

## **X.B.2 - Affirmative Action Plan**

### **Background and Plan Overview**

The proposed new Binghamton Gaming Facility is to be owned by a private business entity known as Traditions (“Traditions”) and managed by a subsidiary of Seneca Gaming Corporation, which an instrumentality of the Seneca Nation of Indians (“the Manager”). The purpose of this plan is to:

1. Identify specific goals for the engagement of women, minorities, veterans and disabled persons on construction of the Gaming Facility;
2. Identify specific goals for the engagement of women, minorities, veterans and disable persons in service and professional jobs when the Gaming Facility becomes operational; and
3. Identify specific measurable commitments for vendor and supplier participation in the construction and operation of the Gaming Facility and development of a Minority and Women’s small business monitoring program

In addition, this plan sets forth the systems and procedures that will be used to achieve specified goals.

As the construction and operational phases of the project are distinct in terms of the division of labor as between Traditions and the Manager, this plan is organized into three major parts: (1) Operations Workforce Employment (which is the responsibility of the Manager) and (2) Construction (which is the responsibility of Traditions); and (3) Post-Opening Purchasing of Good and Services (which is to be the responsibility of Traditions).

### **I. Operations Workforce Employment**

- A. Goals.** Once the new Gaming Facility is operational it will employ several thousand persons in most of the ten (10) EEOC job classifications, including but not limited to Professionals and Service Workers. The Manager is committed to diversity and equitable representation in all job classifications and the procedures hereafter described are intended to achieve that objective on a continuous basis. The Manager proposes to base its goals for minorities in these job classifications on the demographic statistics for the Binghamton Statistical Metropolitan area as revealed by the 2010 census:

African American	4.0%
Hispanic or Latino	3.0%
Asian	3.0%
Pacific Islander	.8%
Native American	.2%

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Goals for workforce participation by other protected class members will be as follows:

Women	40%
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These goals may be adjusted from time to time depending upon the availability of protected class persons in the local labor pool as revealed by operational experience.

With respect to veterans and disabled persons, the Manager will seek to maximize their participation in the operations workforce based on availability, qualifications and reasonable accommodations as more particularly detailed in sections I.A. 9. And 10. Below.

**B. Policies and Procedures to Achieve Goals.** Traditions Casino will employ a number of strategies to meet or exceed these goals on a continuing basis. Generally speaking these include recruitment and outreach, training, monitoring and enforcement, and fair treatment.

**1. RECRUITMENT AND SELECTION PROCEDURES**

The Chief Human Resources and the EEO/AA Officer will work closely together to ensure the development and application of personnel, hiring and recruitment policies and procedures that support and enhance utilization of all qualified individuals throughout all levels of the workforce without regard to race, creed, color, national origin, ancestry, affectional or sexual orientation, gender, age, marital status, nationality, atypical hereditary cellular blood trait, liability for service in the armed forces of the United States, disability (where reasonable accommodation may be made to allow for such disability without causing an undue hardship on the company) or rehabilitated offender status.

**2. NOTIFICATION TO RECRUITMENT SOURCES**

All postings, advertisements or other solicitations for employment including all newspaper, trade journal, and website advertising contains verbiage that states that Traditions Casino is an equal opportunity/affirmative action employer and that minorities, women, veterans and persons with disabilities are encouraged to apply. Employment advertising is done in media which reach a cross section of the population in the area from which the workforce will be drawn and are likely to be accessed by minorities, women, veterans and the disabled.

**3. JOB POSTING PROCESS**

All Job openings will be posted for three (3) days internally on the employee information bulletin board. Job openings are also posted in the Manager's

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Employment Office and for a minimum four (4) days externally via the internet on the Manager's website.

#### **4. DIVERSITY IN EMPLOYMENT POLICY STATEMENT**

Traditions Casino will provide all applicants and employees with equal opportunity in recruitment, selection, appointment, promotion, training, delegation, discipline and separation. Traditions Casino will foster a work environment that is fair and impartial in all of its relations with all persons, regardless of race, color, religious creed, age, sex, ancestry, sexual orientation, national origin, AIDS or HIV status or non-job related disability. Traditions Casino will make every effort to hire and promote minority group members, women, veterans and disabled persons in every level of employment and decision-making. Traditions Casino will make reasonable accommodations to meet the physical or mental limitation of qualified applicants or employees. Traditions Casino will not tolerate any type of harassment including sexual harassment and will take all steps necessary to prevent any and all harassment from occurring.

The diversity in employment policy statement shall be communicated as follows:

- a. To all newly hired employees at their initial orientation.
- b. Posting on employee bulletin boards.
- c. Annual distribution to all employees.
- d. Posted on the web site.
- e. Publication of a summary statement of the policy in all printed and Internet employment advertisements.
- f. Publication in the policies and procedures.
- g. Publication in the Manager's employee handbook.

#### **5. TRAINING AND UPWARD MOBILITY**

The proposed Manager of the new Gaming Facility currently operates a corporate Training Department within its Human Resources Dept. including career development training. This includes a multitude of classroom and on-line courses designed to enhance employees' skills and prepare them for upward career trajectory. These programs can be easily adapted to the new Gaming Facility. Minorities, women, veterans and the disabled will be encouraged to take advantage of these resources.

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### **6. INDIVIDUAL AND COLLECTIVE PLAN RESPONSIBILITIES**

The Diversity Committee will be responsible for the overall administration of the Plan and will be composed of the General Manager, Chief Human Resources Officer, General Counsel, and such other company representatives as may be appointed from time to time by the General Manager. The Committee will meet at least four (4) times per year. On an annual basis, the Committee will review and approve the diversity objectives presented by the Chief Human Resources officer. The day to day responsibility for administration of the Plan will be the responsibility of the Manager's Equal Employment Opportunity/ Affirmative Action Officer (EEO Officer), who will be an executive of at least the Director level and appointed by the Diversity Committee.

#### **a. Responsibilities of the EEO/AA Officer**

The authority of the EEO/AA Officer shall include, but not be limited to:

1. Review of all policies and procedures pertinent to employee recruitment, hiring, firing, retention and all other terms and conditions of employment and making recommendations to the Diversity Committee for any adjustments or revisions necessary to achieve equal employment opportunity goals.
2. Monitoring and reviewing hiring and termination decisions pertinent to protected class employees.
3. Compilation and analysis of workforce statistics, including but not limited to participation of women, minorities, veterans and persons with disabilities in all job classifications. The EEO/AA Officer will generate a monthly report setting forth the numbers and percentages of protected class persons employed in all EEOC job classifications. Such report will be reviewed with the Diversity Committee in order to detect and remedy deficiencies in goal achievement.
4. Assuring that reasonable accommodations for employees with disabilities are provided.
5. Receiving and investigating complaints of discrimination or employment practices inconsistent with the letter or spirit of this Plan and recommending to the Diversity Committee any remedial action indicated by such investigation.
6. Ensuring that employees are aware of and comply with the complaint process for violations of the Diversity in Employment

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b. **Responsibilities of the Chief Human Resources Officer**

The responsibilities of Traditions Casino's Chief Human Resources Officer shall include, but not be limited to:

1. Providing information to the Diversity Committee regarding the performance of management as it relates to the Diversity in Employment Program.
2. Reviewing job descriptions and performance standards on a continuing basis to ensure that valid job-related requirements and performance expectations are established.
3. Reviewing the selection methods and procedures used by all managers and supervisors in training employees to ensure that the principles of non-discrimination and equal employment opportunity are applied.
4. Analyzing disciplinary actions for possible discriminatory practices and sharing findings with the Diversity Committee.
5. Reviewing exit interview data to ascertain whether those leaving the company do so for non-discriminatory reasons and to take appropriate steps if discriminatory practices are identified.
6. Participating in recruitment efforts in order to achieve appropriate workforce representation.
7. Remaining current in equal employment laws, regulations, practices and procedures.
8. Ensuring that all employees in supervisory or managerial positions carry out their personnel duties in a fair and equitable manner.
9. Coordinating recruitment and selection activities for minorities, females, veterans and persons with disabilities.
10. Assuring that Diversity in Employment training is included in orientation for new employees.
11. Forwarding copies of discrimination complaints of any kind to the EEO/AA Officer for investigation.

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12. Establishing and reviewing selection methods and procedures used by all managers and supervisors in hiring and promoting employees to ensure that the principles of nondiscrimination and equal opportunity are applied.

c. **Responsibilities of all Employees in Managerial Positions**

The responsibilities of all employees in managerial positions include, but are not limited to:

1. Updating job descriptions for subordinates to assure they reflect only valid job requirements, and identifying essential duties.
2. Reviewing and revising position qualifications, if necessary, to accurately reflect job needs as positions become vacant.
3. Reviewing and assuring that nondiscriminatory selection criteria and methods are used in all hiring, promotions and training opportunities.
4. Disseminating to subordinates information on complaint procedures.
5. Creating and maintaining a work climate that is free of discrimination and harassment, including sexual harassment, for all employees.
6. Adhering to the prohibition against retaliation when an employee has filed a complaint or assisted in the investigation of a complaint against any party.

d. **Responsibility of All Employees**

The responsibilities of all employees shall include, but are not limited to:

1. Adhering to the civil rights laws and policies of non-discrimination for all persons including co-workers, supervisors and subordinates.
2. Treating co-workers, supervisors and subordinates with respect and dignity regardless of race, color, religious creed, age, sex, ancestry, sexual orientation, national origin, AIDS or HIV status or disability.
3. Taking positive action to stop any discrimination or harassment by immediately reporting possible violations to the appropriate management staff and/or the EEO/AA Officer and by cooperating in any investigation of alleged instances of discrimination or

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harassment.

### **7. DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE**

To ensure that employees receive equal employment opportunities and work in an environment that is free from discrimination, Traditions Casino will establish the following process to resolve discrimination and harassment complaints:

Any individual who feels that he or she has been a victim of harassment or discrimination in any form by any manager, supervisor, co-worker, customer, client or any other person in connection with his or her employment should bring the problem immediately to the attention of their supervisor, Human Resources or the EE/AA Officer. If the complaint involves the employee's direct supervisor or someone in the employee's direct line of supervision, or if the employee is uncomfortable for any reason with discussing such matters with such persons, the employee may bypass these individuals and instead bring the matter to Human Resources or to the EEO/AA Officer. In addition, an employee who believes that he/she has been subject to unlawful discrimination may bypass the Fair Treatment/Board of Review procedure described at Tab #1.

Supervisors and managers should take each complaint of harassment/discrimination seriously and should not make judgments as to the validity or severity of any complaint. Each complaint brought to the attention of a supervisor/manager should be reported to the Human Resources Department immediately.

The EEO/AA Officer will investigate all allegations of discrimination or harassment in a prompt and confidential manner and will take appropriate corrective action when warranted. Any employee who is found, as a result of such an investigation, to have engaged in harassment or discrimination in violation of this policy will be subject to appropriate disciplinary action, up to and including termination of employment. Furthermore, retaliation in any form against an employee or applicant who exercises his or her right to make a complaint under this policy or who cooperates in the investigation of any such complaint is strictly prohibited, and will itself be cause for appropriate disciplinary action.

### **8. FAIR TREATMENT PROCEDURE**

To assure that employment related decisions are made based on legitimate business factors and are void of, among other things, considerations based on race, color, religious creed, age, sex, ancestry, sexual orientation, national origin, AIDS, or HIV status or disability, the Manager will implement a structured fair treatment procedure which is attached hereto as Tab #1.

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### **9. EMPLOYMENT OF THE DISABLED**

Traditions Casino will not discriminate against individuals with disabilities who are otherwise qualified to perform the job. Americans with Disabilities Act (ADA) compliance training is provided to all management and recruitment personnel. Any employee or prospective employee with a physical or mental impairment who requires accommodation is referred to the EEO/AA Officer for review. The EEO/AA Officer reviews the request and medical certification and engages the employee or prospective employee in the interactive process of finding an accommodation that is reasonable.

Traditions Casino is committed to compliance with all applicable rules and regulations governing equal employment opportunity for individuals with disabilities. Traditions Casino will use its established internal complaint review procedure to investigate all complaints. All external or formal complaints regarding employees or prospective employees with disabilities are forwarded to the EEO/AA Officer for response. All complaints, responses and resolutions are maintained on file in the EEO/AA Officer for a period of three years.

All rules and regulations contained in the Americans with Disabilities Act, The Family and Medical Leave Act, and the Equal Employment Opportunity guidelines are posted in the employment office and in designated employee break areas.

Specific policies and procedures governing employment of the disabled are attached hereto as Tab #2.

### **10. EMPLOYMENT OF VETERANS**

All job applicants will be encouraged to self-identify as veterans of U.S. military service. Traditions Casino will accept a copy of an applicant's DD Form 214 (or other suitable evidence) of the applicant's veteran status. Traditions Casino will avail itself of the following resources in order to meet its stated veteran employment goal:

1. The Human Resource Dept. will attempt to establish a relationship with the Binghamton Vet Center at 53 Chenango Street, Binghamton, New York, for the purpose of publicizing to the local veteran population the availability of employment opportunities. This center is operated under the U.S. Dept. of Veterans Affairs.
2. Traditions Casino will seek to participate in the New York State Dept. of Labor, Division of Veterans' Affairs' "Hire-A-Vet Credit". This program will permit access to veterans (including the disabled and unemployed) seeking employment opportunities so that we may pursue outreach and recruitment efforts as to those persons.

## **II. Construction**

- A. **Construction Contracting.** Traditions will select a general contractor or construction manager ("the Contractor") to oversee and coordinate construction of the new Gaming Facility. The Contractor, prior to being selected, must



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demonstrate a history of successful casino projects and of good faith efforts to engage minority, women, veterans and disabled business participation. Once selected, the Contractor will be responsible for the selection of subcontractors for the various components of the project, including but not limited to electrical, HVAC, concrete, structural steel, landscaping, and FF&E (furniture, fixtures and equipment). Traditions will require the Contractor, as one of its contractual obligations, to engage in good faith efforts to identify qualified and New York State certified Minority Businesses, to solicit bids from them and to equitably award subcontracts to them consistent with the project budget. In addition, the Contractor will be contractually required to provide to Traditions on a monthly basis a report detailing its efforts to solicit bids from Minority Businesses and its efforts to award subcontracts to such bidders.

### **B. Construction Workforce**

In addition to participation of Minority Businesses in the subcontracting process as described above, Traditions will require and monitor the employment of minorities, women, veterans and the disabled in the construction workforce. To this end, the Contractor will be contractually obligated to provide on a weekly basis a Project Workforce Report. The format of such report will be determined by Traditions but will include at a minimum for each employee of the Contractor or any subcontractor physically working on the job site:

- a. The name and EEO status (race, gender, veteran, disabled) of each employee;
- b. The job title of each employee;
- c. The number of hours worked by each employee.

Although Traditions anticipates that the Contractor's reports will be complete and accurate, Traditions reserves the right to on-site monitoring of the construction workforce in order to ensure the accuracy of the reports.

In addition, the Contractor will be required to advise all participating trade or labor unions that Traditions is an Equal Opportunity/Affirmative Action Employer and as such encourages participation of minorities, women, veterans and the disabled.

### **III. Minority/Women's Small Business Monitoring Program**

In preparation for the opening of the Gaming Facility and during the operation of it thereafter, the Gaming Facility will consume an estimated \$5million annually in goods

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and services. It is the policy of Traditions Casino to encourage contract opportunities for small businesses, including certified Minority and Women's Businesses. "Small Business" is defined in the Code of Federal Regulations (13 C.F.R. Part 121) and Traditions Casino hereby adopts said definition. Certification as a Minority or Women's Business is done through the New York State Contracting System (<http://ny.newnycontracts.com>) and Traditions Casino will accept current certifications issued through that System.

A. Purchasing Goals. Traditions Casino will set as its initial goal \$500,000 or 10 (ten) percent of its total annual spend for good and services as hereinafter defined to be spent with certified MWBE firms. Experience has shown that the following areas may present opportunities for Small Business/MWBE involvement:

1. Food and beverage
2. Facilities
3. Hotel
4. Retail
5. Office supplies
6. Information Technology (other than as described below as exempt)
7. Marketing and promotions
8. Print media

For purposes of attaining the stated goal, goods and services shall include all tangible products and services purchased through the Gaming Facility's purchasing system from outside goods or service providers, excepting however the following categories of good and services:

1. Consultants
2. Telecommunications services
3. Alcoholic beverages
4. Utilities
5. Gaming equipment and supplies
6. Entertainment
7. Subscriptions
8. Information Technology systems software and direct purchases from large manufacturers
9. Lease or purchase of real property
10. Management fees

B. Responsibility and Monitoring. In order to oversee attainment of the stated goal Traditions Casino will appoint a standing executive committee to be known as the Small Business Diversity Committee, which will be composed of senior executives of the following operational departments: Marketing; Player Development; Resort Operations; and Purchasing. In addition, the Equal Employment

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Opportunity/Affirmative Action Officer will sit as an *ex officio* member of the Committee. The Committee will have the authority to recommend to the property General Manager the implementation of affirmative action measures it determines necessary to achieve MWBE purchasing goal or the suspension of any practice which it determines are impeding achievement of such goal.

The Committee will meet quarterly (or more frequently if necessary) to review progress toward the attainment of the stated goal. At each meeting, the Director of Purchasing will present to the Committee spread sheets setting forth the identified certified MWBE's that have been set up in the purchasing system, and the year to date spend with such businesses as a percentage of total spend. In the event that such report reveals a shortfall in goal attainment, the Director of Purchasing will be called upon to explain the reasons(s) for such and to suggest strategies for correction of the shortfall. These strategies may include, without limitation, "sheltered" bids for targeted areas.

- C. Outreach. Traditions Casino's Purchasing Dept. will utilize as its primary resource the above referenced website of the New York State Contracting System. This site enables the user to search for certified MWBE firms by category of service and geographical location. Traditions anticipates that most of its purchases of goods and services will be done by competitive bid. In order to insure that the pool of bidders for any given contract includes certified MWBE firms, the Purchasing Dept. will consult the State Contracting System database for available MWBE firms and extend to them an opportunity to submit a bid. In addition, all requests for proposals ("RFP") are posted on Traditions Casino's website with a conspicuous notice that minority, women's, veteran owned small businesses are encouraged to submit proposals. Traditions Casino's Purchasing Dept. will also conduct at least one local "vendor fair" approximately six (6) months prior to opening of the Gaming Facility, at which vendors will be given the opportunity to meet and network with Purchasing Dept. Buyers and management. Similar fairs will be held at annually after opening. All advertisements for such fairs will conspicuously invite and encourage MWBS firms to attend and participate.