

# **CONTRACT FOR TWO-PART GAMING STUDY**

The Florida Senate and Florida House of Representatives (collectively, the "Florida Legislature") and Spectrum Gaming Group, LLC ("Contractor"), enter into this Contract for a Two-Part Gaming Study.

## **1. Contract Contents**

The following documents, which are attached as Composite Exhibit "A," are incorporated by reference and made a part of this contract:

- a. Invitation to Negotiate ITN #859, dated February 20, 2013, including addenda to the ITN;
- b. Written Questions and Answers, dated March 11, 2013;
- c. Contractor's Best and Final Offer, dated April 3, 2013; and
- d. Contractor's Invitation to Negotiate (ITN) 859 Technical and Cost Replies, Part I and Part II, including exhibits to the Replies.

## **2. Incorporation and Precedence**

In the event of a conflict between the provisions of the Florida Legislature's ITN, including addenda and any other provisions that may become a part of the contract, and the proposals submitted by the Contractor, the terms and conditions of the contract and the Florida Legislature's ITN shall take precedence and govern in the order specified in paragraph 1. In the event that an issue is addressed in the Contractor's Response that is not addressed in the ITN, no conflict language shall be deemed to occur.

## **3. Term of Contract**

This contract shall commence upon execution and shall terminate on May 2, 2014; provided, however, that the contract may be terminated at an earlier date as provided in paragraph 5 below. The Legislature and Contractor may continue the contract on terms mutually acceptable to the parties.

## **4. Scope of Services**

Contractor will perform a two-part study detailing gaming market information appropriate for use by the Florida Legislature as described in Sections 7.0 of the ITN and Contractor's Part I and Part II Technical Replies, which are incorporated by reference, subject to the following modifications:

- a. As requested by the Legislature and described in Contractor's Best and Final Offer, Contractor will not perform the geospatial statistical analysis described in Subsection 2(b) in Part II of the Two-Part Study (page 14 of the ITN) and the corresponding section of Contractor's Part II Technical Reply.

- b. Contractor will prepare a communication plan that provides for written progress reports and scheduled phone conferences no less frequently than once per month to address issues and questions.
- c. After completion of final reports, Contractor will provide up to three presentations to the Legislature, which may include committees or subcommittees of the House or Senate or joint meetings of these committees. Any travel costs associated with appearance for presentations shall be reimbursed as set forth in Section 6.

The Florida Legislature may issue written or oral instructions to clarify the foregoing Scope of Services. In no event shall Contractor accept any instructions, interpretations, or orders that would affect price, period of performance, or any other provision of this Contract except as provided in Section 22.

## **5. Termination**

This contract may be terminated by the Florida Legislature with 30 days advance written notice to Contractor. In the event the contract is terminated by notice from the Florida Legislature, Contractor will be paid for services provided through the date of termination as set forth in Section 6. Either the House or Senate may terminate its participation in this contract at any time by giving written notice to the other body of the Legislature and to the Contractor of its intent to terminate its participation. This contract shall survive and continue provided the non-terminating body of the Legislature agrees to continue the terms of the contract, including assuming sole responsibility of prospective payment for services provided by the Contractor.

## **6. Consideration and Payment**

As consideration for services rendered by Contractor, the Florida Legislature agrees to pay up to a maximum of \$345,435 for Part I of the Two-Part Gaming Study and \$43,410 for Part II of the Two-Part Gaming Study for a total maximum cost of \$388,845. Invoices for work completed may be submitted after the Legislature's acceptance of deliverables. The table below shows milestones, expected delivery dates, and the negotiated value of successful completion.

Deliverable	Date	Value
Detailed report specification and work plan for Part I.A.	May 1, 2013	\$40,000
Draft report for Part I.A.	June 3, 2013	\$60,000
Final report for Part I.A.	July 1, 2013	\$60,000
Detailed report specification and work plan for Part I.B.	August 1, 2013	\$60,000
Draft report for Part I.B.	September 2, 2013	\$60,000
Final report for Part I.B.	October 1, 2013	\$60,000
Detailed report specification and work plan for Part II.	August 1, 2013	\$10,000
Draft report for Part II.	September 2, 2013	\$15,000
Final report for Part II.	October 1, 2013	\$18,000
Conclusion of contract	May 2, 2014	\$5,845
Total		\$388,845

All invoicing and payments will be made in accordance with Policy 2.151, Joint Policies and Procedures of the Presiding Officers of the Florida Legislature. Payment will be made after



receipt of a correct invoice and approval by the Florida Legislature. Under no circumstances shall the Legislature be invoiced in excess of the amounts set forth in this paragraph.

With prior approval from the Florida Legislature, Contractor will be reimbursed for authorized travel and per diem expenses incurred as a result of this Contract. Reimbursement(s) will be in accordance with the travel guidelines set forth in Policy 2.13, Joint Policies and Procedures of the Presiding Officers of the Florida Legislature, and Section 112.061, Florida Statutes. Contractor must sign and submit "Form OLS-1 07/90" along with all applicable receipts.

The performance of the Florida Legislature under this Contract is subject to and contingent upon the availability of funds appropriated by and to the Legislature and applicable for the purpose of this Contract.

#### **7. Prohibition Against Assignment**

This Contract for Two-Part Gaming Study is to be provided by Spectrum Gaming Group and the entities described in its Technical Reply, Parts I and II. This Contract may not be assigned by the Contractor, in whole or in part. Contractor agrees that its performance of any other services during the term of this Contract shall not interfere with the faithful and timely performance of this Contract.

#### **8. Insurance**

The Contractor shall not commence any work in connection with an award until it has obtained all of the appropriate insurance coverage to adequately protect the Florida Legislature from any and all liability and property damage hazards which may result in the performance of an award. The Florida Legislature shall be exempt from, and in no way liable for, any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor providing such insurance. Upon request, the Contractor shall furnish the Florida Legislature an insurance certificate that will evidence that all of the appropriate coverages are fully in effect.

#### **9. Indemnification**

The Contractor shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the Florida Legislature and its officers, agents and employees from suits, actions, damages, and costs of every name and description, including attorney's fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by the Contractor, its agents, employees, partners or subcontractors; provided however, that the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the Florida Legislature.

The Contractor's obligations under the preceding paragraph with respect to any legal action are contingent upon the Florida Legislature giving the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at the Contractor's sole expense, and (3) assistance in defending the action at the Contractor's sole expense.

#### **10. Limitation of Contractor's Liability**

For all claims against the Contractor under this Contract, and regardless of the basis on which the claim is made, the Contractor's liability for direct damages shall be limited to the value of the Contract. No party shall be liable to the other for special, indirect, punitive, or consequential damages, including lost data or records even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The Florida Legislature may, in addition to other remedies available to it at law or in equity and upon notice to the Contractor, retain such monies from amounts due to the Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against it. The Florida Legislature may set off any liability or other obligation of the Contractor under the contract with the Florida Legislature.

#### **11. Waiver**

The Legislature shall not be deemed to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Florida Legislature. No delay or omission on the part of the Florida Legislature in exercising any rights or remedies shall operate as a waiver of such right or remedy or any other rights or remedies. A waiver on any one occasion shall not be construed as a bar or waiver of any right or remedy on future occasions.

#### **12. Lobbying Prohibited**

The Contractor will not represent any individual or entity before the Florida Legislature while this Contract is in effect.

#### **13. Conflict of Interest**

The Contractor will not provide services to any individual or entity who is a lobbyist or principal, as those terms are defined in section 11.045, Florida Statutes, and section 112.3215, Florida Statutes, while this contract is in effect.

#### **14. Choice of Forum and Law**

Any disputes between the Florida Legislature and the Contractor as to the application, meaning, or interpretation of any provisions of the contract shall be resolved in Leon County, Florida. This Contract and any conflict of laws issue shall be governed by the laws of the State of Florida.

#### **15. Authorization of Services and Designation of Contract Managers**

Contractor will render the services described above at the request of the President of the Senate or the President's designee, the Speaker of the Florida House of Representatives or the Speaker's designee, or the Contract Managers.

The Contract Manager on behalf of the Contractor is Michael Pollock, Managing Director Spectrum Gaming Group, 1201 New Road, Suite 308, Linwood, NJ 08221, (609)926-5100, [info@spectrumgaming.com](mailto:info@spectrumgaming.com). The Contract Manager on behalf of the Florida House of Representatives is Daniel Nordby, General Counsel, 422 The Capitol, Tallahassee, FL, 32399-1300, (850)717-5500, [Daniel.Nordby@myfloridahouse.gov](mailto:Daniel.Nordby@myfloridahouse.gov). The Contract Manager on behalf of



the Florida Senate is John Guthrie, Staff Director, Senate Committee on Gaming, 404 South Monroe Street, Tallahassee, FL, 32399-1100, (850)487-5811, [Guthrie.John@flsenate.gov](mailto:Guthrie.John@flsenate.gov).

#### **16. Substitutions of Personnel**

Any addition, deletion, substitution or change in role, responsibility, or time commitment of any person included by name in the ITN Response Project Plan shall be submitted in writing for approval or denial by the Contract Managers on behalf of the Florida Legislature at least seven days prior to the date that such proposed change is desired to take effect. All personnel shall be approved individually, unless the Florida Legislature's Contract Managers approve in writing the use of an organization or other corporate entity in its entirety.

#### **17. Independent Contractor**

In performing this contract, Contractor is acting as an independent contractor and not as an employee or agent of the Legislature and, therefore, is not entitled to fringe benefits normally provided by the Legislature to its employees, including without limitation retirement benefits, life insurance, disability insurance, health insurance, worker's compensation insurance, unemployment insurance, and group insurance. Contractor has no authority to assume or create any obligation or responsibility, express or implied, on behalf of, or in the name of the Legislature, or to bind the Legislature in any way.

#### **18. Notice**

All notices and other communications required or permitted to be given under this Contract other than routine operational communications must be in writing and must be hand delivered, or mailed via U.S. mail or express overnight courier with a reliable system for tracking delivery, or confirmed facsimile or electronic mail with a copy sent by another means to the Contract Managers. The effective date of any notice under this Agreement shall be the date of delivery or refusal of such notice, and not the date of mailing.

#### **19. Survival of Terms**

All terms of this Contract that should by their nature survive the termination of this Contract will survive.

#### **20. Other Conditions**

Contractor shall neither publish nor release to any third party any publication, news release, or other report concerning work done or information gained under this Contract without approval by the Florida Legislature through its Contract Managers, which approval will not unreasonably be withheld. All contacts by media concerning work done or information gained under this Contract shall be referred to the Florida Legislature's Contract Managers for response.

#### **21. Public Records**

Unless specifically exempted by law, all records made or received by the Contractor in conjunction with this contract are public records available for inspection by the public in accordance with the provisions of Article I, section 24, of the Florida Constitution and section 11.0431 of the Florida Statutes. If the Contractor receives a request for public records, the


Contractor shall notify the Contract Managers of the request and shall coordinate the production of records to the requestor. Refusal of the Contractor to allow public access to such records shall constitute grounds for termination of this Agreement.

In order to assure that records subject to any exemption are not disclosed, the Consultant agrees to notify the Contract Managers immediately upon being requested to disclose any documents or records in Consultant's possession or which relate to the subject matter of this Agreement. The Consultant shall not allow any inspection of or otherwise disclose any information found in said documents or records unless and until so directed by the Legislature.



## **22. Entire Contract**

This Contract together with the documents referenced above constitutes the entire contract of the parties and supersedes any prior contracts, agreements, or communications written or oral, related to the same subject matter. This Contract cannot be changed except in writing with the signature of all parties.

IN WITNESS WHEREOF this contract has been executed, effective April 12, 2013, by the Contractor; and on behalf of the Senate, by the President of the Florida Senate; and on behalf of the House, by the Speaker of the Florida House of Representatives.

  
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Michael Pollock, Managing Director  
Spectrum Gaming Group, LLC  
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Don Gaetz, President  
The Florida Senate  
\_\_\_\_\_  
Will Weatherford, Speaker  
The Florida House of Representatives

Approved for Legal Form and Sufficiency:

  
\_\_\_\_\_  
George T. Levesque, General Counsel  
The Florida Senate  
\_\_\_\_\_  
Daniel E. Nordby, General Counsel  
The Florida House of Representatives