

**COMMONWEALTH OF PENNSYLVANIA  
GAMING CONTROL BOARD**

IN RE:	:	
	:	
APPLICATION OF <b>HSP GAMING LP</b>	:	<b>DOCKET NO. 1356</b>
	:	
APPLICATION OF <b>KEYSTONE REDEVELOPMENT PARTNERS, LLC</b>	:	<b>DOCKET NO. 1364</b>
	:	
APPLICATION OF <b>PHILADELPHIA ENTERTAINMENT AND DEVELOPMENT PARTNERS, LP</b>	:	<b>DOCKET NO. 1367</b>
	:	
APPLICATION OF <b>PINNACLE ENTERTAINMENT, INC. AND PNK (PA), LLC</b>	:	<b>DOCKET NO. 1751</b>
	:	
APPLICATION OF <b>RIVERWALK CASINO, LP</b>	:	<b>DOCKET NO. 1362</b>
	:	
Applications for Category 2 Slot Machine Licenses in Philadelphia, PA a City of the First Class	:	
	:	

**ORDER**

AND NOW this 1<sup>st</sup> day of February, 2007, based upon the full and careful consideration of the record evidence before it, the provisions of the Pennsylvania Race Horse Development and Gaming Act (“Act”) (4 Pa.C.S. §§ 1101 – 1904, as amended) and the Act’s accompanying regulations, the Pennsylvania Gaming Control Board (PGCB) issues the following:

**IT IS ORDERED THAT**, the applications for licensure as Category 2 licensees in the City of Philadelphia of **HSP Gaming, LP** and **Philadelphia Entertainment & Development Partners, LP**, are **GRANTED** and the licenses are approved for the reasons set forth in the Gaming Control Board’s Adjudication of the Applications for Category 2 Slot Machine Licenses

in Philadelphia, PA, a City of the First Class, issued this date, and subject to satisfaction of the following conditions prior to the issuance of the Category 2 licenses:

1. The expiration of the thirty (30) day appeal period permitted by the Pennsylvania Rules of Appellate Procedure;

2. The payment of any outstanding fees, other than the \$50 million licensing fee, as determined by the PGCB pursuant to 4 Pa.C.S. § 1208;

3. The agreement to the Statement of Conditions of licensure to be imposed and issued by the Gaming Control Board, as evidenced by the signing of the agreements by HSP Gaming, LP's and Philadelphia Entertainment & Developments Partners, LP's executive officers or designees within five business days of the receipt of the Statement of Conditions from the PGCB; and

4. The payment of the one time \$50,000,000 slot machine license fee required pursuant to 4 Pa.C.S. § 1209, made by the latter of four months from the date of this Order or ten (10) calendar days following the conclusions of any appeals to the grant of this license pursuant to 4 Pa.C.S. §1204 (if any), and no less than ten (10) business days prior to the beginning of the test period necessary to commence slot machine operations under 58 Pa. Code § 467.2(a)(9).

**IT IS ORDERED THAT** the applications for licensure as a Category 2 licensee in the City of Philadelphia of **Keystone Redevelopment Partners, LLC; PNK (PA), LLC** and **Riverwalk Casino, LP**, are **DENIED** for the reasons set forth in the Gaming Control Board's Adjudication of the Applications for Category 2 Slot Machine Licenses in Philadelphia, PA, a City of the First Class issued this date.

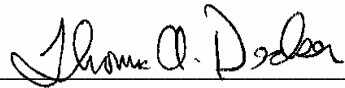
**IT IS FURTHER ORDERED THAT** the PGCB delegates to a designated Board member, in consultation with the Executive Director, authorization to permit HSP Gaming, LP

and Philadelphia Entertainment & Development Partners, LP to commence a test period pursuant to 58 Pa. Code § 467.2(a)(9), which test period shall commence on such date and time and shall continue for such duration as shall be determined by a designated Board member, in consultation with the Executive Director. A designated Board member, in consultation with the Executive Director, shall be authorized to establish, terminate, restrict, limit, extend or otherwise modify the test period or the hours thereof. The authority delegated shall include the right to order HSP Gaming, LP and Philadelphia Entertainment & Development Partners, LP to take whatever actions are necessary to preserve the policies of the Act, the regulations and any technical standards adopted by the PGCB and/or to assure an effective evaluation during the test period including permitting, limiting, restricting or prohibiting HSP Gaming, LP and Philadelphia Entertainment & Development Partners, LP from conducting slot operations.

**IT IS FURTHER ORDERED THAT** the PGCB delegates to a designated Board member, in consultation with the Executive Director, the ability to determine the successful completion of the test period and to authorize the effective date and time at which slot operations may commence pursuant to 58 Pa. Code § 467.2(b), such authorization to include a specific number of slot machines and gaming floor square footage. The authority delegated shall include the right to restrict, limit, condition or abrogate any authority to conduct slot operations and the authority to subsequently amend, modify or remove any restriction, limitation, condition or prohibition imposed pursuant to any authority granted hereunder;

that the delegation of authority to a designated Board member shall expire as determined by the PGCB; and

that in the event that a designated Board member cannot perform the delegated duties, the Chairman shall have the authority to select an alternate PGCB member to fulfill these duties.



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**Thomas A. Decker, Chairman**  
**Pennsylvania Gaming Control Board**

In accordance with 4 Pa.C.S. § 1204, the Supreme Court has been vested with exclusive appellate jurisdiction to consider appeals of any final order, determination or decision of the board involving the approval, issuance, denial or conditioning of all licensed entity applications. Pa.R.A.P. provides for any Petition for Review to a PGCB decision to be filed within thirty (30) days after the entry of the order.

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GAMING CONTROL BOARD**

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**ADJUDICATION**

**OF THE PENNSYLVANIA GAMING CONTROL BOARD**

**IN THE MATTERS OF THE APPLICATIONS FOR CATEGORY 2 SLOT  
MACHINE LICENSES IN THE CITY OF THE FIRST CLASS, PHILADELPHIA**

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## **INTRODUCTION**

In July 2004, upon the enactment of the Pennsylvania Race Horse Development and Gaming Act (“Act”), 4 Pa.C.S. §1101, et seq. *as amended*, Pennsylvania embarked on an expansive initiative providing for legalized slot machine gaming at a limited number of licensed facilities within the Commonwealth. The primary expressed objective of the legislation is to protect the public through regulating and policing all activities involving gaming. Other objectives include enhancing live horse racing and breeding programs, entertainment and employment in the Commonwealth, providing a significant source of income to the Commonwealth for tax relief, providing broad economic opportunities to Pennsylvania’s citizens, developing tourism, strictly monitoring licensing of specified locations, persons, associations, practices, activities, licensees and permittees, considering the public interest of the citizens of the Commonwealth and the social effects of gaming when rendering decisions and maintaining the integrity of the regulatory control of the facilities slots. 4 Pa.C.S. §1102.

The Act establishes the Pennsylvania Gaming Control Board (“Board” or “PGCB”) which is comprised of three gubernatorial and four legislative appointee members. 4 Pa.C.S. §1201(b). The Board is provided general jurisdiction over all gaming and related activities, including but not limited to overseeing acquisition and operation of slot machines and issuing, approving, renewing, revoking, suspending, conditioning and denying slot machine licenses. 4 Pa.C.S. §1202.

Three categories of slot machine licenses are authorized under the Act: Category 1 licenses permitting up to seven qualifying licensed horse racetracks to maintain slot machine facilities; Category 2 licenses permitting up to five stand-alone slot machine

locations in metropolitan or other tourism areas; and Category 3 licenses permitting up to two hotel-resort slot machine facilities. 4 Pa.C.S. §§1301-1307.

The Act sets forth essential eligibility criteria for each Category of license which any license applicant must satisfy simply to proceed to consideration of its application. With respect to Category 2 licenses, which are the subject of this adjudication, Section 1304 of the Act provides the eligibility criteria including that the applicant may not be eligible for a Category 1 license and that the locations for the Category 2 facilities include two facilities in a city of the first class, one facility in a city of the second class and the remaining two facilities in a revenue or tourism-enhanced location. Further, for each of these facilities, the Act sets specific distance requirements with respect to Category 1 and other Category 2 facilities. 4 Pa.C.S. §1304. The Act also imposes eligibility criteria on all applicants for all Categories which include the development and implementation of a diversity plan to assure equal opportunity in employment and contracting, as well as a requirement that the applicant be found suitable consistent with the laws of the Commonwealth and otherwise qualified for licensure. 4 Pa.C.S. §1325. Other sections of the Act impose further restrictions on who may or may not be issued licenses including imposing good character, honesty and integrity requirements upon applicants, and requiring letters of reference from law enforcement and other casino jurisdictions where the applicant may be licensed, 4 Pa.C.S. §1310; imposing business restrictions on who may own, control or hold key positions for the applicant, 4 Pa.C.S. §1311; requiring divestiture of interests on non-qualifying persons, 4 Pa.C.S. §1312; imposing strict financial fitness requirements on the applicants to assure the financial and operational viability of the proposal, 4 Pa.C.S. §1313, and promoting and ensuring



diversity in all aspects of the gaming activities permitted under the Act including through the ownership, participation and operation of licensed facilities. 4 Pa.C.S. §1212.

In addition to the eligibility criteria, the Act provides extensive guidance for the Board's consideration in issuing licenses. Section 1325(c)<sup>1</sup> - Additional requirements, provides:

In addition to the eligibility requirements otherwise provided in this part, the board may also take into account the following factors when considering an application for a slot machine license:

- (1) The location and quality of the proposed facility, including, but not limited to, road and transit access, parking and centrality to market service area.
- (2) The potential for new job creation and economic development which will result from granting a license to an applicant.
- (3) The applicant's good faith plan to recruit, train and upgrade diversity in all employment classifications in the facility.
- (4) The applicant's good faith plan for enhancing the representation of diverse groups in the operation of its facility through the ownership and operation of business enterprises associated with or utilized by its facility or through the provision of goods or services utilized by its facility and through the participation in the ownership of the applicant.
- (5) The applicant's good faith effort to assure that all persons are accorded equality of opportunity in employment and contracting by it and any contractors, subcontractors, assignees, lessees, agents, vendors and suppliers it may employ directly or indirectly.
- (6) The history and success of the applicant in developing tourism facilities ancillary to gaming development if applicable to the applicant.
- (7) The degree to which the applicant presents a plan for the project which will likely lead to the creation of quality, living-wage jobs and full-time permanent

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<sup>1</sup> The Section 1325(c) factors are factors which the Board may take into consideration in determining whether the grant of a license is in the public interest or otherwise in accordance with the objectives of the Act. In addition, and more important to the Category 2 licenses where competition exists, the 1325(c) factors permit a basis for comparison of applicants to determine, in the Board's discretion, which applicants' projects are best-suited for the licenses.

jobs for residents of this Commonwealth generally and for residents of the host political subdivision in particular.

(8) The record of the applicant and its developer in meeting commitments to local agencies, community-based organizations and employees in other locations.

(9) The degree to which potential adverse effects which might result from the project, including costs of meeting the increased demand for public health care, child care, public transportation, affordable housing and social services, will be mitigated.

(10) The record of the applicant and its developer regarding compliance with:

- (i) Federal, State and local discrimination, wage and hour, disability and occupational and environmental health and safety laws; and
- (ii) State and local labor relations and employment laws.

(11) The applicant's record in dealing with its employees and their representatives at other locations.

In light of the comprehensive nature of the General Assembly's directed regulation, the Board set a deadline of December 28, 2005, for applications for all three categories of licenses.<sup>2</sup> By this deadline, the Board received five applications for the two available Category 2 licenses in Philadelphia (the city of the first class).

With respect to these five (5) Category 2 applications, the Board, through its respective Bureaus of Licensing, Investigation and Enforcement, and Corporate Compliance and Internal Controls, engaged in extensive review and investigation. The Board conducted three (3) days of public input hearings on April 10, 2006, April 11, 2006 and April 12, 2006, during which each of the five applicants made presentations and during which one hundred eighteen (118) individuals, including members of the community, spoke either in favor of or in opposition to gaming and the proposed projects.

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<sup>2</sup> See [www.pgcb.state.pa.us/press/pr\\_112805.htm](http://www.pgcb.state.pa.us/press/pr_112805.htm)

In addition, during the public comment period, the Board received a combined three-hundred eight (308) written comments relating to the proposals from the public.<sup>3</sup> The Board placed large amounts of information about the projects on its website<sup>4</sup>, and conducted final licensing hearings on November 13-15, 2006, for the Philadelphia applicants.<sup>5</sup>

The applicants before the Board for the two available Category 2 licenses in Philadelphia are: 1) **HSP Gaming LP**, also referred to as **Sugarhouse**; 2) **Keystone Redevelopment Partners**, also known as **TrumpStreet**; 3) **Philadelphia Entertainment and Development Partners**, also known as **Foxwoods**; 4) **PNK, Pinnacle Entertainment** and 5) **Riverwalk Casino**. The authority for these licenses arises under Section 1304 of the Act. Because the Act only permits two licenses to be awarded in Philadelphia and there are five applicants, there is competition among the applicants for the two available licenses. Because of this competitive factor, the five applicants not only have the responsibility to satisfy the Board that they are eligible and suitable for a Category 2 license, but they also have been required to convince the Board that their respective project should be among the two chosen by the Board to best serve the Commonwealth's and the public's interests in Philadelphia. Ultimately this is a determination committed to the sound exercise of the Board's discretionary authority to select the two applicants which the Board believes will best serve the Commonwealth's and the public's interests as outlined in the Act.

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3 See [www.pgcb.state.pa.us/hearing\\_comments.htm](http://www.pgcb.state.pa.us/hearing_comments.htm)

4 See [www.pgcb.state.pa.us/report\\_hearing.htm](http://www.pgcb.state.pa.us/report_hearing.htm)

5 See [www.pgcb.state.pa.us/press/pr\\_101106.htm](http://www.pgcb.state.pa.us/press/pr_101106.htm)

On December 20, 2006, the Board met during an open, public meeting in accordance with the requirements of the Commonwealth's Sunshine Act, 65 Pa.C.S. Chapter 7, and Section 1206 of the Act for the purpose of voting upon all pending applications and approving all permanent Category 1 and 2 licenses after consideration of all of the applications, collectively and together in a comprehensive, Statewide manner.

In addition to the Act's eligibility criteria under Sections 1304 and 1310-1313, factors which the Board took into consideration when reviewing these applications are those defined in Section 1325 of the Act as listed above. The Board fully considered these factors as applicable to arrive at a decision on licensure based upon all of the evidence in the record before it. The Board considered all of the evidence which makes up the evidentiary record in this case, received briefs and heard oral argument supporting the applications, where presented, and has had the opportunity to question applicants about their proposals.

In addition, throughout the entire licensing and investigative process, the Board reached out to various federal, state and local law enforcement agencies, including the FBI and the Pennsylvania State Police, requesting any information in the possession of those agencies related to the suitability of the applicants in order to assure that the Board had obtained all information relevant to each applicant's suitability for licensing. Those agencies have not provided the Board with any information which would preclude the applicants from being considered for a license.

Based upon each Board member's comprehensive evaluation of all information obtained throughout the entire licensing and investigative process and contained in the evidentiary record, the Board collectively engaged in quasi-judicial deliberations in

executive session during which it met to fully and frankly discuss the merits of each of the applicants and their proposed projects.

Each of the five Category 2 Philadelphia applicants has presented the Board with a solid, competent proposal for the construction and operation of a first-class casino in Philadelphia, each of which are eligible and suitable for licensure under the terms of the Act. Unfortunately, the Board is constrained by the Act only to issue two licenses in Philadelphia. Those applicants not awarded a license have, under the mandates of the Act, been denied a license. The Board emphasizes the point that the denials of three applicants are not because the unsuccessful applicants were found unsuitable, but because the Board had the difficult task of choosing among five suitable candidates and proposals, each of which possessed various positive attributes. Simply stated, the successful applicants were the applicants which possessed the projects which the Board evaluated, in its discretion, to be the best projects for licensure under the criteria of the Act.

During its December 20, 2006 public meeting, the Board voted to approve two Category 2 licenses in Philadelphia, for **HSP, Sugarhouse** and **Philadelphia Entertainment and Development Partners, Foxwoods**, pursuant to terms and conditions to be imposed by the PGCB. Concurrently, the Board voted that the remaining three applications for a Category 2 license in Philadelphia, those being **Keystone Redevelopment Partners/TrumpStreet, PNK, Pinnacle Entertainment**, and **Riverwalk Casino** are denied as not having achieved a qualified majority of support for licensure as defined in the Act and because the City of Philadelphia is limited to only two Category 2 licenses. *See* Sections 1301 and 1304 of the Act.

The following Findings of Fact and Conclusions of Law set forth the Board's rationale for this determination.

## **FINDINGS OF FACT**

### **General Findings Applicable to All Philadelphia Applicants**

1. All five applicants have applied for a slot machine license to operate a slots casino in the City of Philadelphia, a city of the first class.

2. The initial applications from the Philadelphia applicants seeking a Category 2 slot machine license were received by the Board on December 28, 2005.

3. None of the five (5) applicants proposed locations were located within ten (10) linear miles or less of an existing Category 1 racetrack facility.

4. The Bureau of Licensing then put each application package through a detailed completeness review. This process involved scrutinizing each and every question asked and each answer provided to determine if the answers and documentation were fully responsive. Where deficiencies were detected, requests for more information, documentation and additional applications were made of the applicant. As the new information and applications arrived they were again put through the completeness review process and deficiencies identified.

5. This gathering of information and documentation was ongoing throughout the ten months prior to the applicants' suitability hearings.

6. Once the Bureau of Licensing determined it was sufficiently satisfied with the core contents of the initial applications, the applications were given to the Bureau of Investigations and Enforcement ("BIE") and the Bureau of Corporate Compliance and Internal Controls for the character and financial suitability investigations.

7. BIE reviewed and inspected the applications to identify any inconsistencies and to develop a general familiarity with the overall business activity, financial situation and history of the applicant, developed investigative plans that would be utilized to conduct the background investigations of each applicant and put those plans into action.

8. Requests for information to numerous organizations and agencies were made. Criminal history checks were requested through the Pennsylvania State Police which included queries of the Federal Bureau of Investigation's National Crime Information Center databases for criminal history and wanted person information. Further queries into criminal history records were conducted by BIE utilizing accessible databases and through direct contact and/or correspondence with local law enforcement agencies having jurisdiction over the current and former locations of the businesses associated with the applicant and residences of the natural persons included in or related to the application. Additionally, the Pennsylvania Office of Attorney General, Executive Offices of the Pennsylvania State Police, several United States Attorney Offices and Federal Bureau of Investigation Offices were contacted with respect to each applicant in order to ascertain whether any concerns existed as to the licensure of any particular applicant. In addition to the required Pennsylvania state tax clearance review conducted by the Department of Revenue and the Department of Labor and Industry, requests for tax clearance reviews were sent to other applicable federal, state and local jurisdictions. Additional verifications were made as well such as passports being verified through the United States Department of State and bank accounts, loans, lines of credit, safe deposit box ownership, etc. verified with financial institutions.

9. BIE also conducted database searches, utilizing, among others, commercial databases such as Screening Network, Accurint/Relavint, Lexis/Nexis, Choicepoint Comprehensive Report, and Auto Track XP to identify and verify the employment, family, residence and educational histories of each applicant, as well as their non-gaming and professional license status, civil litigation dockets and credit histories. The results and findings of these database checks were then compared against each other and to the information contained in the application materials.

10. Contact was made with other gaming regulators concerning the applicants and the natural persons associated with the applicants in order to verify gaming licensure and licensure status.

11. Extensive personal interviews were conducted by BIE agents with applicants and their natural person qualifiers during which investigators gathered extensive amounts of information concerning these entities and individuals and their businesses and personal histories.

12. Investigation of each applicants' finances in order to assess financial suitability was conducted jointly by BIE and the Bureau of Corporate Compliance and Internal Controls. The role of BIE was to verify the data upon which these reports were based. The Bureau of Corporate Compliance and Internal Controls personnel created the financial fitness report.

13. A Financial Suitability Task Force was established with professional members from the Bureau of Corporate Compliance and Internal Controls, as well as professional consultants retained as part of that Task Force. The Task Force developed



the process for the determination of financial suitability of the applicants. The process entailed extensive document review.

14. The Financial Suitability Task Force established the following criteria in order to determine Financial Suitability for each applicant. Criteria 1 being an applicant's financial track record examining past financial performance and financial risk profile; Criteria 2 being an Individual Analysis; and Criteria 3 being the financial wherewithal of an applicant which included project funding and each applicant's ability to grow and maintain revenue.

15. The Bureau of Corporate Compliance and Internal Controls collected extensive information from each applicant which included corporate information for the applicant and any other related entities and individual information where applicable.

16. Based on the process designed and the information collected, the Task Force prepared the Financial Suitability Report with supporting documentation consisting of: 1) Corporate Financial Analysis; 2) Corporate Structure Analysis; 3) Debt Structure Recap; 4) Drive Time Market Analysis; and 5) Project Financial Overview.

17. A drive-time analysis was conducted for each applicant. A drive-time analysis is a proven method which has been used extensively over a number of years in the major gaming markets to estimate potential gaming revenues. The drive-time analysis is used to estimate the potential gaming revenue of a gaming facility on the basis of a set of assumed conditions. It takes into consideration the expected level of spending at the proposed facility by adults living in various zones around a proposed site location, with the zones primarily defined in terms of the amount of time it takes to drive to the proposed site and the assumed surrounding competition. The drive-time is based on a

typical facility and does not include consideration of the specific site, access, physical characteristics or management, operational or marketing capabilities of the applicant or any other applicant in Pennsylvania.

18. The Task Force conducted a drive-time analysis for each applicant's proposed facility to: (1) estimate the gaming revenues of the applicant's proposed facility for a stabilized year of operation, which was used because of added comparability (for clarification, the stabilized year takes place once the permanent facility is open and has ramped up and is moving into a steady state of operation, and it also takes into account assumed competition from other relevant gaming facilities); (2) provide a basis for the Board to evaluate the applicant's gaming revenue projections; and (3) analyze the applicant's long-term view of the market.

19. The drive-time analyses were based on win and visitation analyses for each applicant's proposed facility. The visitation analyses were conducted by dividing the surrounding area into various zones and analyzing the following three critical factors for each zone: (1) Adult Gaming Propensity, which is an estimate of the likelihood of a resident of an area to visit a particular facility in a given year based upon gaming industry data. The gaming propensity depends upon a number of factors including: access and drive-time, proximity to existing and proposed competitive gaming facilities, availability of other leisure activities, and availability and type of transportation to the proposed facility; (2) Annual Frequency of Visits, which is an estimate of how often a resident of a given area visits a particular facility in a year; and (3) Average Trip Expenditure, which is an estimate of the spending propensity of a visitor during a trip to a given facility.

20. Public Input Hearings were conducted by the PGCB on April 10, 11 and 12, 2006, at Drexel University in Philadelphia, Pennsylvania. Numerous representatives from all five applicants testified at the hearing on behalf of their respective proposals. All interested groups and individuals wishing to speak at the meeting concerning the five proposals were given the opportunity.

21. The Board also provided a written public comment period that closed on June 2, 2006.

22. Along with the written comments received by the Board specific to each applicant, the Board also received one hundred and six (106) comments addressing the building of any casino in Philadelphia with five (5) supporting casinos in Philadelphia and one hundred and one (101) opposing any casino in Philadelphia. Forty-six (46) comments were also received addressing gaming in general, neither supporting nor opposing any specific project in Philadelphia.

23. The Board's regulations at 441.19(y) provide a mechanism for persons wishing to intervene in any licensing hearing for a slot machine license if that person has an interest in the proceeding which is substantial, direct and immediate and if the interest is not adequately represented in the hearing. 58 Pa. Code 441.19(y).

24. The Board did not receive any petitions to intervene in any licensing hearing of a Philadelphia applicant.

25. On November 13, 14 and 15, 2006, all applicants were provided final hearings during which they were permitted to present witnesses to provide sworn testimony and documentary and demonstrative evidence as each applicant deemed appropriate to attempt to convince the Board that it should be awarded one of the two

Category 2 licenses in Philadelphia. PGCB Regulation 441.19, Licensing hearings for slot machine licenses, provided the procedural framework for those hearings. 58 Pa. Code §441.19.

26. Pursuant to PGCB regulation 441.19(o), 58 Pa. Code §441.19(o), applicants were provided the opportunity to also present evidence during their own hearing to and concerning their competitors in order to demonstrate that their own project should be selected rather than the project of a competing applicant. All applicants who desired to present comparative evidence were required to notify the other applicants of that intent and provide notice of the evidence to be presented in order to permit all applicants to respond to any comparative evidence.

27. Each applicant was also provided the opportunity to provide a written brief to the Board by December 8, 2006, after the completion of the suitability hearings for all five applicants. The Board received a brief from all applicants except HSP, which waived briefing.

28. On December 19, 2006, the Board provided the five applicants the opportunity to provide oral argument before the Board and all applicants participated.

29. Each applicant, as part of its application, submitted a traffic study prepared by a professional firm retained by the applicant for the purpose of analyzing traffic issues associated with the proposed project and proposing traffic and roadway modifications to alleviate traffic problems associated with increases in traffic which the proposed casino would create.

30. Pursuant to an interagency agreement with PennDOT, which had an existing contract for traffic engineering services with the engineering and planning firm

of Edwards & Kelcey, the Board engaged Edwards & Kelcey to review traffic study plans submitted by each Category 2 applicant in Philadelphia and to provide a responsive independent report concerning the traffic studies and proposed mitigation measures and modifications to address increased traffic concerns.

31. The Edwards & Kelcey reports were provided to each respective applicant for review and further comment and discussion.

32. Each applicant had the opportunity to submit additional materials, supplementations and proposals to address concerns raised by Edwards & Kelcey concerning traffic issues.

33. Edwards & Kelcey prepared a final report again analyzing the applicants' proposals which were provided to the applicants prior to the final hearings and to which the applicants were permitted to respond during their final hearings.

34. The Edwards & Kelcey reports and the applicants' responses were submitted and admitted as exhibits in the respective applicants' final hearings.

35. The Act permits the Board to issue only two licenses in a city of the first class, *i.e.* Philadelphia.

36. No applicant filed any written objection to the Board's docket, or raised any objection orally or in writing to the Board during the course of its hearing, relating to the procedure utilized by the Board for the conduct of the hearing process generally or to any particular allegation of error.

37. On December 20, 2006, during a public meeting, the Board voted unanimously to award **HSP, Sugarhouse** and **Philadelphia Entertainment and Development Partners, Foxwoods** the available licenses in Philadelphia, a city of the

first class, thereby denying the applications of **Keystone Redevelopment Partners/TrumpStreet; PNK, Pinnacle Entertainment** and **Riverwalk Casino**.

**HSP GAMING, LP /SUGARHOUSE (“HSP”)**

38. The HSP project site encompasses 22 acres along the Delaware River. Planned as a phased gaming facility, HSP does not propose a temporary facility, but instead plans the initial construction to be an “interim facility” that will become fully integrated into the Phase 1 facility as its core section. The interim facility is projected to open within twelve (12) months of licensure and house 1,500 slot machines, related gaming support and regulatory spaces, a food court and a ten-level self park facility with 2,404 spaces located at the north end of the site.

39. HSP commits to add to this core structure to reach completion of its first phase, which will be named Sugar House, to accommodate up to 3,000 slot machines, additional restaurants and a 6,000 square-foot multi-use event center with related support areas. The completed Phase I will encompass 1.5 million square feet of new construction, with 84,600 square feet of gaming space at a cost of \$550 million. This permanent casino structure has been designed as a two-story podium structure with a contemporary design and a retro feel, built to attract a sophisticated market competitive with the best in Atlantic City.

40. Future phases of the project complete an expansion of the complex to ultimately accommodate the statutory limit of 5,000 slot machines, a 500 room hotel tower, expanded dining facilities, a spa and an expanded garage parking. Should all phases be completed, HSP’s facility would exceed 3,000,000 square feet of new construction.

41. At the Public Input Hearing, two (2) Legislators testified with one (1) supporting the proposal and the second neither supporting nor opposing the project. Three (3) representatives of local government units testified with one (1) supporting the project while the other two (2) took neutral positions. Twelve (12) representatives of Community Groups testified with six (6) supporting the proposal and six (6) stating they were neither for nor against the project, but had some questions or concerns. Ten (10) individuals testified with six (6) supporting the project, two (2) opposing the project and two (2) requesting more time to analyze certain aspects of the proposal.

42. In addition, by the June 2, 2006 deadline, the PGCB received twenty-two (22) written comments specific to the HSP project, with seven (7) supporting the project and fifteen (15) opposing the project.

43. Those speaking or providing written comments in support cited reasons such as increased job opportunities, added revenue, being good for the economy, tax relief, strengthening the marketing of Philadelphia and community partnerships and the amenities that the project offered.

44. Those speaking or providing written comments in opposition cited reasons such as traffic congestion, historical impacts, noise and street pollution, destruction of the riverfront, crime, public safety and not enough EMT's and police.

45. On November 13, 2006, the PGCB conducted a public suitability hearing for the purpose of hearing additional testimony and evidence from HSP concerning its application and proposed project and its eligibility and suitability for licensure pursuant to the Act.

46. In addition to the public hearings, substantial time reviewing, analyzing and investigating the applications and various submissions was expended by the PGCB's Bureau of Licensing in processing and reviewing the application, the Bureau of Investigations and Enforcement investigating HSP, its affiliates and key employee/qualifiers and the Bureau of Corporate Compliance and Internal Controls, along with the Financial Suitability Task Force investigating HSP's financial suitability.

47. The application for a Category 2 license filed by HSP is complete, all fees and costs which have been billed to HSP have been paid as required, all required bonds and/or letters of credit were posted and HSP and its affiliated parties consented to and have undergone background investigations as required by the Act.

48. HSP is a limited partnership formed in December 2005 for the purpose of applying for a Category 2 license. HSP is not an active business, but is in the advanced stages of developing plans to build its proposed facility.

49. HSP's primary ownership is comprised of High Penn Gaming, LP which owns 66.25%, HP Gaming Partners, LP which owns 0.1% and RPRS Gaming, LP, which owns 33.65%.

50. Ownership of these entities is comprised of limited partnerships, limited liability companies and trusts which include High Penn Gaming, LLC, RPRS Gaming, LLC, RMP Gaming, LP, 2005 AAA Trust and the Bluhm Family Trusts. Individuals who have significant ownership interest in these entities include Neil Bluhm, Gregory Carlin, Meredith Bluhm-Wolf, William Lamb and Robert Potamkin.

51. HSP's diversity of ownership is limited because of the existing ownership structure dominated by limited partnerships. The limited partnerships establish diversity



of ownership through the individual investors in and owners of affiliated entities with ownership interests in HSP.

52. The following entity qualifiers, affiliate qualifiers and key employee/qualifiers of HSP consented to and have undergone required background investigations: HSP, High Penn Gaming, LP, HP Gaming Partners, LP, RPRS Gaming, LP, High Penn Gaming, LLC, RPRS Gaming, LLC, RMP Gaming, LP, RMP Gaming, LLC, 2005 AAA Trust, Neil G. Bluhm Family Descendants Trust, 2002 LNB Family Dynasty Trust, Meredith A. Bluhm-Wolf 2006 Family GST Trust, 2002 AGB Family Dynasty Trust, Lamb Partners, LAMB Company, LLC, Neil G. Bluhm, Andrew G. Bluhm, Leslie N. Bluhm, Gregory Carlin, William H. Lamb, Richard A. Sprague, Daniel J. Keating III, Robert M. Potamkin, Meredith Bluhm-Wolf, Jerry Johnson, Thomas Sprague, Barbara A. Sprague, Peter D. DePaul, Lexie Brockway Potamkin and ten (10) minor child beneficiaries.

53. Alternative licensing standards were not utilized by the Board during the course of its investigation of HSP.

54. Neither HSP, nor any person affiliated with HSP, is a party to any ongoing civil proceeding seeking to overturn a decision or order of the PGCB or the Thoroughbred or Harness Racing Commissions.

55. HSP does not possess any ownership or financial interest in any other slot machine licensee or person eligible to apply for a Category 1 license, its affiliate, intermediary, subsidiary or holding company.

56. Neither HSP, nor any affiliates, intermediaries, subsidiaries or holding companies, hold any interest in a supplier or manufacturer license.

57. No public official is a key employee/qualifier or has any prohibited financial interest in, or is employed by HSP or any related entity.

58. Two key employee/qualifiers, Daniel Keating and Peter DePaul, made political contributions that appeared to be in violation of the Act. Mr. Keating had filed his application on December 28, 2005 and a contribution of \$250 was made on December 29, 2005. Mr. Keating and the Board entered into a consent decree to address the issue, with Mr. Keating obtaining the return of the contribution and HSP and Mr. Keating paying a fine. Mr. DePaul made significant political contributions after filing his application and in order to remedy this he divested his interest in HSP and withdrew as a key employee/qualifier of HSP. The Board approved this withdrawal by Mr. DePaul from HSP's application.

59. Investigation did not reveal that HSP or any other affiliates or key employer/qualifiers made any political contributions of any kind in violation of the Act.

60. HSP satisfied all local, state and federal tax obligations.

61. Investigation did not reveal that HSP or any of its affiliates, directors, owners or key employee/qualifiers have been convicted of a felony or a gambling offense in violation of the Act.

62. Investigation did not reveal any information that would indicate that HSP or any of its affiliates, directors, owners or key employee/qualifiers is of unsuitable character.

63. Information gathered during the course of BIE's investigation concerning HSP and its affiliates, directors, owners and key employee/qualifiers did not reveal any adverse information concerning bankruptcies, civil lawsuits or judgments, criminal

convictions, past activities or business practices, business associates or dealings or any other information concerning the honesty, integrity, family, habits or reputation that would prohibit licensure of HSP or its key employee/qualifiers.

64. The PGCB Financial Suitability Task Force performed an evaluation of HSP's financial fitness and suitability and did not find anything financially material that would preclude HSP from obtaining a Category 2 slot machine license.

65. The PGCB Financial Suitability Task Force projected a revenue estimate for HSP of approximately \$310.8 million annually in a stabilized year in 2005 dollars, with a win per position of \$284 per day at 3,000 machines.

66. HSP projected its revenue at an estimated \$320.3 million annually in a stabilized year in 2005 dollars, with a win per position of \$292 per day at 3,000 machines.

67. HSP's estimate was 3.0% higher than the estimate of the PGCB Financial Suitability Task Force.

68. HSP indicated and investigation revealed that it has the ability to pay the \$50 million licensing fee and to post the \$1 million bond required when the Category 2 slot machine license is issued.

69. Based upon representations by HSP and investigation by the PGCB Financial Suitability Task Force, HSP is capable of maintaining a financially successful, viable and efficient business operation which will maintain a steady level and growth of revenue.

70. HSP principals Neil Bluhm and Dan Keating have experience developing, constructing and managing casinos, including two casinos in Canada. HSP does not have any interest in any casino located in Atlantic City, New Jersey.

71. HSP has a Diversity Plan in place addressing and assuring, in good faith, equality of opportunity in employment and contracting, diversity in groups providing goods and services to HSP and a plan to recruit, train and update diversity in all employment classifications at its facility.

72. HSP has retained Maven, Inc. to assist with public relations and in the implementation of its Diversity Plan. Maven is experienced in the development and implementation of Diversity Plans and is itself a minority owned business. Melonease Shaw, its Chairman and CEO, has 30 years experience in enterprise management with an emphasis on the needs of woman and minorities.

73. HSP submitted a Compulsive and Problem Gaming Plan with its application, but the plan requires amendment as it does not fully address all criteria for development, employee training items, self-exclusion training and underage gambling. However, the plan does express HSP's intent to comply with the Act's signage requirements. The status of this plan does not exclude a finding of eligibility and suitability at this time.

74. HSP's planned location consists of 22-acres along the Delaware River waterfront located between Shackamaxon and North Ellen Streets, on Columbus Blvd. just north of the Ben Franklin Bridge and near Interstate 95. Primary access to the site will be via Columbus Blvd from I-95.

75. The planned interim facility will include a 150 seat food court, a 125 seat restaurant, a 35 seat casino bar and an 80 seat entertainment lounge, along with the gaming floor with 1,500 slot machines. HSP is committed financially to building this interim phase.

76. The full phase one facility will include a 460 seat buffet/diner combination, a 135 seat Italian restaurant, a 150 seat steak house, a 60 seat bar, a 250 seat sports bar, a 100 seat Off Track Betting facility and lounge with a 6,000 square foot multi-purpose ballroom and retail space, along with a gaming floor with 3,000 slot machines. HSP is committed financially to building phase one. The cost of both the interim and permanent first phase is \$550 million.

77. Phase two, if built, would include a 500 room luxury hotel, spa, multi-purpose event center and additional restaurants and lounges. While HSP fully expects this phase to be completed, it's completion will be dependent upon the success of Phase One.

78. The existing site is a currently vacant, underutilized former industrial property. The majority of the site has been vacant since 1980 and was previously used by the Jack Frost Sugar Company as a sugar refinery, packaging and distribution center. All buildings on the site have been demolished and removed.

79. The area around the HSP project consists of a mixed land use of industrial, commercial and limited residential development. Properties north of the project site contain commercial/industrial businesses and warehouses. Properties south and west of the project include a mix of new residential condominium towers that are currently under construction, residential town homes and bar/restaurant establishments.

80. The project site is within two (2) miles of other Philadelphia attractions such as Penn's Landing, Independence Hall and Park, the Constitution Center, the Ben Franklin House and Museum, Elfreth's Alley and numerous restaurants, pubs and the Reading Terminal Market.

81. A portion of the proposed site is located in a C-3 District, but the majority of the site is zoned G-2 Heavy Industrial. As a result, the site has multiple zoning classifications with the C-3 use reasonably analogous to the sought gaming use. The City of Philadelphia has adopted an ordinance that has created a "Commercial Entertainment District" which, among other things, permits licensed gaming facilities. To date, the City has not indicated which areas will be designated as Commercial Entertainment Districts as it is waiting to see which applicants are licensed by the PGCB.

82. HSP does not own the riparian rights along this portion of the riverfront. However, it is confident that it will secure those rights and if it is not successful the design of the project could be changed to accommodate the lack of riparian rights.

83. HSP estimates that its interim facility will provide approximately 586 jobs and the completed Phase One proposal will create a total of 1,091 living wage jobs paying an average of \$12.24 per hour with healthcare benefits and a 401(k) plan.

84. HSP estimates that the entire project will create approximately 1,000 construction jobs as the phases are built.

85. The record indicates that HSP and its affiliates and entity qualifiers have favorable records of compliance with applicable federal, state and local discrimination, wage and hour, disability and occupational, environmental health and safety, and labor

relations and employment laws and favorable records in dealing with employees and their representatives.

86. HSP does not intend to use a management company to operate the casino. HSP employs various individuals with business and gaming experience.

87. Neil Bluhm, is a co-founder and currently serves as the Chairman of the Board of Falls Management Company (“FMC”). In 1998, FMC was selected by the province of Ontario to assume the management contract for Casino Niagara and to develop and manage Niagara Fallsview Casino Resort. Mr. Bluhm is also one of the founders and President of JMB Realty Corporation and founding principal of Walton Street Capital. JMB, along with its associated entities, is engaged in real estate investment and development. In the aggregate, JMB and Walton Street have acquired in excess of \$25 billion of real estate.

88. Daniel J. Keating III, Chairman and CEO of the Keating Group, a multifaceted construction and real estate development company founded in 1976, developed and constructed a wide variety of institutional projects valued at over \$7 billion dollars totaling more than 500 projects. With Mr. Keating’s oversight, his company has served as the general contractor to many large casino projects including the Tropicana Havana Tower and Quarter in Atlantic City and Bally’s Wild West Casino in Atlantic City.

89. The Chief Executive Officer of HSP will be Gregory Carlin. Mr. Carlin has eleven (11) years of gaming industry experience.

90. HSP has also hired Robert D. Sheldon to serve as President and Chief Operating Officer. Mr. Sheldon most recently served as Chief Operating Officer of

Foxwoods Resort and Casino in Mashantucket, Connecticut where he was employed for six (6) years. Prior to that, Mr. Sheldon worked for Steve Wynn for eleven (11) years, most recently as President of the Golden Nugget Hotel Casino, a Mirage Resorts Inc. property in Las Vegas, Nevada.

91. In addition, during the construction phase, HSP will retain the services of entities familiar with developing and building casino projects including Keating Building Corporation and Cope Linder Architects.

92. HSP has also retained Lewin International, LLC as a gaming consultant. Its principal, Larry Lewin, is a thirty (30) year veteran of the casino and hotel industry and has previously worked closely with Mr. Bluhm and Mr. Carlin on other gaming projects. Mr. Lewin's responsibilities included the development and opening of several major gaming properties, including Niagara Fallsview Casino Resort in Ontario, Canada.

93. Joann Weber has been hired as a human resources consultant. Ms. Weber has been involved in the casino industry for twenty-three (23) years, most recently as a Senior Vice President for Human Resources with Foxwoods whom she worked for eight (8) years.

94. Debbie Marchese has been retained by HSP to serve as a consultant in the area of casino financial operations and reporting. Ms. Marchese is currently Vice-President of Finance and Information Technology and Chief Financial Officer of Tropicana Casino and Resort in Atlantic City, New Jersey, where she is responsible for all aspects of finance, information technology and purchasing. Ms. Marchese will be leaving Tropicana following the closing of the sale of Tropicana to work full time with HSP.



95. Lisa Reilly has been retained by HSP to serve as consultant on casino comptroller matters and financial reporting. Ms. Reilly is currently employed by Tropicana Casino and Resort as Assistant Vice President of Finance and will be leaving upon the sale of Tropicana.

96. HSP has retained Casino Training Enterprises, (“CTE”), a minority owned business, as a consultant for personnel and training issues. Both owners of CTE have extensive experience in training casino employees. Ms. Fiore is a principal owner of Casino Gaming Institute (“CGI”), the largest privately owned casino training school serving Atlantic City casinos, having graduated over 10,000 students since 1997. Ms. Tweedle is the operating manager of CGI.

97. HSP submitted a traffic study along with its application and Edwards and Kelcey have reviewed the study. The traffic study identified the primary access points on Delaware Avenue at Frankford Avenue and Shackamaxon Street, with a secondary access located in Penn Street. Edwards and Kelcey indicated that the HSP traffic study encompassed nine (9) intersections with the afternoon peak hour being the critical peak hour analyzed in preparation of the study. The study also stated that 85% of the patrons entering and exiting the HSP site would do so via Interstate 95. In doing so, the study assumed that Penn Dot would complete the Girard Avenue Interchange allowing access to Interstate 95 a short distance north of the HSP site.

98. Edwards and Kelcey examined the three key mitigation areas identified in the HSP traffic study. First is that timing and coordination adjustments needed to be made on the traffic lights along Delaware and Girard Avenues, second is to widen the intersections at Delaware Avenue at Shackamaxon Street and Frankford Avenue in order

to install dual left turn lanes into the HSP site and third involves traffic calming measures to discourage traffic from accessing the HSP site from the local streets. In its traffic study HSP proposed achieving traffic calming through such things as speed bumps and neighborhood roadway narrowing.

99. After examining the HSP traffic study, Edwards and Kelcey determined that HSP needed to expand its study area. In response, HSP submitted an expanded traffic study to the Board. Edwards and Kelcey determined that the expanded traffic study was more comprehensive, but that additional information was still required. Edwards and Kelcey indicated that its primary concerns surrounded the scope of the intersections included in the study since not all signalized intersections between the casino site and interstate access were included in the study and the feasibility of HSP's recommended improvements.

100. As HSP's plans are further refined, Edwards and Kelcey recommended that HSP: review recent traffic accident statistics to determine the need for any safety measures; be prepared to make operational adjustments to adapt to changing conditions; resolve geometric design details; initiate early coordination with utility agencies and companies regarding relocation needs associated with street and intersection improvements; integrate public bus operations and stops with the roadway and site design; ensure vehicles entering the parking garage will not backup into public streets due to internal congestion; develop a comprehensive signage system in coordination with other nearby destinations; and ensure compliance with ADA requirements throughout the improvement areas.

101. HSP concurred with these recommendations and states it is committed to the mitigation and financing of all traffic issues related to the project.

102. The site is also accessible by public transportation stops near the site and HSP also is planning to run an employee shuttle bus to the site.

103. HSP has committed to funding a charitable organization known as the Sugar House Foundation. The Sugar House Foundation was established on April 17, 2006 and HSP has pledged to donate two and one half percent (2 ½ %) of its annual pre-tax income to the Sugar House Foundation, capped at \$3 million annually. The Foundation will, under the guidance of a board of directors, make grants for the benefit of the Philadelphia community and the immediate neighborhoods.

**PHILADELPHIA ENTERTAINMENT AND DEVELOPMENT PARTNERS LP/  
FOXWOODS (“PHILADELPHIA ENTERTAINMENT”)**

104. Philadelphia Entertainment’s facility will be located on a 16 and one half (16½) acre parcel of vacant land on the Delaware Riverfront at the site commonly known as Piers 60, 62 and 63 in Philadelphia.

105. Philadelphia Entertainment’s submitted two site development plans to the Board: one if it is granted riparian rights on the Delaware River and one if it is denied riparian rights.

106. The design plan with riparian rights incorporates an existing pier of approximately 90,000 square feet and plans for restaurants, an entertainment venue, lounges and bars, retail shops, parking and full public access to the waterfront.

107. In the event that it is denied riparian rights, Philadelphia Entertainment has designed an entertainment complex that can be built without the use of riparian rights by moving the building back 80 to 100 feet from the other design, but still allowing for

the construction of a full entertainment district of more than 120,000 square feet in size on the water's edge.

108. Philadelphia Entertainment's project will be known as the Foxwoods Casino.

109. At the Public Input Hearing, thirty-five (35) individuals testified specific to Philadelphia Entertainment's proposed project. Two (2) state legislators testified with one (1) supporting the proposal and one (1) taking a neutral position. Three (3) representatives of local government testified with one (1) supporting the project and two (2) taking neutral positions. Fourteen (14) representatives of community groups testified with five (5) supporting the project, five (5) opposing the project and four (4) taking neutral positions. Finally, sixteen (16) individuals testified with four (4) supporting the project, five (5) opposing the project and four (4) taking neutral positions.

110. In addition, the PGCB received fifty-nine (59) written comments directed specifically to Philadelphia Entertainment's project by the June 2, 2006 deadline, with six (6) supporting the project and fifty-three (53) opposing the project.

111. Those speaking or providing written comments in support cited reasons such as increased job opportunities, added revenue, being good for the economy, tax relief, strengthening the marketing of Philadelphia and community partnerships, and that Foxwoods has a good track record, is good corporate neighbor and that it will have a good impact on businesses in south Philadelphia.

112. Those speaking or providing written comments in opposition cited reasons such as negative economic and social impacts on surrounding local communities,

negative impact on real estate values and local businesses, traffic congestion, adverse historical impacts, noise, light and street pollution and crime.

113. On November 14, 2006, the PGCB conducted a public suitability hearing for the purpose of taking additional testimony and evidence from Philadelphia Entertainment concerning its application and proposed project and its eligibility and suitability for licensure pursuant to the Act.

114. In addition to the public hearing, substantial time reviewing, analyzing and investigating the applications and various submissions was expended by the PGCB's Bureau of Licensing in processing and reviewing Philadelphia Entertainment's application, the Bureau of Investigations and Enforcement investigating Philadelphia Entertainment, its affiliates and key employee/qualifiers and the Bureau of Corporate Compliance and Internal Controls, along with the Financial Suitability Task Force, investigating the financial suitability of Philadelphia Entertainment.

115. The application for a Category 2 slot machine license filed by Philadelphia Entertainment is complete, all fees and costs which have been billed to Philadelphia Entertainment have been paid as required, all required bonds and/or letters of credit have been posted and Philadelphia Entertainment and its affiliated parties consented to and have undergone background investigations as required by the Act.

116. The PGCB did not utilize alternative licensing standards during the course of its investigation of Philadelphia Entertainment's application.

117. Philadelphia Entertainment was formed on January 6, 2005, for the exclusive purpose of acquiring ownership of the proposed site and obtaining a gaming license from the PGCB.

118. Philadelphia Entertainment is a Pennsylvania limited partnership, of which FDC/PEDP GP, LLC (“FDC/PEDP”) is the general partner with a .01% ownership interest. Philadelphia Entertainment has two limited partners: Washington Philadelphia Investors, LP (“WPI”) with a 70% ownership interest and FDC Philadelphia, LP (“FDC Philadelphia”) with a 29.99% ownership interest.

119. WPI is comprised of a general partner, WPI GP, LLC (“WPI GP”) and several limited partners, including Washington Philadelphia Community Charities, LP (“WPCC”), which holds a 60.52% ownership interest therein, and private individuals, who hold a combined ownership interest of 39.38% in WPI.

120. The Rubin Family Charitable Foundation and the Silver Family Charitable Foundation (together, the “Foundations”), hold limited partnership interests in WPCC. The trust documents of the Foundations provide that distributions after expenses will be pledged to charitable organizations in the greater Philadelphia area, particularly those supporting underprivileged children. The limited partnership agreement of WPCC provides that Edward M. Snider’s 18.57% ownership interest in WPCC will also be pledged entirely to local charities. Therefore, through the trust documents and limited partnership agreements, 100% of WPCC profits and 42% of Philadelphia Entertainment’s profits will be allocated to charities and other non-profit organizations in the greater Philadelphia area. This amount is estimated to be approximately \$300 million over ten years. No specific recipients have yet been identified.

121. Foxwoods Development Company (“Foxwoods Development”), a wholly-owned subsidiary of the Mashantucket Pequot Tribal Nation (the “Tribal Nation”), is the parent company of FDC/PEDP and FDC Philadelphia.

122. The Tribal Nation is a Native American Indian Tribe which gained federal recognition in 1983. Pursuant to the Indian Gaming Regulatory Act of 1988, federally recognized tribes are permitted to conduct full-scale casino gaming operations on tribal lands, subject to the negotiation of a compact with the affected state. The Tribal Nation is the sole owner of all tribal assets, including the Foxwoods Resort Casino, located in Mashantucket, Connecticut.

123. Foxwoods Development was formed in December 2003, by the Tribal Nation to serve as its commercial business arm and to pursue new development/management opportunities within the gaming and hospitality industries.

124. In 1992, the Tribal Nation opened Foxwoods Resort Casino on tribal lands in Connecticut. Foxwoods Resort Casino has grown to become the largest gaming resort in the world with 340,000 square feet devoted to gaming, approximately 7,400 slot machines and approximately 350 table games. Foxwoods Resort Casino has three (3) resort hotels with a combined total of approximately 1,400 rooms. The facility averages approximately 45,000 visitors per day. The current complex has theaters, lounges, nightclubs and approximately 55,000 square feet of meeting space.

125. Neither Philadelphia Entertainment, nor any of its affiliates, including the Tribal Nation, own any interest in any casino located in Atlantic City, New Jersey.

126. In December 2005, Philadelphia Entertainment entered into agreements with Foxwoods Development and its affiliated entities, (collectively, the “Foxwoods Entities”) pursuant to which the Foxwoods Entities acquired an aggregate of 30% of the partnership interests of Philadelphia Entertainment and agreed to assist WPI in its efforts to obtain a Category 2 slot machine license for Philadelphia Entertainment.

127. The following entity qualifiers, affiliate qualifiers and key employee/qualifiers of Philadelphia Entertainment consented to and have undergone required background investigations: Washington Philadelphia Investors, LP; FDC Philadelphia, LP; FDC/PEDP GP, LLC; WPI GP, LLC; Washington Partners Community Charities, LP; Foxwoods Development Company, LLC; Foxwoods GP Philadelphia, LLC; WPCC GP, LLC; the Rubin Family Charitable Foundation; the Silver Family Charitable Foundation; the Mashantucket Pequot Tribal Nation; Foxwoods Management, LLC; Bally's Midwest Casino, Inc.; Peter D. DePaul; Frederick C. Tecce; Quincy D. Jones, Jr.; Anuj J. Agarwal; Alan A. Steinberg; Edward M. Snider; George F. Rubin; Aaron B. Krupnick; Michael J. Thomas; Kenneth M. Reels; Rodney A. Butler; Charlene R. Jones; Marjorie P. Colebut-Jackson; Richard E. Sebastian; Chalita A. Young; Pedro J. Johnson; Joseph A. Colebut, Sr.; John A. O'Brien; Maureen C. Sebastian; William J. Sherlock; Timothy A. Walker; James L. Dougherty and Gary D. Armentrout.

128. Neither Philadelphia Entertainment, nor any person or entity affiliated with Philadelphia Entertainment, is a party to any ongoing civil proceeding seeking to overturn a decision or order of the PGCB or the Thoroughbred or Harness Racing Commissions.

129. Philadelphia Entertainment does not possess any ownership or financial interest in any other slot machine licensee or person eligible to apply for a Category 1 license, its affiliate, intermediary, subsidiary or holding company. However, Bally's Midwest Gaming, Inc. ("Bally's") holds a promissory note in the amount of \$67.3 million from WPI, the 70% limited partner of Philadelphia Entertainment. Harrah's Entertainment, Inc. is the ultimate parent of both Bally's and Harrah's Chester Downs



Investment Company, LLC, which holds a 50% ownership interest in Chester Downs and Marina, LLC, a Category 1 slot machine licensee. Until the promissory note is repaid by WPI, a distribution by Philadelphia Entertainment to its partners will require WPI to pay Bally's 50% of the amount of the distribution, reducing dollar for dollar the 70% of that distribution that would otherwise be payable to WPI. However, all distributions by Philadelphia Entertainment to its partners must be made at such times and in such manner as FDC/PEDP, the general partner of Philadelphia Entertainment and wholly-owned subsidiary of Foxwoods Development Co., determines in accordance with the provisions of the partnership agreement and as permitted by applicable law. Bally's cannot obtain any ownership interest in Philadelphia Entertainment, even if WPI defaults on the promissory note, without PGCB approval pursuant to the Act. As presently constituted, the relationship does not violate the Act.

130. Neither Philadelphia Entertainment, nor any of its affiliates, intermediaries, subsidiaries or holding companies, possess any ownership or financial interest in any a supplier or manufacturer license.

131. No public official is a key employee/qualifier or has any prohibited financial interest in or is employed by Philadelphia Entertainment or any related entity.

132. Peter D. DePaul, a key employee/qualifier of Philadelphia Entertainment, disclosed in his application, and investigation confirmed, that he had made political contributions in violation of the Act. In order to resolve this matter, the PGCB entered into a consent agreement with Philadelphia Entertainment and Peter D. DePaul on December 4, 2006. In compliance with the terms of the consent agreement, Mr. DePaul

obtained the return of his political contributions and Philadelphia Entertainment and Mr. DePaul each paid the Commonwealth a fine.

133. Investigation did not reveal that Philadelphia Entertainment or any of its remaining affiliates or key employee/qualifiers made any political contributions of any kind in violation of the Act.

134. Philadelphia Entertainment satisfied all local, state and federal tax obligations.

135. Investigation did not reveal that Philadelphia Entertainment or any of its affiliates, directors, owners or key employee/qualifiers have been convicted of a felony or a gambling offense in violation of the Act.

136. Investigation did not reveal any information that would indicate that Philadelphia Entertainment or any of its affiliates, directors, owners or key employee/qualifiers is of unsuitable character.

137. Information gathered during the course of BIE's investigation concerning Philadelphia Entertainment and its affiliates, directors, owners and key employee/qualifiers did not reveal any information concerning bankruptcies, civil lawsuits or judgments, criminal convictions, past activities or business practices, business associates or dealing or any other information concerning the honesty, integrity, family, habits or reputation that would prohibit licensure of Philadelphia Entertainment or its key employee/qualifiers.

138. Philadelphia Entertainment is a new entity with no financial history. Therefore, the PGCB's Financial Suitability Task Force analyzed the past financial performance, financial risk profile and debt structure of the Tribal Nation to determine

the financial suitability of Philadelphia Entertainment. The Task Force also analyzed Philadelphia Entertainment's corporate structure, key individuals, project funding and project revenue potential.

139. The PGCB Financial Suitability Task Force did not find anything financially material that would preclude Philadelphia Entertainment from obtaining a Category 2 slot machine license.

140. The PGCB Financial Suitability Task Force projected a revenue estimate for Philadelphia Entertainment of approximately \$310.8 million annually in a stabilized year in 2005 dollars, with a win per position of \$284 per day at 3,000 machines.

141. Philadelphia Entertainment projected its revenue at an estimated \$338.0 million annually in a stabilized year in 2005 dollars, with a win per position of \$309 per day at 3,000 machines.

142. Philadelphia Entertainment's estimate is 8.7% greater than that of the PGCB Financial Suitability Task Force.

143. Philadelphia Entertainment has indicated and investigation has revealed that it has the ability to pay the \$50 million licensing fee and to post the \$1 million bond required when a Category 2 slot machine license is issued.

144. Based upon representations by Philadelphia Entertainment and investigation by the PGCB Financial Suitability Task Force, Philadelphia Entertainment is capable of maintaining a financially successful, viable and efficient business operation which will maintain a steady level of growth and revenue.

145. Based upon the commitment letter from Merrill Lynch, Philadelphia Entertainment has demonstrated that it has access to sufficient funds to develop the

proposed project. Merrill Lynch has committed to arrange and/or underwrite \$460 million in third-party financing for Philadelphia Entertainment's project, Foxwoods Casino Philadelphia. In addition, land valued at approximately \$70 million, which is part of the total project cost, has been contributed to the project by WPI and does not need to be financed by the partnership. Philadelphia Entertainment will also receive \$55 million from Foxwoods Development Co., \$30 million of which will come in the form of equity to the project with the remaining \$25 million to be repaid by Philadelphia Entertainment to the Tribal Nation.

146. Philadelphia Entertainment has adopted a good faith diversity plan. The diversity plan states that Philadelphia Entertainment is committed to providing equal opportunity in employment for all people and to prohibiting discrimination in employment on the basis of race, color, religion, sex, national origin, age, sexual orientation, marital status, AIDS or HIV status, non job-related disability or veteran's status.

147. Philadelphia Entertainment has a history of promoting diversity. The Tribal Nation has historically allocated 12% of its company's total spending to minority-owned suppliers.

148. Diverse groups are represented in the ownership of Philadelphia Entertainment. Through its subsidiaries, the Tribal Nation holds an aggregate of 30% of the partnership interests of Philadelphia Entertainment. In addition, Quincy D. Jones, Jr., an African American, holds a 5.62% limited partnership interest in WPI, a 70% limited partner of Philadelphia Entertainment. Billy King and Dawn Staley, both African

Americans, each hold a 1.12% limited partnership interest in WPCC, the 60.52% limited partner WPI.

149. Overall, approximately 51% of Philadelphia Entertainment is minority and/or women owned and operated.

150. Philadelphia Entertainment submitted a Compulsive and Problem Gaming Plan with its application, but the plan requires amendment as it does not fully address all criteria for development, employee training items, self-exclusion training and underage gambling. However, the plan does express Philadelphia Entertainment's intent to comply with the Act's signage requirements. The status of this plan does not exclude a finding of eligibility and suitability at this time.

151. Philadelphia Entertainment's proposed site along the Delaware riverfront is bordered by Columbus Boulevard to the west, Reed Street to the north, and Tasker Avenue to the south and is south of the Benjamin Franklin Bridge and north of the Walt Whitman Bridge.

152. The site is almost equal in distance between the Sports Complex in South Philadelphia and Center City. A movie theater complex and big box retailers such as Wal-Mart and Home Depot are immediately adjacent to the site.

153. Philadelphia Entertainment's proposed site is farther in distance from the proposed HSP/Sugarhouse project, the recipient of a Philadelphia Category 2 slot machine license, than the other two (2) proposed projects by PNK and Riverwalk along the Delaware riverfront.

154. Philadelphia Entertainment has a three phase construction plan. Philadelphia Entertainment plans to begin construction of Phase I in February 2007, with

an opening date scheduled for November 2008. Plans for Phase I include 3,000 slot machines, a 2,000-seat showroom, an entertainment lounge, retail shops, a 600-seat buffet, a 250-seat five-outlet food court and 250-seat sport bar, as well as a 4,200-space parking garage with an additional 300 surface parking spaces. Philadelphia Entertainment estimates that the total costs and expenses for Phase I will amount to approximately \$525.8 million and it is committed financially to the building of this phase.

155. Philadelphia Entertainment's Phase II plan calls for an expansion of the casino floor by approximately 66,000 square feet to accommodate the addition of 2,000 slot machines and/or table games. Phase II plans also include the addition of nightclubs, restaurants, boutique retail shopping and an expansion of the parking garage for an additional 1,200 parking spaces. The total costs for Phase II are estimated to total approximately \$223 million. Philadelphia Entertainment does not have a commitment for the financing of Phase II and its construction will be dependent upon market conditions.

156. Philadelphia Entertainment's Phase III plan includes the construction of two (2) 30-story towers that are connected to the existing casino and entertainment complex. The west tower will be a hotel with approximately 500 rooms and the east tower is designed to be either an additional 500-room hotel or a 200-resident condominium. In addition to the two (2) towers, Phase III plans include additional restaurants, a spa and an outdoor pool. Philadelphia Entertainment anticipates the total project cost for Phase III at approximately \$208.5 million. Philadelphia Entertainment does not have the commitment for the financing of Phase III and its construction will be dependent upon market conditions.

157. Philadelphia Entertainment's project is designed to be fully compliant with the requirements of Philadelphia's Commercial Entertainment District and has all of the required setbacks, height restrictions, landscape requirements and public access required. The plan would also provide public access to the riverfront.

158. Philadelphia Entertainment does not plan to build a temporary casino.

159. Philadelphia Entertainment estimates that the Phase I facility will create 950 permanent operations positions. These positions are intended to be living wage positions with full medical benefits. More permanent employment positions will be created as Foxwoods Casino Philadelphia is expanded.

160. Philadelphia Entertainment estimates that between 945 and 1,071 construction jobs will be created during the Phase I construction of Foxwoods Casino Philadelphia. Philadelphia Entertainment is committed to utilizing union labor in the construction of the project.

161. Philadelphia Entertainment has committed to hire and train local applicants to fill 95% of the new employment positions at Foxwoods Casino Philadelphia.

162. Philadelphia Entertainment has committed to work with and utilize the Philadelphia Opportunities Industrial Center and Community Self Empowerment Program, along with other similar organizations, for job training.

163. Philadelphia Entertainment has no business history, however, the record indicates that the Tribal Nation has a favorable record of compliance with applicable federal, state and local discrimination, wage and hour, disability and occupational,

environmental health and safety, and labor relations and employment laws and a favorable record in dealing with employees and their representatives.

164. Philadelphia Entertainment has entered into a management agreement with Foxwoods Management, LLC (“Foxwoods Management”), a wholly-owned subsidiary of Foxwoods Development, whereby Foxwoods Management will provide the professional services necessary and appropriate to acquire the site and to develop, construct, operate and manage Foxwoods Casino Philadelphia. Under the terms of the management agreement Philadelphia Entertainment will pay, on an annual basis, all costs and expenses paid or incurred by Foxwoods Management. No management fee will be paid by Philadelphia Entertainment to Foxwoods Management prior to the tenth anniversary of the opening date. This agreement must be approved by the PGCB.

165. Philadelphia Entertainment’s traffic expert has proposed a plan to allow traffic to flow better on South Columbus Boulevard. Working in conjunction with the City of Philadelphia and the Pennsylvania Department of Transportation, and using standards set forth in the Institute of Transportation Engineers publications, Philadelphia Entertainment’s traffic experts submitted a series of mitigation measures that it believes will reduce traffic congestion on Columbus Boulevard by 32%. To improve traffic flow Philadelphia Entertainment has proposed widening a street as it approaches Columbus Boulevard, constructing double left turn lanes at two intersections, re-striping other intersections, and adding two new traffic signals along Columbus Boulevard. These Phase I improvements would be completed prior to the opening of the gaming facility in November 2008.



166. Philadelphia Entertainment has committed to fund 100% of the traffic improvements proposed as part of its Phase I development. Philadelphia Entertainment has committed to fund “its fair share” of the proposed traffic mitigation measures for Phase II, which includes the construction of a new southbound off-ramp from Interstate 95 to Dickenson Street and reversal of travel along that street between Front Street and Columbus Boulevard.

167. Edwards & Kelcey reviewed Philadelphia Entertainment’s traffic study and proposed mitigation measures and also recommended that measures be taken by Philadelphia Entertainment to mitigate the project impacts. Following that review, Philadelphia Entertainment’s proposed mitigation plan and measures adequately addressing traffic issues in the area of the proposed casino.

168. Philadelphia Entertainment has committed to help set up and fund a special services district to mitigate impacts to the communities nearest to and most directly impacted by the project. There has been no specific commitment as to which communities would be included in the special services district, the amount of money that would be contributed to the special services district, or exactly how the monies would be used.

169. In addition, approximately forty-two percent (42%) of Philadelphia Entertainment’s profits will pass through charitable trust owners to charitable causes to primarily assist education and disadvantaged children at a rate of approximately \$300 million over ten (10) years.

**KEYSTONE REDEVELOPMENT PARTNERS, LLC/TRUMPSTREET**

170. Initially, Keystone proposed building a 90,000 square foot casino with 3,000 gaming positions on an 18 acre tract of land referred to as the Budd Site, which is located near the intersection of Henry and Roberts Avenues in Philadelphia.

171. After acquiring the option on an additional piece of property, Keystone informed the PGCB of its intent to build a temporary casino, which would ultimately be incorporated into the permanent, larger facility.

172. The proposed site with the additional land was approximately thirty (30) acres of mostly vacant land in an industrial area that was not located along the Delaware River. The proposed site consisted of the previously optioned Budd site and the still occupied Tasty Baking Company site all located near the intersection of Fox Street and Roberts Avenue, and the Interstate 76 (the Schuylkill Expressway) and Route 1 (City Line Avenue) interchange.

173. In addition to a temporary casino, the new master plan included food and beverage outlets, a three (3) screen cinema, a coffee bar, bars and lounges, retail space, an entertainment venue and a hotel.

174. The design concept celebrated the legacy of the Budd Company site, which manufactured Zephyr trains, in a modern and creative manner by using steel and glass to re-interpret the forms of the trains created on the site. A 200 foot high smoke stack on the sight was inspired by the Zephyr Train and would have marked the site. The project proposed was to be known as the TrumpStreet Casino and Entertainment Complex (“TrumpStreet”).

175. At the Public Input hearing fifty-nine individuals testified specifically about the Keystone project. Four (4) state legislators testified with three (3) supporting the project and one (1) taking a neutral position. Three (3) representatives of local government units testified with one (1) supporting the project and two (2) taking neutral positions. Twenty-one (21) representatives of community groups testified with eight (8) supporting the project, eight (8) opposing the project and five (5) taking neutral positions, but expressing additional questions or concerns. Thirty-one (31) individuals testified with fifteen (15) supporting the project and thirteen (13) opposing the project. The remaining three (3) speakers requested more time to analyze certain aspects of the project.

176. Written comments were also received by the PGCB by the June 2, 2005 deadline. Fifty-nine (59) comments were received with fifteen (15) supporting the project and forty-four (44) opposing the project.

177. Those speaking or providing written comments in support cited reasons such as increased employment opportunities that the project would bring to the area, the availability of funding by Keystone for local community groups and the idea that the project would serve to ignite further development in the nearby area.

178. Those speaking or providing written comments in opposition cited reasons such as increased traffic in the area, the impact on the students at a nearby school as well as a local playground and basketball court, increased crime, substance abuse and compulsive gambling and the impact upon the residents of the nearby Abbotsford Home.

179. On November 14, 2006, the PGCB conducted a public suitability hearing for the purpose of taking additional testimony and evidence from Keystone concerning its

application and proposed project and its eligibility and suitability for licensure pursuant to the Act.

180. In addition to the public hearings, substantial time reviewing, analyzing and investigating the applications and various submissions was expended by the PGCB's Bureau of Licensing in processing and reviewing Keystone's application, the Bureau of Investigations and Enforcement investigating Keystone and its affiliates and key employee/qualifiers and the Bureau of Corporate Compliance and Internal Controls, along with the Financial Suitability Task Force investigating the financial suitability of Keystone.

181. The application for a Category 2 license filed by Keystone is complete, all fees and costs which have been billed to Keystone have been paid as required, all required bonds and/or letters of credit were posted and Keystone and its affiliates and key employee/qualifiers consented to and have undergone background investigations as required by the Act.

182. Keystone's ownership consisted of a variety of parties/entities, however, they can be divided into two broad categories: Trump related (63.73%) and general members (36.27%).

183. TER Keystone Development Co. LLC was the Trump related entity, owning 63.73% and the general members were, Quaker City Gaming, LLC owning 9.6877%, Yo! Gaming, LLC owning 7.6482%, Neighborhood Partnership, LLC owning 7.0108%, S&B Investment Group LLC owning 7.0108%, Mitchell Morgan owning 3.5054% and MSM Gaming, Inc. owning 1.4022%.

184. Diversity of ownership is obtained through ownership interests in the publicly owned companies of TER and/or Trump related entities which own approximately 63% of Keystone, and through the individual interests.

185. Although several of Keystone's Trump affiliates possess gaming licenses in other jurisdictions, the PGCB did not utilize alternative licensing standards during the course of its investigation of Keystone's application.

186. The following entity qualifiers, affiliate qualifiers and key employee/qualifiers of Keystone consented to and have undergone required background investigations: Hunting Fox Associates I, LP, Hunting Fox I, Inc., MSM Gaming, Inc., Neighborhood Partnership LLC, Preferred Real Estate Developers II, Inc., Preferred Real Estate Developers II, LP, Quaker City Gaming, LLC, TCI 2 Holdings, LLC, TER Development Company, LLC, TER Keystone Development Company, LLC, TER Management Company, LLC, The Deed of Trust of Michael G. O'Neill dated November 15, 1992, Trump Casinos, Inc., Trump Entertainment Resorts, Inc., Trump Entertainment Resorts Holdings, LP, Werther Partners, LP, Yo! Gaming, LLC, Trump Entertainment Resorts Development Keystone Development LLC, Trump Entertainment Resorts Development, LLC, S&B Investments Group, LLC, Trump Entertainment Resorts Funding, Inc., Trump Entertainment Resorts Development Company, LLC, Trump Marina Associates, LLC, Trump Plaza Associates, LLC, Trump Taj Mahal Associates, LLC, Donald J. Trump, James Perry, Wallace Askins, Dale Black, John Burke, Edward D'Alelio, James Florio, Cezar Froelich, Morton Handel, Erik Hausler, Mark Juliano, Paul Keller, Michael Kramer, Virginia McDowell, Robert Pickus, Richard Santoro, Brian Savacool, Don Thomas, Jeanne Wilkins, Richard Weber, Douglas Burkhalter, Larry

Doyle, Michael O'Neill, Jeannie O'Neill, Erik Kolar, Nimish Sanghrajka, Michael Balitsaris, Kevin Traynor, Alan Werther, Meredith Werther, Edward Miersh, Mitchell Morgan, Shawn Stockman, Nathan Morris, Wanya Morris, Brian Tierney, Dominick Cipollini, Peter Ciarrocchi, Steven Berk, Gerald Segal and Pasquale Croce.

187. The following individuals requested a waiver of their obligation to be licensed claiming they are an outside director of an affiliate, intermediary, subsidiary or holding company of Keystone, are not members of the audit committee and are not significantly involved in the management or ownership of Keystone: James Florio, Cezar Froelich, Morton Handel, Brian Savacool and Don Thomas

188. The following also requested waivers of their obligation to be licensed claiming they meet the definition of institutional investor, have under 15% of the equity securities of Keystone or its holding or intermediary companies, the securities are those of a publicly traded corporation and its holding of the securities were purchased for investment purposes only: Morgan Stanley and Co., Inc. and Franklin Mutual Advisors, Inc.

189. Neither Keystone, nor any person or entity affiliate with Keystone, is a party to any ongoing civil proceeding seeking to overturn a decision or order of the PGCB or the Thoroughbred or Harness Racing Commissions.

190. Keystone does not possess any ownership or financial interest in any other slot machine licensee or person eligible for a Category 1 license, its affiliate, intermediary, subsidiary or holding company.

191. Neither Keystone, nor any of its affiliates, intermediaries, subsidiaries or holding companies, possess any ownership or financial interest in any supplier or manufacturer license.

192. No public official is a key employee/qualifier or has any prohibited financial interest in or is employed by Keystone or any related entity.

193. Neither Keystone, nor any of its affiliates or key employee/qualifiers, made any political contributions of any kind in violation of the Act.

194. Keystone satisfied all local, state and federal tax obligations.

195. Investigation did not reveal that Keystone or any of its affiliate, directors, owners or key employee/qualifiers have been convicted of a felony or gambling offense in violation of the Act.

196. Investigation did not reveal any information that would indicate that Keystone or any of its affiliates, directors, owners or key employee/qualifiers is of unsuitable character.

197. Information gathered during the course of BIE's investigation concerning Keystone and its affiliates, directors, owners and key employee/qualifiers did not reveal any information concerning bankruptcies<sup>6</sup>, civil lawsuits or judgments, criminal convictions, past activities or business practices, business associates or dealings or any other information concerning the honesty, integrity, family, habits or reputation that would prohibit licensure of Keystone or its key employee/qualifiers.

198. Keystone is a newly formed entity with no financial history. Therefore, the PGCB's Financial Suitability Task Force analyzed TER Keystone Development Co., the

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<sup>6</sup> Evidence was provided concerning bankruptcies to permit the reorganization of Trump Entertainment properties in Atlantic City. Those matters do not disqualify the applicant from consideration.

63.73% owner of Keystone, and its parent company, Trump Entertainment Resorts, Inc. for historical financial performance, financial risk profile, debt structure, corporate structure and project revenue potential to determine the financial suitability of Keystone.

199. The PGCB Financial Suitability Task Force did not find anything financially material that would preclude Keystone from obtaining a Category 2 slot machine license.

200. The PGCB Financial Suitability Task Force projected a revenue estimate of approximately \$310.8 million annually in a stabilized year in 2005 dollars, with a \$284 win per position per day at 3,000 machines.

201. Keystone projected its revenue estimates at \$399.4 million annually in a stabilized year in 2005 dollars, with a \$365 win per position per day at 3,000 machines.

202. Keystone's projections were 28.5% greater than the estimate of the PGCB Financial Suitability Task Force.

203. Keystone indicated and investigation revealed that it had the ability to pay the \$50 million licensing fee and to post the \$1 million bond required if a Category 2 slot machine license had been granted to Keystone.

204. Based upon representations by Keystone and investigation by the PGCB's Financial Suitability Task Force, Keystone was likely to maintain a financially successful, viable and efficient business operation which would have maintained a steady level of growth and revenue.

205. Keystone had a good faith Diversity Plan in place which generally stated that Keystone had a strong commitment to embrace diversity in all areas of its organization and every phase of its operation and that it does not tolerate any form of



discrimination or harassment in the workplace, with business associates or in daily business activities.

206. Keystone implemented policies, procedures and practices which prohibited discrimination on the basis of race, religion, color, national origin, ancestry, sexual orientation, gender, age, marital status, AIDS or HIV status, liability for service in the armed forces of the United States, non job-related disability and veterans' status.

207. Keystone's plan proposed use of minority and women owned businesses, as well as businesses owned by persons with disabilities, which it would seek out through advertising, community and government contacts and through the contacts and business associates of its related entities.

208. Keystone submitted a Compulsive and Problem Gambling Plan with its application, but the plan required amendment as it did not fully address all criteria for development, employee training items, self-exclusion training and underage gambling. However, the plan did express Keystone's intent to comply with the Act's signage requirements. The status of this plan does not exclude a finding of eligibility and suitability at this time.

209. Keystone's proposed site was the only proposed site not located along the Delaware River. Instead, the proposed site was located in area comprised of mixed industrial and residential neighborhoods that currently have few, if any, attractions, retail shops or restaurants.

210. This area of the city is presently an economically depressed area with 38% of the families living below the poverty line, 27% of the population earning less than \$10,000 per year and only 55% of the population being employed full-time.

211. Keystone proposed to build a \$444.8 million project, beginning construction of the temporary/Phase I facility no later than May 2007, with a projected opening in or about May, 2008.

212. The temporary/Phase I facility would have consisted of a gaming floor with 1,500 slot machines, limited food and beverage outlets and a three (3) screen cinema. The temporary facility was to be serviced by surface parking. Keystone was committed financially to building and operating this phase of the project.

213. Construction of a permanent/Phase II facility would have commenced no later than September 2007, with an opening on or about May, 2009.

214. The permanent facility would have had a gaming floor containing 3,000 slot machines, a coffee bar, additional bars and lounges, upscale restaurants, retail shops and a buffet and it would have been serviced by a 3,000 space parking garage. Keystone was committed financially to building and operating this phase of the project.

215. Keystone's Master Plan included further expansion, including an additional 2,000 slot machines, an entertainment venue, a 400 room hotel and additional parking. However, no firm commitments, financially or otherwise, were made with respect to this phase of the project.

216. The project proposed included \$2.5 million to raze dilapidated and vacant homes in the area, as well as money to restore the facades on other deteriorating homes in the area.

217. Keystone had a management agreement with TER Management Co., LLC, a subsidiary of Trump Entertainment Resorts Holdings, LP. The management company

was to provide Keystone with operational and gaming management services for an initial term of ten years.

218. Keystone estimated that its temporary/Phase I facility would create approximately 500 full-time equivalent positions.

219. Keystone estimated that its permanent facility would create approximately 1,000 full-time equivalent positions with an average annual compensation of \$31,000 each.

220. Keystone estimated that the project would create between 1,379 and 2,067 construction jobs.

221. Keystone expected to fill approximately 75% of its jobs with individuals residing in the immediate community/area and 90% of the jobs with Philadelphia residents.

222. While Keystone was a newly formed company with no history, it's affiliates such as Trump Entertainment Resorts have a favorable record of compliance with applicable federal, state and local discrimination, wage and hour, disability and occupational, environmental health and safety, and labor relations and employment laws, and a favorable record in dealing with employees and their representatives. Keystone had neutrality agreements with operations engineers, Teamsters and UNITE HERE.

223. Keystone's parent company, Trump Entertainment Resorts, owns several casino properties in Atlantic City, New Jersey.

224. A part of Keystone's marketing plan was a direct marketing campaign aimed at the more than 1 million previous and known customers of the Trump Atlantic

City properties - Trump Marina, Trump Taj Mahal and Trump Plaza - who resided within 25 miles of the Keystone site.

225. While Keystone was a newly formed entity, its parent company and affiliates have considerable experience and presence in the gaming industry. In addition to the “Trump” brand, Keystone would have relied on gaming professionals such as Mark Juliano who has over twenty (20) years of gaming experience, James Perry who has over thirty (30) years of gaming experience and Robert Pickus who has over twenty-three (23) years of gaming experience.

226. Keystone submitted a traffic study prepared by Vollmer Associates with its application. The study concluded that with proper mitigation efforts all increased traffic flow as a result of Keystone’s project could be adequately handled.

227. The study was reviewed by Edwards and Kelcey who concluded that the study was deficient in that it did not analyze future conditions more than ten years beyond the opening date of the casino.

228. Keystone then submitted a revised traffic study which, among other things, addressed most of the issues raised by Edwards and Kelcey’s initial review.

229. This revised plan was reviewed by Edwards and Kelcey who concluded that most of the traffic issues that can be addressed at this stage of planning have, in fact, been addressed systematically and thoroughly.

230. The Keystone site was also accessible by public transportation.

231. It has been the longstanding practice of Keystone’s Trump affiliates in Atlantic City to donate excess food to the Atlantic City Rescue Mission and the Atlantic City Food Bank. In addition, the Trump organizations in Atlantic City are heavily

involved with the United Way of Atlantic County, soliciting contributions of time and money from all levels of the organizations, and from the organizations themselves. In 2002, financial contributions reached their peak, totaling approximately \$710,000. Also, prior to the issuance of a riverboat license to Trump Indiana, Inc., another Trump affiliate of Keystone, a development agreement was negotiated and executed with the host community, Gary, Indiana. Under the Indiana development agreement, Trump Indiana, Inc. contributed approximately \$1 million in scholarships and endowments to local organizations.

232. Keystone had entered into agreements with Tioga United and the Allegheny West Foundation non-profits, whereby if Keystone was awarded a license it would contribute \$2.5 million for charitable purposes within six months and would thereafter provide a percentage of its daily gross terminal revenue at a rate no less than: (i) \$1 million annually for each of the first five fiscal years of its operation of the project; and (ii) for each year thereafter, an amount equal to \$1 million increased on an annual compounded basis by the United States Bureau of Labor Statistics Consumer Price Index.

233. Keystone agreed to make contributions of \$1.5 million to fund local school renovations and upgrades, as well as to fund scholarships to schools in the immediate neighborhood.

234. Keystone also agreed to donate surplus food and goods to charitable and community based organizations.

**PINNACLE ENTERTAINMENT, INC. and PNK (PA), LLC (“PNK”)**

235. PNK’s proposal was located on thirty-three (33) acres along the Delaware River near the Fishtown section of the City on the site of a former shipbuilding yard.

236. The proposal included a temporary casino to house 1,500 slot machines located in a former warehouse on the proposed site. The permanent project included a casino to house over 3,000 slot machines, restaurants, retail space and movie theaters all around a central pond area that would become a skating rink during the winter months.

237. PNK intended to develop a project that would be a part of the historic heritage of the Delaware waterfront in Philadelphia and would provide public access to the riverfront.

238. At the Public Input Hearing twenty-five (25) individuals testified specifically with regard to the PNK project. Two (2) Legislators testified with one supporting the project and the other neither supporting nor opposing it. Three (3) representatives of local government units testified with one (1) supporting the project while the other two (2) were neutral. Eleven (11) representatives of Community Groups testified with five (5) of the groups supporting the project and six (6) neither for nor against the project. Nine (9) individuals testified with five (5) supporting the project and one (1) opposing the project. The remaining three requested more time to analyze certain aspects of the project.

239. In addition, the PGCB received five (5) written comments directed at the PNK project by the June 2, 2005 deadline with one (1) supporting the project and four (4) opposing the project.

240. Those speaking or providing written comments in support cited reasons such as increased job opportunities, added revenue, being good for the economy, tax relief, strengthening the marketing of Philadelphia and community partnerships, increasing tourism and the development of underused or unused properties.

241. Those speaking or providing written comments in opposition cited reasons such as gambling addiction, traffic congestion, adverse historical impacts, noise and street pollution, destruction of riverfront property, crime, public safety and not enough EMT's and police.

242. On November 15, 2006, the PGCB conducted a public suitability hearing for the purpose of hearing additional testimony and evidence from PNK concerning its application and proposed project and its eligibility and suitability for licensure pursuant to the Act.

243. In addition to the public hearing, substantial time reviewing, analyzing and investigating the applications and various submissions was expended by the PGCB's Bureau of Licensing in processing and reviewing PNK's application, the Bureau of Investigations and Enforcement investigating PNK, its affiliates and key employee/qualifiers and the Bureau of Corporate Compliance and Internal Controls, along with the Financial Suitability Task Force investigating the financial suitability of PNK and its parent company Pinnacle.

244. The application for a Category 2 slot machine license filed by PNK is complete, all fees and costs which have been billed to PNK have been paid as required, all required bonds and/or letters of credit were posted and PNK and its affiliated parties consented to and have undergone background investigations as required by the Act.

245. PNK was formed on December 23, 2005, as a Pennsylvania Limited Liability Company, and had no previous business history in Pennsylvania or any jurisdiction.

246. PNK was organized to build, own and operate limited gaming establishments in Pennsylvania. Pinnacle, its parent company, is publicly traded on the New York Stock Exchange and is the 100% owner of PNK.

247. PNK's diversity of ownership is limited because of Pinnacle's 100% ownership of PNK. Diversity of ownership is obtained through ownership of the publicly traded parent corporation, Pinnacle.

248. Pinnacle, headquartered in Las Vegas, Nevada, is a diversified, multi-jurisdictional owner and operator of gaming entertainment facilities. Pinnacle is the successor to the Hollywood Park Turf Club, organized in 1938. In 1981, Pinnacle was incorporated in the State of Delaware under the name of Hollywood Park Realty Enterprises, Inc. The name was changed to Pinnacle Entertainment in February 2000.

249. Pinnacle owns and operates numerous gaming properties in the United States: Belterra Casino Resort, Indiana; Boomtown Casino and Hotel, Bossier City Louisiana; Boomtown New Orleans, a dockside riverboat; Boomtown Casino and RV Park, Nevada; and L'Auberge du Lac, Lake Charles, Louisiana. Casino Magic Biloxi was located in Biloxi, Mississippi but was destroyed by Hurricane Katrina. In addition to the United States properties, Casino Magic Argentina operates five land based casinos in the Patagonia region of Argentina and the Casino at Emerald Bay, Great Exuma Bahamas, opened in May 22, 2006 in space subleased in the Four Seasons Resort Great Exuma at Emerald Bay.

250. In addition to its current operations, Pinnacle has several development projects pending. In 2004, the company was given priority status to design, develop and operate two major casino projects in the St. Louis, Missouri area and in November 2005,



Pinnacle broke ground on the \$375,000,000 River City Casino & Hotel in the South St. Louis community of Lemay. In August 2005, the company submitted a bid for a development in Rancagua, located within a 45 minute drive of Santiago. In January 2006, Pinnacle announced plans to add 250 guestrooms to the Belterra Casino Resort for approximately \$45,000,000 and the first guestrooms at Boomtown New Orleans property for approximately \$30,000,000. In May 2006, Pinnacle signed a definitive agreement under which it will acquire certain Lake Charles, Louisiana assets of Harrah's and Pinnacle intends to build a second casino resort in Lake Charles (Sugarcane Bay). In September 2006, Pinnacle signed an agreement to purchase The Sands Hotel and Casino and adjacent real estate parcels, including the Traymore site in Atlantic City, New Jersey and plans to develop this property in the future.

251. Although PNK's parent company, Pinnacle, has been issued casino licenses by other state and foreign agencies and these licenses are in good standing, the PGCB did not utilize alternative licensing standards during the course of its investigation of PNK's application.

252. The following entity qualifiers, affiliate qualifiers and key employee/qualifiers of PNK consented to and have undergone required background investigations: Pinnacle, Daniel Lee, Wade Hundley, Alain Uboldi, Stephen Capp, John Godfrey, Christopher Plant, Clifford Kortman, Sarah Tucker, John Giovenco, Michael Ornest and Bruce Leslie.

253. The following individuals requested waivers of their obligation to be licensed claiming they are outside directors of an affiliate, intermediary, subsidiary or holding company of PNK, are not members of the audit committee and are not

significantly involved in the management or ownership of PNK: James Barich, Arthur Goldberg, Kimberly Townsend, Humberto Trueba, Rickey Dodd, John Durham, Alice Mui, Linda Shaffer, Paul Contesse, Larry Buck, Jack Fischer, Todd George, Joseph Lepinski, Terry Schneider, David Williams, Richard Goeglein, James Martineau and Lynn Reitnouer.

254. Neither PNK, nor any person or entity affiliated with PNK, is a party to any ongoing civil proceeding seeking to overturn a decision or order of the Board or the Thoroughbred or Harness Racing Commissions.

255. Neither PNK, nor any of its affiliates or holding companies, possesses any ownership or financial interest in any other slot machine licensee or person eligible to apply for a Category 1 license, its affiliate, intermediary, subsidiary or holding company.

256. Neither PNK, nor any of its affiliates, subsidiaries, intermediaries or holding companies, hold any interest in a supplier or manufacturer license.

257. No public official is a key employee/qualifier or has any prohibited financial interest in or is employed by PNK or any related entity.

258. Neither PNK, nor any of its affiliates or key employee/qualifiers, have made any political contributions of any kind in violation of the Act.

259. PNK satisfied all local, state and federal tax obligations.

260. Investigation did not reveal that PNK or any of its affiliates, directors, owners or key employee/qualifiers has been convicted of a felony or a gambling offense in violation of the Act.

261. Investigation did not revealed any information that would indicate that PNK or any of its affiliates, directors, owners or key employee qualifiers is of unsuitable character.

262. Information gathered during the course of investigation concerning PNK, is parent company Pinnacle and its key employee/qualifiers did not reveal any information concerning bankruptcies, civil lawsuits or judgments, criminal convictions, past activities or business practices, business associates or dealing or any other information concerning the honesty, integrity, family, habits or reputation that would prohibit licensure of PNK, Pinnacle or its key employee/qualifiers.

263. PNK has no financial history. Therefore, the Financial Suitability Task Force analyzed PNK's parent company, Pinnacle's, historical financial performance. The Financial Suitability Task Force and did not find anything financially material that would preclude PNK from obtaining a Category 2 slot machine license.

264. Pinnacle has a diverse base of gaming and entertainment operations throughout the United States with approximately 85% of its revenues from gaming activities. Profitability for Pinnacle has fluctuated and its revenue and adjusted EBITDA growth have varied each year since the fiscal year ended December 31, 2000. Financial analysis indicates a history of operating with a high-risk financial profile, an interest coverage ratio that varied during the period studied, a leverage ratio that suggests a higher risk financial profile and a liquidity ratio greater than 1.0x. Pinnacle has demonstrated that the capital markets are reasonably comfortable with its financial profile.

265. PNK would have relied on funding from its parent company, Pinnacle, for project financing. To fund the project, Pinnacle would have drawn on its existing \$750 million bank credit facility.

266. The PGCB Financial Suitability Task Force projected a revenue estimate of approximately \$310.8 million annually in a stabilized year in 2005 dollars, with a \$284 win per position per day at 3,000 machines.

267. Pinnacle projected its revenue estimates at \$338.7 million annually in a stabilized year in 2005 dollars, with a \$309 win per position per day at 3,000 machines.

268. PNK's projections were 9% greater than the estimate of the PGCB Financial Suitability Task Force.

269. PNK indicated and investigation revealed that it had the ability to pay the \$50 million licensing fee and to post the \$1 million bond required if a Category 2 slot machine license had been granted to PNK.

270. Based upon representations by PNK and investigation by the PGCB's Financial Suitability Task Force, PNK was likely to maintain a financially successful, viable and efficient business operation which would have maintained a steady level of growth and revenue.

271. PNK had a good faith diversity plan in place. PNK stated that it was committed to providing equal opportunity in employment for all people and to prohibiting discrimination in employment on the basis of race, color, religion, sex, national origin, age, sexual orientation, marital status, AID or HIV status, non job-related disability or veteran's status.

272. PNK expressed that its parent company, Pinnacle, had a history of promoting diversity and that PNK would do the same in Philadelphia. PNK had begun to meet with local leaders in Philadelphia in order to implement a diversity plan and PNK had retained the services of Cardenas Grant Communications, a public relations and communications firm that specializes in multicultural outreach.

273. PNK submitted a Compulsive and Problem Gaming Plan with its application, but the plan required amendment as it did not fully address all criteria for development, employee training items, self-exclusion training and underage gambling. However, the plan did express PNK's intent to comply with the Act's signage requirements. The status of this plan does not exclude a finding of eligibility and suitability at this time.

274. PNK's planned casino project was to be located along the Delaware River near the intersection of Dyott Street, Delaware Avenue and Richmond Street in the city of Philadelphia, near the residential Fishtown neighborhood.

275. PNK indicated that it intended to open a temporary casino with approximately 2,000 slot machines, within nine (9) to twelve (12) months from licensure, in a former 55,000 square foot fruit and cheese warehouse on the site. The temporary site also contemplated two (2) to three (3) dining outlets and several bars. PNK was financially committed to completion of the temporary casino.

276. Phase I of the permanent facility then contemplated a 80,488 square foot gaming floor and 3,000 slot machines. That phase would have begun with construction of a parking garage and included a pond/ice skating rink with a performance stage, several restaurants including a high end buffet/food court, various lounges and bars, retail

space, a multiplex movie theater and a casino. Construction of Phase I was expected to continue with little impact on the operation of the temporary facility and be completed between January and June of 2009. PNK was financially committed to completion of Phase I of the project estimated at \$300 to \$400 million.

277. Pinnacle intended to develop a project that would have been part of the historic heritage of the Delaware waterfront in Philadelphia. Entertainment would have consisted of restaurants, night clubs, live performances, shopping, an ice skating rink and a casino.

278. Expansions of the initial project would have been dependent upon favorable marketing conditions. Phase II plans included increasing the casino to include an additional 2,000 slot machines and additional parking. Phase III would have included, if the market demanded, the development of condominium units, timeshares or a hotel component. PNK was not financially committed to Phases II and III of the project and these phases would have been developed only if the market and economy had allowed.

279. PNK indicated that Pinnacle would have managed and overseen the operations of PNK and would have been entitled to receive a management fee of 2% of the adjusted gross revenues plus 5% of PNK EBITDA. Pinnacle enters into standard management agreements with the project level subsidiaries in every state and it intended to do so in Pennsylvania with PNK.

280. PNK anticipated that Phase I the project would have created 1,300 permanent operating positions expected to be quality, full-time living wage positions, and that Phases II and III could have created an added 1,900 operating positions.

281. PNK anticipated the project would have created 1,200 construction jobs through Phase I and that Phases II and III would have created an additional 2,100 construction jobs.

282. PNK planned to hire its employees from the local Philadelphia community.

283. PNK has no business history. However, the record indicates that its parent company, Pinnacle, has a favorable record of compliance with applicable federal, state and local discrimination, wage and hour, disability and occupational, environmental health and safety, and labor relations and employment laws and a favorable record in dealing with employees and their representatives.

284. The proposed PNK site is currently zoned General Industrial which does not permit the use contemplated by the application. The area in which PNK's site would have been located has not been designated by Philadelphia Ordinance as a "Commercial Entertainment District" area (Philadelphia Code § 14-401 et. seq.). Under the ordinance, the City Council has authority to rezone the proposed PNK site to the new district upon recommendation of the City Planning Commission. Once rezoned pursuant to the Ordinance, the use contemplated by PNK would have been permissible.

285. PNK owned some, but not all, of the riparian rights along the riverfront of the proposed site.

286. PNK's proposed site was located with a few miles of Chinatown, Center City Philadelphia and downtown hotels, restaurants and bars.

287. PNK asserted that Interstate 95 created a buffer between the proposed site and the adjacent neighborhood, with the residential areas of the Fishtown community on

the westerly side of Interstate 95 and the proposed project site on the easterly side. Interstate 95 in that area is an elevated highway, permitting access to the site from neighborhoods under the elevated highway and providing somewhat less of a barrier than at other sites.

288. PNK submitted a traffic study to the Board which was reviewed by Edwards and Kelcey.

289. PNK's traffic impact report showed that 80% of the patrons would have accessed and departed the site via Interstate 95.

290. A planned interchange project, the Girard Avenue Interchange project, is scheduled for completion in 2012, which would allow enhanced access to both Girard Avenue and Delaware Avenue in the vicinity of the proposed PNK project.

291. PNK's traffic study proposed to alleviate delays associated with the development of its project by signal timing and coordination adjustments, roadway widening at select locations and traffic signal installations at three locations along Richmond Street, Dyott Street and Cumberland Street at Girard Avenue.

292. Review of the plan by Edwards and Kelsey of PNK's traffic impact study found that because PNK's study did not adequately address the additional traffic in that three-year window between the Phase I casino opening and the completion of the Girard Avenue interchange in 2012, additional mitigation measures needed to be identified and more fully evaluated by PNK. Edwards and Kelsey further recommended a ten year projection and analysis be completed of the increased traffic to ensure acceptable conditions in the future.



293. PNK's proposed site was located near public bus transportation with a trolley line running close by.

294. Pinnacle has a history of supporting its host communities and stated it planned to do the same in Philadelphia. Through its other properties, Pinnacle stated that it has made numerous donations and sponsored events to generate funds to support its host communities and made \$1.5 million in charitable contributions in 2005.

295. Although PNK had discussions with local neighborhood groups, neither PNK nor its parent, Pinnacle, made any binding promises of support or commitments of any funding to any public or private entity related to licensure. Instead, the applicant would wait until opened and profitable before making any commitments.

**RIVERWALK CASINO, LP ("RIVERWALK")**

296. Riverwalk's proposed project would have been located along the Delaware River on approximately eleven and one half (11½) acres or 500,000 square feet of space that was formerly the old incinerator site and was comprised of Piers 28 N, 27 ½ N and 31-34.

297. The project proposed one phase of construction which included a casino, restaurants, lounges, retail space, a parking garage and an entertainment venue.

298. At the Public Input Hearing thirty-two (32) individuals testified. Two (2) state legislators testified with one supporting the project and one taking a neutral position. Three (3) local officials testified with one supporting the project and two taking neutral positions. Fifteen (15) representatives of community groups testified with seven (7) supporting the project, two (2) in opposition and six (6) with neutral comments. Twelve

(12) individuals testified with seven (7) supporting the project, two (2) in opposition and three (3) who expressed they needed more time to form an opinion.

299. Written comments were also received by the PGCB by the June 2, 2006, deadline specific to the Riverwalk project. Ten (10) comments were received with one (1) supporting the project and nine (9) opposing the project.

300. Those speaking or providing written comments in support cited reasons such as the casino being good for the economy by creating jobs, revenue and related tax relief and that it would add an element of entertainment to the city.

301. Those speaking or providing written comments in opposition cites reasons such as traffic congestion and parking issues, increased public safety issues, that the project is too small and did not allow for a buffer to the surrounding area and a decrease in property values.

302. On November 13, 2006, the PGCB conducted a public suitability hearing for the purpose of hearing additional testimony and evidence from Riverwalk concerning its application and proposed project and its eligibility and suitability for licensure pursuant to the Act. The hearing was continued into and concluded on December 4, 2006.

303. In addition to the public hearings, substantial time reviewing, analyzing and investigating the applications and various submissions was expended by the PGCB's Bureau of Licensing in processing and reviewing Riverwalk's application, the Bureau of Investigations and Enforcement investigating Riverwalk, its affiliates and key employee/qualifiers and the Bureau of Corporate Compliance and Internal Controls,

along with the Financial Suitability Task Force investigating the financial suitability of Riverwalk.

304. The application for a Category 2 license filed by Riverwalk is complete, all fees and costs which have been billed to Riverwalk have been paid as required, all required bonds and/or letters of credit were posted and Riverwalk and its affiliated parties consented to and have undergone background investigations as required by the Act.

305. Riverwalk is a Pennsylvania limited partnership that was formed on October 28, 2005, for the purpose of acquiring a Category 2 slot machine license and developing, owning and operating the Riverwalk Casino project.

306. Riverwalk is owned 1% by Riverwalk Casino GP, LLC, as its general partner and 99% by PA Financing LP, as its limited partner.

307. Riverwalk Casino GP, LLC, is owned 51% by the Pennsylvania Partnership Group, LP and 49% by BHM Gaming Opportunities, Ltd.

308. PA Financing LP is owned 50.49% by the Pennsylvania Partnership Group, LP and 23.50 % by BHM Gaming Opportunities, LTD, a joint venture controlled by Robert Earl and Douglas Teitelbaum with the remaining interest in PA Financing LP owned by PA HoldCo, LLC (12%), Plainfield Gaming, Inc. (6%), BH Casino and Hospitality, LLC (3.150%), York Select, LP (1.125%), C. Patrick McKoy (1.01%), York Capital Management, LP (.975%), Scoggin Capital Management, LP II (.75%) and Riverwalk Casino GP, LLC (1%).

309. The Pennsylvania Partnership Group, LP is owned 1% by the Pennsylvania Partnership Group, LLC as its general partner and 99% by Individual PPG Investors. These same investors are the 100% owner of the Pennsylvania Partnership

Group, LLC. These investors are individuals from the Philadelphia area and include: William Anderson, Barry Crawford, Obra Kernodle Family Trust, Whytni Kernodle-Frederick, Walter Lomax, Bennet Lomax, Charles Lomax, Willie Johnson, Frank Canty, the CSR Irrevocable Trust, Thomas Leonard, Thomas Leonard Irrevocable Trust, Lisa Rodriguez, Ira Richards, Asuncion Munoz, Dennis Cook, John Tipton, PPG Partners' Blind Trust, Adam Kamens-profits, Adam Kamens-capital, Robert Bogle, Bruce Crawley, Perry Blackman-profits, Perry Blackman-capital, Joel Trigliani-profits, Joel Trigliani-capital, Charles Greene, Jerome Mondesire, Sunah Park and Timothy Woodward.

310. Control of Riverwalk would be through its general partner, Riverwalk GP and control of Riverwalk GP would have rested with a Board of Managers comprised of three (3) appointees of the Pennsylvania Partnership Group and two (2) appointees from BHM Gaming Opportunities. Had a license been awarded the Board would have expanded to include one (1) member from Plainfield Gaming. The Pennsylvania Partnership Group would have had six (6) votes, BHM Gaming would have had four (4) votes and Plainfield Gaming would have had one (1) vote for a total of eleven (11) votes.

311. Some decisions concerning Riverwalk required a "super-majority" consent of the Board of Managers. However, daily operations of Riverwalk were controlled by an Executive Committee which was controlled by BHM Gaming Opportunities.

312. The PGCB did not utilize alternative licensing standards during the course of its investigation of Riverwalk's application.

313. The following entity qualifiers, affiliate qualifiers and key employee/qualifiers of Riverwalk consented to and have undergone required background

investigations: PA Financing, LP, Riverwalk Casino, GP, LLC, the Pennsylvania Partnership Group, LP, the Pennsylvania Partnership Group, LLC, BHM Gaming Opportunities, Ltd., BHM Gaming Opportunities GP, LLC, BH Casino and Hospitality, LLC, RIE, Ltd., RIE, LLC, PPG Partners' Blind Trust, Plainfield Gaming, Inc., PA HoldCo, LLC, Plainfield Direct, LLC, Dennis Cook, William Miller, IV, Kenneth Trujillo, Leslie Levi, Joseph Bencivenga, Ronald Johnson, Howard Trauger, John Tipton, Samuel Staten, Sr., Cyril McKoy, Douglas Teitelbaum, Robert Earl, Willie Johnson, Achim Holmes, Bernard Smalley, Sr., Herman Wooden, Mary Lawton, Joseph Ashdale, York Capital Management, LP, York Select, LP and Scoggin Capital Management, LP II.

314. The following entity requested a waiver of its obligation to be licensed claiming it is an outside director of an affiliate, intermediary, subsidiary or holding company of Riverwalk, is not a member of the audit committee and is not significantly involved in the management or ownership of Riverwalk: Penn's Landing Corporation.

315. Rene Amore filed a key employee/qualifier application but subsequently requested to withdraw her application. The withdrawal was approved by the PGCB.

316. Neither Riverwalk, nor any person affiliated with Riverwalk, is a party to any ongoing civil proceeding seeking to overturn a decision or order of the PGCB or the Thoroughbred or Harness Racing Commissions.

317. Riverwalk does not possess any ownership or financial interest in any other slot machine licensee or person eligible to apply for a Category 1 license, its affiliate, intermediary, subsidiary or holding company.

318. Neither Riverwalk, nor any of its affiliates, subsidiaries, intermediaries or holding companies, hold any interest in a supplier or manufacturer license.

319. No public official is a key employee/qualifier or has any prohibited financial interest in, or is employed by Riverwalk or any related entity.

320. Two of Riverwalk's key employee/qualifiers, Joseph Ashdale and Samuel Staten, Sr., made political contributions that were in apparent violation of the Act. However, the PGCB and these two individuals entered into a consent decree with regard to these violations. The consent decree required the individuals to retrieve the contributions made and pay fines set by the PGCB and for Riverwalk to pay a fine with regard to the violations.

321. Further investigation did not reveal any other political contributions made by Riverwalk or any of its key employee/qualifiers that were in violation of the Act.

322. Riverwalk satisfied all local, state and federal tax obligations.

323. Investigation did not reveal that Riverwalk or any of its affiliates, directors, owners or key employee/qualifiers have been convicted of a felony or gambling offense in violation of the Act.

324. Investigation did not reveal any information that would indicate that Riverwalk or any of its affiliates, directors, owners or key employee/qualifiers is of unsuitable character.

325. Information gathered during the course of BIE's investigation concerning Riverwalk and its key employee/qualifiers did not reveal any information concerning bankruptcies<sup>7</sup>, civil lawsuits or judgments, criminal convictions, past activities or business practices, business associates or dealings, or any other information concerning

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<sup>7</sup> Evidence was provided concerning the bankruptcy of Planet Hollywood, an entity whose CEO has an ownership interest in the Riverwalk project. That matter does not disqualify the applicant from consideration

the honesty, integrity, family, habits or reputation that would prohibit licensure of Riverwalk or its key employee/qualifiers.

326. Riverwalk was a newly formed entity with no business history. Therefore, the PGCB Financial Suitability Task Force performed an evaluation of Riverwalk's financial fitness and suitability by examining its key employee/qualifiers, its financial wherewithal for developing the proposed gaming facility and the ultimate sources of the funding to develop the project and did not find anything financially material that would preclude Riverwalk from obtaining a Category 2 slot machine license.

327. On November 13, 2006, the PGCB Financial Suitability Task Force projected a revenue estimate for Riverwalk of approximately \$418.5 million annually in a stabilized year in 2005 dollars, with a \$229 win per position per day at 5,000 machines.

328. Riverwalk provided to the Task Force projections of its revenues estimated at \$378.1 million annually in a stabilized year in 2005 dollars, with a \$207 win per position per day at 5,000 machines.

329. Riverwalk's estimate was 9.6% less than the estimate of the PGCB Financial Suitability Task Force.

330. Riverwalk indicated and investigation revealed that it had the ability to pay the \$50 million licensing fee and to post the \$1 million bond required if a Category 2 slot machine license had been issued to Riverwalk.

331. Based upon the representations by Riverwalk and investigation by the PGCB Financial Suitability Task Force, Riverwalk was likely to maintain a financially successful, viable and efficient business operation which would maintain a steady level of growth and revenue.

332. Riverwalk had a good faith diversity plan in place. Riverwalk's diversity statement provided for equal employment opportunity for all persons without regard to race, creed, color, religion, gender, age, sex, sexual orientation, AIDS or HIV status, national origin, veteran status, marital status, disability related to childbirth or pregnancy, non job-related disability, citizenship status or status with regard to public assistance.

333. Riverwalk was in the process of developing its diversity plan with local area community leaders and diversity consultants and it hosted several Town Hall meetings to discuss issues relating to diversity with local residents.

334. Riverwalk had submitted a Compulsive and Problem Gaming Plan with its application, but the plan required amendment as it did not fully address all the criteria for development, employee training items, self-exclusion training and underage gambling. In addition, the plan did not express any intent on the part of Riverwalk to comply with the Act's signage requirements. The status of this plan does not exclude a finding of eligibility and suitability at this time.

335. Riverwalk's site was to be located along the Delaware River, on Delaware Avenue at the terminus of Spring Garden Street and near the Vine Street Expressway (Interstate 676) and the Ben Franklin Bridge.

336. Riverwalk had an option to sublease the property for the proposed site from Penn's Landing Corporation.

337. It is not clear if Riverwalk, through the sublease from Penn's Landing, possessed the necessary riparian rights for the project.

338. Riverwalk planned two (2) phases of the project with an estimated cost of \$500 million. The plan did not include a temporary casino facility.



339. The first phase of the project included a gaming floor with 3,000 slot machines. The second phase of the project included the addition of 2,000 slot machines. Riverwalk was committed to building and financing both phases of the project at an approximate cost of \$ 495 million.

340. The total project also included a 400 seat entertainment venue, a television and radio studio, six (6) restaurants with river views including a food court, coffee shop and mix of causal dining eateries, two (2) lounges and a nightclub, retail space and over 3,500 parking spaces. A river promenade was to extend all the around the outside of the property.

341. Riverwalk's design plan was compliant with the City of Philadelphia's ordinance creating a "Commercial Entertainment District" which, among other things, permits licensed gaming facilities.

342. Riverwalk estimated that its project would provide approximately 1,000 quality, living wage casino jobs.

343. Riverwalk estimated that its construction project would provide approximately 500 temporary construction jobs.

344. Riverwalk was a newly formed company with no business history. However, no negative history was found with regard to records of compliance with applicable federal, state and local discrimination, wage and hour, disability and occupational, environmental health and safety, and labor relations and employment laws, or dealings with employees and their representatives with regard to any individual involved in the project. In addition, there was previous experience by BHM Gaming Opportunities with the union UNITE HERE.

345. Riverwalk had entered into a management agreement with BHM Gaming Opportunities, Ltd. (“BHM Gaming”) for the development and operation of the Riverwalk Casino project for which BHM Gaming would have been entitled to 5% of gross project receipts plus 10% or EBITDA over established EBITDA targets. The PGCB would have had to approve this agreement.

346. BHM Gaming is a joint venture controlled by Robert Earl and Douglas Teitelbaum. These two individuals are co-chairmen of Planet Hollywood Resort and Casino in Las Vegas, Nevada, formerly known as the Aladdin Hotel and Casino.

347. Neither Riverwalk, nor any of its affiliates, own any casino properties in Atlantic City, New Jersey.

348. In December 2005, Riverwalk submitted a traffic study which included a four (4) intersection study area. The study identified two key peak traffic hours, one during a weekday afternoon and the second on a Saturday afternoon. The study estimated new trip generations from the casino project to be 1,430 cars during the weekday peak hour and just over 1,900 cars during the Saturday peak hour. The study anticipated that seventy percent (70%) of the vehicles would use the Interstates for access to the casino site.

349. Traffic mitigation identified in the study included adjusting signal timing and coordination at key locations along Delaware Avenue, specifically at Spring Garden Street, installation of additional turning lanes at intersections to increase the capacity of the intersections and the installation of a new traffic signal at an intersection.

350. Riverwalk’s proposed site was also accessible by public transportation.

351. Edwards and Kelcey reviewed this initial traffic study and concluded that the scope of the study area was too limited and should have included all intersections between the site and the interstate access points and that a ten year projected analysis should be performed.

352. Riverwalk responded stating that it was committed to mitigation of traffic and would fund all necessary infrastructure improvements, and that it also planned to hire a traffic coordinator when the casino was opened.

353. Riverwalk had a binding commitment to fund costs of traffic mitigation, emergency medical services and police projection through a special services district agreement, which was a requirement of their lease with Penn's Landing Corporation.

354. Riverwalk also committed to funding \$2 million of fine arts improvements in conjunction with approvals from the Philadelphia Arts Commission.

## **CONCLUSIONS OF LAW AND COMPARATIVE DISCUSSION**

The decision as to which two of the five eligible and suitable proposals would receive the award of the two Category 2 slot machine operator licenses in Philadelphia was a very difficult one calling for the Board to weigh five competitive, yet unique and different proposals to determine which two the Board, in its sole discretion, believed to be the best fit for the Commonwealth and the public in light of the various factors which may be taken into consideration under the Act. If the Board's decision was premised on an objective formula or defined scoring system such as one based only on the revenue to the Commonwealth to support property tax relief or on the number of slot machines or the number of projected visitors, the analysis of the Board in reaching its decision would be much more simplistic. But that is not the case or the task assigned to the Board under the Act. The Act embodies multiple objectives to be considered by the Board, including the protection of the public through regulating and policing all activities involving gaming, enhancing entertainment and employment in the Commonwealth, providing a significant source of income to the Commonwealth for tax relief, providing broad economic opportunities to Pennsylvania's citizens, developing tourism, strictly monitoring licensing of specified locations, persons, associations, practices, activities, licensees and permittees, considering the public interest of the citizens of the Commonwealth and the social effects of gaming when rendering decisions and maintaining the integrity of the regulatory control of facilities. 4 Pa.C.S. §1102.

In addition, the General Assembly specifically indicated its intent and goal that the Board promote and ensure diversity in all aspects of the gaming activities authorized under the Act. 4 Pa.C.S. §1212(a). The Board also believes this to be an important goal

to be implemented and encouraged in the gaming industry for the benefit of all citizens and fully intends to assure that diversity of representation is enhanced in accordance with the Act. Accordingly, the Board also looks to the factors of the representation of diverse groups in the ownership, participation and operation of an applicant for a license as provided for in Sections 1212, 1325(b) and 1325(c)(3) of the Act when evaluating the applicants for licensure.

As we have set forth above, in weighing the evidence presented to the Board with respect to these objectives and to determine which applicants should be approved for licensure, Section 1325 of the Act provides that the Board may consider factors including:

- the location and quality of the proposed facility, including, but not limited to, road and transit access, parking and centrality to market service area, Section 1325 (c)(1);
- the potential for new job creation and economic development which will result from granting a license to an applicant, Section 1325 (c)(2);
- the applicant's good faith plan to recruit, train and upgrade diversity in all employment classifications in the facility, Section 1325 (c)(3);
- the applicant's good faith plan for enhancing the representation of diverse groups in the operation of its facility through the ownership and operation of business enterprises associated with or utilized by its facility or through the provision of goods or services utilized by its facility and through the participation in the ownership of the applicant, Section 1325 (c)(4);
- the applicant's good-faith effort to assure that all persons are accorded equality of opportunity in employment and contracting by it and any contractors, subcontractors, assignees, lessees, agents, vendors and suppliers it may employ directly or indirectly, Section 1325 (c)(5);
- the history and success of the applicant in developing tourism facilities ancillary to gaming development if applicable to the applicant, Section 1325 (c)(6);
- the degree to which the applicant presents a plan for the project which will likely lead to the creation of quality, living-wage jobs and full-time permanent

jobs for residents of this Commonwealth generally and for residents of the host political subdivision in particular, Section 1325 (c)(7);

- the record of the applicant and its developer in meeting commitments to local agencies, community-based organizations and employees in other locations, Section 1325 (c)(8);
- the degree to which potential adverse effects which might result from the project, including costs of meeting the increased demand for public health care, child care, public transportation, affordable housing and social services, will be mitigated, Section 1325 (c)(9);
- the record of the applicant and its developer regarding compliance with Federal, State and local discrimination, wage and hour, disability and occupational and environmental health and safety laws; and State and local labor relations and employment laws, Section 1325 (c)(10); and
- the applicant's record in dealing with its employees and their representatives at other locations, Section 1325 (c)(11).

Thus, the Act calls for the Board to consider evidence and give weight to factors as it, solely in the exercise of its discretion, finds to be in the furtherance of the Act's objectives based upon all of the evidence in the evidentiary record before the Board. It is upon this basis that the Board approves and denies the license applications now before it.

After reviewing the entire evidentiary record for each of the five (5) applicants, the Board has determined that **HSP, Sugarhouse and Philadelphia Entertainment and Development Partners, Foxwoods**, represent the best fit following a complete review of all applicants for Category 2 licensure in the City of Philadelphia. In reaching this conclusion, the Board has examined and weighed the various factors cited above. However, there were several factors that, in the Board's opinion, made HSP and Philadelphia Entertainment's projects stand out above the remaining applicants.

First, both HSP and Philadelphia Entertainment are located on the riverfront and have excellent design plans for their facilities. Neither have riparian rights issues because if they are not successful in securing riparian rights<sup>8</sup>, they both have alternate plans to build quality facilities without the need for these rights. The synergy provided by the riverfront locations and the proximity to Center City and the downtown Philadelphia area were positive factors.

Second, the location of each facility, as it relates to the other, creates the most advantageous locations. Both locations are largely separated from primary residential areas by Interstate 95 and it is anticipated that a significant amount of the patrons coming to the casinos will use Interstate 95 to access the sites. In addition, siting one location on the North Delaware Avenue corridor and the other location farther south and below the Ben Franklin Bridge, will spread out the patron traffic and avoid the traffic congestion that having two sites located close together would invariable bring to Philadelphia.

Additionally, HSP has the least community opposition voiced to the Board concerning its proposed project, HSP plans to have an interim facility that will be in operation within twelve (12) months of licensure, its partners have experience in the gaming industry, and HSP has made a significant commitment to the community. Philadelphia Entertainment has a strong partner in Foxwoods, an investment grade business with years of experience in the gaming industry, in has diversity in its ownership and at least forty-two percent (42%) of the profits will flow to irrevocable charitable trusts to be used for charitable purposes in the Philadelphia area. Finally,

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<sup>8</sup> The Board recognizes that similar questions regarding riparian rights existed for the other river front applicants.

neither HSP nor Philadelphia Entertainment has ties to any casino properties in Atlantic City, New Jersey which could provide competition to lure customers to another site.

While all the factors set forth in the Act were examined and considered by the Board when reaching its decision to award HSP and Philadelphia Entertainment the available slot machine licenses, these were factors which made these two projects stand out in the crowd. The following discussion sets forth a more detailed analysis of these factors and the weight given the evidence relating to the factors by the Board.

**A. Location and Traffic**

**Location**

The Philadelphia projects present five casino projects in three general locations: (1) HSP/Sugarhouse, Pinnacle/PNK and Riverwalk, located East of Route 95, north of the Benjamin Franklin Bridge, and between North Columbus Blvd/North Delaware Avenue and the Delaware River (referred to as the “North Delaware Avenue” location); (2) Philadelphia Entertainment Development Partners’ Foxwoods’ site, located East of Route 95 between South Columbus Boulevard and the Delaware River in South Philadelphia (referred to as the “Foxwoods” location); and (3) Keystone Redevelopment Partners’ TrumpStreet site located in North Philadelphia East of the Schuylkill River and just off Route 1 (referred to as the “TrumpStreet” location). Each of the three locations bring with it perceived advantages and disadvantages as testified to at length by each of the applicants during the final licensing hearings. The Board has considered the locations not as dispositive, but as influential, and as one of the many factors in its review of the projects, along with how that location may affect other criteria examined and considered.



Because there are three general locations, two of which are along the Delaware River, it is clear that at least one of the two casinos must be located along the River. In the Board's view, if the Board approved one of the North Delaware Avenue locations for a license, then the Board is constrained to eliminate the other two locations in the same general vicinity for reasons of traffic management as discussed below. In essence, while credible testimony was presented to establish that additional traffic associated with one casino along North Delaware Avenue could be adequately managed through mitigation and road improvement measures, the Board has not been presented with sufficient, credible evidence to permit the Board to find that the increased traffic associated with two casinos in the same general area could be adequately managed along the North Delaware Avenue corridor. Further, the distance between these sites is such that walking between them is not feasible. Therefore, additional traffic would be generated by patrons desiring to visit both. Accordingly, the Board finds that only one casino can be sited in the North Delaware Avenue area.

Subject to this limiting conclusion, the Board finds the North Delaware Avenue corridor and the Foxwoods location in South Philadelphia to be desirable locations for casino development. Both locations have significant advantages in that they are largely separated from primary residential areas by Interstate 95 and therefore should not have significant impacts on larger residential areas.<sup>9</sup> It also is anticipated that a significant amount of traffic to these locations will arrive via Interstate 95, providing just a short drive from the interstate to the casino properties.

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<sup>9</sup> The Board notes that Interstate 95 in the area of the Pinnacle project is an elevated roadway and therefore does not provide a buffer to the neighborhoods to the extent it does in other areas.

Also significant in the Board's opinion and to its decision is the Delaware River which flows past these two locations. The River-view properties provide an exciting yet tranquil setting for the building of a new industry in Pennsylvania, providing opportunities for the development along the river-front not only of casinos, but also of hotels with associated amenities which will spur other riverfront economic development. Further, as several proposals have demonstrated, the River can actually be incorporated into the proposals creating a synergy between the Delaware River, the waterfront properties and the City. Finally, the riverfront locations are each located to take advantage of their access to center-city Philadelphia, the convention center, hotels and other existing Philadelphia business and attractions in a way that provides easy access to a host of visitors and tourists for entertainment while staying in Philadelphia.

The location of Keystone's Trump Street proposal brings with it many questions related to the potential success of the operation. Located in an older, residential/commercial mixed use area of North Philadelphia and sandwiched between the Tioga, South West Germantown, Allegheny West and East Falls neighborhoods, and near areas economically depressed with decaying infrastructure and residential properties, Keystone's Trump Street proposal champions the location as one which can invigorate a depressed neighborhood bringing needed jobs and redevelopment. The Board sees this as a *Field of Dreams* scenario of "if you build it, they will come." Trump Street offers that if the casino is built, patrons will flock to the Trump Street casino with the effect of bringing millions of dollars which in turn will provide jobs to neighborhood residents who will spend their money to upgrade their neighborhoods and give reason for commercial business to reenter those same neighborhoods. The Board

does not find that the evidence supports this contention. The Board finds that Trump Street has not met its burden in demonstrating the project will support the economic stimulus suggested as the Board is not convinced by the evidence presented that all of that speculative redevelopment activity and benefit would occur as envisioned.

The Trump Street location also lacks a feature of the waterfront properties which the Board finds to be important to the siting of the HSP and Foxwoods casinos along the river front. The Board has found that the river front properties create a synergy between the Delaware River, the waterfront properties and their access to center-city Philadelphia and the other attractions located there. The Trump Street location, unlike those of HSP and Foxwoods, is lacking a similar synergy with the existing Philadelphia tourist and business and restaurant opportunities which are tried and proven draws for the City.

Further, the Board finds the building of a casino at the Trump Street location raises concerns in terms of the effects on the surrounding residential areas. That location is surrounded on all sides by residential areas which will bear some degree of the traffic associated from the casino as patrons traverse the various streets and highways to arrive at the site. In short, while the Board recognizes that this project brings with it hope for revitalization and jobs to that area, the Board also recognizes its duty to the Commonwealth as a whole in bringing casino sites to fruition which have the best chance for long-term success, economic development and other associated benefits and simply is not convinced that the Keystone Trump Street site is one of the best sites among those available to accomplish these goals.

## **Traffic**

The PGCB finds, based upon the record evidence, that traffic is a concern at all three general locations and with respect to all five properties. Traffic congestion is detrimental to a proposed casino since patrons may not attend the casino if access is difficult or results in substantial delays in arriving at the casino. Likewise, significant additional traffic congestion does not serve the public interest of those living in surrounding neighborhoods and commuters who use the surrounding road network for daily non-gaming uses.

### **i. North Delaware Avenue traffic**

With respect to all three proposals for the North Delaware Avenue area, the Board finds based upon the evidence presented that a number of traffic issues have been identified and a number of traffic mitigation measures proposed. The Board finds credible the evidence of Edwards & Kelcey that further analysis of this area should be conducted in order to achieve satisfactory traffic mitigation plans and also finds that traffic mitigation efforts can alleviate additional traffic in this area to accommodate increased traffic. It is incumbent upon the Board to insist that such measures be addressed through conditions to the license.

In addition, traffic management in the North Delaware Avenue area will rely, in part, on the planned Girard Avenue interchange improvement which is anticipated to be completed in the year 2012. The Girard Avenue Interchange will link Interstate 95 directly to Delaware Avenue and absorb a significant amount of casino traffic in this area. The Board acknowledges that the applicants all proposed opening a casino prior to the completion of that date and, therefore, there will be period of time in which traffic in

this area may be detoured or inconvenienced due to the construction. However, the Board finds that based upon the evidence, the projections of traffic and the projected opening dates of the final phases of the casino projects which will generate the largest patron visits, the Girard Avenue interchange when completed will provide another route for traffic exiting Interstate 95 to the North Delaware Avenue area, will assist in channeling traffic into the casino and will assist as a long-term solution to mitigate traffic congestion otherwise associated with the casino.

As stated with respect to the locus decision of the Board, the Board is very concerned about the prospect of siting two casinos in the North Delaware Avenue region because of detrimental effects of traffic as well as the impact that locating two casinos in close proximity would have on one neighborhood. Trip generation data provided by the applicants indicates that about 1615 to 1865 additional vehicles per hour during the projected peak hours would be expected in this area upon build-out of phase 1 of the casinos with 3,000 slot machines.<sup>10</sup> Of course, an increase to 5,000 machines and more amenities will increase the trip generation data. While the Board has no doubt, based upon the evidence presented, that this area can absorb the increased traffic associated with one casino project, the Board has not received evidence satisfying it that this same area can currently, or with the currently-proposed mitigation measures, absorb the impact of additional traffic from two casinos which would create approximately 3230 to 3730 additional vehicle trips per peak hour plus potentially more with further build-outs. Likewise, there has been no evidence presented to support a contention that the spill-over effect of that much traffic would not affect any residential areas near the casino sites.

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<sup>10</sup> The trip generation estimates, which the Board finds credible and relatively consistent were obtained from the traffic studies submitted by applicants HSP and PNK to the PGCB and placed on the Board's website for public access.

To take any other position and site two casinos in the same location would not be consistent with giving due concern to the public interest in this matter.

In addition, the evidence presented by the applicants leads to another traffic related issue. The three proposals, although each in the same general area, are far enough apart that patrons could not easily walk from one to another. Therefore, if two licenses were granted to the North Delaware Avenue location, a patron of one would likely have to drive to the other casino should that patron desire to visit both in one outing – thereby adding additional traffic between those facilities in a limited area.

**ii. Foxwoods site traffic**

The Board finds credible the testimony and report of Edwards & Kelcey that most of the traffic issues identified as of November 1, 2006 have been addressed systematically and thoroughly. Philadelphia Entertainment/Foxwoods has committed to address any remaining issues upon licensing through continued work with PennDOT and the City of Philadelphia. The Board finds credible the evidence produced by the respective traffic engineers that traffic in the Foxwoods area can be successfully mitigated not only for the benefit of Foxwoods’ patrons, but for the benefit of the surrounding community.

The Board recognizes the concerns of the South Philadelphia community related to increases in traffic associated with the Foxwoods project. However, as stated, the Board believes that the Interstate 95 buffer and access to the site along with the mitigation measures proposed will assist in alleviating current congestion. The Board was presented with credible testimony from Edwards & Kelcey engineer Cunningham that the mitigation measures proposed adequately address traffic and that “upon

completion of the mitigation measures that have been identified in their study, that we will not see an increase in the amount of delay in and around the roadway network in the study area.” See Philadelphia Entertainment’s final licensing hearing transcript (11/14/06) at p. 17. The Board has not been presented with evidence which it finds supports a contention that the traffic situation operating under remedial mitigation measures will overburden or cause significant concerns for the area.

**iii. Trump Street site traffic**

As demonstrated in the November 1, 2006, report of Edwards & Kelcey, most of the traffic issues surrounding the Trump Street location that can be addressed have been addressed systematically and thoroughly. While there are no traffic issues with this proposal in terms of whether casino traffic can be managed from Route 1 and at the Trump Street site, Trump Street’s location bordering and near residential neighborhoods, however, raises another traffic issue of concern to the Board. Specifically, as has been a concern of the public about this project, the Board is concerned about the effect traffic will have on the bordering residential neighborhood areas including further traffic congestion through a number of local intersections surrounding the proposed facility. The Board finds it significant that the Trump Street location does not have a large buffer from residential areas like the riverfront areas which have Interstate 95 running between the casino project sites and major residential neighborhoods. The Board finds credible evidence that various residential streets will be used to travel from other points in Philadelphia to the Trump Street site and that the increase in traffic from a casino would likely cause detrimental affects to the surrounding neighborhood in this respect.

It would be disingenuous to say that traffic associated with the casinos will have no impact on the surrounding areas and the Board does not suggest such. However, while every project would increase traffic in the vicinity of the casinos as a natural by-product of the patron-driven business, the Board finds based upon all of the evidence that the impact can best be managed and mitigated at the two Delaware River sites, which each have Interstate 95 as a buffer between the casino's and major residential areas. While we also believe that the Trump Street site could affect mitigation measures, the presence of additional residential traffic in that area still raises serious concerns in the Board's view of the Trump Street site.

**B. Quality of the Facility**

All five proposals for casinos and related-use facilities represent state-of-the-art architectural designs, all of which have their own unique nuances. Each project is phased into production with initial phases to gain operational status and income while work is expanded at the sites to build the permanent facilities. Even the permanent facilities have additions to come later depending on market conditions. While the Board is cognizant that all phases of development are not committed to and that later phases of the projects are market dependent, the Board looks to the overall proposals in this section as reflective of the quality of the facilities.

HSP/Sugarhouse provides a vibrant complex on a 22 acre peninsula extending into the Delaware River with a phased development including a proposed 500 room hotel and spa, event center, 4,250 parking spaces, 5,000 slot machines, a marina, water fountains, riverside sculpture garden and side-perimeter access for the public to the Delaware River. With entrances both off Delaware Avenue and from the river marina,



the HSP proposal takes full advantage of the Delaware River frontage to present a first class facility which would instill pride in any city.

Philadelphia Entertainment/Foxwoods' project located on a 16 acre parcel of property includes the phased development of 5,000 slot machines, a 500 room hotel and spa, condominiums, a 2,500 seat theater, 6,000 parking spaces and amenities. Like other riverfront projects, Foxwoods incorporates the riverfront and an entertainment complex built over Pier 60 which includes water-taxi access and day-use docks. The entrance from Columbus Boulevard presents a modern yet somewhat subdued appearance. However, the facility comes to life upon entering and the casino, located in the rear of the facility, is transformed into a bright, active entertainment destination.

Keystone's Trump Street project that would have been built on a 30.1 acre site which formerly, in part, was home of the Budd Manufacturing Company which manufactured the Zephyr Rail Cars, presents a modern upscale design of the former industrial site with rounded corners, glass and a spiraling tower jutting skyward and featuring 5,000 slot machines through 3 phases, a hotel and special events and performance center, a 3 screen cinema, restaurants, bars and retail shops.

The PNK casino promotes itself as connecting the community to the Delaware River and does just that. The casino project to be situated on a 33 acre parcel has the riverfront as its focus as the riverside of the structure forms a semi-circular form surrounding a large manmade pond which appears as a river inlet but actually is a separate body of water which turns into an ice-skating rink in the winter and a dramatic water fountain and reflecting pool in the summer. The entire project through 3 phases includes up to 5,000 slot machines, restaurants, bars and entertainment centers, a 12 to

14 screen theater, 5,000 parking spaces and significant retail space. In addition, a 500 room hotel tower and a residential/commercial tower is incorporated into the master plan. Access to the casino is also available through a small marina built on the PNK site along the Delaware River.

The Riverwalk project provides a clean classic stone and glass three level structure with a seven-story parking garage, and river promenade to the sides and rear of the property providing public walking access to the Delaware River. The architectural design provides ample views of the river, the surrounding walkway and the nearby Benjamin Franklin Bridge from the restaurant and terrace dining areas, as well as a 400 seat entertainment venue, retail shops and a television studio. Through all phases, the structure will accommodate up to 5,000 slot machines with first class finishing touches. The size of the Riverwalk parcel of property presents an area of concern for the Board. At just 11.5 acres, the Riverwalk site is the smallest property for casino development in Philadelphia and provides for a comparatively very compact project. In terms of potential and flexibility for development, Riverwalk's restricted area provides the least advantageous property for consideration in the Board's view.

Additionally, the Board finds that one very desirable quality of the riverfront properties is direct access to and from the Delaware River which promotes a synergy between the Delaware River and the City waterfront properties. Direct access from Delaware River is incorporated into the projects of PNK, HSP/Sugarhouse and Philadelphia Entertainment/Foxwoods<sup>11</sup>. The Riverwalk facility does not propose a marina or other access from boating traffic, but does provide walking access to the river

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<sup>11</sup> The Foxwoods' proposal presented two alternate scenarios for development of the waterfront depending on whether it acquires riparian rights or not. Thus, should one plan not come to being, the alternative scenario demonstrates planning to incorporate a waterfront entertainment destination into the plan.

for the public. During its hearing, Riverwalk provided what in the Board's opinion was uncertain testimony as to whether it even had riparian rights at that site which would permit access from the river.

The "quality of the facility" factor is one hard to quantify in any objective formulation. As stated, each facility is unique and possesses state of the art design techniques. In some respects, all of the projects are the same or similar in that a similar number of slot machines will be housed within, parking garages will be incorporated and restaurants and bars will serve patrons very similar drinks and foods. The Board reviewed all aspects of the architectural presentations and plans of all facilities and after careful consideration and evaluation has formed its choices that HSP and Philadelphia Entertainment/Foxwoods proposed the best facilities for the Philadelphia area.

Given the five choices, the Board finds two proposals to be of a similar quality which the Board finds should define the new casino industry and gaming establishments in Philadelphia. Those two proposals are HSP/Sugarhouse and Philadelphia Entertainment/Foxwoods. In the Board's opinion having weighed the record evidence, these two proposals capture the essence of what the Board finds to be right for Philadelphia – the development of the Delaware Riverfront in a manner taking advantage of sweeping views, easy access from a major interstate and the river, all in an atmosphere of upscale grandness.

### **C. Potential for New Job Creation and Economic Development**

One of the objectives of the Act is to provide a significant new source of revenue to the Commonwealth to support property tax relief, wage tax reduction, economic development opportunities and other similar initiatives. 4 Pa.C.S. §1102(3). The Act

also provides that the Board may consider the potential for new job creation and economic development which result from granting a license to an applicant. 4 Pa.C.S. §1325(C)(2).

**i. Revenue generation**

Evidence produced during the hearing process demonstrated to the Board's satisfaction that the five proposals were relatively consistent in terms of the amount of revenue which would be realized once the casinos were developed and operating at capacity. This is of concern to the Board because the success of the applicants in generating revenues is directly related to the economic benefit to the Commonwealth through the receipt of tax revenues for the benefit of Pennsylvania citizens. The Financial Suitability Task Force projected HSP/Sugarhouse; Keystone; PNK and Philadelphia Entertainment/Foxwoods at \$310.8 million at 3,000 machines or \$284 win per unit in a stabilized year and Riverwalk had estimated annual revenues of \$418.1 million at 5,000 machines or \$229 win position per unit in a stabilized year based upon those applicants proposed 5,000 slot machines. The applicants' own projections were HSP/Sugarhouse: \$320.3 million annually and \$292 win per unit; Keystone: \$399.4 million annually and \$365 win per unit; PNK: \$338.7 million annually and \$309 win per unit; Philadelphia Entertainment/Foxwoods: \$338 million annually and \$309 win per unit; and Riverwalk: \$378.1 million annually and \$207 win per unit.

At first glance based upon the Task Force estimates, it appears that Riverwalk will be more profitable than the other casinos. Based upon an examination of the evidentiary records, the Board finds there is no significant difference in the revenue estimates. Riverwalk's revenue generation estimates were based upon an assumption

that 5,000 machines would be operational by the stabilized year. The number of machines is based upon that number for which financing was in place at the time of the hearing. The other casino applicants' projections were based upon 3,000 machines because that is the number of machines in the committed-to phases of the building projects. Each of those applicants provided credible testimony that they would proceed to their subsequent expansion phase and increase up to 5,000 machines with Board approval if the market supports that expansion. Even Riverwalk could not unilaterally expand from 3,000 to 5,000 machines without Board approval. The Board must approve that expansion based upon factors which can include the potential benefit to economic development, employment and tourism, enhanced revenues to the Commonwealth and other economic indicators it deems applicable in making its decision. *See* 4 Pa.C.S. §1210. Thus, the expansion for any applicant would be conditioned on the economic viability of the expansion as determined by the Board. Although they have the financing in place, if Riverwalk did not show usage and economic activity sufficient to support 2,000 additional machines, the Board would not be obligated to permit the expansion. Likewise, if another casino demonstrated that 3,000 machines were utilized to such an extent that expansion was warranted, then market conditions would warrant an expansion for their facility as well. In sum, market conditions will dictate the number of machines over the 3,000 threshold number at any of the properties. This was illustrated by testimony that more machines do not necessarily translate to more revenues if the market demand is not present for the additional machines. Rather, a supply/demand balance must be achieved so that enough machines are present to fulfill the public's demand.

Otherwise, the economic benefits to the operator suffer which could ultimately affect the benefits to the Commonwealth.

Keystone, recognizing as did all applicants, that one casino must be placed along the Delaware River, introduced evidence in support of its proposal to support a contention that having one casino on the riverfront and one (the Trump Street casino) in North Philadelphia would create more revenue for the Commonwealth. The thought underlying this theory is that two casinos in the same vicinity will pull patrons from the same close market area whereas the Trump Street site would complement the Delaware River site and actually expand the geographic area from which the majority of patrons for Philadelphia casinos would arrive, thereby increasing the number of overall patrons in the immediate geographical market. Trump Street submits that there are as many as 2.2 million more people in the geographic market if the two casinos are separated than if the two casinos are both on the Delaware River.<sup>12</sup>

Trump Street's argument does have a certain theoretical appeal ... if the casinos and locations were equal and comparable. As discussed above, however, the Board finds based upon the evidence presented that the Trump Street location is not equal to the riverfront locations in terms of the desirability of its own location and the surrounding neighborhood factors. Therefore, the Board is not convinced that the revenue generated under this scenario would be greater by having Trump Street licensed than if there are two casinos on the river.<sup>13</sup>

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<sup>12</sup> The Board notes that the Task Force projections did not find a difference in the revenue estimates based upon the Trump location being different from the riverfront.

<sup>13</sup> Keystone Redevelopment Partners also asserted that Trump Street would benefit from the "Trump" name which is widely recognized. In light of the concerns about location, the Board is not convinced that the "Trump" name would overcome the significant disadvantages of the site location as outlined in this discussion.

**ii. Creation of jobs**

The Board finds credible evidence that each of the proposed projects would create new jobs and economic development. Of course, the extent of the new jobs or economic development is also related to the size and scope of the project and the amenities provided. Whether the scope and use of those amenities are fully realized leading to the fulfillment of the projected job numbers is speculative based upon the development of subsequent phases of the properties and the success of the facility and amenities.

Likewise, each applicant represents that they are firmly committed to hiring a substantial percentage of their employees from the local employment markets. The Board does not find any credible evidence that there appears to be any appreciable difference between the applicants in this regard.

**iii. Economic development**

The Board also finds that each of the proposals will bring economic development to their respective locales. The size and scope of the applicants' economic commitments to the initial phases of their projects being substantially similar, ranging from \$495 million for Riverwalk to \$525.6 million for Foxwoods.<sup>14</sup> Undoubtedly, any and all of these projects would provide a significant economic boost to the Philadelphia labor market beginning with the construction phase and proceeding through opening. Likewise, each applicant provided substantial evidence that its respective project would generate additional spin-off jobs based upon the need for additional restaurants in the communities as well as to provide goods and services to those employed by the

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<sup>14</sup> PNK did not provide a definite estimate of the project cost, but instead provided a range of costs which are thought to be within this approximate range based upon the information which was provided.

construction and casino trades. Thus, the Board clearly finds that economic development both at the casino sites and in the nearby communities will be greatly enhanced by the grant of a license. Except as expressed concerns about the Trump Street site, the Board is unable to find that this economic benefit will be of greater significant in any one location however and, therefore, does not credit any project with a superior edge over the others in this regard.

The Board does find that, based upon the evidence, Pinnacle, PNK's parent company, has engaged in a rapid expansion of its gaming positions since 2000 throughout the United States, as well as in South America and the Bahamas, to gain a strong position in a national network of premium gaming facilities and entertainment properties. The evidentiary record establishes that Pinnacle currently has several large development projects pending in various stages of design or completion. The expansion projects of Pinnacle, while a symbol of its success, also bring with it concerns of the Board. Because Pinnacle is engaged in a number of other gaming acquisitions, expansions and building projects elsewhere, the Board questions whether the resources are present to provide the Philadelphia project with the degree of attention that other applicants who are not engaged in as much development elsewhere could bring to the Philadelphia market and whether Pinnacle would focus greater efforts at other properties which may be more capital intensive or profitable than the Philadelphia location. While the Board has not determined that Pinnacle lacks the ability to construct and operate the property, in a comparative setting such as present for the award of these licenses, this is a factor weighed by the Board in its consideration of the economic development factor.



The Board also notes that evidence was provided that Foxwoods possesses an investment grade bond rating and is not engaging in the development of new properties which will be competing against the Philadelphia site. The Board finds that this information is reflective of the financial strength of the company and supports the likelihood that Foxwoods has the ability to follow through on its commitments and promises. Foxwoods brings a history of strong management experience as evidenced by its Foxwoods' Connecticut property with 7,400 slot machines and 350 table games and other amenities, and which not only has developed into a major tourist destination and gaming spot in the Northeast, but has become the largest gaming resort in the world, hosting more than 45,000 visitors per day. The Board finds that Foxwoods' financial strength combined with its tremendous success in Foxwoods-Connecticut is a factor weighing in favor of Philadelphia Entertainment/ Foxwoods' economic development benefits in Philadelphia.

**iv. Atlantic City competition**

Throughout the final hearing process, some Philadelphia applicants presented evidence and answered questions of the Board concerning competition of Atlantic City casinos and cross marketing given the proximity of Atlantic City to Philadelphia. Specifically, one concern raised was whether, if a casino operator in Philadelphia also owned a casino in Atlantic City, would that operator use the Philadelphia market to gain patrons who would then be diverted to the Atlantic City property through promotional marketing in order to gain advantage of the lower tax rate for the casino in Atlantic City. In other words, the operator will obtain more profit from the same dollar gambled in

Atlantic City than it will in Pennsylvania because of the much higher tax rate which the operator must pay here.

The evidentiary record establishes that Keystone's parent company, Trump Resorts, owns three Atlantic City casinos and that PNK's parent company, Pinnacle, has recently purchased the former Sands property in Atlantic City for development of a casino. HSP/Sugarhouse, Riverwalk and Philadelphia Entertainment/Foxwoods do not own or control any Atlantic City properties. The Board has considered the fact of competing Atlantic City properties as a negative factor for licensure in Philadelphia. While the Board believes that each applicant desires to make a profit in Philadelphia if granted a license, the Board also is cognizant of its duty to license casinos in Philadelphia which are in the best interests of the Commonwealth and Philadelphia. The Board finds it credible that owners of casinos in both locations may attempt to use the Philadelphia property as a gambling-incubator to gain new customers who will then be lured to its Atlantic City properties where it can earn a much larger profit on every dollar gambled. Likewise, the Board finds applicants without Atlantic City connections are more strongly motivated to compete directly against the Atlantic City competition because they have no interest in diverting patrons to the casino which has a better tax structure for the casino. Additionally, evidence has been introduced that the Trump Entertainment properties in Atlantic City have undergone bankruptcy reorganizations in order to rebuild and revitalize them. The Board believes this further supports its decision to choose other applicants who do not have other facilities so close to Philadelphia which may lure patrons to Atlantic City to assist in the rebuilding and revitalization of properties there. Therefore, the Board finds that licensing casinos in Philadelphia which do not have

common ownership with Atlantic City facilities are more likely to further the interests of the Commonwealth and the public which stands to benefit through increased revenues obtained by the Pennsylvania properties.

**v. Community and other commitments**

Each applicant made various commitments and promises to the communities served. These commitments typically are promises to provide funding for various projects or services in the communities and are factors which the Board can consider both in support of economic development, 4 Pa.C.S. §1325(c)(2), and to mitigate costs of meeting the increased demand for public health care, child care, public transportation, affordable housing and social services. 4 Pa.C.S. §1325(c)(9).

**HSP/Sugarhouse** commits to providing a charitable contribution each year to the Sugarhouse Foundation in an amount equal to 2½ percent of its annual pre-tax income up to an annual amount of \$3 million.

**Philadelphia Entertainment/Foxwoods** has committed to hiring and training local applicants to fill 955 of its new jobs at the facility, and to work with the Philadelphia Opportunities Industrialization Center and Community Self Empowerment Employment Programs for job training. They have committed to set up and fund a Special Services District to mitigate impacts to those impacted by the casino, but no firm funding arrangement is in place, to utilize union labor in the construction of the project, to fund the traffic improvements in Phase I and a fair share of the improvements proposed for Phase II, and to provide public access to the Delaware river at the Foxwoods location.

Finally and significantly, over 42% of the Foxwoods project is owned by Washington Philadelphia Community Charities, LP. Foxwoods, through the Washington Charities, commits that 42% of the profits of the Foxwoods Philadelphia project will be used for charitable purposes with priority given to charities whose mission is to assist the education and benefit of disadvantaged children. This amount is estimated to be approximately \$300 million over a ten year period.

**Keystone/Trump Street** has entered into a Community Benefits Agreement with the Tioga United and Allegheny West foundation which provides for an up-front \$2.5 million contribution to the Community Development Foundation (CDF), to annually pay between \$1 million and \$3.5 million to the CDF, to contribute \$1.5 million to fund school renovations, upgrades and scholarships, and to endeavor to fill and maintain 75% of its new jobs with impacted community residents and 90% of those jobs with Philadelphia residents.

**PNK/Pinnacle** has not made any binding commitments to fund any public or private entity if licensed. PNK has stated it advised local citizen groups that it intends to be a good corporate citizen including the participation in community and charitable involvement in the markets and communities it serves. However, when asked during the testimony of the November 15, 2006 final licensing hearing about community commitments, a PNK representative stated that community commitments are something you look at once you are open and profitable and then it is easier to put a number of it. *See* 11/15/06 Transcript at pp. 144-45. Thus, community commitments, contrary to some other applicants, did not exist in any quantifiable amount at the time of the hearing.

**Riverwalk** committed to establishing a foundation and an equity fund as vehicles for funding programs to benefit local charities, community organizations and business enterprises. The primary funding of these efforts comes from a commitment to donate 2.5% annually of Riverwalk's profits up to \$3 million per year and the Pennsylvania Partnership Group's commitment to irrevocably donate 20% of its net profits.<sup>15</sup> In addition, Riverwalk, in connection with its lease of its property from the Penn's Landing Corporation, represents it has made other community commitments including funding certain traffic study improvements, incremental costs of police protection as a result of Riverwalk's operations, costs of emergency services to support Riverwalk's operations, funding approximately \$2 million in fine arts improvements in conjunction with the Philadelphia Arts Commission, and funding a special services district entity to mitigate the adverse impact of Riverwalk's operations on the surrounding community.

The Board finds that while all community commitments are beneficial to the surrounding communities and neighborhoods, the community commitment of Philadelphia Entertainment/Foxwoods is unsurpassed by any other applicant and weighs greatly in favor of Foxwoods. The Board finds that the type of commitment made by Philadelphia Entertainment/Foxwoods to be an indicator that Foxwoods will be a substantial and beneficial addition to the Philadelphia community.

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<sup>15</sup> Given the proposed capitalization of Riverwalk Casino as provided in Riverwalk's application, the Board questions whether this commitment will be realized. Due to the subordinated nature of Pa Partnership Group's limited partnership interest, funds for the charitable contributions may not be available until the retirement of preferred equity interests, absent borrowing funds against future distribution. Evidence established that this could be a five year period. Thus, Riverwalk has not demonstrated to the Board's satisfaction by clear and convincing evidence that the funding commitment will produce timely benefits to the community in relation to the commitments of other applicants.

**D. Diversity Plans**

Each of the applicants has presented a good faith plan to recruit, train and upgrade diversity in all employment classifications. No evidence has been presented to suggest that any applicant does not have the required, good-faith diversity plan or that it has failed to support diversity in other business endeavors.

**E. History of Developing Tourism Facilities Ancillary To Gaming**

The five applicants each have varying degrees of success in developing tourism facilities ancillary to gaming.

**HSP/Sugarhouse**, as a new entity has not previously developed tourism facilities ancillary to gaming. Various principals of HSP, though, have extensive experience and histories of developing and managing tourism facilities. Principal Neil Bloom has been intimately involved in the development of casinos and a resort in the Niagara Falls region, as well as in real estate investment and development projects. Principal Daniel Keating has extensive experience in real estate development including construction of casino resort locations.

**Philadelphia Entertainment/Foxwoods**, through its Connecticut property has developed three resort hotels and is in the process of building a fourth, and has established entertainment and meeting venues at that site to provide amenities besides gaming. Additionally, with its American Indian heritage, the Mashantucket Pequot Tribal Nation has built a \$193 million Native American Museum and Research Center, and sponsors an annual Native American festival.

**Keystone/TrumpStreet** as a new entity has not previously developed tourism facilities ancillary to gaming. Various principals of Keystone, including Trump

Entertainment Resorts has developed or owns a number of tourist properties including three Atlantic City casinos.

**PNK/Pinnacle** maintains, and the records supports, that its various gaming properties provide a number of amenities including hotel and spa facilities, golf course and entertainment venues which make the Pinnacle gaming facilities actual tourist destinations and not simply gaming facilities.

**Riverwalk** is a new entity and therefore has no history of developing tourism ancillary to gaming. However, Robert Earl, a principal in BHM Gaming Opportunities (the general partner of the management company for Riverwalk) has extensive experience in developing tourism facilities around the world involving restaurant and show venues including the Hardrock Café and Planet Hollywood brands which are known as tourist attractions around the world.

**F. Record of Applicant in Meeting Community Commitments**

The record of the applicant in meeting community commitments to local agencies, community-based organizations and employees in other locations is a factor which the Board may consider in assessing and evaluating the applicants. 4 Pa. C.S. §1325 (c)(8).

**HSP/Sugarhouse** as a new entity having no prior existence has no prior history of meeting community commitments. HSP's principals have produced evidence of significant commitments, too voluminous to list, including to educational, social, civic and charitable organizations including well over \$20 million by the Bluhm family; by the Falls Management Company of which Neil Bloom is Chairman; by Robert Potamkin

which has through the Potamkin Foundation contributed over \$12 million to charitable causes; and by Daniel Keating, William Lamb, Peter DePaul and Richard Sprague.

**Philadelphia Entertainment/Foxwoods**, as a new entity, has no history of meeting community commitments. The Tribal Nation however, has a substantial history of providing for the community including \$1 million to a Connecticut library, \$10 million to the Smithsonian Institute, funds for a health clinic in Haiti, donations of \$750,000 to educational institutions, over \$500,000 annually for the United Way and other contributions for Special Olympics, Hurricane relief, and other charitable causes.

**Keystone/TrumpStreet** as a new entity has not met prior commitments. However, it has been the longstanding practice of Keystone's Trump affiliates in Atlantic City to donate excess food to the Atlantic City Rescue Mission and the Atlantic City Food Bank. In addition, the Trump organizations in Atlantic City are heavily involved with the United Way of Atlantic County, soliciting contributions of time and money from all levels of the organizations, and from the organizations themselves. In 2002, financial contributions reached their peak, totaling approximately \$710,000. Also, prior to the issuance of a riverboat license to Trump Indiana, Inc., another Trump affiliate of Keystone, a development agreement was negotiated and executed with the host community, Gary, Indiana. Under the Indiana development agreement, Trump Indiana, Inc. contributed approximately \$1 million in scholarships and endowments to local organizations.

**PNK/Pinnacle** has established its position as a good corporate citizen and supporter of the communities it serves. The Pinnacle brand has supported a variety of



community events and has supported hurricane disaster relief efforts as well as children, seniors, health and other charitable causes.

**Riverwalk** as a new entity has no history of meeting community commitments. Individuals who possess ownership stakes in the project do have significant histories of supporting communities and the education, social service and charities serving a variety of communities. Willie F. Johnson, C. Patrick McKoy, John Tipton, Dennis Cook, Robert Earl and Douglas P. Teitelbaum have established themselves as individuals who have not only given monetarily to educational institutions and funds, social service agencies but also have given their time to establish and support these programs.

#### **G. Potential Adverse Effects**

As stated above, traffic concerns are the primary identified adverse affect that each project will bring to Philadelphia. While increases in traffic cannot be avoided, their impact can be mitigated through roadway and intersection modifications. The assurance of such modifications will be addressed through conditions of the license consistent with the input of the traffic and planning engineers who provided input to the Board during the licensing review and hearing process.

The Board also recognizes potential adverse effects of gaming in terms of gambling addictions. This is an issue which will arise no matter who the licensee is or where the project is located. Therefore, the Board believes the most appropriate way to deal with this potential effect is through the strong enforcement of a compulsive gambling plan to be established and monitored by the Board through conditions of licensure.

Finally, in terms of potential adverse effects, the Board notes the nature and amount of public comment in support and in opposition to the proposed projects. Overall, the proportion of public support and opposition to the various projects was relatively constant between the properties although the amount of public comment in total was higher for Keystone/TrumpStreet and Philadelphia Entertainment/Foxwoods projects. The overall quantity of comment both oral and written was lower for the North Delaware Avenue area.

The Board notes that the opposition groups and individuals can be divided into two categories: those who oppose specific projects for identifiable reasons and those who simply oppose gaming on moral grounds. The concerns of the former groups are taken into account by the Board with respect to the specific concerns raised. As to the second group, *i.e.* those who simply oppose gaming, the Board is obligated to follow the mandates of the Act which directs the establishment of gaming facilities. The General Assembly has, through the enactment of the Pennsylvania Race Horse Development and Gaming Act, already established the policy in this Commonwealth that gaming establishments, as outlined in the Act, will be licensed. Included within this mandate is the establishment of two facilities in the city of first class, Philadelphia. The Board's duty is to award those two licenses to two applicants if it finds, in its sole discretion, that the applicants are eligible and suitable under the criteria of the Act. The Board will not and indeed cannot countermand the intent and will of the General Assembly by refusing to issue licenses based upon those who oppose the spirit of the validly enacted statute.

As to those members of the public who opposed specific projects for other specified reasons, the majority of reasons included the affects of traffic and the proximity

of the projects to neighborhoods. The Board cannot eliminate traffic and cannot avoid all impacts on the local neighborhoods. The Board finds, however, that those adverse effects can be minimized through roadway improvements and site selections which provide buffers from residential areas, while at the same time providing substantial benefits for the community in terms of jobs, infrastructure improvements and infusions of monies to social needs. This is the case with respect to the Foxwoods and Trump Street projects.<sup>16</sup> As noted above, the Board finds that Interstate 95 provides a buffer to the neighborhoods. Trump Street does not benefit from such an advantage with respect to separation from the neighborhoods. Likewise, the substantial community commitments of Foxwoods will provide tremendous benefit the neighborhood communities. In sum, the Board believes based upon the evidence presented that a balance can be achieved in which the benefits to the public obtained through the gaming industry will offset and compensate for any negative effects.

#### **H. Record of Applicant in Complying With Employment and Wage Laws**

The Board has not been presented with any credible evidence demonstrating any significant difference among the applicants with respect to the applicants' records regarding compliance with Federal, State and local discrimination, wage and hour, disability and occupational and environmental health and safety laws; State and local labor relations and employment laws, or the applicants' records in dealing with its employees and their representatives at other locations. *See* 4 Pa.C.S. §1325(10)(11). There being no evidence of record sufficient to establish that any one applicant is

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<sup>16</sup> This also applies to the other applicants but to a much lesser degree. Foxwoods and Trump Street, as the applicants generating the majority of public comment on the traffic issue are the focus of this discussion.

appreciably better as to this factor, the Board does not find that any applicant will fulfill the requirements of these laws in any substantial or appreciably better manner than any other applicant. Accordingly, this factor for consideration, while examined by the Board, does not lead the Board to find that one applicant is more suitable for licensure than another based upon these criteria.

#### **I. Other Matters**

The Board also notes that despite inquiry by the Board during the Riverwalk hearing, the Board did not received clarification to its satisfaction as to the ownership structure of Riverwalk or as to who had control of the Riverwalk project. Although the ownership structure appeared to be set up as 51% owned by local Philadelphians, many of whom are minorities, and 49% owned by BHM Gaming Opportunities, it was not clear to the Board that the group of Philadelphians actually had control over the Riverwalk project. In fact, testimony appeared to establish that the 49% owner actually had control over the project and that the 51% minority ownership did not have active control to the degree originally presented to the Board. *See* Riverwalk hearing transcript (11/13/06) at pp. 93-114. While there was minority ownership and purportedly to a 51% level, the evidence did not demonstrate that that ownership brought with it control as would be expected with a 51 % interests and therefore, the level of minority ownership does not differentiate this project from the minority passive investor ownership of other applicants. As indicated in the findings of fact above, the control over the day to day operations and many of the other decisions regarding the project was held by an executive committee which was controlled by BHM Gaming Opportunities. Because of this lack of clarity of ownership and control, the Board was not convinced

that Riverwalk was actually controlled by the Pennsylvania Partnership Group which was comprised of the individual Philadelphia owners which was the impression that was being conveyed with the 51% ownership interest.

### **CONCLUSION**

As stated, the decision to award the Category 2 license in Philadelphia was a difficult one. The decision was complicated by the fact that five applicants presented five solid proposals for licensure under the Act. The Board commends each applicant for presenting a proposal for consideration in a thorough and professional manner. Each applicant was found to be eligible and suitable under the guidelines of the Act. This meant that the Board was required to, and did, consider a multitude of factors related to the applicants and had to arrive at a decision in the exercise of its discretion as to which two of the five suitable applicants should receive the license.

Upon reviewing all of the factors in the act, the Board finds in its opinion that the HSP/Sugarhouse project possesses a superior location, site and design to build a first-class casino along the Delaware River-front. The Board further finds, in its opinion, that this proposal will best promote and serve the objectives of the Act. As stated above, the Board does not believe that the North Delaware Avenue area can currently support two casinos because of the attendant traffic which would occur with two casinos in that area. Therefore, although the Board also believes the Pinnacle Entertainment/PNK proposal also possessed many fine attributes, having selected the HSP/Sugarhouse project for license approval, the Board does not believe licensing any other sites in that North Delaware Avenue area to be in the best interests of the Commonwealth.

Between the two remaining sites, the Board believes, based upon its review of the evidence, that the Philadelphia Entertainment/Foxwoods proposal will also serve the objectives of the Act and should be granted a Category 2 license. The location of South Philadelphia, near the sports complexes and sufficiently separated from the North Delaware Avenue area, provides a location conducive to economic development and gaming without overburdening local services. Moreover, the Board finds that the history and successful management of Foxwoods Connecticut, which will be imported to the South Philadelphia project, will provide a tremendous boost to this project for the betterment of the Commonwealth.

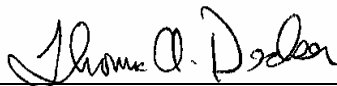
Based upon the findings of fact, conclusions of law and discussions set forth above, which are supported by the evidentiary record, the PGCB finds that **HSP/Sugarhouse** and **Philadelphia Entertainment and Development Partners/Foxwoods** have satisfied the requirements of 4 Pa.C.S. § Category 2 license, are eligible and suitable to receive a license and that it is in the best interest of the public and the Commonwealth that these two entities be granted the two available Category 2 slot machine licenses allocated by the General Assembly to Philadelphia, Pennsylvania, a city of the First Class, subject to the terms and conditions placed on the license by the PGCB.

The grant and issuance of this Category 2 license does not give either **HSP/Sugarhouse** or **Philadelphia Entertainment and Development Partners/Foxwoods** a property right and the PGCB may, at its discretion, revoke or suspend the license of **HSP/Sugarhouse** or **Philadelphia Entertainment and Development Partners/Foxwoods** if the PGCB finds that **HSP/Sugarhouse** or

**Philadelphia Entertainment and Development Partners/Foxwoods**, and their officers, employees or agents have not complied with the conditions of the license, the provisions in the Act, or the PGCB's regulations, and that it would be in the best interest of the public to revoke or suspend the slots license.

In light of the PGCB's decision to grant **HSP/Sugarhouse** and **Philadelphia Entertainment and Development Partners/Foxwoods** the two (2) Category 2 licenses allocated to Philadelphia, Pennsylvania, a City of the First Class, the applications for a Category 2 slot machine license by **Keystone Redevelopment Partners**, also known as **TrumpStreet; PNK, Pinnacle Entertainment** and **Riverwalk Casino** are hereby DENIED.

BY AND ON BEHALF OF THE PENNSYLVANIA  
GAMING CONTROL BOARD:



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THOMAS A. DECKER  
CHAIRMAN