



# **Mashpee Wampanoag Tribal Gaming Authority**

REQUEST FOR PROPOSAL

FOR

OWNER'S REPRESENTATIVE

Dated October 24, 2022

**Responses due by 5:00 PM ET on November 7, 2022**

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## Tribe – Brief Overview

The Mashpee Wampanoag Tribe (the “Tribe”), also known as the People of the First Light, has inhabited present day Massachusetts and Eastern Rhode Island for more than 12,000 years. After an arduous process lasting more than three decades, the Mashpee Wampanoag was re-acknowledged as a federally recognized tribe in 2007. In 2015, the federal government declared approximately 151 acres of land in Mashpee and 170 acres of land in Taunton as the Tribe’s initial reservation, on which the Tribe can exercise its full tribal sovereignty rights. The Mashpee tribe currently has approximately 2,900 enrolled citizens. for the City of Taunton in Southeastern Massachusetts, as well as our great state.

The Mashpee Wampanoag Tribe is administered by an 11-member Tribal council that governs the Tribe on a day-to-day basis. In addition, the Tribe has formed the Mashpee Wampanoag Tribal Gaming Authority (“Gaming Authority” or “Board of Directors”), a 5-member board to oversee the development and eventual operations of a proposed gaming facility to be known as the First Light Resort & Casino. “First Light” comes from the word Wampanoag or *Wopanaak*, meaning “People of the First Light.”

In its continuing efforts to build a portfolio of competitive business enterprises, the Tribe is seeking to expand its businesses that create economic development, prosperity and wealth for the Tribe, Tribal citizenry and surrounding region.

## Purpose Statement

The Gaming Authority is issuing this Request for Proposal (“RFP”) to seek proposals from qualified individuals or companies to act as the Owner’s Representative (“Firm”) to provide professional services relating to and within budget for development of a proposed gaming facility with accessory uses and associated back of house, as stated more fully in this RFP. The services sought include development consulting services and project management services during the pre-construction and construction phase. All respondents are encouraged to review each section of the following document carefully and respond in a timely manner to be considered for this project.

*All liability for costs incurred by any respondent to the RFP in preparing its proposal, expended during the selection process, or otherwise incurred prior to the receipt of an executed contract will be the responsibility of the respondent. The respondent’s proposal must remain valid and irrevocable for a period of not less than ninety (90) days after the deadline stated herein. By submitting a response to the Gaming Authority, each respondent acknowledges and agrees to this condition.*

## Scope of Services

The Owner's Representative will be responsible to provide exceptional project leadership, and their representation includes, but is not limited to: Construction Design, Construction Cost Estimates, Construction Management (including Sub-Contract Review and Selection, Pay Application Review, and Project Closeout), Project Cost Tracking, and Statutory, Regulatory, and Local Regulation Compliance (including Code Review and Mitigation). The Owner's Representative will seek timely guidance and direction from the Gaming Authority and shall report to the Gaming Authority on a timely basis. During all phases of the scope of work, the Owner's Representative shall manage all activities of the Project's Architect, Builder, contractors, subcontractors, inspectors, engineers and consultants. In addition, the Owner's Representative must consistently report progress to and obtain feedback from the Gaming Authority. It is contemplated the scope of work will include pre-development services prior to financing and post-financing activities through the construction phase and close out. The goal of the Owner's Representative is to improve project delivery time, control costs, and ensure quality by keeping multiple, interrelated project components in sync, on time and within budget.

The following Owner's Representative duties and tasks are required:

### **Pre-construction Phase**

***Because of the limited scope of this phase, please be aware that the Gaming Authority will be financially cautious with respect to fees paid in your proposal.***

1. Work with partners such as the Architect, Builder, Engineer, the Tribe, consultants, and legal counsel ("Project Team") to develop a detailed construction/Project budget.
2. Act as the Owner's representative, provide overall coordination between the Gaming Authority, Architect, Builder and their consultants, agencies having jurisdiction, and others, as necessary and related to the design of the Project.
3. Assist the Gaming Authority in making final decisions about the selection of General Contractor, design direction while ensuring alignment of design within budget, schedule, sustainability, project requirements, quality objectives, owner-furnished items, and scope.
4. Prepare or determine that a full Program of Facility Requirements has been prepared and approved by the Board of Directors.
5. Ensure all necessary permits, approvals and any regulatory requirements are known through coordination with the Architect, Builder, and all applicable regulatory entities.
6. Simultaneously, with above mentioned duties or tasks, and during the review and approval of the Program, develop a Total Project Budget ("Budget") covering all hard

and soft costs, taking into account the budget adjustments and contract progress and final payments, as well as non-construction related procurements along with contingency funds.

7. Simultaneously, with above mentioned duties or tasks, develop a Master Project Schedule (“Schedule”) for all major activities of all parties from the pre-design phase through occupancy.
8. Determine that the Program, Budget, and Schedule are compatible with one another. Assist the Gaming Authority in efficiently resolving any compatibility issues.
9. Provide overall coordination between the Gaming Authority, Architect, Builder and their consultants, agencies having jurisdiction, and other project team members to ensure the continuity and progress of the project.
10. Track and report schedule progress to the Board of Directors and the Project Team as a whole.
11. Throughout the design phases and construction, coordinate the approval process of all deliverables with all users and stakeholders for the Gaming Authority.
12. Review the final construction bid documents prepared by the Builders and Subs.
13. Attend pre-bid, bid opening, and post-bid meetings and assist in the evaluation of the bids received for construction.
14. Throughout the design phases, carry out cost analyses and cost control procedures with verification of the Builder’s estimates and quotes.
15. Track schedule adherence throughout the design and construction phases and advise the Gaming Authority and other parties on any necessary recovery scheduling.
16. Review the Builder’s insurance, performance, and payment bond submittals.
17. Recommend and assist with the issuance of a construction Notice to Proceed.

### **Construction Phase**

1. During the construction phase, act as the Owner’s representative in relation to the Builder’s contract as well as other consultants’ and specialists’ contracts being performed in connection with the project construction.
2. Participate in any pre-construction conferences or meetings that take place.
3. Attend construction progress meetings and pre-installation conferences.

4. Coordinate and manage inspections of work performed by the Architect, Builder, Engineer, and/or separately engaged inspectors as required.
5. Ensure all necessary permits and approvals have been obtained and any regulatory requirements are met through coordination with the Builder and with all applicable regulatory entities.
6. Review the Builder's weekly construction progress schedule and advise the Gaming Authority of any issues.
7. Review change requests, progress, and final payments to the Builder team, Engineer, vendors, or others as necessary that are associated with the design and construction of the Project.
8. Report Project progress to the Gaming Authority's contact on a regular basis and the Board of Directors on a scheduled basis.
9. Report any non-conforming work to the Gaming Authority contact.
10. Provide a monthly status report to the Gaming Authority,
11. Coordinate Gaming Authority's FF&E and systems work scope.
12. Review on behalf of the Gaming Authority all progress and final payments to the Architect, Builder, and Engineer along with any other vendors or providers of services and report progress and any pertinent information to the Gaming Authority.
13. Assist the Gaming Authority in closing out the various contracts and provide records for retention.

### **Estimating and Cost Management**

1. Analyze Construction Documents and specifications for the preparation of accurate time, cost, material, and labor estimates to assist the Developer and GC in developing accurate project construction costs.
2. Monitor and Enforce Procurement Policy to obtain local labor and materials.
3. Assess Cost Effectiveness and track actual costs relative to bids.
4. Participate in Value Engineering efforts.

## **Inspection**

1. Ensure necessary Plan Check and Inspection are conducted according to agreement obligations in our Compact.
2. Coordinate with GC, Architect, and applicable governmental agencies having jurisdiction to conduct necessary inspections.

## **Commissioning**

1. Ensure a complete outline of testing is performed with the acceptance criteria, documentation, and necessary training outlined.
2. Compile equipment/system operational information and maintenance schedules for use during hotel operations.

## **Requirements**

1. Response: Provide a clear response in whole to this RFP.
2. Communication, Input, and Reporting: Maintain, throughout the course of the Project, satisfactory and timely communication with the Project Team. The Owner's Representative will take direction from and seek input from the Board of Directors at appropriate times and intervals and will report to the Board of Directors throughout the term of any services provided in connection with the Project.
3. Confidentiality: Any and all reports, Project, and/or construction documents shall become the confidential and proprietary property of Tribe, and are not to be communicated, transferred, or given over to any individual, entity, or organization without the expressed written consent of the Tribe or their appointed representatives. The existence of this RFP and the response to it should also be kept confidential.
4. Implementation: The Owner's Representative is responsible for implementing and facilitating decisions necessary and agreed to in order to continue the progress of the Project to accomplish the overall objectives. The Owner's Representative shall work with the Project Team to ensure the timely completion of the Project and within the approved budget.

## **Compliance**

The Owner's Representative must adhere to any applicable tribal, federal, county, or state law applicable to the Project.

## Qualifications

1. Possess a minimum of five (5) years of experience in developing and constructing casino or have construction experience with similar type projects.
2. Possess a minimum of five (5) years of experience acting as an Owner's Representative for projects similar to the scope of Tribe's Project.
3. Able to prepare budgets and projections.
4. Able to read and interpret income statements and budgets.
5. Possess experience in business management, including understanding of GAAP principles.
6. Knowledge and understanding of tribal governments and tribal enterprises.
7. Knowledge and understanding of casino design and layout.

## Required Information

1. **Statement of Work:** Please provide demonstration of a clear understanding of the objective and scope of work directly relevant to the Owner's Representative position.
2. **Project Team:** Please provide a description of your company and provide a resume of each key team member involved in the project and a description of his/her role with regards to the Tribe's Project. Also, please state if any of the team members are Native American, and what Tribe he/she belongs to.
3. **Work Plan Summary:** Please provide an outline summarizing the proposal for the Project consisting of tasks involved in the Project. The task descriptions should be in sufficient depth to afford the Tribe a thorough understanding of the proposed scope of work. This should include a description of the performance measurement techniques, data sources, and analytical methods planned to be used in completing the task for the Project.
4. **Prior Experience:** Please submit a statement of all similar projects conducted, including any experience on casino construction and development. The projects should be identified and the name of the client shown, including the name, addresses, and phone number of the responsible official of the client company, the total cost of the project, and a description of your company's role in the project. This information will be considered confidential and shall not extend beyond the Tribe or its direct agents.
5. **References:** Please provide at least three references in which you have



successfully completed a project similar in scope to the Project. Please include the name of the responsible individual, his/her title and phone number, his/her company, and the associated project. This information will be considered confidential and shall not extend beyond the Tribe or its direct agents.

6. **Statement of Potential Conflicts of Interest:** The Owner's Representative must disclose any contracts, services rendered, relationships, circumstances, or interests between the firm, its consultants, or subcontractors and other clients that could pose any conflicts of interests, influence judgment, impair objectivity, or give the appearance of such conflicts. If there have been no such relationships, a statement to that effect is to be included in the proposal.
7. **Fee, Expense, and Construction Cost Analysis:** Please provide a fixed fee bid for the activities described in the Pre-development Phase prior to the close of financing. Also, please provide a fee bid for each of the remaining sections: (1) Pre-construction and (2) Construction Phase. Include in the description of fees and costs any projected expenses and any expense multipliers that will be applied.

It is requested that the fees for the work performed prior to the closing of financing be kept at as low of a price as possible, because the activities will be taking place prior to the securing of financing. Please describe any deferred payment options that may be available, which would allow the work performed prior to the closing of financing to be paid at closing of the financing.

8. **Time Estimates:** An estimated timeline indicating the total time required from date of commencement of the work until completion of the scope of work.
9. **Statement of Confidentiality:** During the course of the Project, the progress or preliminary findings of the Owner's Representative shall not be disclosed to any party other than the Tribe or its assigned representatives and all findings shall be treated as proprietary information.
10. **Incurring Costs:** All liability for costs incurred by any individual or firm in preparing their proposal, expended during the selection process, or otherwise incurred prior to the receipt of an executed contract will be borne by the individual or firm. Please include a statement acknowledging this liability in the proposal.
11. **Professional Licenses.** Please describe all current, applicable professional licenses.
12. **TERO Compliance Plan.** Owner's Representative must confirm understanding and compliance with 2012-ORD-001, Tribal Employment Rights Ordinance with Amendments adopted in 2014-ORD-003("TERO"), see Attachment 1, and by submitting draft TERO Compliance Plan, see Attachment 2, if applicable.

13. **Minority, Women-owned, Small Business.** If applicable, Owner's

Representative must demonstrate such status for consideration and include any data on minority participation.

14. **Suspension/Debarment:** Please indicate, by answering, if your company or any person associated therewith in the capacity of owner, partner, director, officer, or any position involving the administration of federal, state or tribal funds:
- a. Is currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal, state, or tribal entity.
  - b. Has been suspended, debarred, voluntarily excluded, or determined ineligible by any federal, state, or tribal agency within the past 5 years.
  - c. Has a proposed debarment pending; or has been indicted, convicted, or had a civil judgment rendered against it or them by a court of competent jurisdiction or entered into a settlement agreement in any matter involving fraud or official misconduct (or where fraud or misconduct was alleged with respect to a settlement agreement) within the past 5 years.

Not meeting any of the above conditions will not necessarily result in denial of an award, but will be considered. For any condition noted, indicate to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions, if applicable.

## Evaluation Criteria

All proposals received shall be subject to evaluation by the Gaming Authority, the Gaming Authority's legal counsel and other consultants, as necessary. The following areas of consideration will be among those used in making the selection:

1. **Understanding of the Tasks and Responsibilities:** This refers to the Owner's Representative's understanding of the Project objectives, and the nature and scope of the work involved.
2. **Owner's Representative's Qualifications:** This includes the demonstrated ability of the Owner's Representative to meet the terms and requirements of the RFP in a qualified and timely manner. The Owner's Representative should possess knowledge and background in accordance with the Scope of Work requirements.
3. **Soundness of Approach:** Emphasis here is on the techniques used, the sequence and relationships of major steps, the methods of performing the Project, and the thoroughness of task identification and development.
4. **Fees, Expenses, and Expense Multipliers:** This area will be weighed, but it will not be the sole determining factor. ***However, the Tribe encourages respondents to provide the most competitive but realistic pricing possible and to clearly identify how expenses, expense multipliers, and overhead are charged.***

5. Potential Conflicts of Interest / Independence: In order to ensure an independent Project and provide maximum credibility to the recommendations, proposals will not be accepted that could pose any conflicts of interests, influence judgment, impair objectivity, or give the appearance of such conflicts.
6. Native American Preference: In accordance with the TERO, see Attachment 1, preference in selection will be given to TERO certified, Tribally-owned companies.
7. Reference Checks: The Gaming Authority may consider current or past performance as determined by Reference Checks.
8. Background Check: The Gaming Authority may consider conducting a background check of the firm or principles, if found appropriate, and each respondent and its principles acknowledges and agrees to such background check and the supplying of any information requested by the Tribe to perform such background check.
9. Prior Tribal Experience: Priority in selection will be given to companies with past experience working with tribes.

## Rejection of Proposals

Any and all proposals received may be rejected by the Tribe during the selection process. Negotiations may be undertaken with the Owner's Representative whose price and other factors indicate that they are qualified, responsible, and capable of performing the work. Negotiations may be entered into separately with competing individuals or firms.

## Questions and Proposal Submission

To be considered, proposals must be received no later than 5:00 PM ET on Monday November 7, 2022.

Owner's Representatives must provide an electronic copy of their responses by emailing Board Secretary Cassie Jackson at [cassie.jackson@mwtribe-nsn.gov](mailto:cassie.jackson@mwtribe-nsn.gov). Please use the subject line: Owner's Representative RFP. Questions should also be directed to Rebekah Salguero, Esquire at [rsalguero@olp-partners.com](mailto:rsalguero@olp-partners.com). Questions may be asked until the submission date. Please email an intent to submit a proposal and an executed Non-Disclosure Agreement, See Attachment 3, within five (5) days of the receipt of this RFP to Rebekah Salguero.

## Interviews

Interviews, if any, will be conducted in person by the Gaming Authority and Project Team. All applicants should be prepared to attend an interview with one week's notice.