estimated 92,000 vehicles per day (47,000 east-bound / 45,000 west-bound) traveled by the site on Interstate 264 (at Tidewater Drive), which equates to almost 33.6 million vehicles per year.

Economic and demographic data were obtained from Environics Analytics - a national econometric forecasting firm. Data were obtained for numerous radii for various comparative and analytical purposes, including 25 miles, 50 miles, 100 miles and 200 miles surrounding the site. Also obtained were data for numerous polygons based on drive time, including thirty minutes, one hour, two hours and four hours from the site.

The traditional method of defining a market geographically is by drawing concentric rings at various radii around the subject site. Concentric rings are used because they are more precise than simply accumulating data for individual cities, counties or states, and because you can draw the same rings in the same way around other markets or competitors to make comparisons. Since the rings are the same size, the comparison is made for equal distances from each location.

The measure of distance for concentric rings is a straight line. However, the route customers take to a market is typically anything but straight. Mountains, bodies of water, or simply the natural tendency of highways to be built along the path of least resistance, make the actual distance traveled by customers much greater than the straight-line distance between their home and the subject site.

# SITE MAP







To adjust for this issue, market analyses by areas of equal drive-time are also used. Drive-time areas rely on sophisticated mapping and demographic software to determine the boundaries within which residents can reach the same point in the same amount of time and to describe the characteristics of that area. Assumptions are made regarding average driving speeds by different types of roads and customers are assumed to choose the route that requires the least total travel time. The following demographic map presents the location of the subject site using both concentric rings and drive-time areas

Typically, the population within a straight-line radius of a site is higher than the population base within the comparable drive-time. At the same time, the location of the site immediately off of the principal east-west interstate and proximity to other major north-south and east-west transportation routes through the region and the concentration of the population centers along those corridors mitigate the differences in geographic area that usually result in greater population disparities, particularly on a regional basis.

On a local basis, Norfolk, Portsmouth, Chesapeake, Suffolk, Virginia Beach, Newport News and Hampton are located within a 25-mile radius and 30-minute drive time of the site. Williamsburg, Yorktown, Wakefield, Capeville and Cape Charles, Virginia, as well as the northeast corner of North Carolina are located within a 50-mile radius and one-hour drive time of the site.

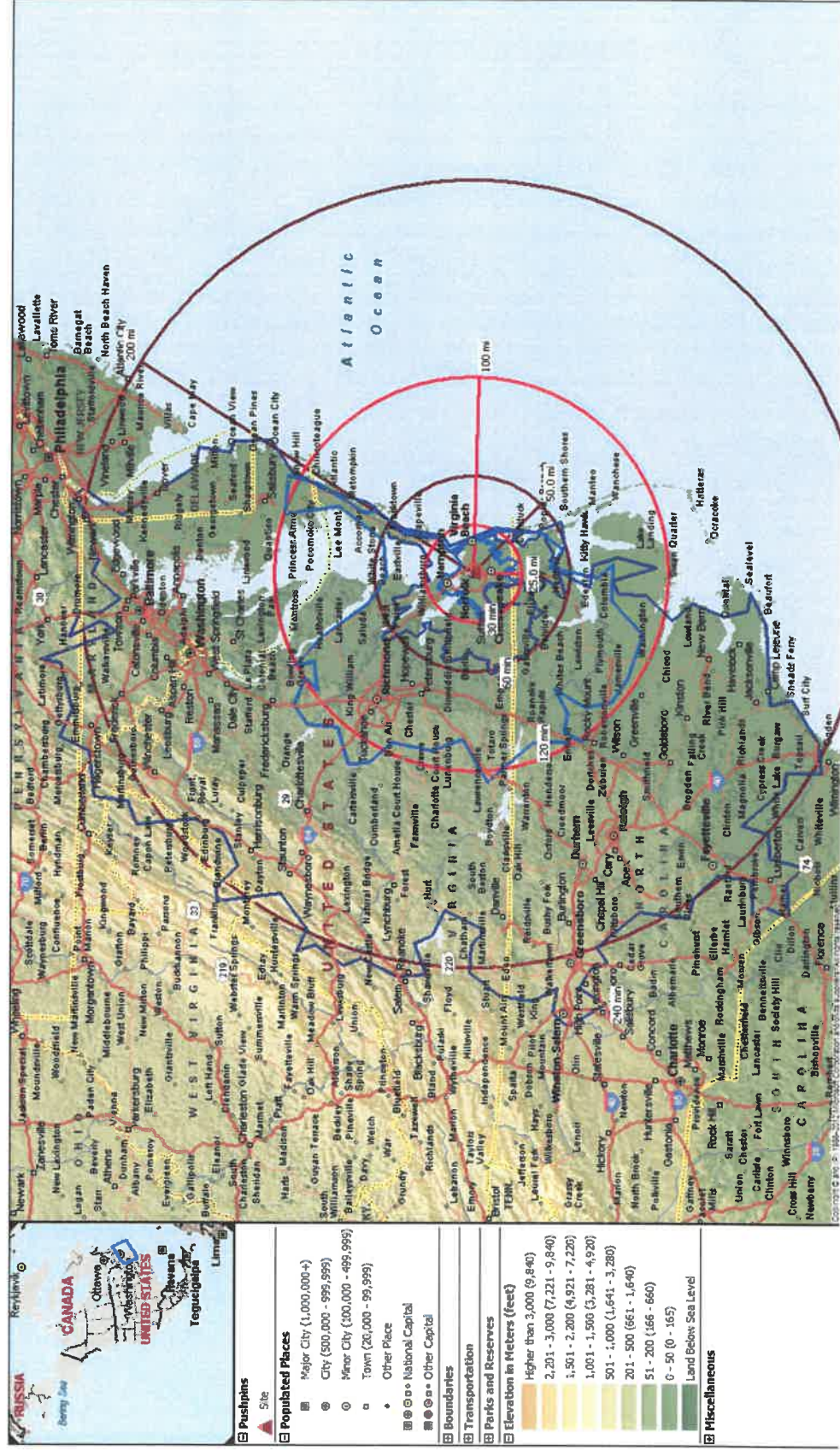
On a broader basis, Richmond, Petersburg, Hopewell, Tuckahoe, Mechanicsville and New Church, Virginia and both Murfreesboro and Roanoke Rapids, North Carolina are located within a 100-mile radius and two-hour drive of the site. At the same time, while Lexington Park and Crisfield, Maryland fall within a 100-mile radius, neither is located within a two-hour drive of the site.

On a regional basis, Alexandria, Harrisonburg, Waynesboro, Lynchburg and Danville, Virginia, Washington D.C., Baltimore and Annapolis, Maryland, Dover, Delaware and Raleigh, Durham and Fayetteville, North Carolina are located within a 200-mile radius and four-hour drive time of the site. In addition, Roanoke, Virginia, Winston-Salem, North Carolina, Wilmington, Delaware, Hagerstown, Maryland, and Gettysburg, Pennsylvania are located within a four-hour drive yet fall outside of a 200-mile radius of the site. At the same time, while southern New Jersey falls within a 200-mile radius, it is beyond a four-hour drive of the site.

There are almost 1.5 million residents within a 25-mile radius, over 1.8 million residents within a 50-mile radius, almost 3.6 million residents within a 100-mile radius and almost 20.0 million residents within 200-mile radius. With respect to actual drive time, there are almost 1.3 million residents within a thirty-minute drive time, 1.8 million residents within a one-hour drive time, almost 3.4 residents within a two-hour drive time and 19.3 million residents within a four-hour drive time of the site. The map on page 6 provides a color-coded overview of the population densities of various zip codes within the trade market area.

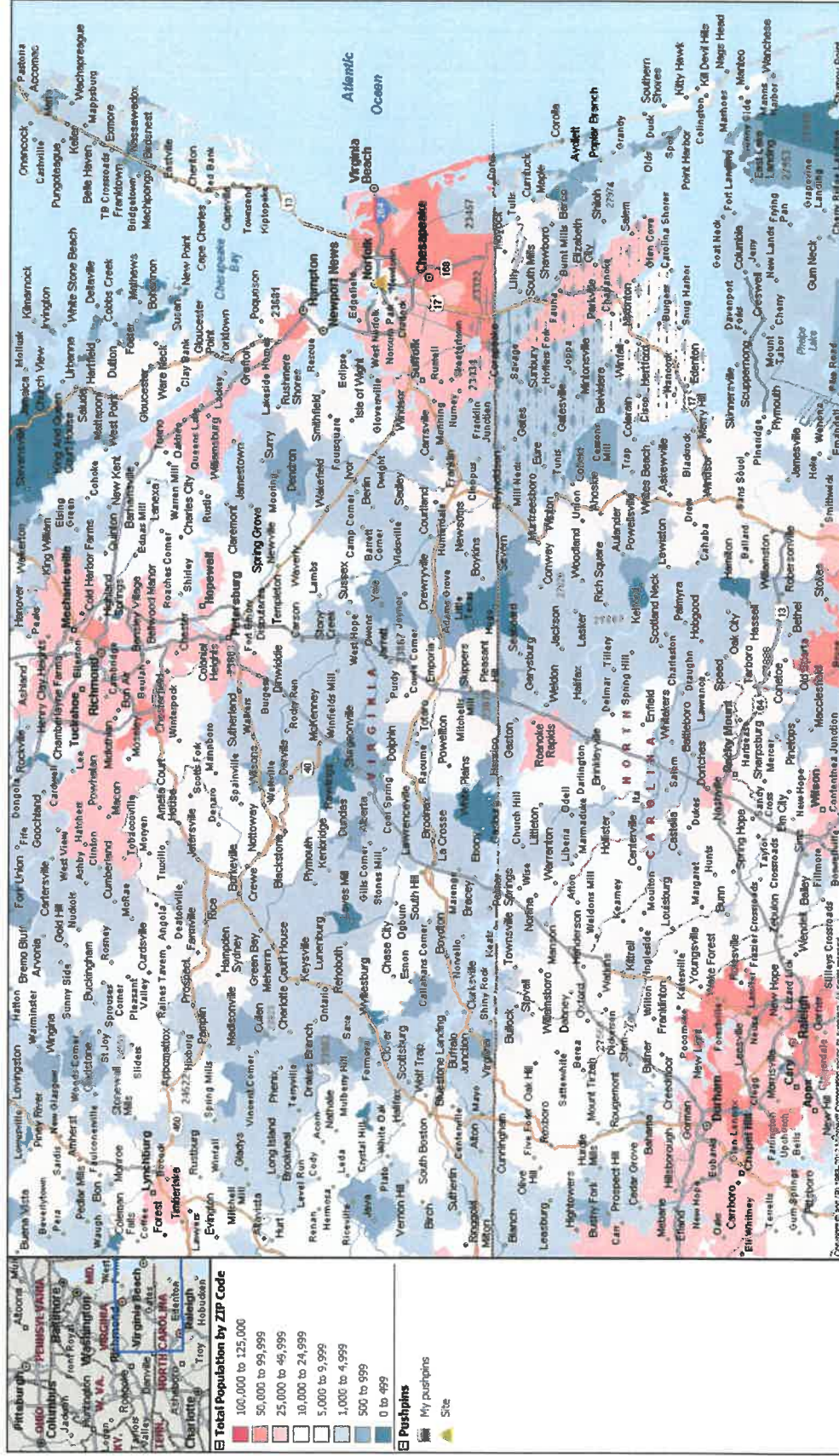


## DEMOGRAPHIC MAP





## POPULATION DENSITY MAP (BY ZIP CODE)



Average household income within a 25-mile radius is \$86,800, within a 50-mile radius is \$86,300, within a 100-mile radius is \$85,300 and within a 200-mile radius of the site is \$104,700. This compares to the national average household income of \$89,600. With respect to actual drivetime, the average household income within a thirty-minute drive is \$85,500, within a one-hour drive is also \$86,800, within a two-hour drive is \$86,300 and within a four-drive of the site is \$104,400. The map on the following page presents a color-coded overview of income distribution in the trade market area.

Naval Station Norfolk (NS Norfolk) is the largest base of the United States Navy, supporting naval forces in the United States Fleet Forces Command, those operating in the Atlantic Ocean, Mediterranean Sea, and Indian Ocean. NS Norfolk supports 75 ships and 134 aircraft alongside 14 piers and 11 aircraft hangars - housing the largest concentration of U.S. Navy forces.

Based upon supported military population, Naval Station Norfolk is the largest military station in the world with more than 80,000 active duty personnel, 112,000 family members and 30,000 Department of Defense civilians – accounting for almost 30.0 percent of the region's population. Supplementing the resident military population, Naval Station Norfolk has more than 3,000 arrivals / departures of ship traffic annually and almost 110,000 flight operations per year.

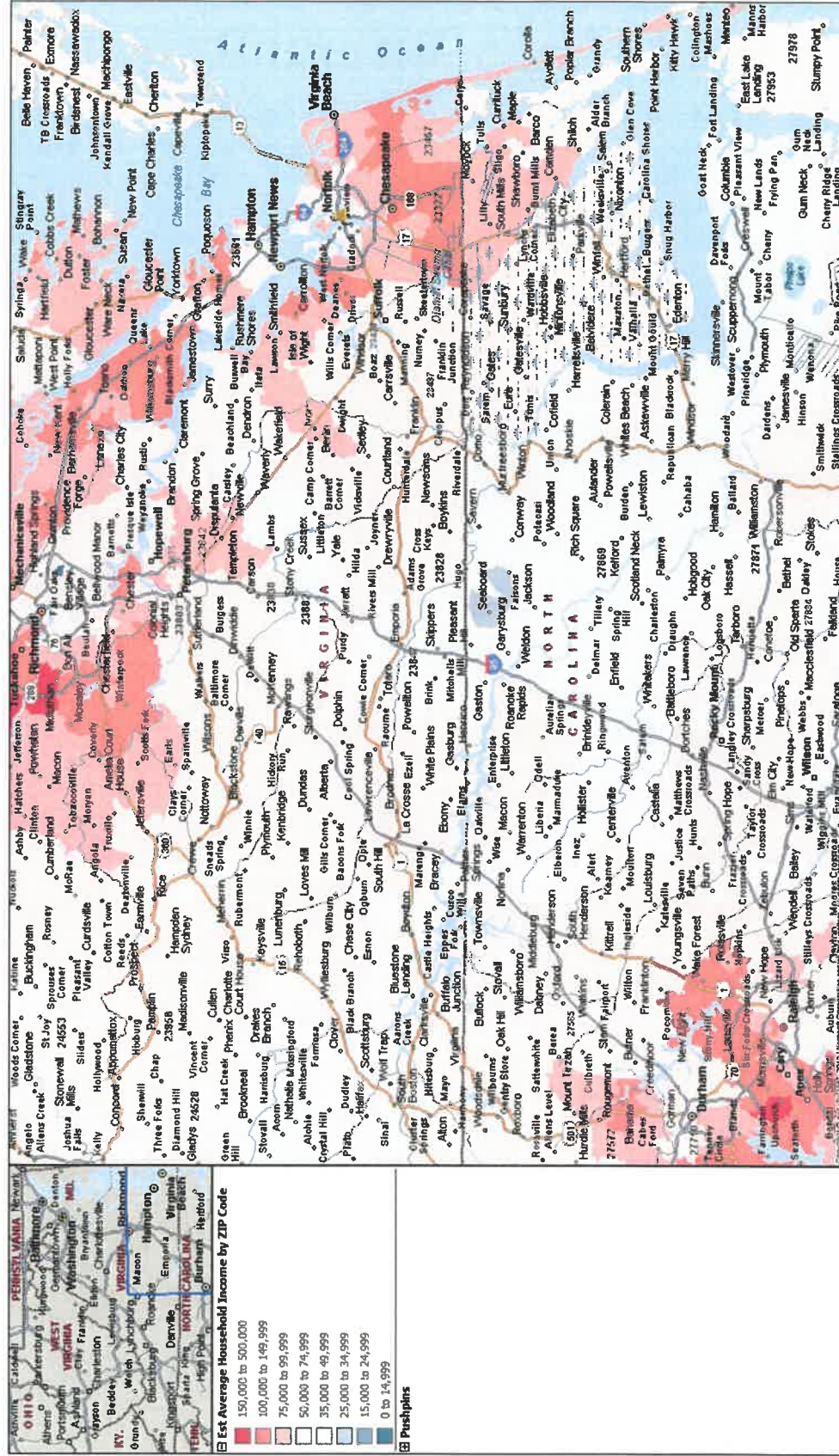
Norfolk International Airport is located immediately north of Interstate 64. Commercial passenger service is provided by Allegiant, American, Delta, Frontier, Southwest and United with daily non-stop flights to Atlanta, Baltimore, Boston, Charlotte, Chicago, Cincinnati, Dallas-Ft. Worth, Denver, Detroit, Ft. Lauderdale, Houston, Jacksonville, Miami, Minneapolis, Nashville, New York City, Orlando, Philadelphia, Tampa-St. Pete and Washington D.C. During calendar year 2019, Norfolk International Airport accommodated an estimated 3.98 million passengers.

As discussed previously, the subject site is located within Norfolk's Waterside District. Existing district attractions include Harbor Park Stadium, the Elizabeth River Trail, Town Point Park, Nauticus, PBR Norfolk and the Harbor Club. Harbor Park Stadium is home of the Norfolk Tides Minor League Baseball Team which had annual attendance of over 350,000 during the 2019 season. Nauticus – maritime museum which includes the USS Wisconsin and Naval Station Norfolk had an estimated During fiscal year 2019, Nauticus had more than 200,000 paid attendees, as well as another 150,000 additional visitors who came for special events, cruises and Sail Nauticus activities.

Other Norfolk attractions include the Virginia Zoo, Norfolk Botanical Garden and Chrysler Museum of Art. Nearby attractions include Virginia Beach and Newport News with miles of coastline and waterways, as well as the Virginia Aquarium & Marine Science Center, The Mariners' Museum & Park, Hampton Roads Naval Museum, Virginia Living Museum and U.S. Army Transport Museum.



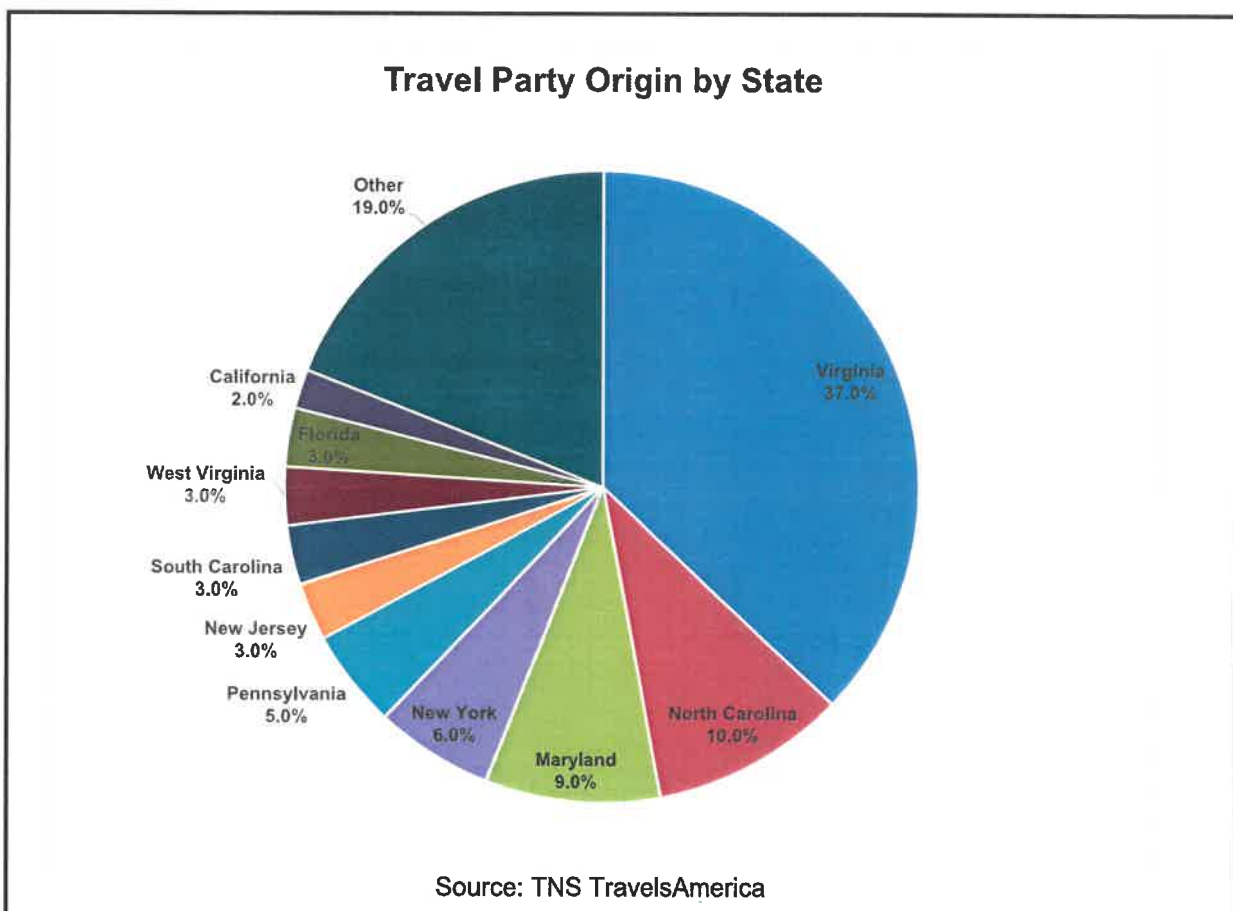
## INCOME DISTRIBUTION MAP (BY ZIP CODE)



The Coastal Virginia – Hampton Roads Region Travel Profile for Fiscal Year 2019, prepared by TNS TravelsAmerica, includes Norfolk, Virginia Beach, Newport News and Williamsburg. According to the profile, 89.0 percent of all visits to the Coastal Virginia – Hampton Roads Region were for pleasure (recreation, entertainment, site seeing, visiting friends/family), while 15.0 percent were business related. Top activities in the Coastal Virginia – Hampton Roads Region are visiting relatives (29.0 percent), shopping (26.0 percent), beaches (21.0 percent) and historic sites/churches (20.0 percent).

The average travel party size was 2.7 of which only 31.0 percent included children under the age of 18. The average number of nights in Virginia was 2.8 nights. The average expenditure per trip was \$694.00 per trip. 85.0 percent traveled by auto (owned or rented) while 9.0 percent traveled by plane. The average visitor age was 46.0 years old. 36.0 percent of all visitors had average household income above \$100,000.

By visitor origin, 37.0 percent were Virginia residents, while 63.0 percent resided out of state. The following graph presents a summary of visitor origin by state of residence for the Coastal Virginia – Hampton Roads Region.



### **Competitive Gaming Supply**

The existing competitive casino market is limited, particularly on a local basis. The nearest gaming operation in relation to Norfolk is Rosie's Gaming Emporium in Hampton with 700 HHR devices. From the site, Rosie's Gaming Emporium is located 20 miles (almost a 30-minute drive) north via Interstate 64/264. The next nearest existing gaming operations are Rosie's Gaming Emporium at Colonial Downs in New Kent with 600 HHR devices and Rosie's Gaming Emporium on Midlothian Turnpike in Richmond with 700 HHR devices – each well over a 50-mile radius / one-hour drive from the site.

By linear radii, the existing regional market consists of five commercial casinos – including one with a racetrack in Maryland, two commercial casinos with racetracks in Delaware and one commercial casino with a racetrack in West Virginia, as well as the three existing Rosie's Gaming Emporiums described above. Combined, there are currently 11 gaming operations with over 19,700 gaming machines and almost 770 table games located within a 200-mile radius of the site.

Radii reflect straight-line or essentially air miles and may encompass locations which require greater actual miles by car to reach. Accordingly, we have adjusted the competitive market to reflect actual drive times from the site. With respect to drive time, on a regional basis, there are five commercial casinos – including one with a racetrack in Maryland, two commercial casinos with racetracks in Delaware and one commercial casino with a racetrack in West Virginia, as well as the three existing Rosie's Gaming Emporiums described above and the fourth existing Rosie's Gaming Emporium in Vinton, just outside of Roanoke. Combined, there are currently 12 gaming operations with almost 19,900 gaming machines and almost 770 table games located within a four-hour drive time of the site.

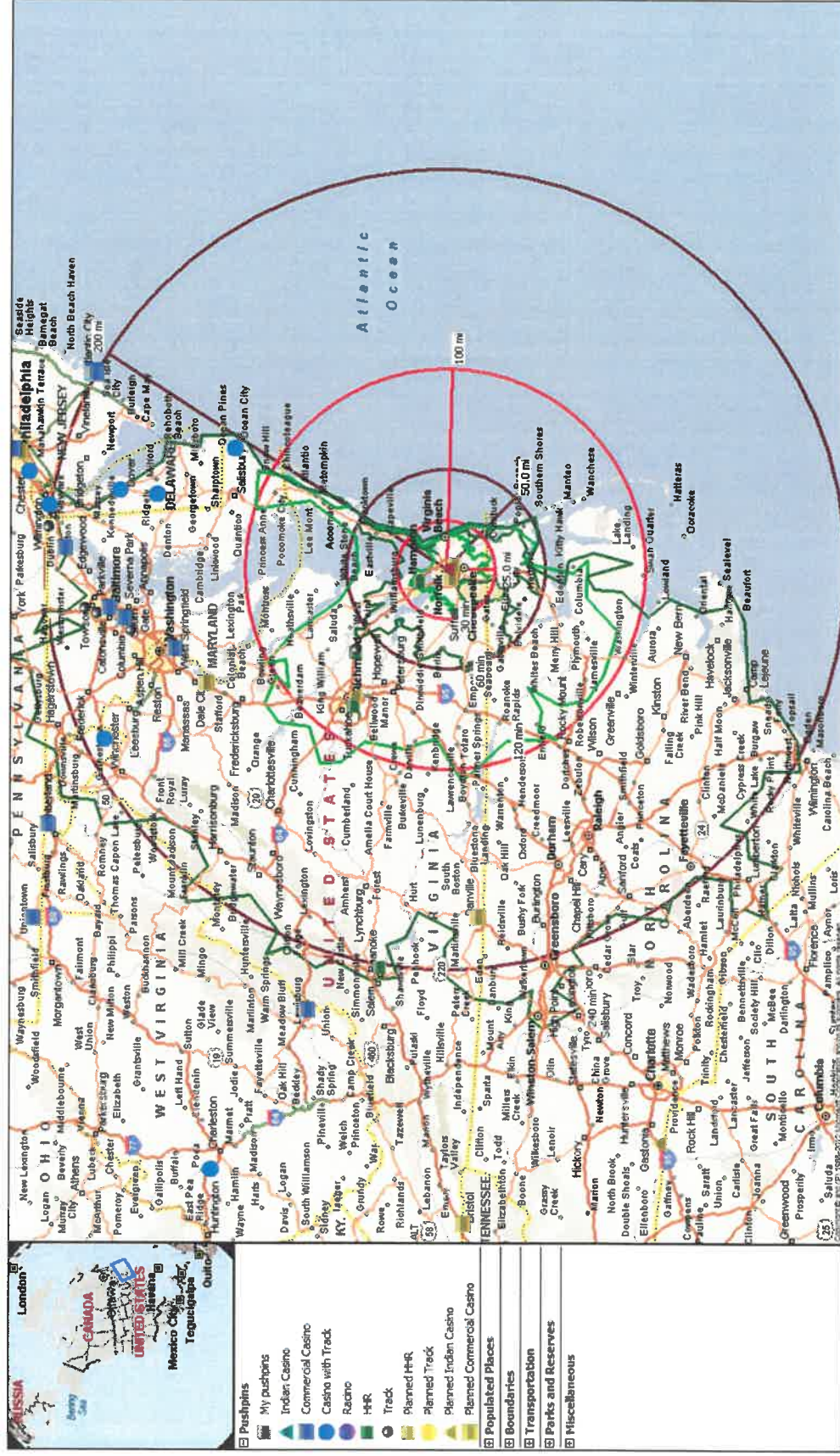
The dynamic nature of the competitive market makes an exact determination of the extent of future competition impossible. Nevertheless, an expansion in the competitive supply can clearly be expected.

In April 2020, the Virginia Legislature approved Governor Ralph Northam's amended casino legislation permitting legally-conducted casino gaming operations in the Commonwealth of Virginia. The law allows for the construction of five casinos, pending local approval, to be regulated by the Virginia Lottery Board. The five locations include Portsmouth, Danville, Bristol, Norfolk and Richmond, with a substantial and preferred consideration for a federally recognized Virginia Indian Tribe with gaming rights (i.e. Pamunkey Tribe) in Norfolk. The City of Richmond may provide preferred consideration to a proposer that is a federally recognized Virginia Indian Tribe with gaming rights (i.e. Pamunkey Tribe).

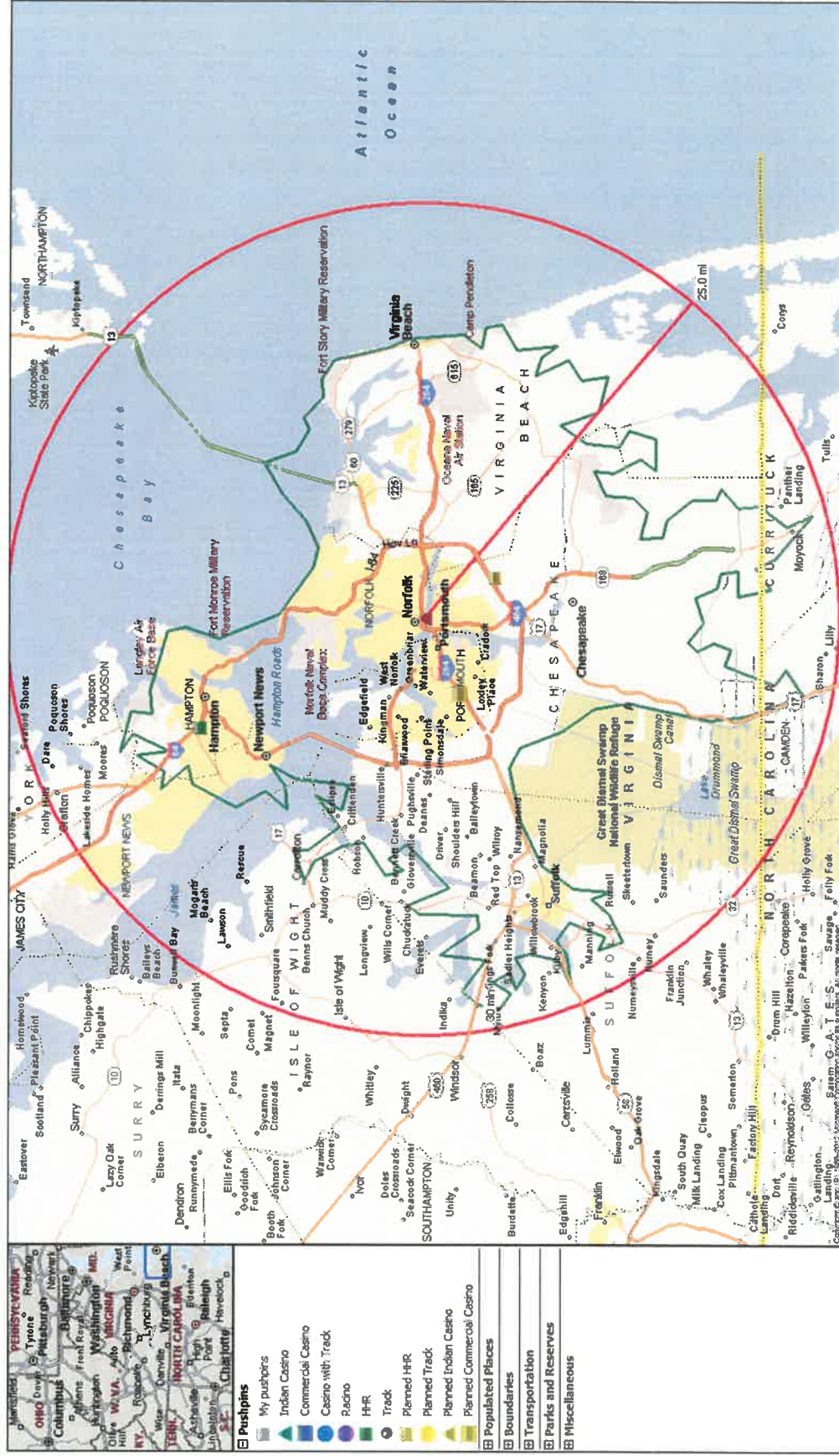
The maps on the following pages present the competitive gaming market by linear radii and actual drive time on a local and regional basis.



## COMPETITIVE GAMING SUPPLY - REGIONAL



## COMPETITIVE GAMING SUPPLY - LOCAL





The Casino Bills require that each casino operator must make a capital investment of at least \$300 million and possess an equity interest equal to at least 20.0 percent of the establishment. A non-refundable fee of \$15.0 million is due to the Virginia Lottery upon issuance of a license. The Casino Bills outline a taxation scheme of adjusted gross receipts on casino operations, which is as follows:

- A rate of 18.0 percent on the first \$200.0-million of adjusted gross receipts;
- A rate of 23.0 percent on adjusted gross receipts between \$200.0 and \$400.0 million; and
- A rate of 30.0 percent on adjusted gross receipts that exceed \$400.0 million

The amended legislation also makes concessions for pari-mutuel wagering and historical horse racing. Facilities for pari-mutuel and historical horse racing (i.e., Colonial Downs and Rosie's establishments) were not given any preferred consideration in the Casino Bills. However, the Casino Bills allow the Racing Commission to authorize an additional 600 historical racing terminal each time a locality allows casino gaming through a referendum, not to exceed 2,000 additional machines statewide. Excluding machines installed before March 1 of 2020, the facilities will be prohibited from having more than 40.0 percent of its terminals manufactured by any single terminal manufacturer. The bills also authorize 1,650 of those machines may be placed in a facility in Dumfries, Virginia.

For the purpose of our analysis, in addition to the existing Rosie's Gaming Emporium in Hampton, the local market is assumed to include the subject property – as described below, a \$300.0-million casino development in Portsmouth and a planned Rosie's Gaming Emporium in Chesapeake.

Based upon our analysis, we expect the addition of 4,750 gaming positions within a 50-mile radius and within a one-hour drive time of the site, including the subject complex. On a regional basis, we anticipate the addition of as many as 13,500 gaming positions within a 200-mile radius and a 240-minute drive of the site, including the facilities of the subject property for the period under analysis.

### **Facility Assumptions**

Located in Norfolk's Waterside District, immediately east of Harbor Park Stadium and south of Interstate 264, the planned \$500.0 million Norfolk casino development will be the largest full-scale casino complex in the region and include the following:

- **A first-class casino with 3,000 slot machines, 150 table games and sportsbook**
- **A connected 300-unit, 3.5- to 4.0-diamond, full-service hotel tower with commensurate facilities, services and amenities**
- **Sufficient F & B, entertainment and other supporting facilities**
- **Dedicated, convenient parking for at least 5,000 vehicles**

The planned casino hotel development is assumed to be designed both internally and externally to be a creatively themed facility targeted toward the more mature, affluent gaming patron, as well as the middle market clientele. All gaming should be located on a single level with good sight lines, although ceiling heights and machine sizes should vary to create a more interesting and comfortable feel. The complex as a whole must be competitive in quality with other upscale casino and casino resort properties in the region.

### **Revenue Projections**

Based upon our analysis, we have prepared the following range of annual revenues on a stabilized basis for the proposed Norfolk Casino Resort:

<b>Norfolk Casino Resort – Projected Annual Revenue Range*</b>		
<b>Category</b>	<b>Revenue Range</b>	
Casino	\$350.0 million	- \$400.0 million
Hotel	\$20.0 million	- \$25.0 million
Food & Beverage	\$30.0 million	- \$40.0 million
Other	\$15.0 million	- \$20.0 million
<b>Total</b>	<b>\$415.0 million</b>	<b>- \$485.0 million</b>

Source: KlasRobinson Q.E.D.

As presented above, total annual revenues on stabilized basis are estimated to equal between \$415.0 million and \$485.0 million, including gaming revenues of between \$350.0 million and \$400.0 million. Non-gaming revenues, which include the hotel, food & beverage and other (entertainment, retail, etc.), are estimated to equal between \$65.0 million and \$85.0 million on a stabilized basis.

The above annual revenue estimates are direct revenues or “output” generated by the casino resort and do not include any “multiplier effect” on output, employment or earnings which will be addressed later in the summary.

*\* The current COVID-19 pandemic has resulted in unprecedented upheavals in economic conditions in the U.S. and around the globe. Unfortunately, at this time it is not possible to predict with confidence the duration or severity of the upheavals. At a generalized level, we regard the likelihood of recessionary conditions extending beyond the end of the immediate crises to approximate one year for every quarter the current crises conditions continue. While our best estimate at present would be an 18 to 24-month recessionary recovery period following end of forced business closures, restrictions on public gatherings and restrictions on personal travel, the possibility definitely exists that those restrictions could last long enough to result in an even longer recovery period.*

### Employment, Wages and Earnings

The planned Norfolk casino complex is estimated to employ almost 2,500 persons on a stabilized basis. Total annual wages for the planned Norfolk casino complex are projected to equal approximately **\$84.3 million** on a stabilized basis, or approximately **\$34,000 per job**. Tipped employees are projected to earn an additional **\$15.0 million in tip income** on a stabilized basis, bringing **total direct earnings to almost \$100.0 million** and average earnings per job to **\$40,000**.

The following table presents a breakdown of the estimated jobs and wages by category for the planned Norfolk casino complex. This information is presented graphically on the following pages.

<u>Estimated Direct Employment &amp; Earnings</u>						
CATEGORY	EMPLOYMENT	TOTAL WAGES	AVG. WAGES PER EMPLOYEE	TIPS	TOTAL EARNINGS	AVG. EARNINGS PER EMPLOYEE
GAMING	1,005	\$32,970,000	\$32,800	\$9,067,000	\$42,037,000	\$41,800
HOTEL	185	5,540,000	29,900	1,523,000	7,063,000	38,200
F & B	485	15,160,000	31,300	4,170,000	19,330,000	39,900
OTHER	55	1,830,000	33,300	220,000	2,050,000	37,300
A & G	130	6,720,000	51,700		6,720,000	51,700
SECURITY	200	7,330,000	36,700		7,330,000	36,700
MARKETING	165	6,730,000	40,800		6,730,000	40,800
P,O & M	255	7,980,000	31,300		7,980,000	31,300
<b>TOTAL/AVERAGE</b>	<b>2,480</b>	<b>\$84,260,000</b>	<b>\$34,000</b>	<b>\$14,980,000</b>	<b>\$99,240,000</b>	<b>\$40,000</b>

Source: KlasRobinson Q.E.D.

To put this into context, the proposed Norfolk Casino will be one of the top 25 employers in the entire Hampton Roads Region and one of the top ten employers in the City of Norfolk, based on information provided by the Hampton Roads Economic Development Alliance. This information is presented in the following table.

### Major Employers – Hampton Roads Region

<u>Rank</u>	<u>Major Employers</u>	<u>City</u>	<u>Product/Service</u>	<u>Employees</u>
1	Huntington Ingalls Industries, Inc.	Newport News	Shipbuilding & Repair	20,000+
2	Sentara Healthcare	Norfolk	Full-service Health Care Network	20,000+
3	Virginia Beach City Public Schools	Virginia Beach	Public Schools	12,000+
4	Norfolk Naval Shipyard	Portsmouth	Shipbuilding & Repair	10,000+
5	Riverside Health System	Newport News	Newport News	8,000+
6	Chesapeake City Public Schools	Chesapeake	Public Schools	7,000+
7	Norfolk City Public Schools	Norfolk	Public Schools	7,000+
8	Virginia Beach City	Virginia Beach	Municipal Government	7,000+
9	Chesapeake City	Chesapeake	Municipal Government	6,000+
10	Norfolk City	Norfolk	Municipal Government	6,000+
11	Newport News City Public Schools	Newport News	Public Schools	5,000+
12	Bon Secours Hampton Roads Health System	Suffolk	Hospital, Health Care Services	4,000+
13	Hampton City	Hampton	Municipal Government	4,000+
14	Newport News City	Newport News	Municipal Government	4,000+
15	Hampton City Public Schools	Hampton	Public Schools	3,000+
16	Old Dominion University	Norfolk	University	3,000+
17	Amerigroup - The Wellpoint Companies, Inc.	Norfolk	Healthcare Network Services	3,000+
18	Children's Health System (CHKD)	Norfolk	Hospital, Health Care Services	2,500+
19	Tidewater Community College (4 Campuses)	Norfolk	Community College System	2,500+
20	GEICO Direct	Virginia Beach	Insurance	2,500+
21	College of William & Mary	Williamsburg	University	2,500+
*	Planned Norfolk Casino Complex	Norfolk	Entertainment	2,480
22	Chesapeake Regional Medical Center	Chesapeake	Hospital, Health Care Services	2,000+
23	Hampton Veteran's Affairs (VA ) Medical Center	Hampton	Hospital, Health Care Services	2,000+
24	Portsmouth City Public Schools	Portsmouth	Public Schools	2,000+
25	Portsmouth City	Portsmouth	Municipal Government	2,000+

Source: Hampton Roads Economic Development Alliance and KlasRobinson Q.E.D.

It is important to note that these jobs and associated earnings are directly related to the planned Norfolk casino complex and its associated ancillary facilities including food and beverage outlets, hotel, entertainment and retail areas. *The previous estimates do not take into account jobs at area establishments including lodging, retail, gasoline and other goods and services due to an increase in area visitors attributed to the subject gaming facilities.*

### Other Benefits

In addition to the wages, the planned new facilities would set aside additional funds for employee benefits to the estimated 2,480 employees including health insurance, workers compensation and other employee benefits such as employee meals, uniforms, etc. Combined, other benefits are projected to equal more than \$15.0 million annually on a stabilized basis or over \$6,000 per employee.

### **Gaming Proceeds Fund**

As discussed previously, the Casino Bills outline a taxation scheme of adjusted gross receipts on casino operations. This includes an allocation from the Gaming Proceeds Fund for the host city, which is as follows:

- A rate of 6.0 percent on the first \$200.0 million of adjusted gross receipts;
- A rate of 7.0 percent on adjusted gross receipts between \$200.0 and \$400.0 million; and
- A rate of 8.0 percent on adjusted gross receipts that exceed \$400.0 million

Based on estimates of gaming revenue presented previously, the City of Norfolk will receive between \$22.5 million and \$26.0 million annually on stabilized basis from the Gaming Proceeds Fund paid to the Commonwealth of Virginia by the proposed Norfolk casino.

### **City Taxes**

The City of Norfolk has a variety of city sales taxes which include a lodging/transient occupancy tax of 8.0 percent, a food and beverage tax - also called the meal tax - of 6.5 percent, and a sales tax of 1.0 percent. Based on estimates of non-gaming revenue presented previously, the City of Norfolk will receive between \$1.6 million and \$2.0 million per year in lodging/transient taxes, between \$1.95 million and \$2.6 million per year in meal taxes and between \$150,000 and \$200,000 per year in sales taxes on a stabilized basis. Combined, the City of Norfolk will receive between \$3.7 million and \$4.8 million annually in combined sales related taxes on a stabilized basis.

### **Purchases of Goods and Services**

In addition to employment, wages and taxes, the planned Norfolk casino complex will spend considerable sums within the city and the state to purchase goods and services for on-going operations. Estimates of goods and services purchased were derived from industry standards applied to the assumed facilities previously discussed, based upon published information on comparable facilities in other markets. On a stabilized basis, the planned Norfolk casino complex is estimated to purchase almost \$92.0 million annually in goods and services for on-going operations, including more than \$52.5 million from in-state vendors.

### **Tourism**

The planned Norfolk casino complex is projected to accommodate an estimated 6.2 million visits annually on a stabilized basis or an estimated 17,000 visits per day. The actual visitation levels will fluctuate by time of day, day of week and time of year.

Not all of the estimated 6.2 million visits will come from Norfolk, or even the Commonwealth of Virginia. As presented on the table on the following page, approximately 22.0 percent of visitors at the planned Norfolk casino complex will come from Norfolk. An estimated 78.0 percent will originate from outside the city, including almost 15.0 percent from outside of Virginia.

<b><u>Estimated Visitor Origins</u></b>		
<b>Origin</b>	<b>Visits</b>	<b>Percent</b>
Norfolk	1,370,000	22.1%
Other Virginia	3,910,000	63.1%
Outside of Virginia	920,000	14.8%
<b>Total</b>	<b>6,200,000</b>	<b>100.0%</b>

Source: KlasRobinson Q.E.D.

These visitors will not only visit the planned Norfolk casino complex for the day, but also spend the night, at the planned hotel component, as well as other hotels in and around the Norfolk area. As discussed previously, the planned Norfolk casino complex will include a 300-unit hotel. Based on our market analysis and financial projections, the hotel component is estimated to achieve a stabilized occupancy rate of 90.0 percent, which equates to 98,550 roomnights per year.

By applying an average of 1.8 guests per room, standard for the casino industry, this equates to almost 177,400 visits by overnight casino patrons. These overnight casino guests will not only spend money at the planned Norfolk casino complex, but at area gas stations, retail establishments and attractions. Furthermore, the more time visitors spend in the Norfolk area, the greater the amount of money spent at area businesses.

As presented above, 920,000 visitors reside outside of Virginia, likely requiring overnight accommodations, with the hotel component at the planned Norfolk casino complex accommodating 177,400 guests, leaving 742,600 out-of-state guests seeking overnight accommodations at other area hotels. At the same 1.8 guests per room estimate, the additional overnight demand could support an additional 1,400 hotels rooms at an annual occupancy rate of 80.0 percent.



### **Multiplier Effect**

The concepts of indirect and induced impact, or “multiplier effects” are among the most widely used and poorly understood tools in economic analysis. Fundamentally they are based upon an extension of the direct expenditures by the businesses and their patrons described above. Money spent at Tribal enterprises is redistributed back into the economy in the form of wages, taxes and expenditures for goods and services.

In the case of Tribally-owned and operated gaming operations, money is never actually “lost” in a casino. Rather it too is redistributed back into the economy in the form of wages, taxes and expenditures for goods and services. In the same manner that the casino redistributes the gaming win and other revenue it receives, the people to whom those wages are paid and from whom the goods and services are purchased further redistribute the money they receive in wages to their employees and purchases for their own operating needs. It is the measurement of this on-going cycle of redistribution which estimates of indirect and induced impact attempt.

Estimates of indirect and induced impact were prepared by KlasRobinson Q.E.D. using the IMPLAN (IMpact Analysis for PLANing) economic model originally developed for the USDA Forest Service in cooperation with the Federal Emergency Management Agency and the USDI Bureau of Land Management. The IMPLAN model was developed at the University of Minnesota and is maintained by IMPLAN Group LLC in in Huntsville, North Carolina. The IMPLAN model has been in use since 1979. The IMPLAN model accounts closely follow the accounting conventions used in the “Input-Output Study of the U.S. Economy” by the Bureau of Economic Analysis and the rectangular format recommended by the United Nations.

Induced impact calculated by the IMPLAN model reflects changes in spending from households as income/population increases or decreases due to changes in production, effectively measuring the impact of wages paid as they cycle through the economy. Indirect impact calculated by the IMPLAN model reflects changes in inter-industry purchase, effectively measuring the impact of expenditures for other goods and services by the Tribal enterprises as they too cycle through the economy. Three levels of impact have been calculated: output - equivalent to GDP, employment, and earnings - equivalent to personal income.

### Output

Indirect and induced output includes increases in production and/or sales at area businesses due to the increased demand generated by the planned Norfolk casino complex, as well as at businesses impacted by the providers of goods and services to the planned facility.

The total induced and indirect annual impact on the economic output (GDP) of the City of Norfolk from the planned Norfolk casino complex is estimated to equal \$303.7 million. Total induced and indirect output impact on the Commonwealth of Virginia as a whole is projected to equal \$400.0 million.

Adding the direct impact on output from the casino to the indirect and induced impact yields a total estimated incremental impact on output of \$754.0 million for the City of Norfolk and over \$850.0 for the Commonwealth of Virginia as a whole.

The following table presents a summary of the estimated impact on economic output from the planned Norfolk casino complex. The table on the following page presents the following information graphically.

#### **Estimated Annual Direct, Indirect and Induced Output Impact**

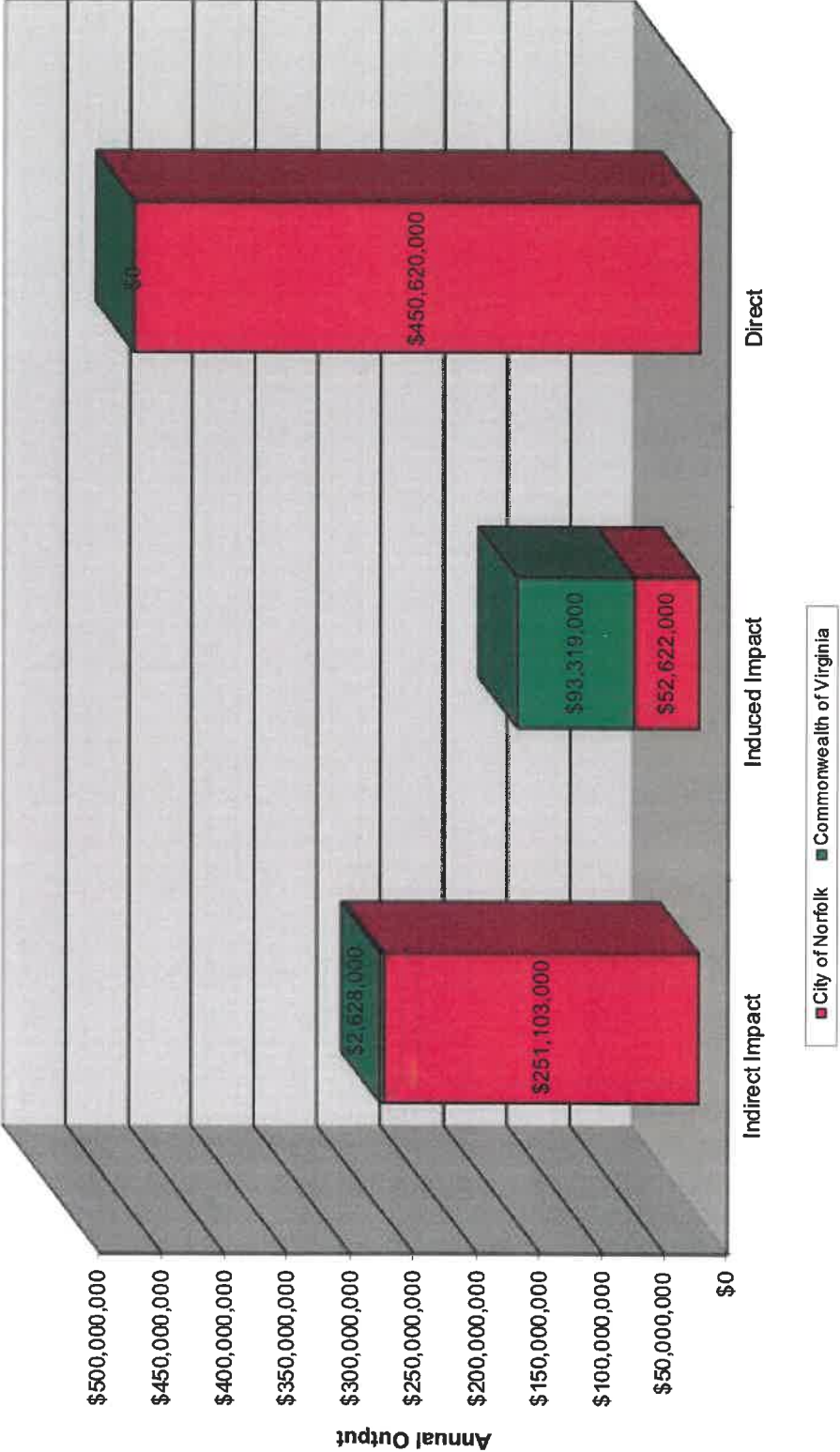
<b><u>Impact</u></b>	<b><u>City of Norfolk</u></b>	<b><u>Commonwealth of Virginia*</u></b>
Indirect Impact	\$251,103,000	\$253,731,000
Induced Impact	\$52,622,000	\$145,941,000
<b>Total Multiplier</b>	<b>\$303,725,000</b>	<b>\$399,672,000</b>
<b><u>Direct Impact</u></b>	<b><u>\$450,620,000</u></b>	<b><u>\$450,620,000</u></b>
<b>Total Impact</b>	<b>\$754,345,000</b>	<b>\$850,292,000</b>

\*Includes the City of Norfolk

Source: KlasRobinson Q.E.D.



**PLANNED NORFOLK CASINO COMPLEX  
ANNUAL OUTPUT IMPACT**



### Employment

Indirect and induced employment includes increases in employment at area businesses due to the increased demand generated by the planned Norfolk casino complex as well as at businesses impacted by the providers of goods and services to the planned facility.

The total induced and indirect impact on employment in the City of Norfolk from the planned Norfolk casino complex is estimated to equal 1,681 jobs. Total induced and indirect employment impact on the Commonwealth of Virginia as a whole is projected to equal approximately 2,463 jobs. Adding the direct impact on employment from the planned Norfolk casino complex to the indirect and induced impact yields a total estimated impact on employment of approximately 4,161 jobs for the City of Norfolk and 4,943 jobs for the Commonwealth of Virginia as a whole.

The following table presents a summary of the estimated impact on employment from the planned Norfolk casino complex. The table on the following page presents the following information graphically.

<b><u>Estimated Direct, Indirect and Induced Employment Impact</u></b>		
<b><u>Impact</u></b>	<b><u>City of Norfolk</u></b>	<b><u>Commonwealth of Virginia*</u></b>
Indirect Impact	1,313	1,460
Induced Impact	369	1,004
<b>Total Multiplier</b>	<b>1,681</b>	<b>2,463</b>
<b><u>Direct Impact</u></b>	<b><u>2,480</u></b>	<b><u>2,480</u></b>
<b>Total Impact</b>	<b>4,161</b>	<b>4,943</b>
*Includes the City of Norfolk		
Source: KlasRobinson Q.E.D.		

**PLANNED NORFOLK CASINO COMPLEX  
EMPLOYMENT IMPACT (STABILIZED)**



### Earnings

Indirect and induced earnings are derived from increases in earnings from additional at area businesses due to the increased demand generated by the planned Norfolk casino complex as well as increases in earnings from additional employment at businesses impacted by the providers of goods and services to the planned facility.

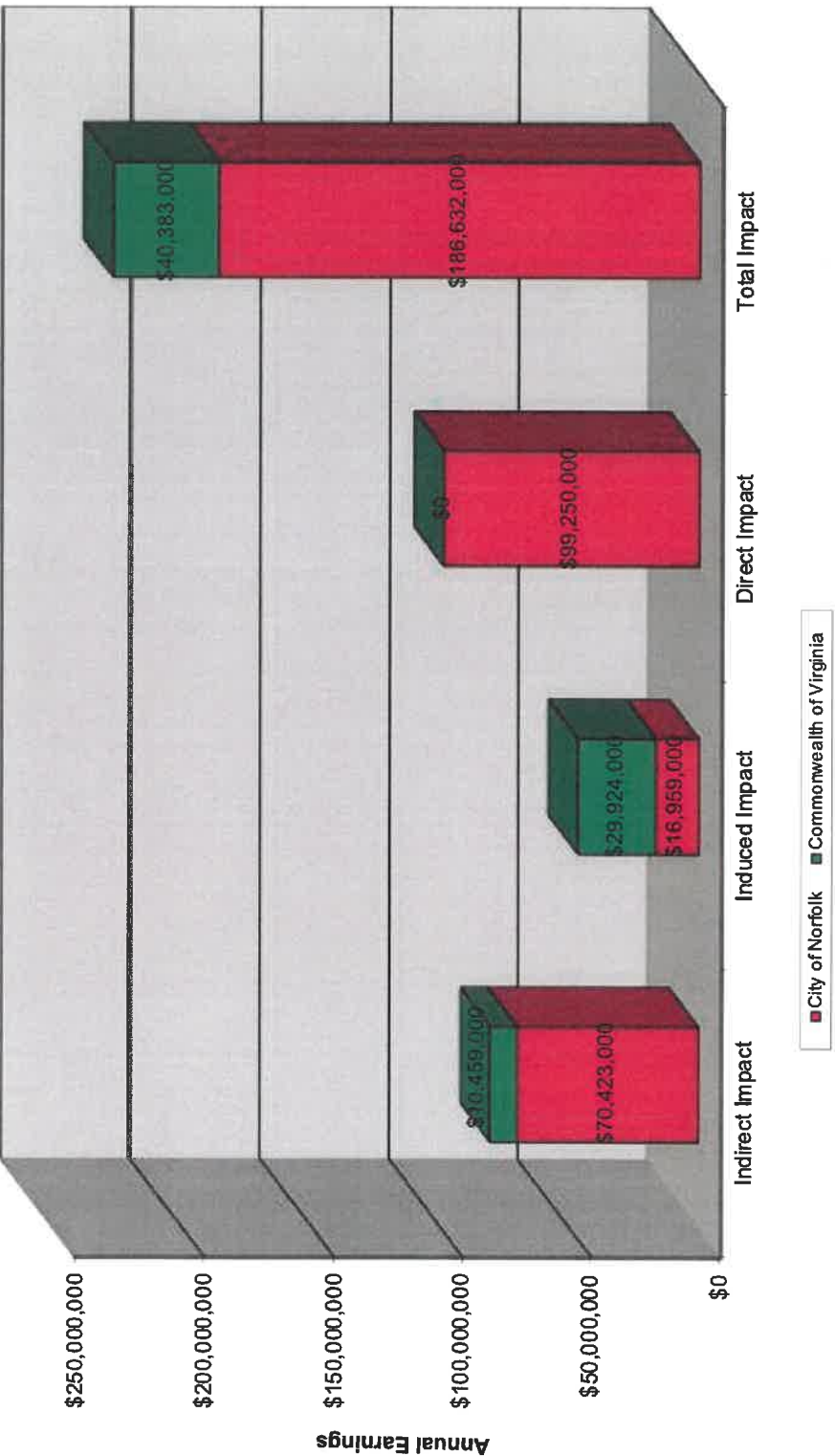
The total induced and indirect annual impact on personal income in the City of Norfolk from the planned Norfolk casino complex is estimated to equal \$87.4 million. Total induced and indirect annual earnings impact on the Commonwealth of Virginia as a whole is projected to equal almost \$127.8 million.

Adding the direct impact on earnings from the planned Norfolk casino complex to the indirect and induced impact yields a total estimated annual impact on personal income of over \$186.6 million for the City of Norfolk and \$227.0 million for the Commonwealth of Virginia as a whole. Direct impact includes only the earnings of employees at the complex.

The following table presents a summary of the annual estimated impact on personal income from the planned Norfolk casino complex. The table on the following page presents the following information graphically.

<b><u>Estimated Direct, Indirect and Induced Employment Impact</u></b>		
<b><u>Impact</u></b>	<b><u>City of Norfolk</u></b>	<b><u>Commonwealth of Virginia*</u></b>
Indirect Impact	\$70,423,000	\$80,882,000
Induced Impact	\$16,959,000	\$46,883,000
<b>Total Multiplier</b>	<b>\$87,382,000</b>	<b>\$127,765,000</b>
Direct Impact	\$99,250,000	\$99,250,000
<b>Total Impact</b>	<b>\$186,632,000</b>	<b>\$227,015,000</b>
*Includes the City of Norfolk		
Source: KlasRobinson Q.E.D.		

**PLANNED NORFOLK CASINO COMPLEX  
ANNUAL EARNINGS IMPACT**



### **Statement on Coronavirus**

The current COVID-19 pandemic has resulted in unprecedented upheavals in economic conditions in the U.S. and around the globe. Unfortunately, at this time it is not possible to predict with confidence the duration or severity of the upheavals. At a generalized level, we regard the likelihood of recessionary conditions extending beyond the end of the immediate crises to approximate one year for every quarter the current crises conditions continue.

While our best estimate at present would be an 18 to 24-month recessionary recovery period following end of forced business closures, restrictions on public gatherings and restrictions on personal travel, the possibility definitely exists that those restrictions could last long enough to result in an even longer recovery period.

### **Engagement Status**

This summary letter provides an overview of our findings, recommendations, revenue projections and estimates of economic impact for the proposed Norfolk casino development and is based on various estimates and assumptions derived from our knowledge of the industry and research of the market.

Some assumptions inevitably will not materialize, and unanticipated events and circumstances may occur; therefore, actual results achieved during the period covered by our prospective analysis will vary from those described above, and the variations may be material.

In developing these estimates and assumptions, consideration was given to existing and anticipated future competition within the immediate and broader market area, balanced against relative population density and other factors. Considerations were based upon specific demographic data described above.

Please contact us after you have had the opportunity to review this information so that we can discuss our conclusions in greater detail.

Sincerely,

**KlasRobinson Q.E.D.**



James M. Klas  
Founder & Principal



Matthew S. Robinson  
Founder & Principal



**ATTACHMENT 4. DESCRIPTION OF FORMER BUSINESS**

Provide as Attachment 4, a description of any former business, not listed in response to Item 3, which the business entity or any parent, intermediary or subsidiary company engaged in during the last 10 year period and the reasons for the cessation of such business. Also indicate the approximate time period during which each such business was conducted.

**None.**

**The Applicant and the Pamunkey Indian Tribe has engaged Golden Eagle to provide the financial, development, and management expertise necessary to deliver a world-class project to the City of Norfolk.**

**Golden Eagle President Jon Yarbrough founded Video Gaming Technologies, Inc. in 1991 and grew it to become the number one provider of gaming machine technology and content to American Indian tribes, as well as the largest privately owned gaming machine owner and manufacturer in the U.S. Jon Yarbrough remained its sole owner and President until selling to publicly traded Aristocrat Technologies in 2014 for \$1.4 billion. Before selling VGT, the company employed over 650 employees, including 250 engineering, game development, and IT personnel at offices in the Charlottesville, VA area.**

**Golden Eagle executives have created world class properties for 20 years including financing and/or developing high-end resort casinos in New York, Arizona, Oregon, Mississippi, New Mexico, California, and Canada, including several highly successful greenfield developments.**

**ATTACHMENT 5.     DESCRIPTION OF LONG TERM DEBT:**

Provide as Attachment 5, a description of the nature, type, terms, covenants, conditions and priorities of all outstanding bonds, loans, mortgages, trust deeds, notes, debentures, or other forms of indebtedness issued or executed (including loans made by shareholders, or to be issued or executed by the business entity, which mature more than one year from the date of issuance or which, by their terms, are renewable for a period of more than one year from the date of issuance (or, in the space below, provide a specific cross-reference to the applicable document(s) filed with this application that contain(s) all of the requested information.

The Pamunkey Indian Tribe (the "Tribe") and Golden Eagle Consulting II, LLC (the "Developer") entered into a Developer Credit Agreement dated as of September 15, 2017 (the "Developer Credit Agreement"), pursuant to which the Developer agreed make advances of up to \$20,000,000 (the "Development Loan") for the purpose of funding costs and expenses related to the development of the proposed gaming facility in the City of Norfolk (the "Project"). As of April 30, 2020, the outstanding principal balance of the Development Loan was \$7, 538, 674.10.

The Tribe's obligations under the Development Loan are evidenced by a promissory note dated as of September 15, 2017 (the "Developer Note"), of the Tribe in favor of the Developer. Pursuant to a Developer Security Agreement dated as of September 15, 2017 (the "Developer Security Agreement") of the Tribe in favor of the Developer, the Tribe granted a security interest in substantially all personal property of the Tribe constituting gaming assets to secure its obligations to the Developer under the Developer Credit Agreement, the Developer Note and the other development documents.

The principal of, and all accrued and unpaid interest on, the Development Loan are due and payable in full on the earlier of (a) the date amounts are first advanced from indebtedness to fund the costs and expenses of the Project that is obtained from a source other than the Developer or an affiliate of the Developer, or (b) September 15, 2024.

Interest accrues on the outstanding principal amount of the Development Loan at a per annum rate equal to the "prime rate" as most recently published in *The Wall Street Journal* as of the first date of each calendar month, plus 3.75%. Any accrued and unpaid interest on the Development Loan outstanding on the last business day of each calendar month is capitalized and is added to the principal amount of the Development Loan.

**Affirmative covenants related to the Development Loan require reporting of financing information, compliance with the development agreement, payment of taxes and other potential liens, the maintenance of the gaming assets, the maintenance of insurance, compliance with all applicable laws, preservation of permits, record-keeping, and the compliant conduct of general business operations. Negative covenants related to the Development Loan include, among other customary covenants, restrictions on the sale or disposition of gaming assets, the making of distributions, the incurrence of liens, and the incurrence of additional indebtedness with recourse to gaming assets.**

**The Pamunkey Indian Tribal Gaming Authority will assume all obligations of the Tribe under the Developer Credit Agreement, the Developer Note and the Developer Security Agreement.**

**Pursuant to the commitment letter attached as Attachment 26 (the "Commitment Letter"), Yarbrough Capital, LLC committed to provide up to \$650,000,000 of funding to the Developer for the purpose of providing additional financing to fund costs and expenses related to the development and construction of the Project upon the terms and conditions set forth therein. In the event the Developer finances the costs and expenses of constructing and opening the Project as contemplated in the Commitment Letter, then the Developer and the Pamunkey Indian Tribal Gaming Authority will enter into such amendments to the Developer Credit Agreement, the Developer Note and the Developer Security Agreement as may be reasonably necessary or desirable to provide for the financing of the Project on terms and conditions customary for the financing of construction of projects similar to the Project and at then-prevailing market rates of interest for similar financings.**

ATTACHMENT 6      HOLDERS OF LONG TERM DEBT

NAME AND ADDRESS	DATE OF BIRTH	TYPE AND CLASS OF DEBT INSTRUMENT HELD	DOLLAR AMOUNT OF DEBT HELD (Both Original Amount and Current Balance)
Golden Eagle Consulting II, LLC 1901 Sixth Avenue North Suite 1400 Birmingham, AL 35203	N/A	Development Loan (See Description in Attachment 5)	Currently a \$20,000,000 commitment of which \$7,538,674.10 was outstanding as of April 30, 2020.

ATTACHMENT 23. FORMATION DOCUMENTS

Provide as Attachment 23, a certified copy of the Articles of Incorporation, Charter and Bylaws of the corporation, the partnership agreement of the partnership, or formation documents of the business entity, as applicable, with all amendments and proposed amendments to date.

**The Authority was created by and is governed under the Tribe's Gaming Authority Ordinance, which was enacted by Tribal Council Resolution 2020-RES-005.**



PAMUNKEY TRIBAL GOVERNMENT  
1054 POCAHONTAS TRAIL  
PAMUNKEY INDIAN RESERVATION  
KING WILLIAM, VA 23086

**2020-RES-005**  
**RESOLUTION TO APPROVE THE PAMUNKEY INDIAN TRIBE**  
**GAMING AUTHORITY ORDINANCE**

**WHEREAS**, This Resolution (this "Resolution") is being adopted by the Chief and Tribal Council (the "Tribal Council"), the governing body of the Pamunkey Indian Tribe (the "Tribe") as referred to in the Laws of the Pamunkey Indians (the "Laws"); and

**WHEREAS**, Pursuant to Article II of the Laws, the affairs of the Tribe shall be administered and directed by a Chief and Tribal Council, which includes the power to administer the affairs and government of the Tribe, and Article VII of the Laws the Chief and Council have the authority to adopt an ordinance; and

**WHEREAS**, Pursuant to Ordinance LVII, Section M, the Chief and Council have the authority to adopt, rescind and modify ordinances. Such action should include a resolution. Except in emergency situations, such action requires a minimum 15-day announcement satisfied by either public posting, announcement at tribal meeting or direct mail or distribution to resident tribal members;

**WHEREAS**, Tribal Council desires and deems it in the best interest of the Tribe and its Tribal members to approve the following ordinance titled "Pamunkey Indian Tribe Gaming Authority Ordinance" (the "Gaming Authority Ordinance"); and

**WHEREAS**, Pursuant to Ordinance LVII, Section M, the Chief and Council hereby invoke the emergency exception for the passage of this ordinance to ensure the accompanying Gaming Authority Ordinance is timely adopted in order for the Tribe through its Gaming Authority to exercise the Gaming Authority's enumerated powers with respect to the financing, development, construction, management and operation of the Tribe's Gaming Operation, which may include, without limitation, gaming facilities, hotels, restaurants, bars, retail and parking facilities, and related businesses, and in accordance therewith to timely prepare a submission to the City of Norfolk (the "City") in advance of its May 26, 2020, City Council meeting that provides all of the information necessary for the City to make its determinations on the nine factors set forth by Va. Code. § 58.1-4107 for the Tribe to be its preferred casino gaming operator, and such information, together with the Tribe's completed Casino Business Entity Disclosure form and a signed Joint Acknowledgment form, which will be sent to the State Lottery Department established by Va. Code § 58.1-4000 et seq. by or on June 1, 2020, in order for it to conduct its preliminary review of the submission.

**NOW, THEREFORE, BE IT RESOLVED BY THE TRIBAL COUNCIL:**

Section 1. General Findings. The members of the Tribal Council hereby determine and find that (1) the Chief and Tribal Council is the duly elected and governing body of the Tribe with full power and authority to adopt this Resolution and the accompanying



Gaming Authority Ordinance, (2) the Tribal Council's adoption of this Resolution and the accompanying Gaming Authority Ordinance is in the best interest of the Tribe and the members of the Tribe, (3) the matters stated in the "Whereas" clauses of this Resolution are true and correct; and (4) no laws, ordinances, rules, regulations, resolutions or other actions of the Tribal Council or any of the agencies or instrumentalities of the Tribe, either written or established by custom or tradition: (a) prohibit the Tribal Council from taking the actions herein set forth; or (b) create any obligation of the Tribal Council to submit these matters for approval of or consent from any officer, body, agency or instrumentality of the Tribe or any vote by members of the Tribe.

Section 2. Approval of Resolution. The Tribal Council hereby approves the accompanying Gaming Authority Ordinance (the "Exhibit A"). The Pamunkey Indian Tribal Chief and Council is authorized to execute the Gaming Authority Ordinance, in a form substantially similar to Exhibit A, upon signing of this Resolution.

Section 3. Authorization for Further Changes to the Gaming Authority Ordinance. Notwithstanding the foregoing, with respect to the Gaming Authority Ordinance, the Tribal Council by majority vote must agree to any change or modification to the Gaming Authority Ordinance that Tribal Council determines is reasonably necessary or desirable to implement the purposes of this Resolution which determination shall be conclusively made with respect to any amended or modified Gaming Authority Ordinance upon the execution and delivery thereof by the Tribal Council.

Section 4. Certification, Reliance. The Secretary of the Tribe is authorized to certify to the name and signature of Chief and Tribal Council. The Secretary and other officers of the Tribe are also authorized to certify to the genuineness or conformity to original of the Gaming Authority Ordinance, including Laws and Ordinances of the Tribe and resolutions of the Tribal Council, as may be necessary or desirable to effectuate the intent contemplated by the Gaming Authority Ordinance or this Resolution.

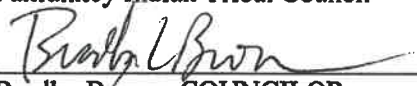
Section 5. Miscellaneous. If any provision of this Resolution or the application of any provision of this Resolution is held to be invalid, the remainder of this Resolution shall not be affected with respect to the same. This Resolution shall become effective as of the date and time of its passage and approval by the Tribal Council. To the extent lawful, all resolutions or actions of the Tribal Council heretofore taken, other than with respect to the enactment of ordinances or to the extent the same would cause a violation of any material agreement of the Tribe presently in effect, are hereby modified to the extent required to be consistent with the provisions of this Resolution.


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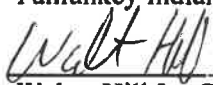
### CERTIFICATION

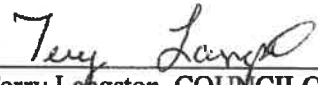
We, the undersigned, do hereby certify that the Pamunkey Indian Tribal Chief and Tribal Council, which is composed of seven (7) members, certify that the foregoing Resolution was adopted on May 21, 2020, by the affirmative vote of 7 Council persons for, 0 Council persons against, and 0 Council persons abstaining.

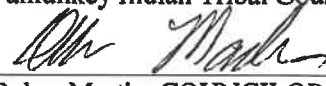
  
Robert Gray, CHIEF  
Pamunkey Indian Tribal Council

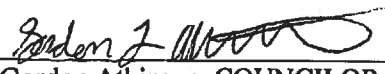
  
Bradby Brown, COUNCILOR  
Pamunkey Indian Tribal Council

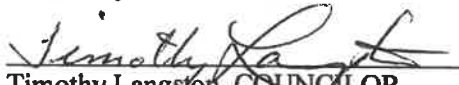
  
Warren Cook, COUNCILOR  
Pamunkey Indian Tribal Council

  
Walter Hill Jr., COUNCILOR  
Pamunkey Indian Tribal Council

  
Terry Langston, COUNCILOR  
Pamunkey Indian Tribal Council

  
Debra Martin, COUNCILOR  
Pamunkey Indian Tribal Council

  
Gordon Atkinson, COUNCILOR  
Pamunkey Indian Tribal Council

  
Timothy Langston, COUNCILOR  
Pamunkey Indian Tribal Council

**ORDINANCE LIX**  
**PAMUNKEY INDIAN TRIBE**  
**GAMING AUTHORITY ORDINANCE**

**Section 1 Title**

This Ordinance shall be known as the Pamunkey Indian Tribal Gaming Authority Ordinance (this "Gaming Authority Ordinance"). It is promulgated by the Chief and Tribal Council of the Pamunkey Indian Tribe (the "Tribe") pursuant to Articles II and VII of the Laws of the Pamunkey Indians (the "Laws") and Article LVII, Section M, of the Ordinances of the Pamunkey Indian Reservation (the "Ordinances"). This Gaming Authority Ordinance is enacted separate and apart from Article LIV of the Ordinances.

**Section 2 Tribal Gaming Authority**

- (a) There is hereby created the Pamunkey Indian Tribal Gaming Authority (the "Gaming Authority") for the Tribe.
- (b) The Gaming Authority is and shall be considered a Tribal entity and instrumentality with an autonomous existence in and of itself, separate in all rights from the Chief and Tribal Council and any other subordinate agency of the Tribe. Although autonomous in its existence, the Gaming Authority shall serve an essential governmental function of the Tribe, shall be a political subdivision of the Tribe, and shall be subordinate to the Chief and Tribal Council in its powers.
- (c) The Gaming Authority shall be governed by a Board of Directors (the "Board"). The Board shall have three to five members appointed by the Chief and Tribal Council. A majority of the Board members must be current members of the Chief and Tribal Council. All members of the Board must be eligible for a license from the Gaming Operation's regulatory body.
- (d) The members of the Board shall sit at the pleasure of the Chief and Tribal Council. Board members who resign or are removed by the Chief and Tribal Council shall be promptly replaced by the Chief and Tribal Council.
- (e) The Chief and Tribal Council shall designate a Chairperson and Vice-Chairperson of the Board.
- (f) The business offices and principal place of business of the Gaming Authority shall be on the Pamunkey Indian Reservation. The Gaming Authority may establish other places of business at such other locations as its Board may determine from time to time.

### **Section 3 Purposes**

The purposes of this Gaming Authority Ordinance are to provide economic benefit to the Tribe and to foster self-determination and economic self-sufficiency by creating the Gaming Authority to exercise its enumerated powers with respect to the financing, development, construction, management and operation of the Tribe's Gaming Operation (the "Gaming Operation"). The Gaming Operation may include, without limitation, gaming facilities, hotels, restaurants, bars, retail and parking facilities, and related businesses.

### **Section 4 Duties and Responsibilities of Gaming Authority**

It is the purpose and intent of this Gaming Authority Ordinance to authorize the Gaming Authority to do any and all things necessary or desirable with respect to the acquisition, undertaking, financing, construction, maintenance and operation of the Gaming Operation except where such powers are otherwise reserved to the Chief and Tribal Council or delegated to another agency or instrumentality of the Tribe. Nothing contained in this Gaming Authority Ordinance shall operate or be construed to vest in the Gaming Authority or the Board any powers which are reserved exclusively to the Chief and Tribal Council pursuant to the Laws and Ordinances of the Tribe. To the extent of any conflict between the provisions of this Gaming Authority Ordinance and those Laws and Ordinances, the provisions of the Laws and Ordinances shall control. The duties and responsibilities listed below are to be defined in a manner consistent with the overall good of the Tribe. To that end, the Gaming Authority shall have the following powers which it may exercise consistent with the purposes for which it is established:

1. To adopt and use a Gaming Authority logo and trade name for the Gaming Operation.
2. To enter into agreements, contracts, and understandings relating to the financing, development, construction, management, operation and ownership of the Gaming Operation with any governmental agency, federal, Tribal, state or local entity, or with any private person, partnership, corporation, Tribal entity, or other entity.
3. To sell, lease, exchange, transfer, or assign real and personal property for the benefit of the Gaming Operation and to hold and manage or to sublease the same.
4. To borrow or lend money, to issue temporary or long-term evidence of indebtedness and to repay the same in accordance with the terms of applicable agreements.
5. To pledge the revenue assets and accounts of the Gaming Operation as security for debts.

6. To purchase land or interests in land or take the same by gift; to lease land or interests in land to the extent provided by law.
7. To undertake and carry out studies and analysis of projects, to prepare and execute project plans, to operate projects and to provide for the acquisition, construction, reconstruction, improvement, extension, alteration or repair of any project or any part thereof.
8. With respect to any dwellings, accommodations, lands, buildings or facilities embraced within any project: to lease or rent, sell, enter into lease-purchase agreements or leases with option to purchase; and to make such further rules and regulations as Gaming Authority may deem necessary and desirable to effectuate the powers granted by this Gaming Authority Ordinance.
9. To purchase insurance for any property or against any risks or hazards.
10. To invest revenues from the Gaming Operation in permitted investments.
11. To establish and maintain such bank accounts as may be necessary or convenient.
12. To employ such individuals, permanent or temporary, as the Gaming Authority may require for the operation of the Gaming Operation or otherwise; and to delegate to such employees such powers or duties as the Gaming Authority shall deem proper.
13. To take such further actions as are commonly engaged in by entities of this character as the Board may deem necessary and desirable to effectuate the purposes of the Gaming Authority including, but not limited to, delegating the Gaming Authority's duties and responsibilities, by a formal Gaming Authority resolution, to subordinate boards while reserving the right to review actions taken pursuant to this authority.
14. To adopt such bylaws as the Board deems necessary and appropriate.
15. To oversee the construction of and the development of the Gaming Operation.
16. To monitor and review the operations of the Gaming Operation.
17. To expend Gaming Authority funds for the further development of the Gaming Operation.



18. To engage in any and all activities necessary to carry out the purposes of Section 3 of this Gaming Authority Ordinance through delegation or assignment from the Tribe, including delegation or assignment of any obligations, duties, and responsibilities of the Tribe under any existing agreements of the Tribe related to the Gaming Operation.
19. To take such action as may be necessary or appropriate to exercise the foregoing powers vested by this Gaming Authority Ordinance and as permitted by the Purposes and Duties and Responsibilities stated in this Gaming Authority Ordinance.

#### **Section 5 Rulemaking**

The Gaming Authority may promulgate by-laws, policies, and rules for the orderly transaction and conduct of its business and any other activities necessary to carry out the purposes of this Gaming Authority Ordinance. All such activities shall be in accordance with all Tribal Laws and Ordinances.

#### **Section 6 Authority Meetings**

- (a) *Regularly or Special Scheduled Meetings.* The Gaming Authority may hold regular and special meetings at such times and places as it may deem convenient, but at least one regular meeting shall be held monthly. A majority of the members of the Board present at a meeting shall constitute a quorum, and a special meeting shall be called by the Chairperson at the written request of a least two members. Each member of the Board of Directors may receive reasonable compensation plus expenses to be determined by the Chief and Tribal Council at a Chief and Tribal Council meeting. The compensation may be paid from the revenues of the Gaming Operation in accordance with the operating budget.
- (b) *Executive or Closed Meetings.* The Gaming Authority may hold executive or closed meetings for any of the following purposes:
  1. Consulting with experts from the Tribe or outside sources concerning matters of special and unique necessity.
  2. Discussing business strategies, marketing and pricing strategies of the Gaming Operation and its activities.
  3. Considering, reviewing and deliberating the entering into of secured transactions, obtaining loans from financial institutions and lease agreements with other entities where such practices are directly related to the Gaming Operation.

4. Preventing needless harm to the reputation of an individual.
5. Discussing matters subject to privilege with attorneys and accountants.

#### **Section 7 Conflict of Interest**

During his or her tenure no member of the Gaming Authority, employee of the Gaming Authority, or any other person who exercises any responsibilities or functions with regard to the Gaming Operation on behalf of the Gaming Authority, shall not voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project of the Gaming Operation. Nor shall he or she enter into any contract or proposed contract relating to any project of the Gaming Operation, unless prior to such acquisition, he or she discloses his or her interest in writing to the Gaming Authority Board of Directors and such disclosure is entered upon the minutes of the Gaming Authority. The member of the Board or employee shall not participate in any action by the Gaming Authority relating to the property or contract in which he or she has any such interest. If any member of the Gaming Authority or employee of the Gaming Authority acquired any such interest prior to appointment or employment as a member of the Gaming Authority or employee of the Gaming Authority, the member or employee, in any such event, shall immediately disclose his or her interest in writing to the Gaming Authority, and such disclosure shall be entered upon the minutes of the Gaming Authority, and the member or employee shall not participate in any action by the Gaming Authority relating to the property or contract in which he or she has any such interest.

#### **Section 8 Ownership**

All assets acquired by the Gaming Authority and any of its business ventures shall be deemed to be owned by the Tribe and held by the Gaming Authority for the benefit of the Tribe; provided where appropriate that title to real property and property that is to become a fixture or permanent improvement or part of the real property shall be taken in the name of the Tribe or in the name of the United States in trust for the Tribe.

#### **Section 9 Revenues and Earnings**

- (a) *General Account.* The Board shall establish a general account into which it shall deposit all net revenues of the Gaming Authority. This account shall be used to meet on-going business needs, contingencies, maintenance of property of the Gaming Authority, and shall deposit revenues of the Gaming Authority into that account. This account shall be used to meet ongoing business needs, debt service, contingencies, maintenance of property of the Gaming Authority, capital for expansion of existing operations or additional operations under the terms of this Gaming Authority Ordinance, and for such other purposes as deemed necessary and appropriate by the Board. The Board may direct the establishment of additional accounts at it may deem reasonable and necessary to the conduct of the Gaming Authority business under this Gaming Authority Ordinance.

- (b) *Transfer to the Tribal General Fund.* Within five days following the end of each month, the Board shall cause to be transferred from the general account of the Gaming Authority established under Section 9 (a) to the account(s) of the Tribe or such other tribal accounts as the Chief and Tribal Council may designate, all revenues of the Gaming Authority that are (i) not reasonably necessary to the Gaming Authority ongoing business needs, debt service, contingencies, maintenance of property of Gaming Authority, (ii) capital for expansion of existing operations or additional operations under the terms of this Gaming Authority Ordinance, and (iii) for such other purposes as deemed necessary and appropriate by the Board that have been identified in a strategic plan of the Gaming Authority.
- (c) *Limitation on Use of Earnings.* No part of the net earnings of the Gaming Authority shall inure to the benefit of, or be distributed to, any Director, Officer, or other private person, except that the Gaming Authority is authorized and empowered to pay reasonable compensation for services rendered to the Gaming Authority as provided in this Gaming Authority Ordinance and to make payments and distributes in furtherance of the Purpose set forth in Section 3. No substantial part of the activities of Gaming Authority shall be for the carrying on of propaganda or attempting to influence legislation, and the Gaming Authority shall not participate in any political campaigning on behalf of any candidate for any public office.

## **Section 9 Audits**

The Gaming Authority shall require annual outside audits of all business activities. The audits shall be conducted by an independent auditing firm, prepared in conformity with the American Institute of Certified Public Accountants standards. All such audits shall be made available for examination by the Chief and Tribal Council whenever they make such a request.

## **Section 10 Records**

Information and records of the Gaming Authority are confidential and may not be disclosed except pursuant to a duly authorized resolution by the Chief and Tribal Council approving the release of records. No person may use a subpoena, discovery or other applicable statutes to obtain such information or records. Information and records considered confidential include, but are not limited to:

1. Tax returns of Gaming Operation activities.
2. Applications, credit, medical and security reports of applicants for licenses and other persons seeking or doing business with the Gaming Authority.
3. Marketing, financial or sales data, the disclosure of which may be harmful to the competitive position of a Gaming Operation business, its licensees or persons seeking or doing business with the Gaming Authority.

4. Audit work papers, worksheets and auditing procedures used by the Gaming Authority, its agents and its employees.
5. Accounting records.
6. Attorney-client work product.

### **Section 11 Borrowing**

Subject to the limitations set forth in this Section, the Gaming Authority shall have the power to borrow money and incur indebtedness, or to guarantee the indebtedness of another agency, instrumentality, or entity of the Tribe, by issuing its obligations (the "Obligations"), in its own name for any of its purposes. Until the Gaming Operation is open to the public, each Obligation must be approved by the Chief and Tribal Council prior to its issuance. After the Gaming Operation is open to the public, only Obligations that exceed \$500,000.00 must be approved by the Chief and Tribal Council.

### **Section 12 Sovereign Immunity**

- (a) *Gaming Authority Possesses Sovereign Immunity.* As an instrumentality of the Tribe, the Gaming Authority shall be clothed by federal and Tribal law with all privileges and immunities of the Tribe, except as specifically limited by this Gaming Authority Ordinance, including sovereign immunity from suit in any state, federal, or Tribal court. Nothing contained in this Section shall be deemed or construed to be a waiver of sovereign immunity by the Gaming Authority from suit, which may be waived only in accordance with this Section.
- (b) *Conditions of Gaming Authority Waivers.* Waivers of the Gaming Authority's sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit of the Gaming Authority. Before the Gaming Operation is open to the public, the Gaming Authority must obtain written consent of the Chief and Tribal Council for any waiver of the Gaming Authority's sovereign immunity. After the Gaming Operation is open to the public, the Gaming Authority must obtain written consent of the Chief and Tribal Council for any waiver of the Gaming Authority's sovereign immunity that could subject the Gaming Authority to a claim of \$250,000.00 or more. Any waiver of the Gaming Authority's sovereign immunity must be in writing and shall be specific and limited as to (i) duration, (ii) the grantee, (iii) the particular transaction, (iv) definite property or funds, if any, of the Gaming Authority, (v) a particular court having jurisdiction pursuant thereto, and (vi) the law that shall be applicable thereto.
- (c) *No Waiver of Sovereign Immunity of the Tribe.* The Gaming Authority has no authority to waive the sovereign immunity of the Tribe or to consent to the jurisdiction of any court on behalf of the Tribe. A waiver of the Gaming

Authority's sovereign immunity from suit shall not constitute a waiver of the sovereign immunity of the Tribe.

**Section 13 Limitation of Liability of Members of Gaming Authority**

No member of the Gaming Authority shall be personally liable for monetary damages for breach of fiduciary duty as a member of the Gaming Authority, save and excepting liability for:

1. a breach of the Gaming Authority Board of Director's duty of loyalty, including without limitation a breach of the conflict of interest provisions hereof;
2. acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law; or
3. transactions from which the Gaming Authority Board of Director derived an improper personal benefit.

**Section 14 Indemnification of Directors, Officers, and Employees**

The Gaming Authority shall defend, indemnify, and hold harmless the Directors, Officers, agents, and employees of the Gaming Authority (each, an "Indemnitee") from any demand, claim, action, suit, or other proceeding for injury, loss, damage, obligation, assessment, or penalty, and from any liabilities arising therefrom, and from all reasonable expenses, costs, and fees (including reasonable attorney's fees) incurred in connection therewith, claimed or determined to result from the conduct of the business and affairs of the Gaming Authority by the Indemnitee, to the extent that person is not otherwise indemnified. The Gaming Authority shall not be required to defend, indemnify, or hold harmless any such Indemnitee if independent legal counsel determines (either because of a judicial decision or, in the absence of a judicial decision, independently) that the Indemnitee's conduct constituted a breach, act, omission, or transaction covered by Section 13 of this Gaming Authority Ordinance. The right of indemnification provided in this Section 14 shall not be deemed exclusive of any other rights to which the Indemnitee may be entitled, and the right shall inure to the benefit of the heirs, executors, and administrators of the Indemnitee.

**Section 15 Dissolution and Termination**

- (a) So long as all obligations of the Gaming Authority have been or will be satisfied or taken over by the Tribe, the Chief and Tribal Council may dissolve the Gaming Authority by resolution for any reason, at the direction of the Chief and Tribal Council.
- (b) Upon the adoption of a dissolution resolution by the Chief and Tribal Council, the Gaming Authority shall cease to conduct its affairs except as necessary for the winding-up thereof, and the Board shall immediately (i) cause notice of the dissolution to be mailed to each known creditor of the



Gaming Authority and (ii) proceed to collect the assets of the Gaming Authority and dispose of them in the manner provided in Section 15(c).

- (c) Upon dissolution and termination of the Gaming Authority, its assets shall be disposed of in the following manner: (i) first, the Board shall pay for, or provide for payment of, all debts and liabilities of the Gaming Authority; (ii) thereafter, the Board shall pay, convey, assign, and otherwise transfer all remaining assets of the Gaming Authority to the Tribe or its designee, as directed by the Chief and Tribal Council, so as to ensure that the assets of the Gaming Authority will be used exclusively to accomplish the purposes for which the Gaming Authority was organized. As part of the winding-up process, the Board shall provide for performance, transfer, cancellation, termination, or other disposition of all agreements, contracts, or other obligations undertaken by the Gaming Authority, as the Board may determine to be in the best interests of the Gaming Authority and the Tribe.

#### **Section 16 Amendment**

This Gaming Authority Ordinance may only be amended by the Chief and Tribal Council.

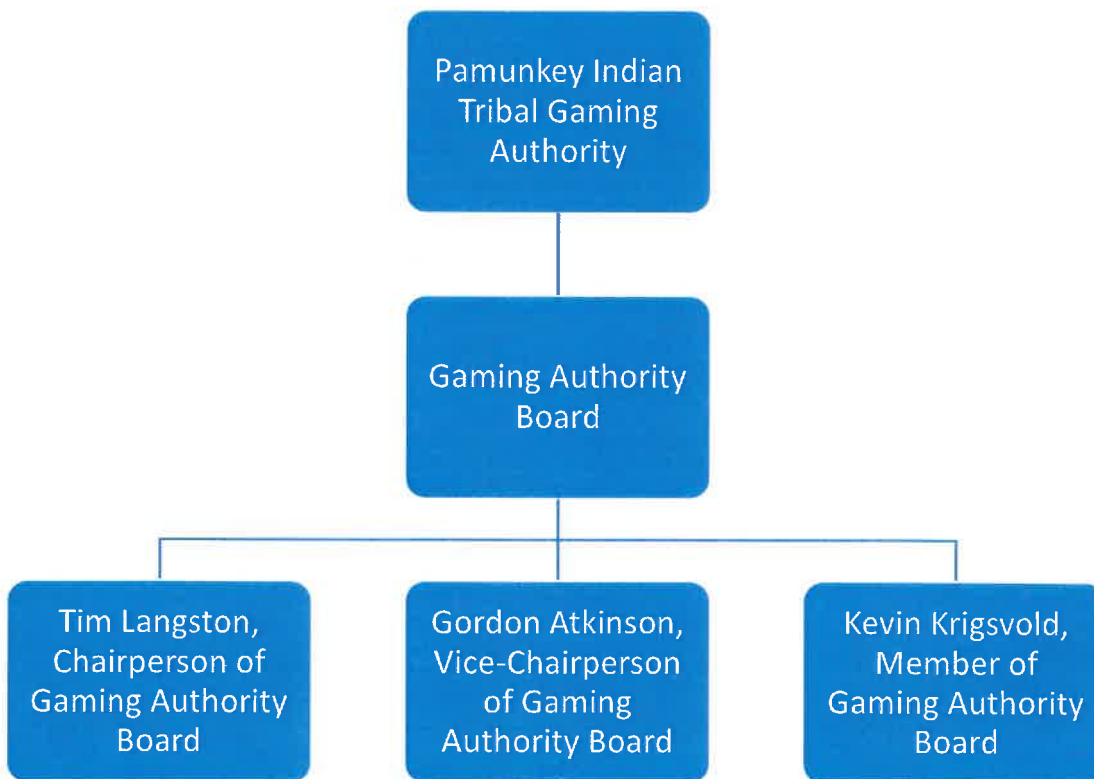
ATTACHMENT 24(A) ORGANIZATIONAL CHART

- A. Provide as Attachment 24A, a current ownership organizational chart of the business entity, its parent company and each subsidiary of the business entity.



ATTACHMENT 24(B) ORGANIZATIONAL CHART

- B. Provide as Attachment 24B, a functional Table of Organization for the business entity filing this Business Entity Disclosure Form, including position descriptions and the names of persons holding such positions.



ATTACHMENT 26. LETTER OF COMMITMENT

Provide as Attachment 26, a copy of the firm commitment letter signed and issued to the business entity in connection with the proposed casino project by the lender institution, stating the terms and conditions of the loan agreement.

See Attached Letter of Commitment

May 28, 2020

**CONFIDENTIAL**

TO: Golden Eagle Consulting II, LLC (the "Company")

Re: Financing Commitment

Ladies and Gentlemen:

This letter agreement (this "Agreement") sets forth the commitment of Yarbrough Capital, LLC ("Yarbrough Capital"), subject to the terms and conditions contained herein, to fund or cause to be funded to the Company, a Delaware limited liability company, certain capital contributions from time to time pursuant to that certain Limited Liability Company Agreement of the Company dated as of February 17, 2017 (as amended, restated, supplemented or otherwise modified from time to time, the "Operating Agreement"), in an aggregate amount in cash up to \$650,000,000.00 (the "Commitment Amount"), for the purpose of enabling the Company to make certain advances to or for the benefit of the Pamunkey Indian Tribe (the "Tribe"), a federally recognized Indian tribe, to fund Project Costs pursuant to that certain (i) Amended and Restated Development Agreement dated as of April 11, 2019, by and between the Company and the Tribe (as amended, restated, supplemented or otherwise modified from time to time, the "Development Agreement"), and (ii) Developer Credit Agreement dated as of September 15, 2017, by and between the Company and the Tribe (as amended, restated, supplemented or otherwise modified from time to time, the "Developer Credit Agreement"), and, together with Development Agreement, the "Project Financing Agreements"). The capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the Development Agreement.

1. Commitment. Yarbrough Capital hereby commits, subject to the terms and conditions set forth herein, that, it shall fund, or shall cause to be funded, to the Company certain amounts from time to time pursuant to the Operating Agreement, up to an aggregate amount equal to the Commitment Amount. Yarbrough Capital shall not be obligated to fund the Commitment Amount evidenced hereby, except in accordance with the Operating Agreement and for the sole purpose of enabling the Company to make advances to fund Project Costs pursuant to the Project Financing Agreements, and Yarbrough Capital shall not, under any circumstances, be obligated to contribute more than the lesser of (a) the Commitment Amount and (b) the aggregate amount of Project Costs remaining to be paid to complete the Project. The Commitment Amount shall be reduced on a dollar-for-dollar basis by the aggregate amount of (i) any Permanent Financing (including any commitments for Permanent Financing), (ii) the amount of any other debt or equity financing obtained by the Company, and (iii) the amount of any other debt financing obtained by the Tribe for the purpose of funding Project Costs. Yarbrough Capital's obligation to fund the Commitment Amount shall be subject to each of the following conditions precedent (a) each of the Company and the Tribe shall have obtained all authorizations, permits, licenses and approvals necessary for the purchase of the Site from the City of Norfolk (the "City") and the construction and operation of the Project thereon in accordance with the Project Financing Documents and all applicable laws, and all such authorizations, permits, licenses and approvals shall be in full force and effect, (b) all agreements between or among the Company, the Tribe and the City related to the Project or necessary for the construction or operation thereof shall be in full force and effect,



and no default or event of default shall have occurred thereunder, (c) no adverse change shall have occurred with respect to the business, condition (financial or otherwise), operations, performance, properties or prospects of the Project, the Company, the Tribe or any of the Company's or the Tribe's respective affiliates, as determined by Yarbrough Capital in its sole discretion, (d) no litigation shall be pending or threatened which could reasonably be expected to have an adverse effect on the business, condition (financial or otherwise), operations, performance, properties or prospects of the Project, the Company or the Tribe, or could impair the ability of the Company or the Tribe to perform satisfactorily any of its material obligations in connection with the Project, (e) the Company and the Tribe shall have entered into such Permanent Financing (or entered into commitments for Permanent Financing) as is available on commercially reasonable terms, (f) the Company and the Tribe shall have entered into such amendments to the Project Financing Agreements as may be reasonably necessary or desirable to provide for the financing of the Project Costs on terms and conditions customary for the financing of construction of projects similar to the Project and at then-prevailing market rates of interest for similar financings, and (g) all conditions precedent in the Project Financing Agreements for the funding of Project Costs shall be satisfied.

2. Parties in Interest; Third Party Beneficiaries. The parties hereto hereby agree that their respective agreements and obligations set forth herein are solely for the benefit of the other parties hereto and their respective successors and permitted assigns, in accordance with and subject to the terms of this Agreement, and this Agreement is not intended to, and does not, confer upon any Person other than the parties hereto and their respective successors and permitted assigns any benefits, rights or remedies under or by reason of, or any rights to enforce or cause the Company to enforce, the obligations set forth herein, provided, however, that the Tribe is an express third party beneficiary hereof and shall have the enforcement rights provided in Section 3 of this Agreement, and any Non-Recourse Party may rely on and enforce the provisions of Section 8 hereof.

3. Enforceability. This Agreement may only be enforced by (a) the Company or (b) the Tribe. Neither the Company's or the Tribe's creditors nor any Person claiming by, through, or on behalf or for the benefit of the Company or the Tribe, or any direct or indirect equity holder or affiliate of any of the foregoing, shall have any right to enforce this Agreement or to cause the Company or the Tribe to enforce this Agreement.

4. No Modification; Entire Agreement. This Agreement may not be amended or otherwise modified without the prior written consent of the Company, the Tribe and Yarbrough Capital. Together with the Operating Agreement, this Agreement constitutes the sole agreement, and supersedes all prior agreements, understandings and statements, written or oral, between Yarbrough Capital or any of its affiliates, on the one hand, and the Company or any of its affiliates, on the other, with respect to the transactions contemplated hereby. Except as expressly permitted in Section 10 hereof, no transfer of any rights or obligations hereunder shall be permitted without the consent of the Company and Yarbrough Capital. Any transfer in violation of the preceding sentence shall be null and void.

5. Governing Law; Jurisdiction; Venue; Waiver of Jury Trial.

(a) THIS AGREEMENT, THE RIGHTS OF THE PARTIES UNDER OR IN CONNECTION HERewith OR THE TRANSACTIONS CONTEMPLATED HEREBY, AND ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATED TO ANY OF THE FOREGOING, SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE INTERNAL LAWS OF THE STATE OF DELAWARE, WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAW (WHETHER THE STATE OF DELAWARE OR OTHERWISE) THAT WOULD RESULT IN THE APPLICATION OF THE LAWS OF ANY OTHER JURISDICTION. Each party hereto agrees that it shall bring, maintain and defend any such action or proceeding exclusively in the Court of Chancery of the State of Delaware, or if but only if such Court does not have subject matter jurisdiction, the state or federal courts of the State of Delaware (as just described, the "Chosen Courts"), and solely in connection with such actions or proceedings: (i) irrevocably submits to the exclusive jurisdiction of the Chosen Courts; (ii) waives any objection to laying venue in any such action or proceeding in the Chosen Courts; (iii) waives any objection that the Chosen Courts are an inconvenient forum or do not have jurisdiction over any party hereto; and (iv) agrees that service of process upon such party in any such action or proceeding shall be effective if effected pursuant to the laws of the State of Delaware.

(b) EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO DEMAND THAT ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE RELATIONSHIPS OF THE PARTIES HERETO BE TRIED BY JURY. THIS WAIVER EXTENDS TO ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY ARISING FROM ANY SOURCE INCLUDING THE CONSTITUTION OF THE UNITED STATES OR ANY STATE THEREIN, COMMON LAW OR ANY APPLICABLE STATUTE OR REGULATIONS. EACH PARTY HERETO ACKNOWLEDGES THAT IT IS KNOWINGLY AND VOLUNTARILY WAIVING ITS RIGHT TO DEMAND TRIAL BY JURY.

6. Counterparts. This Agreement shall not be effective until it has been executed and delivered by all parties hereto. This Agreement may be executed in multiple counterparts, any of which may be delivered via facsimile or PDF, with the same effect as if all signing parties had signed the same document. All counterparts shall be construed together and constitute the same instrument.

7. Confidentiality. This Agreement shall be treated as confidential and is being provided to the Company and the Tribe solely in connection with the Project Financing Agreements. This Agreement may not be used, circulated, quoted or otherwise referred to in any document by the Company or the Tribe except with the prior written consent of Yarbrough Capital in each instance; provided, that no such written consent is required for any disclosure of the existence of this Agreement to (i) the extent required by applicable law (provided, that the Company or the Tribe, as applicable, will provide Yarbrough Capital an opportunity to review such required disclosure in advance of such public disclosure being made) or (ii) the Company's or the Tribe's employees, accountants, counsel, advisors, consultants and other representatives

who need to know of the existence of this Agreement; provided, that such employees, accountants, counsel, advisors, consultants and other representatives are informed of the confidential nature of such information and have agreed to keep such information confidential.

8. Non-Recourse. Notwithstanding anything that may be expressed or implied in this letter agreement, the Company, by its acceptance of the benefits hereof, covenants, agrees and acknowledges that no recourse hereunder or any documents or instruments delivered in connection herewith shall be had against any former, current or future, direct or indirect director, officer, employee, agent, advisor or representative or affiliate of Yarbrough Capital or their affiliates, any former, current or future, direct or indirect holder of any equity interests or securities of them (whether such holder is a limited or general partner, member, stockholder, securityholder or otherwise), any former, current or future director, officer, employee, incorporator, agent, general or limited partner, manager, member, stockholder, securityholder, affiliate or controlling person of any of the foregoing or any former, current or future heir, executor, administrator, trustee, successor or assign of any of the foregoing (any such person or entity, a "Non-Recourse Party"), whether by the enforcement of any assessment or by any legal or equitable proceedings, or by virtue of any statute, regulation or other applicable law, it being expressly agreed and acknowledged that no personal liability whatsoever shall attach to, be imposed on, or otherwise be incurred by any Non-Recourse Party for any obligations of Yarbrough Capital under this letter agreement or any documents or instruments delivered in connection herewith or for any claim based on, in respect of, or by reason of, such obligations or their creation.

9. Termination. This Agreement and all obligations of Yarbrough Capital under or in connection with this Agreement will terminate automatically and immediately upon the earliest to occur of (a) the Company or the Tribe obtaining Permanent Financing or commitments for Permanent Financing in an amount sufficient to pay all remaining Project Costs necessary to complete the Project, (b) any Change of Control or (c) any valid termination of any of the Project Financing Agreements pursuant to its terms.

10. No Assignment. Yarbrough Capital's commitment evidenced by this Agreement may be assigned, in whole or in part, to one or more other Persons; provided, however, that any such assignment shall not relieve Yarbrough Capital of its obligations under this Agreement. Any purported assignment of this Agreement or of the commitment of Yarbrough Capital in contravention of this Section 10 shall be void.

11. Representations and Warranties. Yarbrough Capital hereby represents and warrants that (a) it has all requisite limited liability company power and authority to execute, deliver and perform this Agreement; (b) the execution, delivery and performance of this Agreement by it have been duly and validly authorized and approved by all necessary limited partnership, corporate or other organizational action by it; (c) this Agreement has been duly and validly executed and delivered by it and constitutes a valid and legally binding obligation of it, enforceable against it in accordance with the terms of this Agreement, subject to the effect of any applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to the effect of general principles of equity; (d) it has available funds in excess of the Commitment Amount hereunder plus the aggregate amount of all other commitments and obligations it currently has outstanding; and (e) the execution, delivery and performance by Yarbrough Capital of this Agreement does not (i) violate the organizational

documents of Yarbrough Capital or (ii) violate any applicable law or judgment. The Company is not relying upon any other statement, agreement, undertaking, understanding, representation or warranty on the part of Yarbrough Capital, except as expressly set forth herein.

12. Effect of Waiver. A waiver or consent, express or implied, to or of any breach or default by any person in the performance by that person of its obligations hereunder is not a consent or waiver to or of any other breach or default in the performance by that person of the same or any other obligations of that person hereunder. Failure on the part of a person to complain of any act of any person or to declare any person in default hereunder, irrespective of how long that failure continues, does not constitute a waiver by that person of its rights with respect to that default until the applicable statute of limitations period has run.

13. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective solely to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Each party hereto covenants and agrees that it shall not assert, and shall cause its respective Affiliates and representatives not to assert, that this Agreement or any part hereof is invalid, illegal or unenforceable in accordance with its terms.

*[Remainder of the page intentionally left blank - signature page follows]*

Very truly yours,

**YARBROUGH CAPITAL, LLC**

By: Jon Yarbrough  
Name: Jon Yarbrough  
Its: President

Acknowledged, accepted and agreed to:

**GOLDEN EAGLE CONSULTING II, LLC**

By: Jon Yarbrough  
Name: Jon Yarbrough  
Its: President