



**NOTICE OF MEETING and AGENDA
February 24, 2014**

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, notice is hereby given of a meeting of the Massachusetts Gaming Commission. The meeting will take place:

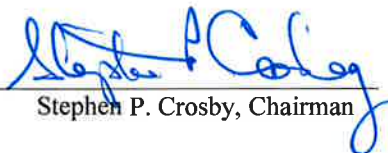
Monday, February 24, 2014
1:30 p.m.
Boston Convention and Exhibition Center
415 Summer Street, Room 104
Boston, MA

PUBLIC MEETING - #109

1. Call to order
2. Recommendation Regarding Review Consultant Contract
3. Scheduling – Region A Surrounding Community Meetings
4. Discussion – City of Boston Petition
5. Draft License Award with Conditions – Todd Grossman, Deputy General Counsel
6. Region B Impacted Live Entertainment Venue Petition – Eastern States Exposition
7. Other business – reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that on this date, this Notice was posted as “Gaming Commission Meeting” at www.massgaming.com and emailed to: regs@sec.state.ma.us, melissa.andrade@state.ma.us.

2/20/14
(date)


Stephen P. Crosby, Chairman

Date Posted to Website: February 20, 2014 at 1:30 p.m.



Massachusetts Gaming Commission



MASSACHUSETTS GAMING COMMISSION

MEMORANDUM

To: Chairman Crosby; Commissioners Cameron, McHugh, Stebbins and Zuniga
From: Catherine Blue
CC: Rick Day
Date: February 24, 2014
Re: Recommendation Regarding Consultant

The Commission employs various independent consultants to provide review services on the Category 1 and 2 surrounding community designations and RFA 2 application evaluations. Mohegan Sun, through their counsel recently alerted the Commission to a potential conflict of interest regarding one of the consultants, McFarland Johnson Inc. (“McFarland Johnson”).

McFarland Johnson was engaged after a competitive RFR process to provide, through its employees and through approved subcontractors, various review services in the areas of project design, energy efficiency, traffic analysis, and security. The alleged conflict of interest involves work by McFarland Johnson for a gaming applicant while under contract to the Commission. McFarland Johnson’s contract specifically prohibits work by a contractor for a gaming applicant while under contract with the Commission and requires McFarland Johnson to represent that they are not providing services to a gaming applicant during the term of the contract. The contract specifically provides, “The Commission is highly sensitive to the potential for conflicts of interest. The McFarland Johnson Team represents that it has no current or on-going work with a gaming operator or potential gaming operator in Massachusetts. Furthermore, the McFarland Johnson Team represents that it has severed its relationship with Mohegan Sun for the duration of this contract, or until December 31, 2014, whichever comes later.”

The Commission received written documentation from Mohegan Sun’s counsel regarding McFarland Johnson’s possible conflict of interest, received written documentation from McFarland Johnson, reviewed this information and discussed the matter with McFarland Johnson. After a complete review, the Legal Department believes that McFarland



Massachusetts Gaming Commission

Johnson has not complied with its representations and the terms of its contract with the Commission.

It is the Legal Department's recommendation that the Commission authorize staff to terminate the contract with McFarland Johnson immediately; that McFarland Johnson not receive payment for any work done under the contract to date and that staff take any further action deemed appropriate under the terms of the contract.



Massachusetts Gaming Commission

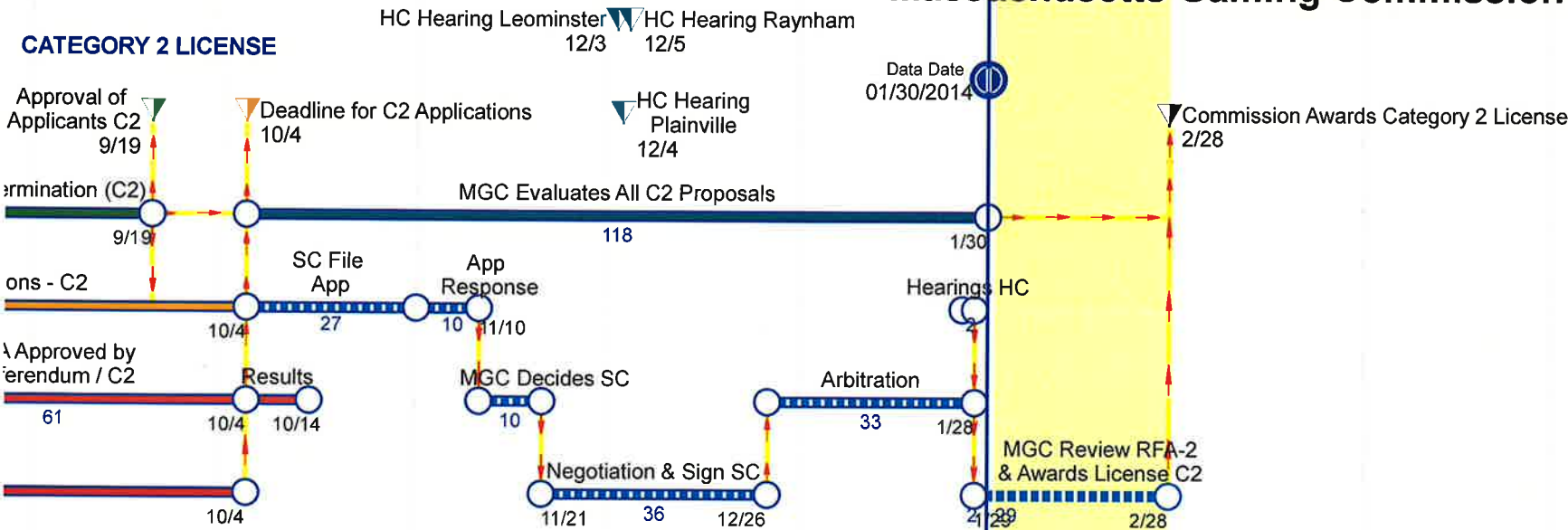
POTENTIAL CATEGORY 1 (Resort-Casino) Timeline / REGION A (Eastern Mass.)

LAST UPDATED: 02/21/2014

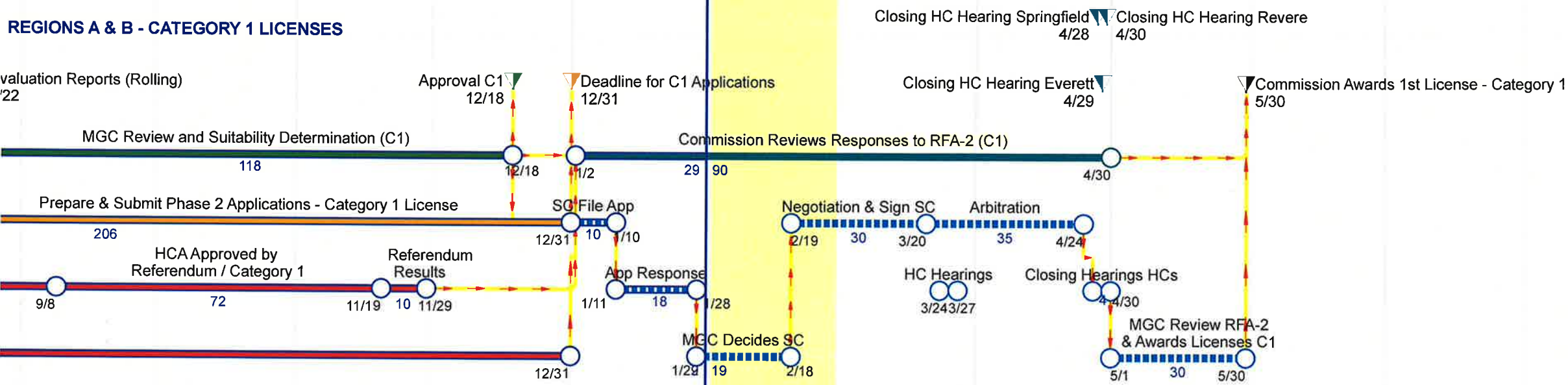
MEPA Close	ACTION
December 31, 2013	Category 1 Application Deadline
January 13, 2014	Deadline for Surrounding Community/Impacted Live Entertainment ("ILEV") Petitions to be submitted to MGC Deadline for Letters of Assent by Surrounding Communities Designated in an Application to be filed with MGC
January 22	Applicant 90 minute presentations on Category 1 Applications
January 23	Applicants may provide a response to Surrounding Community/ILEV Petitions to MGC
January 28-29	Presentations by Surrounding Community Petitioners/ILEV Petitioners and Applicants on petitions for designation
March 14	Anticipated Mohegan Sun MEPA Sun Certificate (Wynn issued February 21; Mohegan Sun Comments Due March 7)
March 20 (1st meeting after decision)	Decisions by Commission on Surrounding Community Petitions Written designation of Surrounding Communities that have assented to designations made in Category 1 Application
March 21	Beginning of 30-day statutory negotiation period
March 3-5	Public input hearings in Surrounding Communities
April 22	End of 30-day statutory negotiation period between Applicants and Surrounding Communities
April 23	Beginning of Binding Surrounding Community Arbitration Process
Before selecting an arbitrator	The parties must file with the Commission a notice of intent to commence arbitration.
April 29	Deadline for Selection of Arbitrator. If the parties cannot mutually select a single arbitrator, each party shall select one neutral, independent arbitrator who shall then mutually choose a third neutral, independent arbitrator. In the event that a third neutral, independent arbitrator is not selected, the Commission or its designee shall select the third neutral, independent arbitrator.
April 29	Deadline for Best and Final Offer. Each party submits its best and final offer for a Surrounding Community Agreement to the arbitrator and to the other party.
April 29-May 19	Arbitrations. The arbitrator(s) conducts any necessary proceedings.
May 19	Deadline for Arbitration report to be filed with Commission. The arbitrator(s) files with the Commission, and issue to the parties, a report specifying the terms of the Surrounding Community Agreement between the applicant and the community.
May 27	End of Surrounding Community Arbitrations. Either the parties sign a Surrounding Community Agreement and file it with the Commission, or the arbitrator's report shall be deemed to be the Surrounding Community Agreement between the parties
June 30	AWARD OF CATEGORY 1 LICENSES
July 30	License Payments Due

Massachusetts Gaming Commission / 2014-01-31 Licensing Schedule Update

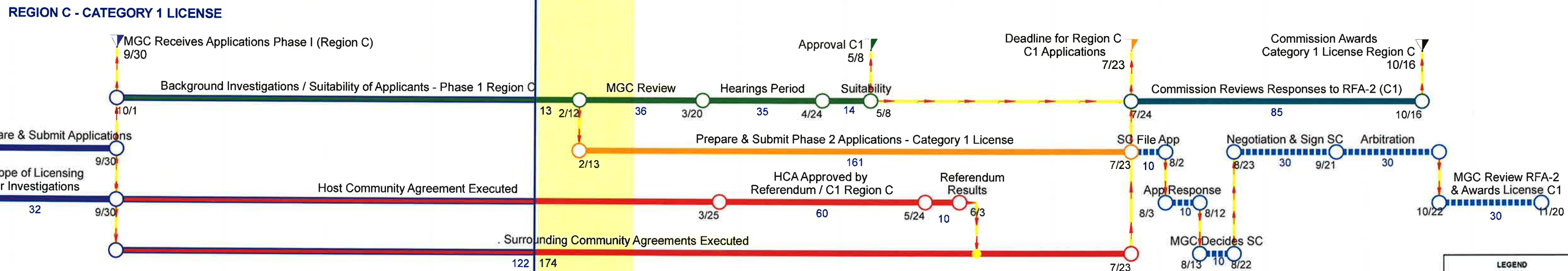
CATEGORY 2 LICENSE



REGIONS A & B - CATEGORY 1 LICENSES



REGION C - CATEGORY 1 LICENSE



LEGEND

- ACT DESCRIPTION (Start Date - End Date)
- SUMMARY ACTIVITY (Start Date - End Date)

POTENTIAL CATEGORY 1 (Resort-Casino) Timeline / REGION A (Eastern Mass.)

LAST UPDATED: 2.21.2014

Boston Request	ACTION
December 31, 2013	Category 1 Application Deadline
January 13, 2014	Deadline for Surrounding Community/Impacted Live Entertainment (“ILEV”) Petitions to be submitted to MGC Deadline for Letters of Assent by Surrounding Communities Designated in an Application to be filed with MGC
January 22	Applicant 90 minute presentations on Category 1 Applications
January 23	Applicants may provide a response to Surrounding Community/ILEV Petitions to MGC
January 28-29	Presentations by Surrounding Community Petitioners and Applicants on petitions for designation
March 14	Anticipated Mohegan Sun MEPA Sun Certificate (Wynn issued February 21; Mohegan Sun Comments Due March 7)
March 18	Decisions by Commission on Surrounding Community Petitions Written designation of Surrounding Communities that have assented to designations made in Category 1 Application
March 19	Beginning of 30-day statutory negotiation period
March 3-5	Public input hearings in Surrounding Communities
April 17	End of 30-day statutory negotiation period between Applicants and Surrounding Communities
April 18	Beginning of Binding Surrounding Community Arbitration Process
Before selecting an arbitrator	The parties must file with the Commission a notice of intent to commence arbitration.
April 25	Deadline for Selection of Arbitrator. If the parties cannot mutually select a single arbitrator, each party shall select one neutral, independent arbitrator who shall then mutually choose a third neutral, independent arbitrator. In the event that a third neutral, independent arbitrator is not selected, the Commission or its designee shall select the third neutral, independent arbitrator.
April 25	Deadline for Best and Final Offer. Each party submits its best and final offer for a Surrounding Community Agreement to the arbitrator and to the other party.
April 25-May 15	Arbitrations. The arbitrator(s) conducts any necessary proceedings.
May 15	Deadline for Arbitration report to be filed with Commission. The arbitrator(s) files with the Commission, and issue to the parties, a report specifying the terms of the Surrounding Community Agreement between the applicant and the community.
May 22	End of Surrounding Community Arbitrations. Either the parties sign a Surrounding Community Agreement and file it with the Commission, or the arbitrator’s report shall be deemed to be the Surrounding Community Agreement between the parties
June 27	AWARD OF CATEGORY 1 LICENSES
July 28	License Payments Due

Before the
MASSACHUSETTS GAMING COMMISSION

Petition of the City of Boston for an Emergency Hearing With Respect to Massachusetts Gaming Commission's Designation of the City of Boston as a Surrounding Community within Region A and With Respect to Other Matters in Connection With Mohegan Sun Massachusetts, LLC Application for a Category 1 License

I. INTRODUCTION

The purpose of this Petition is to request an emergency hearing before the Massachusetts Gaming Commission (the "Commission") on or before February 18, 2014, so that the City of Boston (the "City") may present its concerns and request that the Commission defer its designation of the City as a Surrounding Community within Region A for a minimum of an additional thirty (30) days until, March 18, 2014, granting the City an extension of time as previously requested. The City is forced to make this extraordinary request in this emergency manner because information that is critical to the City's evaluation of (a) what type of agreement the City is entering into, and (b) what the impacts of this development are, has not been assessed given that essential information is still in the process of being provided. Any designation by the Commission would unduly harm the City.

II. DISCUSSION

On December 31, 2013, Mohegan Sun Massachusetts, LLC ("MSM" or the "Applicant") filed a RFA-2 Application seeking a Category 1 License to authorize the development of a resort destination casino at the Suffolk Downs site with the Commission, and provided the City with two file boxes containing sections of such filing. On January 9, 2014, the City filed a request with the Commission asking for a further extension of the deadline for the filing of surrounding community petitions and designation assent letters as specified in 205 CMR 125.01 until February 10, 2014, for the reasons set forth in the City's letter request. See Attachment 1: City's Request for an Extension.

On January 10, 2014, the Commission denied the City's request, noting that the Commission's schedule did not allow for it to consider the City's request and recommended "that the City consider assenting to the designation of surrounding community status but reserving a right to claim host community status should the City deem it advisable to do so." See Attachment 2: Commission Denial. In its letter, the Commission further states, "if the City determines that it qualifies for host community status ... the City could notify the Commission." See Attachment 2: Commission Denial. The Commission's letter also noted "If you believe it is necessary to continue to request an extension, please notify us so that we can put the issue before the Commission at a future meeting." See Attachment 2: Commission Denial.

By a petition filed with the Commission on January 13, 2014 in accordance with the requirements of M.G.L. c. 23K and 205 CMR 1.00 et. seq. (the "Gaming Act") and with the direction provided by the Commission in its letter of January 10, 2014, the City petitioned for designation as a surrounding community, in order to preserve the interests of the City and its residents from the siting and development of a resort destination casino as proposed by MSM. The City did not waive its right to assert host community status. See Attachment 3: City's January 13, 2014 Petition. In its January 13, 2014 Petition, the City asked that the Commission: (i) reconsider its denial of the City's request for an extension; and (iv) compel MSM to cooperate fully with the City, providing any and all information requested by the City so that it may best evaluate its status as host or surrounding community and properly understand and evaluate the MSM Proposal in relation to the City. See Attachment 3: City's January 13, 2014 Petition.

The Commission has set February 18, 2014 as the date that it will designate those communities which have status as Surrounding Communities, and has set February 19, 2014 as the beginning of the thirty (30) day "statutory negotiation period" within which surrounding communities must enter into surrounding community agreements. If no agreement is reached within the "statutory negotiation period", the city or town will be subject to binding arbitration.

- A. The City requests an Emergency Hearing to express its concerns that the Commission deadline of February 18, 2014 for designation of the City as a surrounding community and thus beginning the thirty (30) day time period for negotiations is prejudicial to the City because the City is still trying to obtain relevant information and assessments from the Applicant.**

The interests of the Gaming Act, the Commission, the City and the public, are best served by a mitigated gaming development. At this juncture, the City is not able to properly assess status or mitigation because the Applicant has not provided enough information or analysis in order to do so. The Commission should not rush into a designation under these circumstances. If the Commission designates the City a surrounding community on February 18, 2014, it will greatly prejudice the City's rights pursuant to the Gaming Act.¹

The Commission's failure to grant this requested extension and its action to designate Boston as a Surrounding Community on February 18, 2014 would begin a statutorily mandated thirty (30) day negotiation period followed by binding arbitration to the extent that accord is not voluntarily reached within this 30 day period. The Commission must defer taking any action which would be prejudicial to the City and limit its rights and protections under the Gaming Act

1. The Commission's action is prejudicial to the City because the City is seeking and reviewing information and assessments from the Applicant regarding the impacts of the Applicant's proposed development.

The City still has not yet been able to obtain necessary relevant information regarding MSM's proposed resort destination casino on the Suffolk Downs property ("MSM Proposal"). See Attachment 1: City's Request for Extension and Attachment 3: City January 13, 2014

¹ See M.G.L. c. 23K, § 15: "No applicant shall be eligible to receive a gaming license unless the applicant meets the following criteria and clearly states as part of an application that the applicant shall...

(8) provide to the commission a signed agreement between the host community and the applicant setting forth the conditions to have a gaming establishment located within the host community; provided, however, that the agreement shall include a community impact fee for the host community and all stipulations of responsibilities between the host community and the applicant including stipulations of known impacts from the development and operation of a gaming establishment;

(9) provide to the commission signed agreements between the surrounding communities and the applicant setting forth the conditions to have a gaming establishment located in proximity to the surrounding communities and documentation of public outreach to those surrounding communities; provided, however, that the agreement shall include a community impact fee for each surrounding community and all stipulations of responsibilities between each surrounding community and the applicant, including stipulations of known impacts from the development and operation of a gaming establishment." M.G.L. c. 23K, § 15 (8)-(9).

Petition. By the Commission's own statements, MSM is a new proposal as of December, 2013.² MSM's proposal is new and the planned development and corresponding mitigation are still being developed. There has not yet been a meaningful opportunity to review the information which has been made available by MSM.

The information that has been shared, such as multiple filings on January 31, 2014, must be reviewed in detail by the City experts and will likely require additional information and clarification from MSM in order to assist the City in its assessment. There are ten (10) business days between MSM's January 31, 2014 filings and the Commission's selected date for designation of surrounding communities – this is a grossly inadequate amount of time for any sort of thoughtful review by the City.

On January 31, 2014, MSM filed a document with the Secretary of the Office of Energy and Environmental Affairs ("EOEA") Massachusetts Environmental Policy Act Unit ("MEPA"), entitled "Notice of Project Change, Mohegan Sun Massachusetts, Revere, Massachusetts EEA #15006" (the "MSM NPC").³ The intent of the MSM NPC is to update the Draft Environmental Impact Report ("DEIR") which was filed by SSR on September 3, 2013, and suggest modifications to the scope of review for the Final Environmental Impact Report ("FEIR") from that previously set forth in the Secretary of EOEA's Certificate as issued on October 18, 2013 in response to the DEIR as filed ("FEIR Scope"). MEPA's comment period on the MSM NPC extends until March 7, 2014 and will require detailed review and comment by the City and its technical, transportation, and environmental impact experts relative to MSM's revised proposal.

Also, on January 31, 2014, SSR filed a document with MEPA entitled "Notice of Project Change Suffolk Downs Stabling Area and Racecourse Stormwater Improvements, Boston, Massachusetts EEA# 14747 ("SSR NPC").) The SSR NPC requests permission to renovate the grandstands at Suffolk Downs to accommodate horse stalls and undertake the implementation of a Consolidated Animal Feeding Operation ("CAFO") within Boston in order to enable MSM to

² At a public meeting of the Commission, Commissioner McHugh said of the MSM proposal: "there is a way to recognize that the current proposal is different and a way to recognize the role of the voters. And that is to treat the proposal for what it is: a different and new proposal." December 10, 2013, Transcript page 9.

³ The City notes that MSM appears to have succeeded to the interests of Sterling Suffolk Racecourse, LLC ("SSR") who had proposed a resort destination casino on the Suffolk Downs site located in both the City and the City of Revere. Only after an unsuccessful referendum vote in Ward 1, East Boston, did MSM assume the role as Applicant and attempt to recast the resort destination casino.

convert the land in Revere, also owned by SSR which had formerly been used for said stabling purposes, for the development of a resort destination casino. The SSR NPC will also be undergoing review until March 7, 2014. The Commission should not begin a 30 day negotiating period prior to the state's timeline for the City's review of the changes in the development.

The City's rights and abilities to analyze the resort destination casino proposed by MSM have been limited. Perhaps this is in part to the fact that information is still being developed by MSM given the newness of their proposal; perhaps this is in part due to the minimal information shared with the City; or perhaps this is in part due to the lack of clarity with respect to SSR's plans, including the information set forth in the SSR NPC as any relationship it may have with the MSM NPC. See Attachment 1: City's Request for Extension and Attachment 3: City's January 13, 2104 Petition. Regardless, the City has the statutorily provided right to such review in order to assess its status and mitigate impacts from the MSM proposal. The City's rights to mitigate impacts is jeopardized by the Commission's self-imposed designation date of February 18, 2014; and the City respectfully asks the Commission to provide the necessary additional time to properly review the impacts of this new proposal.

2. The Commission's potential action of designating the City a surrounding community on February 18, 2014 is prejudicial to the City because the City is still seeking additional information and reviewing information which has been obtained by the City regarding its status as either a host or surrounding community.

The question of host or surrounding community status for the City is a fact-specific and detail-oriented analysis that requires thoughtful and thorough review in accordance with the provisions of the Gaming Act; making the need for information from MSM crucial to the City's review. The City has requested information, and while the City believes that such information sharing is imminent, it does not yet have all the information necessary to make a thoughtful determination.⁴

⁴ The City would like to review land agreements, including details as to participation in any profits from the casino operations, as well as necessary details as to transportation management, mitigation, operational issues, including interrelationship between MSM and the racetrack, including permits and approvals which will be required, especially those from the City.

While the City has begun its review of the MSM RFA-2 and MSM NPC, its review is far from complete – as is that of MEPA and other interested agencies as set forth above - and requires substantial additional information from MSM. The City has engaged and will continue to engage all of its relevant departments to review and analyze the information which is provided by MSM. Given the materials that the City now has available, the City cannot see how the Commission will be able to make a definitive determination as to the City status as a surrounding community status on or before February 18, 2014.⁵

The City asks that the Commission reconsider the City's request for an extension, given the important public interests which must be protected and the fact that there is sufficient time for the Commission to grant this extension without impacting the Commission's projected timeframe for the issuance of Category 1 Licenses. Moreover, the City requests that the Commission follow a timeline for the issuance of a Category 1 License in Region A similar to the timeline which is being followed in Region C.

III. SUMMARY OF PETITION REQUESTS


The City requests an emergency hearing on or before February 18, 2014 to enable the City to present its concerns to the Commission. Furthermore, the City, without waiving its right to assert host community status, asks that the Commission defer its designation of the City as a Surrounding Community within Region A for, at a minimum, an additional thirty (30) days until March 18, 2014, granting the City a further extension of time as previously requested.

⁵ The City notes that the Commission also should be reviewing information provided, such as site plans and transportation flow, because it is influential to the City's status.

Respectfully submitted,

THE CITY OF BOSTON

On behalf of Mayor Martin J. Walsh
By its Attorney,
Eugene L. O'Flaherty, Corporation Counsel



Elizabeth Dello Russo, BBO # 670045
Senior Assistant Corporation Counsel
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CERTIFICATE OF SERVICE

I hereby certify that on this date a true copy of the above document was served upon the following by electronic and/or U.S. mail:

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2/13/2014
Date


Elizabeth Dello Russo

Dated: February 13, 2014

Attachment

1



CITY OF BOSTON
LAW DEPARTMENT
City Hall, Room 615 Boston, MA 02201

Martin J. Walsh
Mayor

William F. Sinnott
Corporation Counsel

January 9th, 2014

Via Electronic Delivery

Chairman Stephen Crosby
Massachusetts Gaming Commissioners
Massachusetts Gaming Commission
84 State Street, 10th Floor
Boston, MA 02109

RE: *Extension of the Time Period for the City of Boston to Take any Action Which
May Be Required in Accordance with the Requirements of 205 CMR 125.01*

Dear Chairman Crosby and Massachusetts Gaming Commissioners:

The City of Boston (the "City") understands that the Massachusetts Gaming Commission (the "Commission") has extended the deadline for the filing of surrounding community petitions and designation assent letters as specified in 205 CMR 125.01 until January 13th, 2014. While the City is appreciative of this extension, it respectfully requests a further, meaningful extension of time of thirty (30) days, until February 10th, 2014 in order to determine what action, if any, the City is required to take in accordance with the provisions of 205 CMR 125.01, or other relevant provisions of M.G.L. c. 23K and 205 CMR 1.00 et. seq (the "Gaming Act"). In addition, the City also requests that to the extent necessary, the Commission grant a waiver of the stated time periods set forth in 205 CMR 125.01 in accordance with the provisions of 205 CMR 102.03(4)(2). Discussions with the Applicant Mohegan Sun which occurred this week indicated that they would be receptive to an extension of these time periods.

The Commission's deadline for the filing of RFA-2 Applications was December 31st, 2013. Due to the federal holiday on January 1st, 2014, the severe weather event on January 2nd and 3rd, 2014 when the City abided by the Governor's declared state of snow emergency, ceasing all but the most essential emergency governmental services, and the inauguration of Martin J. Walsh as Mayor of the City of Boston on January 6th, 2014, the City has not had sufficient time to review the RFA-2 Applications. Illustrative of the insufficient time for review is the fact that collectively the RFA-2 Applications are approximately 43,000 pages, while collectively, as of

this filing, Mayor Walsh has been Mayor of the City of Boston for approximately eighty (80) hours. Moreover, the redaction of relevant information, lack of satisfactory information and clarity in the applications made such review impossible and supports the waiver of the time periods as set forth in greater detail below.

As previously noted, the City has had little interaction with and has limited understanding of the revisions to the proposed Mohegan Sun resort destination casino at Suffolk Downs. See the City's letter dated December 9th, 2013 to the Commission attached as Exhibit A. Similarly, the City has had an extremely limited interaction with the developers of the proposed Mohegan Sun resort destination casino. Similarly, the City has had an extremely difficult time obtaining relevant information regarding the proposed resort destination casino on the former Monsanto site in Boston and Everett. See the City's letter dated December 6th, 2013 attached as Exhibit B.

The City knows that the question of host or surrounding community status is a fact-specific and detail-oriented analysis that requires thoughtful and thorough review in accordance with the provisions of the Gaming Act. The City requires the extension so that it can review the voluminous RFA-2 filings which have been made by both Applicants to request additional information and clarification of such filings, and to receive detailed input from the Applicants as to each of their proposals.

The City's Request

Given these facts as well as those set forth in greater detail below, the City is respectfully requesting that the Commission vary the requirements of the Commission's regulation set forth at 205 CMR 125.01 in accordance with the provisions of 205 CMR 102.03(4). To grant the requested waiver which will provide the requested extension in accordance with 205 CMR 102.03(4), the Commission must find that:

1. Granting the waiver is consistent with the purposes of the Gaming Act;
2. Granting the waiver will not interfere with the ability of the Commission or its Investigations and Enforcement Bureau ("IEB") to fulfill its duties;
3. Granting the waiver will not adversely affect the public interest; and
4. Not granting the waiver would cause substantial hardship to the person requesting the waiver.

For reasons set forth in greater detail below, all of these conditions have been satisfied and support the City's request.

First, granting the requested waiver is consistent with the purposes of the Gaming Act because the public interests protected by such Gaming Act will be served and the regulatory requirements will be fulfilled. *See* 205 CMR 102.03(4)(1). The additional time gives the City

the ability to review the facts presented by both of the Applicants and, potentially for the Applicants to amend their RFA-2 filings so as to comply with the requirements of 205 CMR 125.01.

Granting the requested waiver will not interfere with the ability of the Commission or the IEB to fulfill its duties. *See* 205 CMR 102.03(4)(2). In fact, the additional time will run in parallel with the Commission's own review of the Applicants' filings and the Revere referendum, and allow for the City to review the newly available information and to engage in meaningful and effective communications with each of these Applicants.

Granting the waiver will further the public interest because the City and its citizens will be afforded the first meaningful opportunity to review each of the casino proposals – for which it may be either a host or surrounding community – so as to better understand and protect the public interest. *See* 205 CMR 102.03(4)(3).

Failure to grant the waiver would cause a substantial hardship to the City because it would require: (a) the City to make determinations without the ability to evaluate the facts presented by each of the Applicants and to understand its status; (b) preclude the ability to enter into meaningful discussions and negotiations with each of the Applicants as contemplated in the Gaming Act; (c) unfairly place the City in an unequal and reactive negotiation position with each of the Applicants in a manner which violates the spirit and intent of the Gaming Act. *See* 205 CMR 102.03(4)(4).

It is our understanding that the Commission will take several weeks to undertake a review of the Applications as filed, potentially making other information available to the City and other interested parties, and has scheduled a briefing before the Commission by both Applicants on January 22nd, 2014. The City will monitor this briefing with interest. The additional thirty (30) days will afford the City the necessary time to evaluate all relevant information in a manner which best serves the public interest consistent with the purposes of the Gaming Act.

Mohegan Sun

On December 31st, 2013 the City received two (2) un-indexed unsystematic file boxes of materials from the new Applicant for the resort destination casino at Suffolk Downs, Mohegan Sun Massachusetts, LLC (“MSM”). These materials are a portion of the completed RFA-2 Application seeking a Category 1 License for a resort destination casino located at the Suffolk Downs site. The City notes that certain portions of the RFA-2 Application have not been provided to the City and are designated as “confidential” or described in insufficient detail for the City to make a considered evaluation. Given these deficiencies, the City requires additional time and input from MSM to discern what its status is with respect to the proposed Suffolk Downs resort destination casino.

In its addenda to Section 5-15-01 of its RFA-2, MSM notes that:

In addition to Chelsea, MSM and Sterling Suffolk Racecourse, LLC (Suffolk Downs) representatives have been in discussions with Boston and Winthrop. The issues presented by Boston and Winthrop, given the locations of those communities and their proximity to the resort, call for individual Surrounding Community Agreements with each. While no agreements have been reached, MSM through its partner Suffolk Downs has reached out to each community, as shown in letters to each municipality that are provided in Attachments 5-15-03 and 5-15-04. In the spirit of cooperation and outreach to these new community partners, MSM affirms its support for Suffolk Downs' past efforts to reimburse the City of Winthrop for consultant and other expenses associated with analyzing the potential impacts of expanded gaming on the Suffolk Downs property (See Attachments 5-15-05 and 5-15-06.)

MSM's RFA-2 language noted above fails to note that it, not Sterling Suffolk Racecourse, LLC ("SSR"), is now the Applicant. The language does not track the requirements of a surrounding community designation specified in 201 CMR 125.01. It does not indicate that it will make sure that SSR honors its outstanding commitments to the City in accordance with the terms of the Host Community Agreement it had negotiated, certain provisions of which continue in full force and effect. It speaks only to an affirmation of SSR's prior commitments to Winthrop. It alludes to outreach but, in fact, MSM has only this week begun to engage in meaningful dialogue with the City, presumably due to its need to focus its attention on the City of Revere and the Commission, including obtaining variances from provisions of the Gaming Act. It is essential that additional information and clarification be provided to the City, together with specific commitments as to the terms of a surrounding community agreement to the extent one is appropriate, as soon as possible so that it may better understand the details of the MSM proposal and take appropriate action in accordance with the provisions of the Gaming Act and other applicable law.

Wynn, MA

On December 31st, 2013, the City also received an electronic file from Wynn MA, LLC ("Wynn") which is a portion of the completed RFA-2 Application seeking a Category 1 License to authorize the development of a resort destination casino at the former Monsanto site. As with MSM, certain of the relevant portions of the RFA-2 Application have not been provided to the City. The same issues presented with respect to the MSM proposal hold true for the Wynn RFA-2 Application and similarly preclude the City's ability to take appropriate action in accordance with the provisions of the Gaming Act and other applicable law. In Section 5-15 of its RFA-2, Wynn states:

Wynn has acknowledged that the City of Boston is a "surrounding community," but it has not yet done so in accordance with applicable law and regulation because the parties have not reached terms for a final agreement. Following the City of Boston's acknowledgement in early September 2013 that it is not a "host community" to the proposed Wynn Resort in Everett, representatives of Wynn MA and the City of Boston have actively engaged in active, ongoing discussions

and correspondence. The discussions have focused on impacts to the Charlestown neighborhood with an emphasis on traffic/transportation infrastructure.

It is not clear why Wynn has expressly chosen, by its own admission, *not* to make a designation in accordance with the Gaming Act. The City also notes that, as with MSM, Wynn has only just begun to engage in meaningful dialogue with the City. Enclosed please find as Exhibit C an email in December from a member of the Wynn team to the City which indicated that its efforts with the Commission and MEPA filings precluded its ability to meet with the City. Enclosed please find as Exhibit D further communication from the City which indicates its willingness to meet with the Wynn team following its review of the Commission and MEPA filings. Today the City received a letter from Wynn which asks for the City's assent to its status as a surrounding community in accordance with the provisions of 205 CMR 125.01. For the reasons noted above, the City cannot execute such assent until the further time and additional information has been provided.

Conclusion

Without waiving the right for the City to assert Host Community status, to the extent that the facts and attendant circumstances so warrant, the City asks that the Commission postpone the deadline for any requisite filings which may be required in accordance with the provisions of 205 CMR 125.01 in order to afford appropriate time to make the requisite inquiry directly of the casino Applicants and receive the relevant information in order to determine Boston's status. This will enable the City to best protect the interests of its citizens.

The City respectfully submits that such further extension is warranted due to:

- The reasonable need for additional time for all of the reasons described above;
- The lack of specificity and clarity in each of the RFA-2 filings noted above as to the City's designation/status as a surrounding or host community within the meaning of the Gaming Act;
- The failure of each of the Applicants to follow the guidance and procedures set forth in 205 CMR 125.01 (to the extent that surrounding community status is appropriate); and
- The inadequacy of the information provided by each of the Applicants to the City both in the RFA-2 and in prior, limited, discussions with the City.

In meetings with MSM and Wynn representatives this week, the City received assurances that it would be provided with any information that it needed, including revisions to each of the Applications if necessary, and that both Applicants would endeavor to expeditiously address the City's concerns and enter into appropriate agreements as required by the Gaming Act. Given these assurances and for the reasons set forth herein, additional time is required to provide the City with the ability to discern the facts and confirm that these promises are backed by action.

Chairman Stephen Crosby
January 9th, 2014
Page 6

The City reiterates its request for a thirty (30) day extension until February 10th, 2014, including the issuance of a waiver to the extent necessary, so that the City has an adequate opportunity to review the information which has been filed, receive other information from the Applicants, and evaluate such information accordingly.

Very truly yours,



Elizabeth Dello Russo
Senior Assistant Corporation Counsel

Enclosures

Cc Via Electronic Delivery:

John Ziemba, Massachusetts Gaming Commission
Catherine Blue, Massachusetts Gaming Commission
John Stefanini, DLA Piper
Kevin Conroy, Foley Hoag
Daniel Gaquin, Mintz Levin
Steve Tocco, ML Strategies
William F. Kennedy, Nutter McClennen & Fish
Mary Marshall, Nutter McClennen & Fish

Exhibit A



THOMAS M. MENINO
Mayor

CITY OF BOSTON LAW DEPARTMENT

City Hall, Room 615
Boston, MA 02201

WILLIAM F. SINNOTT
Corporation Counsel

December 9, 2013

VIA ELECTRONIC SUBMISSION

Chairman Stephen Crosby
Massachusetts Gaming Commissioners
Massachusetts Gaming Commission
84 State Street, Suite 720
Boston, MA 02109

RE: *Response of the City of Boston to MGC's Request for Comments on the Proposed Suffolk Downs Casino in Revere*

Dear Chairman Crosby and Massachusetts Gaming Commissioners:

The Commission has requested public comments in connection with the Commission's review of Suffolk Downs' revised casino proposal which purports to locate the gaming establishment in Revere. As a preliminary matter, the City of Boston has not been provided with sufficient information from Sterling Suffolk Racecourse, LLC, or its new gaming partner Mohegan Sun (collectively "Suffolk Downs") as to the revised proposal. Without such information the City cannot determine its status as a host or surrounding community. In order to protect the integrity of the vote cast by the residents of East Boston, the City of Boston must understand the details of the Suffolk Downs-Revere plan. We ask that the Commission defer its vote on whether Suffolk Downs may proceed with its application until the appropriate information has been provided and analysis undertaken with respect to the City of Boston's status.

On November 5, 2013, voters in Ward 1 of the City of Boston voted not to allow a gaming establishment¹ licensed by the Commission in East Boston. Since that vote, Suffolk Downs has approached the Commission with a plan to move to Revere, the so called "Plan B" option. The City of Boston has no direct knowledge of Suffolk Downs' plans, as Plan B has not been presented to the City of Boston. In the absence of information from Suffolk Downs, the City of Boston is unable to provide definitive comments as to whether Plan B includes a gaming establishment in East Boston; yet given its understanding of the site, it is difficult for the City to understand how the "gaming establishment" would not include East Boston.

¹ A gaming establishment is defined by the Gaming Act to be "the premises approved under a gaming license which includes a gaming area and any other nongaming structure related to the gaming area and may include, but shall not be limited to, hotels, restaurants and other amenities." M.G.L. c. 23K, § 2.

Massachusetts Gaming Commission
Comments on the Proposed Suffolk Downs Casino in Revere

~~December 9, 2013~~


Page Two

The City of Boston knows that the question of host community status is a fact-specific and detail-oriented analysis that requires thoughtful and thorough review in accordance with the provisions of the Gaming Act. In the absence of such information and analysis, the City of Boston must reserve its rights to further examination and determination, through the appropriate regulatory and legal channels. We ask that the Commission defer its consideration of the vote as such vote is premature and should only be undertaken after appropriate information has been supplied and the analysis has been undertaken by the City and the citizens of East Boston after seeing and understanding Plan B.

As the Commission reviews the matter of whether or not Suffolk Downs may proceed with a gaming application on Plan B, we ask that the Commission consider the comments set forth by the City of Boston and pay particular attention to the development and use of the East Boston portion of the land. In the absence of direct knowledge of facts to the contrary, the City of Boston maintains that the City of Boston is a host community to the Suffolk Downs site.

Thank you for your consideration and we look forward to working with the Commission on these matters. Please do not hesitate to contact me with any questions you may have.

Very truly yours,



Elizabeth Dello Russo
Executive Director of the HCAC
Senior Assistant Corporation Counsel

Exhibit B



THOMAS M. MENINO
Mayor

**CITY OF BOSTON
LAW DEPARTMENT**

City Hall, Room 615
Boston, MA 02201

WILLIAM R. SUNNITT
Corporation Counsel

December 6, 2013

Via U.S. Mail and Electronic Delivery

Chris Gordon, Project Manager
Wynn Consultant - Dirigo Group
Wynn Massachusetts LLC
27 Norwood Street #302
Everett, MA 02149

RE: *Proposed Wynn Resort in Massachusetts*

Dear Project Manager Gordon,

In anticipation of our meeting scheduled next Wednesday, I am writing to express concern regarding the delay in providing and responding to information requests. As you know, our technical teams have met on October 22, 2013, November 19, 2013, and December 3, 2013. Despite our repeated requests, we have yet to be presented with meaningful information which would allow for us to understand and mitigate impacts from the proposal.

As we have continually expressed, it is vital that the City of Boston protect the interests of the residents, families, businesses of and visitors to the City of Boston, and particularly the residents of Charlestown. We are concerned that to date, at this late hour, information has not been provided to allow for the proper analysis and/or mitigation of the effect of the proposed Wynn casino on the City and on the neighborhood.

The following is a summary of information that the City is continuing to seek so that we can properly analyze the effect of the proposed development, as only the City is best positioned to do.

A. Information Requests

In order to have a productive meeting, and so that the City of Boston is best prepared to understand the development and its impacts, please provide the City of Boston with the following:

1. The two (2) PowerPoint presentations that were provided on October 22, 2013, updated with the new transportation information as discussed;
2. The detailed transportation and traffic study, taking into consideration Sullivan Square, the Alford Street bridge, and the current City of Boston plans for Rutherford Avenue, as well as precise traffic counts, starting from the City's numbers, as we discussed;
3. A comprehensive list of any information regarding Rutherford Ave. or other planned transportation improvements, that the Wynn team is seeking from the City of Boston;
4. A draft mitigation plan to address infrastructure burdens and costs for the City;

5. Preliminary DEIR for City review before filing with MEPA;
6. A comprehensive environmental impact study, including impact on the Mystic River, if not included in the DEIR;
7. Additional information about site remediation, including the Phase III RAP that was filed with DEP in August 2013 and how remediation will be done in tandem with project development, amount of soil to be removed, and amount of fill. Also, if capping in place is proposed, information on the ventilation systems and stack locations for the parking garage;
8. Description of the electrical, space heating and energy systems, as well as all onsite power generation being considered;
9. Construction management plan – which will include a schedule and sequence of activities describing how construction workers and materials will get to/from the site; where staging will be located; what the traffic impacts are;
10. Information on dredging, including the time it will take, construction-period impacts on surrounding water-dependent users
11. A hot spot air quality analysis for the study area with an emphasis on Sullivan Square;
12. Detailed description, including conceptual plans, and evaluation of traffic mitigation measures proposed on roadways in the City of Boston. These would include any site access improvements on Broadway that may extend into the City of Boston along Alford Street;
13. Detailed description of any proposed travel demand management plans to help limit the volume of site generated traffic;
14. Detailed description and evaluation of proposed traffic mitigation plans for Wellington Circle, Santilli Circle and Sweetser Circle that, if implemented, would allow easier site access from the north and perhaps reduce volumes entering and exiting the site from the south via Boston streets;
15. Detailed analysis of projected changes in travel demands at the Sullivan Square MBTA station and evaluation of the station capacity to handle any increased ridership demands;
16. Detailed plans and analysis regarding the incorporation of any proposed shuttle bus services at the Sullivan Square MBTA station showing bus staging, loading and circulation areas;
17. Details about the “living shoreline” restoration;
18. Impact of sea level rise on ferry clearance at the Alford Street bridge;
19. Expected change in roadway-generated emissions with a 3% water transit mode share;
20. Details on where contaminated dredge spoils and soil will be disposed of; including if they will be transported by water or land and what the proposed routes are;
21. Details on whether the catamarans will have heads, and if so, if there will there be a pump-out at the project site;

Additionally, the City of Boston is still interested in any and all addition impact studies and Wynn's plans for mitigating the following:

22. A social impact study and a public safety proposal - including any assessment of compulsive gaming, public safety, drunk driving, impact on quality of life;
23. Plans for outreach and effect on local businesses, the Boston hotel market, Charlestown businesses;
24. A proposal for a marketing program with minority, women and veteran businesses enterprises and contractors, including residents of the City of Boston, as a surrounding community;
25. A proposal for affirmative action program of equal opportunity for minorities, women and veterans on construction jobs, including residents of the City of Boston, as a surrounding community;
26. Detailed information about proposed jobs, both construction and permanent, part time and full time, salary and benefits, including residents of the City of Boston, as a surrounding community;
27. Detailed projections for revenue, with a breakdown by slots, tables, retail, restaurant, night club/events, and otherwise;
28. Details on design and esthetic review, and/or plans, including for amenities around the site for the public; and
29. Any and all other relevant information, including a list of all information you have provided to the City of Everett.

If you are not able to provide this information, please provide a timeline of when you will be able to so provide it. Any undue delay from the Wynn development team in providing such information creates a hardship on the City of Boston, particularly the residents and businesses of Charlestown, and precludes effective mitigation of the analysis of impacts on the City of Boston occasioned by the proposed project.

B. Timeline

Overall, as the City of Boston is an agreed upon surrounding community, the City of Boston needs to better understand the development, and rapidly, so that we can assess impacts. Mr. Tocco stated at the November 7, 2013, MGC public meeting, that in the next thirty (30) days two additional studies will be released by the Wynn team: (1) a regional transportation plan, and (2) an aggressive water transportation plan. We look forward to reviewing these studies, and remind your team, that a release of this type of pertinent information to Boston in the month of December leaves little time for the City of Boston to review, analyze and precede towards mitigation in keeping with the Massachusetts Gaming Commission deadlines. We encourage your team to release drafts of these studies and the DEIR to the City of Boston in advance so that we can review them in earnest.

C. Technical Briefings

We would like to continue with these technical meetings in order to review the proposed Wynn development. We hope to meet with your team again the week of December 9th. Please let me know what time works best for your technical staff, in particular the transportation team.

Page 4 of 4
Chris Gordon, Dirigo Group/Wynn
Friday, December 6, 2013

Thank you and we look forward to receiving the requested material and meeting with the Wynn development team to further discuss these matters.

Very truly yours,



Elizabeth Dello Russo
Senior Assistant Corporation Counsel

CC: *Via Electronic Mail*

Steve Tocco, President and CEO, ML Strategies

John Ziemba, Ombudsman, Massachusetts Gaming Commission

Exhibit C

1/9/14

Information Requests - elizabeth.dellorusso@boston.gov - City of Boston Mail

12/9/13



Chris Gordon

to STocco, Elizabeth

Liz

We have reviewed your letter dated December 6th (received on the 7th) requesting information regarding Wynn Everett. Many of these items have been presented and discussed in our recent meetings on environmental impacts, transportation, and water shuttles – thank you for arranging and attending those meetings. As we have discussed, much of the updated information you have requested will be in our Draft Environmental Impact Report, scheduled to be filed on December 16th (Monday). We will hand deliver a hard copy of the document to your office on Monday, as we did with the Environmental Notification document when it was filed, and look forward to discussing its content in detail with your team.

As our team is very busy completing all required steps to make sure that document, as well as our gaming application (also due this month), are as informative as they can possible be, we would like to postpone our meeting with your team scheduled for Wednesday at 10AM and discuss dates in the near future we could hold the meeting.

Chris

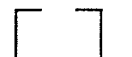
Exhibit D

1/9/14

Wednesday Meeting - elizabeth.dellorusso@boston.gov - City of Boston Mail

Elizabeth DelloRusso <elizabeth.dellorusso@boston.gov>

12/18/13



to Chris

Hi Chris,

I have just received the Wynn DEIR filing. The City will be reviewing this document. Just as your December 9th e-mail asked to postpone our December 11th scheduled meeting in order to file this document, it seems logical to me that prior to our next meeting, we should allow the City to have adequate time to review this filing so that we can have a more educated discussion.

Best,

Liz

Elizabeth Dello Russo
Senior Assistant Corporation Counsel
Executive Director, Gaming Development
City Hall, Room 620
Boston, MA 02201
(617) 635-4037
Elizabeth.DelloRusso@Boston.Gov

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Attachment

2



January 10, 2014

Via Electronic Delivery

Elizabeth S. Dello Russo, Esquire
Senior Assistant Corporation Counsel
City of Boston, Law Department
City Hall, Room 620
Boston, MA 02201

Re: Extension of Time Period Request dated January 9, 2014 by the City of Boston ("City")

Dear Ms. Dello Russo:

We are writing in response to the January 9, 2014 letter you wrote to Chairman Crosby requesting an extension of thirty (30) days to the January 13, 2014 deadline for communities to submit a letter assenting to any designation of a community as a surrounding community. Unfortunately, the Commission did not receive this letter in time to allow the commissioners to deliberate this matter at its last Commission meeting before the January 13, 2014 deadline.

Therefore, the Commission will not be able to extend this deadline, as you requested, before it expires. However, in order to allow the City to meet the regulatory requirements specified in 205 CMR 125.01, we recommend that the City consider assenting to the designation of surrounding community status but reserving a right to claim host community status, should the City deem it advisable to do so.

As you are aware, the Commission does not plan to designate any communities, either those that petition to be designated as a surrounding community or those designated as a surrounding community in an RFA-2 application, until February 6, 2014, or potentially later. February 6 is approximate to the February 10 date specified in your letter. If the City determines that it qualifies for host community status before such date, the City could notify the Commission. Further, as noted by the Commission previously, host community status will be part of the RFA-2 evaluation process.

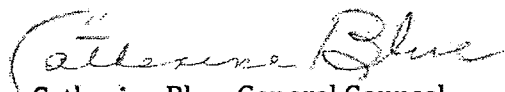
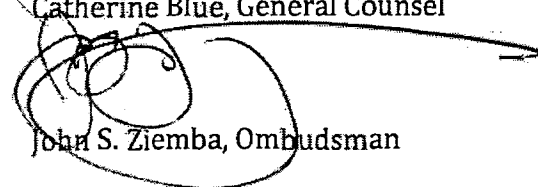
Massachusetts Gaming Commission

Elizabeth Dello Russo, Esquire
Page Two
January 10, 2014

We hope this is a remedy to the timing constraints you raised. If you believe it necessary to continue to request an extension, please notify us so that we can put the issue before the Commission at a future meeting.

As of this date, the next regularly scheduled meeting of the Commission is January 23, 2014. Please let us know if you have any further questions or concerns.

Sincerely,


Catherine Blue, General Counsel

John S. Ziemba, Ombudsman

cc: **Via Electronic Delivery:**
Chairman Stephen Crosby
Massachusetts Gaming Commissioners
John Stefanini, DLA Piper
Kevin Conroy, Foley Hoag
Daniel Gaquin, Mintz Levin
Steve Tocco, ML Strategies
William F. Kennedy, Nutter McClennen & Fish
Mary Marshall, Nutter McClennen & Fish

Massachusetts Gaming Commission

84 State Street, 10th Floor, Boston, Massachusetts 02109 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com

Attachment

3

Before the
MASSACHUSETTS GAMING COMMISSION

Petition of the City of Boston in Accordance With the Requirements of 205 CMR 125.01 and With Respect to Other Matters With Respect to RFA-2 Application filed by Mohegan Sun Massachusetts, LLC Seeking a Category 1 License

I. INTRODUCTION AND BACKGROUND

On December 31, 2013, Mohegan Sun Massachusetts, LLC (“MSM” or the “Applicant”) filed a RFA-2 Application seeking a Category 1 License to authorize the development of a resort destination casino at Suffolk Downs site with the Massachusetts Gaming Commission (the “Commission”), and provided the City of Boston (the “City”) with two file boxes containing sections of such filing. The Commission, on its own account or by request of another municipality not the City, extended the deadline for the filing of surrounding community petitions and designation assent letters as specified in 205 CMR 125.01 from January 10, 2014 until January 13, 2014. On January 9, 2013, the City filed a request with the Commission asking for a further extension of time until February 10, 2014 for the reasons set forth in the City’s letter request. See Attachment 1: City’s Request for an Extension.

On January 10, 2014, the Commission denied the City’s request, noting that the Commission’s schedule did not allow for it to consider the City’s request and recommended that the City assent to the designation as a surrounding community. See Attachment 2: Commission Denial. Further, the Commission recommended “that the City consider assenting to the designation of surrounding community status but reserving a right to claim host community status should the City deem it advisable to do so.” See Attachment 2: Commission Denial. In its letter, the Commission further states, “if the City determines that it qualifies for host community status ... the City could notify the Commission.” See Attachment 2: Commission Denial.

Therefore, in accordance with the requirements of M.G.L. c. 23K and 205 CMR 1.00 et. seq. (the “Gaming Act”), specifically 205 CMR 125.01, and other relevant provisions of the

Gaming Act and with the direction provided by the Commission in its letter of January 10, 2014, the City petitions for designation as a surrounding community in order to preserve the interests of the City and its residents from the siting and development of a resort destination casino as proposed by MSM without waiving its right to assert host community status. See Attachment 2: Commission Denial. As previously noted, the City has not been able to obtain relevant information regarding MSM's proposed resort destination casino on the Suffolk Downs property ("MSM Proposal"). See Attachment A: City's Request for Extension. In fact, only last week, at a meeting with Mayor Walsh where MSM expressed a willingness to support the City's extension request, did MSM engage in meaningful dialogue with the City.¹

The sections of the MSM RFA-2 which have been provided to the City exclude information which has been provided to the Commission, certain elements of which are relevant to the City's review. MSM's RFA-2 also does not include adequate information for the City to evaluate how SSR's Draft Environmental Impact Report ("DEIR") which was filed by SSR on September 3, 2013, and was reviewed by the Secretary of Environmental Affairs and Energy's Massachusetts Environmental Impact Unit, following detailed review and comment by the City and its technical transportation and environmental impact experts, relates to the current MSM Proposal. As set forth in Attachment 1: City's Request for Extension, the City's rights and abilities to analyze the resort destination casino proposed by MSM have been limited due to the minimal information that MSM has shared with the City to date. The City has also asked that MSM clarify what SSR intends to do with respect to its outstanding commitments to the City. The City is hopeful that the spirit of open communication which was expressed by MSM last week will result in adequate and meaningful information being provided.

The question of host or surrounding community status for the City is a fact-specific and detail-oriented analysis that requires thoughtful and thorough review in accordance with the provisions of the Gaming Act; making the need for information from MSM crucial to the City's review. Given that it had requested an extension to: (a) review the voluminous RFA-2 filing and determine the continuing relevance of the DEIR which had been filed by SSR with respect to the

¹ The City notes that MSM appears to have succeeded to the interests of Sterling Suffolk Racecourse, LLC ("SSR") who had proposed a resort destination casino on the Suffolk Downs site located in both the City and the City of Revere. Only after an unsuccessful referendum vote in Ward 1, East Boston, did MSM assume the role as Applicant and attempt to recast the resort destination casino.

MSM Proposal; (b) request additional information and clarification of such filings from MSM and the Commission as appropriate; and (c) receive detailed input from MSM with respect to its proposal, and while reserving its full rights and ability to claim host community status, the City is filing this petition in accordance with the above stated regulations and as directed by the Commission.

The City requests that the Commission compel MSM and other applicants to engage in frank and open conversations with each of the interested communities. In meeting with MSM representatives last week, and further discussions this week, the City received assurances that it would be provided with any information that it needed, including revisions to the Application, if necessary. Also, the Applicant agreed to expeditiously address the City's concerns and enter into appropriate agreements as required by the Gaming Act. The City remains concerned that all appropriate action be taken to preserve and protect the public interest and to protect the best interests of the citizens of Boston and asks for the Commission's diligent assistance in that regard as it again reiterates its request for additional time so that it may better understand the MSM Proposal and interact with the Applicant. The City has engaged and will continue to engage all of its relevant departments to review and analyze the information which is provided by MSM.

II. DISCUSSION

a. Need for Petition not Merely Assent - The Applicant's Failure to Follow 205 CMR 125.01

The process and procedure by which a municipality is designated a surrounding community in accordance with the Gaming Act are set forth in 205 CMR 125.01(1). This section allows for designation by the applicant and assent by the municipality in certain instances. A municipality will attain status as a surrounding community in accordance with the Gaming Act if it is: "*designated as a surrounding community by an applicant for a Category 1 or Category 2 license in the RFA-2 application, written notice of which designation shall be provided by the applicant to the community's chief executive officer as defined in MGC c. 4, s. 7, cl. Fifth B, at the time the application is filed with the commission.*" (Emphasis added.) This process was not followed by MSM in its RFA-2 submission, thus compelling the City to submit this petition, while reserving its rights to claim host community status if the facts so warrant.

In Section 5-15 of its RFA-2, MSM states:

In addition to Chelsea, MSM and Sterling Suffolk Racecourse, LLC (Suffolk Downs) representatives have been in discussions with Boston and Winthrop. MSM through its partner Suffolk Downs has reached out to each community, as shown in letters to each municipality that are provided in Attachments 5-15-03 and 5-15-04. In the spirit of cooperation and outreach to these new community partners, MSM affirms its support for Suffolk Downs' past efforts to reimburse the City of Winthrop for consultant and other expenses associated with analyzing the potential impacts of expanded gaming on the Suffolk Downs property.

This language is confusing as MSM, not SSR, is the Applicant for purposes of the RFA-2 and the requirements of 205 CMR 125.01. The letter sent by Suffolk Downs does not qualify as notice to the City's Chief Executive Officer as required in accordance with 205 CMR 125.01. Moreover, MSM intent is unclear with respect to the outstanding commitments of SSR to the City, negotiation of a surrounding community agreement and payment of expenses incurred by the City in connection therewith.

On January 13, 2014, Mayor Walsh received a letter from MSM, in accordance with 205 CMR 125.01(1)(a). The City requests that MSM supplement its Application with this letter. Furthermore, the City asks that MSM supplement its Application to affirm its support for Suffolk Downs to reimburse the City of Boston for past consultant and other expenses associated with analyzing the potential impacts of expanded gaming on the Suffolk Downs property, as outlined in the Suffolk Downs Host Community Agreement with the City of Boston, and for MSM to agree to reimbursement in connection with its application. MSM's supplement to its Application as stated above, may correct the inaccuracies in the designation and allow the City to, without waiving its rights to host status, assent to designation pursuant to 205 CMR 125.01.

Given that MSM has not fulfilled the requirements of the Gaming Act, the City cannot execute such assent given the inadequacy of MSM's RFA-2 submission, and thus must in accordance with the direction provided by the Commission in its January 10, 2014 Letter, while reserving its rights as set forth above, petition for designation as a surrounding community in

accordance with the provisions of 205 CMR 125.01(1) and 205 CMR 125.01(2). See Attachment 2: Commission Denial.

b. Petition for Designation in Accordance with 125.01

The City qualifies as a surrounding community to the MSM Proposal based upon a review of the stated criteria noted in 205 CMR 125.01(2). Moreover, the City may in fact be a host community. A review of the relevant information is needed by the City to evaluate its position. In the absence of an opportunity for meaningful review of the relevant materials on the MSM Proposal – both that which it has in hand and has requested - the City submits that MSM should, regardless of the City’s status as a “host” or “surrounding” community, execute an agreement identical in all material respects to the Host Community Agreement dated August 27, 2013 (the “HCA”) which the City entered into with SSR. The fact that MSM may have attempted to shift the casino so that it is located solely within the City of Revere in an effort to address the failure of the East Boston vote, should not change the agreed-upon commitments as articulate in the City’s existing HCA for the Suffolk Downs property.

While the City has begun its review of the MSM Proposal, its review is far from complete and requires substantial additional information from MSM. Given the materials that the City now has available, it is unclear to the City how either the City or the Commission will be able to make a definitive determination as to the surrounding community status on or before February 6, 2014 as the Commission states in the Commission’s Denial; Attachment 2, denying the City’s request for an extension of time. The City asks that the Commission reconsider its denial of the City’s request for an extension, given the important public interests which must be protected and the fact that there is sufficient time for the Commission to grant this extension without impacting the Commission’s projected timeframe for the issuance of Category 1 Licenses in accordance with the terms and provisions of the Gaming Act.

Without waiving the right for the City to assert host community status, the City asks that the Commission: (i) reconsider its denial of the City’s request for an extension; (ii) declare that the City is, in the alternative a surrounding community in accordance with the provisions of 205 CMR 125.0; (iii) compel MSM to supplement its Application to properly designate the City; and (iv) cooperate fully with the City, providing any and all information requested by the City so that

it may best evaluate its status as host or surrounding community and properly understand and evaluate the MSM Proposal in relation to the City.

III. SUMMARY OF PETITION REQUESTS

The City asks that the Commission reconsider its Denial of the City's request for an extension. In the absence of an extension, without waiving its rights to host community status, the City petitions in accordance with 205 CMR 125.01 for designation by the Commission as a surrounding community within the meaning of the Gaming Act and assents to the designation as a surrounding community on the terms set forth herein. The City further petitions the Commission to compel MSM to cooperate fully with the City, providing any and all information requested by the City so that it may best evaluate its status as host or surrounding community and properly understand and evaluate the MSM Proposal in relation to the City.

Respectfully submitted,

THE CITY OF BOSTON

On behalf of Mayor Martin J. Walsh
By its Attorney,
William F. Sinnott, Corporation Counsel



Elizabeth Dello Russo, BBO # 670045
Senior Assistant Corporation Counsel
City of Boston
Boston City Hall, Room 620
Boston, MA 02201
(617) 635 - 4037
Elizabeth.dellorusso@boston.gov

CERTIFICATE OF SERVICE

I hereby certify that on this date a true copy of the above document was served upon the following by electronic and/or U.S. mail:

Mitchell Etes
Mohegan Sun Massachusetts, LLC
One Mohegan Sun Boulevard
Uncasville, Connecticut 06382

Kevin C. Conroy, Esquire
Foley Hoag, LLP
Seaport West
155 Seaport Boulevard
Boston, MA 02210
kconroy@foleyhoag.com

William J. Mulrow
Sterling Suffolk Racecourse, LLC
111 Waldemar Avenue
East Boston, MA 02128

John A. Stefanini, Esquire
33 Arch Street, 26th Floor
Boston, MA 02110
John.stefanini@dlapiper.com

January 13, 2014
Date



Elizabeth Dello Russo

Dated: January 13, 2014

Attachment 1



CITY OF BOSTON
LAW DEPARTMENT
City Hall, Room 615 Boston, MA 02201

Martin J. Walsh
Mayor

William F. Sinnott
Corporation Counsel

January 9th, 2014

Via Electronic Delivery

Chairman Stephen Crosby
Massachusetts Gaming Commissioners
Massachusetts Gaming Commission
84 State Street, 10th Floor
Boston, MA 02109

RE: *Extension of the Time Period for the City of Boston to Take any Action Which
May Be Required in Accordance with the Requirements of 205 CMR 125.01*

Dear Chairman Crosby and Massachusetts Gaming Commissioners:

The City of Boston (the "City") understands that the Massachusetts Gaming Commission (the "Commission") has extended the deadline for the filing of surrounding community petitions and designation assent letters as specified in 205 CMR 125.01 until January 13th, 2014. While the City is appreciative of this extension, it respectfully requests a further, meaningful extension of time of thirty (30) days, until February 10th, 2014 in order to determine what action, if any, the City is required to take in accordance with the provisions of 205 CMR 125.01, or other relevant provisions of M.G.L. c. 23K and 205 CMR 1.00 et. seq (the "Gaming Act"). In addition, the City also requests that to the extent necessary, the Commission grant a waiver of the stated time periods set forth in 205 CMR 125.01 in accordance with the provisions of 205 CMR 102.03(4)(2). Discussions with the Applicant Mohegan Sun which occurred this week indicated that they would be receptive to an extension of these time periods.

The Commission's deadline for the filing of RFA-2 Applications was December 31st, 2013. Due to the federal holiday on January 1st, 2014, the severe weather event on January 2nd and 3rd, 2014 when the City abided by the Governor's declared state of snow emergency, ceasing all but the most essential emergency governmental services, and the inauguration of Martin J. Walsh as Mayor of the City of Boston on January 6th, 2014, the City has not had sufficient time to review the RFA-2 Applications. Illustrative of the insufficient time for review is the fact that collectively the RFA-2 Applications are approximately 43,000 pages, while collectively, as of

this filing, Mayor Walsh has been Mayor of the City of Boston for approximately eighty (80) hours. Moreover, the redaction of relevant information, lack of satisfactory information and clarity in the applications made such review impossible and supports the waiver of the time periods as set forth in greater detail below.

As previously noted, the City has had little interaction with and has limited understanding of the revisions to the proposed Mohegan Sun resort destination casino at Suffolk Downs. See the City's letter dated December 9th, 2013 to the Commission attached as Exhibit A. Similarly, the City has had an extremely limited interaction with the developers of the proposed Mohegan Sun resort destination casino. Similarly, the City has had an extremely difficult time obtaining relevant information regarding the proposed resort destination casino on the former Monsanto site in Boston and Everett. See the City's letter dated December 6th, 2013 attached as Exhibit B.

The City knows that the question of host or surrounding community status is a fact-specific and detail-oriented analysis that requires thoughtful and thorough review in accordance with the provisions of the Gaming Act. The City requires the extension so that it can review the voluminous RFA-2 filings which have been made by both Applicants to request additional information and clarification of such filings, and to receive detailed input from the Applicants as to each of their proposals.

The City's Request

Given these facts as well as those set forth in greater detail below, the City is respectfully requesting that the Commission vary the requirements of the Commission's regulation set forth at 205 CMR 125.01 in accordance with the provisions of 205 CMR 102.03(4). To grant the requested waiver which will provide the requested extension in accordance with 205 CMR 102.03(4), the Commission must find that:

1. Granting the waiver is consistent with the purposes of the Gaming Act;
2. Granting the waiver will not interfere with the ability of the Commission or its Investigations and Enforcement Bureau ("IEB") to fulfill its duties;
3. Granting the waiver will not adversely affect the public interest; and
4. Not granting the waiver would cause substantial hardship to the person requesting the waiver.

For reasons set forth in greater detail below, all of these conditions have been satisfied and support the City's request.

First, granting the requested waiver is consistent with the purposes of the Gaming Act because the public interests protected by such Gaming Act will be served and the regulatory requirements will be fulfilled. See 205 CMR 102.03(4)(1). The additional time gives the City

Chairman Stephen Crosby
January 9th, 2014
Page 3

the ability to review the facts presented by both of the Applicants and, potentially for the Applicants to amend their RFA-2 filings so as to comply with the requirements of 205 CMR 125.01.

Granting the requested waiver will not interfere with the ability of the Commission or the IEB to fulfill its duties. *See* 205 CMR 102.03(4)(2). In fact, the additional time will run in parallel with the Commission's own review of the Applicants' filings and the Revere referendum, and allow for the City to review the newly available information and to engage in meaningful and effective communications with each of these Applicants.

Granting the waiver will further the public interest because the City and its citizens will be afforded the first meaningful opportunity to review each of the casino proposals – for which it may be either a host or surrounding community – so as to better understand and protect the public interest. *See* 205 CMR 102.03(4)(3).

Failure to grant the waiver would cause a substantial hardship to the City because it would require: (a) the City to make determinations without the ability to evaluate the facts presented by each of the Applicants and to understand its status; (b) preclude the ability to enter into meaningful discussions and negotiations with each of the Applicants as contemplated in the Gaming Act; (c) unfairly place the City in an unequal and reactive negotiation position with each of the Applicants in a manner which violates the spirit and intent of the Gaming Act. *See* 205 CMR 102.03(4)(4).

It is our understanding that the Commission will take several weeks to undertake a review of the Applications as filed, potentially making other information available to the City and other interested parties, and has scheduled a briefing before the Commission by both Applicants on January 22nd, 2014. The City will monitor this briefing with interest. The additional thirty (30) days will afford the City the necessary time to evaluate all relevant information in a manner which best serves the public interest consistent with the purposes of the Gaming Act.

Mohegan Sun

On December 31st, 2013 the City received two (2) un-indexed unsystematic file boxes of materials from the new Applicant for the resort destination casino at Suffolk Downs, Mohegan Sun Massachusetts, LLC ("MSM"). These materials are a portion of the completed RFA-2 Application seeking a Category 1 License for a resort destination casino located at the Suffolk Downs site. The City notes that certain portions of the RFA-2 Application have not been provided to the City and are designated as "confidential" or described in insufficient detail for the City to make a considered evaluation. Given these deficiencies, the City requires additional time and input from MSM to discern what its status is with respect to the proposed Suffolk Downs resort destination casino.

In its addenda to Section 5-15-01 of its RFA-2, MSM notes that:

In addition to Chelsea, MSM and Sterling Suffolk Racecourse, LLC (Suffolk Downs) representatives have been in discussions with Boston and Winthrop. The issues presented by Boston and Winthrop, given the locations of those communities and their proximity to the resort, call for individual Surrounding Community Agreements with each. While no agreements have been reached, MSM through its partner Suffolk Downs has reached out to each community, as shown in letters to each municipality that are provided in Attachments 5-15-03 and 5-15-04. In the spirit of cooperation and outreach to these new community partners, MSM affirms its support for Suffolk Downs' past efforts to reimburse the City of Winthrop for consultant and other expenses associated with analyzing the potential impacts of expanded gaming on the Suffolk Downs property (See Attachments 5-15-05 and 5-15-06.)

MSM's RFA-2 language noted above fails to note that it, not Sterling Suffolk Racecourse, LLC ("SSR"), is now the Applicant. The language does not track the requirements of a surrounding community designation specified in 201 CMR 125.01. It does not indicate that it will make sure that SSR honors its outstanding commitments to the City in accordance with the terms of the Host Community Agreement it had negotiated, certain provisions of which continue in full force and effect. It speaks only to an affirmation of SSR's prior commitments to Winthrop. It alludes to outreach but, in fact, MSM has only this week begun to engage in meaningful dialogue with the City, presumably due to its need to focus its attention on the City of Revere and the Commission, including obtaining variances from provisions of the Gaming Act. It is essential that additional information and clarification be provided to the City, together with specific commitments as to the terms of a surrounding community agreement to the extent one is appropriate, as soon as possible so that it may better understand the details of the MSM proposal and take appropriate action in accordance with the provisions of the Gaming Act and other applicable law.

Wynn, MA

On December 31st, 2013, the City also received an electronic file from Wynn MA, LLC ("Wynn") which is a portion of the completed RFA-2 Application seeking a Category 1 License to authorize the development of a resort destination casino at the former Monsanto site. As with MSM, certain of the relevant portions of the RFA-2 Application have not been provided to the City. The same issues presented with respect to the MSM proposal hold true for the Wynn RFA-2 Application and similarly preclude the City's ability to take appropriate action in accordance with the provisions of the Gaming Act and other applicable law. In Section 5-15 of its RFA-2, Wynn states:

Wynn has acknowledged that the City of Boston is a "surrounding community," but it has not yet done so in accordance with applicable law and regulation because the parties have not reached terms for a final agreement. Following the City of Boston's acknowledgement in early September 2013 that it is not a "host community" to the proposed Wynn Resort in Everett, representatives of Wynn MA and the City of Boston have actively engaged in active, ongoing discussions

and correspondence. The discussions have focused on impacts to the Charlestown neighborhood with an emphasis on traffic/transportation infrastructure.

It is not clear why Wynn has expressly chosen, by its own admission, *not* to make a designation in accordance with the Gaming Act. The City also notes that, as with MSM, Wynn has only just begun to engage in meaningful dialogue with the City. Enclosed please find as Exhibit C an email in December from a member of the Wynn team to the City which indicated that its efforts with the Commission and MEPA filings precluded its ability to meet with the City. Enclosed please find as Exhibit D further communication from the City which indicates its willingness to meet with the Wynn team following its review of the Commission and MEPA filings. Today the City received a letter from Wynn which asks for the City's assent to its status as a surrounding community in accordance with the provisions of 205 CMR 125.01. For the reasons noted above, the City cannot execute such assent until the further time and additional information has been provided.

Conclusion

Without waiving the right for the City to assert Host Community status, to the extent that the facts and attendant circumstances so warrant, the City asks that the Commission postpone the deadline for any requisite filings which may be required in accordance with the provisions of 205 CMR 125.01 in order to afford appropriate time to make the requisite inquiry directly of the casino Applicants and receive the relevant information in order to determine Boston's status. This will enable the City to best protect the interests of its citizens.

The City respectfully submits that such further extension is warranted due to:

- The reasonable need for additional time for all of the reasons described above;
- The lack of specificity and clarity in each of the RFA-2 filings noted above as to the City's designation/status as a surrounding or host community within the meaning of the Gaming Act;
- The failure of each of the Applicants to follow the guidance and procedures set forth in 205 CMR 125.01 (to the extent that surrounding community status is appropriate); and
- The inadequacy of the information provided by each of the Applicants to the City both in the RFA-2 and in prior, limited, discussions with the City.

In meetings with MSM and Wynn representatives this week, the City received assurances that it would be provided with any information that it needed, including revisions to each of the Applications if necessary, and that both Applicants would endeavor to expeditiously address the City's concerns and enter into appropriate agreements as required by the Gaming Act. Given these assurances and for the reasons set forth herein, additional time is required to provide the City with the ability to discern the facts and confirm that these promises are backed by action.

Chairman Stephen Crosby
January 9th, 2014

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The City reiterates its request for a thirty (30) day extension until February 10th, 2014, including the issuance of a waiver to the extent necessary, so that the City has an adequate opportunity to review the information which has been filed, receive other information from the Applicants, and evaluate such information accordingly.

Very truly yours,



Elizabeth Dello Russo

Senior Assistant Corporation Counsel

Enclosures

Cc Via Electronic Delivery:

John Ziemba, Massachusetts Gaming Commission
Catherine Blue, Massachusetts Gaming Commission
John Stefanini, DLA Piper
Kevin Conroy, Foley Hoag
Daniel Gaquin, Mintz Levin
Steve Tocco, ML Strategies
William F. Kennedy, Nutter McClennen & Fish
Mary Marshall, Nutter McClennen & Fish

Exhibit A



THOMAS M. MENINO
Mayor

CITY OF BOSTON
LAW DEPARTMENT

City Hall, Room 615
Boston, MA 02201

WILLIAM F. SINNOTT
Corporation Counsel

December 9, 2013

VIA ELECTRONIC SUBMISSION

Chairman Stephen Crosby
Massachusetts Gaming Commissioners
Massachusetts Gaming Commission
84 State Street, Suite 720
Boston, MA 02109

RE: *Response of the City of Boston to MGC's Request for Comments on the Proposed Suffolk Downs Casino in Revere*

Dear Chairman Crosby and Massachusetts Gaming Commissioners:

The Commission has requested public comments in connection with the Commission's review of Suffolk Downs' revised casino proposal which purports to locate the gaming establishment in Revere. As a preliminary matter, the City of Boston has not been provided with sufficient information from Sterling Suffolk Racecourse, LLC, or its new gaming partner Mohegan Sun (collectively "Suffolk Downs") as to the revised proposal. Without such information the City cannot determine its status as a host or surrounding community. In order to protect the integrity of the vote cast by the residents of East Boston, the City of Boston must understand the details of the Suffolk Downs-Revere plan. We ask that the Commission defer its vote on whether Suffolk Downs may proceed with its application until the appropriate information has been provided and analysis undertaken with respect to the City of Boston's status.

On November 5, 2013, voters in Ward 1 of the City of Boston voted not to allow a gaming establishment¹ licensed by the Commission in East Boston. Since that vote, Suffolk Downs has approached the Commission with a plan to move to Revere, the so called "Plan B" option. The City of Boston has no direct knowledge of Suffolk Downs' plans, as Plan B has not been presented to the City of Boston. In the absence of information from Suffolk Downs, the City of Boston is unable to provide definitive comments as to whether Plan B includes a gaming establishment in East Boston; yet given its understanding of the site, it is difficult for the City to understand how the "gaming establishment" would not include East Boston.

¹ A gaming establishment is defined by the Gaming Act to be "the premises approved under a gaming license which includes a gaming area and any other nongaming structure related to the gaming area and may include, but shall not be limited to, hotels, restaurants and other amenities." M.G.L. c. 23K, § 2.

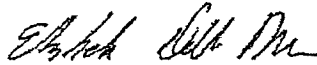
Massachusetts Gaming Commission
Comments on the Proposed Suffolk Downs Casino in Revere
~~December 9, 2013~~
Page Two

The City of Boston knows that the question of host community status is a fact-specific and detail-oriented analysis that requires thoughtful and thorough review in accordance with the provisions of the Gaming Act. In the absence of such information and analysis, the City of Boston must reserve its rights to further examination and determination, through the appropriate regulatory and legal channels. We ask that the Commission defer its consideration of the vote as such vote is premature and should only be undertaken after appropriate information has been supplied and the analysis has been undertaken by the City and the citizens of East Boston after seeing and understanding Plan B.

As the Commission reviews the matter of whether or not Suffolk Downs may proceed with a gaming application on Plan B, we ask that the Commission consider the comments set forth by the City of Boston and pay particular attention to the development and use of the East Boston portion of the land. In the absence of direct knowledge of facts to the contrary, the City of Boston maintains that the City of Boston is a host community to the Suffolk Downs site.

Thank you for your consideration and we look forward to working with the Commission on these matters. Please do not hesitate to contact me with any questions you may have.

Very truly yours,



Elizabeth Dello Russo
Executive Director of the HCAC
Senior Assistant Corporation Counsel

Exhibit B



THOMAS M. MENENDO
Mayor

**CITY OF BOSTON
LAW DEPARTMENT**

City Hall, Room 613
Boston, MA 02201

WILLIAM E. SINGNOTT
Corporation Counsel

December 6, 2013

Via U.S. Mail and Electronic Delivery

Chris Gordon, Project Manager
Wynn Consultant - Dirigo Group
Wynn Massachusetts LLC
27 Norwood Street #302
Everett, MA 02149

RE: *Proposed Wynn Resort in Massachusetts*

Dear Project Manager Gordon,

In anticipation of our meeting scheduled next Wednesday, I am writing to express concern regarding the delay in providing and responding to information requests. As you know, our technical teams have met on October 22, 2013, November 19, 2013, and December 3, 2013. Despite our repeated requests, we have yet to be presented with meaningful information which would allow for us to understand and mitigate impacts from the proposal.

As we have continually expressed, it is vital that the City of Boston protect the interests of the residents, families, businesses of and visitors to the City of Boston, and particularly the residents of Charlestown. We are concerned that to date, at this late hour, information has not been provided to allow for the proper analysis and/or mitigation of the effect of the proposed Wynn casino on the City and on the neighborhood.

The following is a summary of information that the City is continuing to seek so that we can properly analyze the effect of the proposed development, as only the City is best positioned to do.

A. Information Requests

In order to have a productive meeting, and so that the City of Boston is best prepared to understand the development and its impacts, please provide the City of Boston with the following:

1. The two (2) PowerPoint presentations that were provided on October 22, 2013, updated with the new transportation information as discussed;
2. The detailed transportation and traffic study, taking into consideration Sullivan Square, the Alford Street bridge, and the current City of Boston plans for Rutherford Avenue, as well as precise traffic counts, starting from the City's numbers, as we discussed;
3. A comprehensive list of any information regarding Rutherford Ave. or other planned transportation improvements, that the Wynn team is seeking from the City of Boston;
4. A draft mitigation plan to address infrastructure burdens and costs for the City;

5. Preliminary DEIR for City review before filing with MEPA;
6. A comprehensive environmental impact study, including impact on the Mystic River, if not included in the DEIR;
7. Additional information about site remediation, including the Phase III RAP that was filed with DEP in August 2013 and how remediation will be done in tandem with project development, amount of soil to be removed, and amount of fill. Also, if capping in place is proposed, information on the ventilation systems and stack locations for the parking garage;
8. Description of the electrical, space heating and energy systems, as well as all onsite power generation being considered;
9. Construction management plan – which will include a schedule and sequence of activities describing how construction workers and materials will get to/from the site; where staging will be located; what the traffic impacts are;
10. Information on dredging, including the time it will take, construction-period impacts on surrounding water-dependent users
11. A hot spot air quality analysis for the study area with an emphasis on Sullivan Square;
12. Detailed description, including conceptual plans, and evaluation of traffic mitigation measures proposed on roadways in the City of Boston. These would include any site access improvements on Broadway that may extend into the City of Boston along Alford Street;
13. Detailed description of any proposed travel demand management plans to help limit the volume of site generated traffic;
14. Detailed description and evaluation of proposed traffic mitigation plans for Wellington Circle, Santilli Circle and Sweetser Circle that, if implemented, would allow easier site access from the north and perhaps reduce volumes entering and exiting the site from the south via Boston streets;
15. Detailed analysis of projected changes in travel demands at the Sullivan Square MBTA station and evaluation of the station capacity to handle any increased ridership demands;
16. Detailed plans and analysis regarding the incorporation of any proposed shuttle bus services at the Sullivan Square MBTA station showing bus staging, loading and circulation areas;
17. Details about the “living shoreline” restoration;
18. Impact of sea level rise on ferry clearance at the Alford Street bridge;
19. Expected change in roadway-generated emissions with a 3% water transit mode share;
20. Details on where contaminated dredge spoils and soil will be disposed of; including if they will be transported by water or land and what the proposed routes are;
21. Details on whether the catamarans will have heads, and if so, if there will there be a pump-out at the project site;

Additionally, the City of Boston is still interested in any and all addition impact studies and Wynn's plans for mitigating the following:

22. A social impact study and a public safety proposal - including any assessment of compulsive gaming, public safety, drunk driving, impact on quality of life;
23. Plans for outreach and effect on local businesses, the Boston hotel market, Charlestown businesses;
24. A proposal for a marketing program with minority, women and veteran businesses enterprises and contractors, including residents of the City of Boston, as a surrounding community;
25. A proposal for affirmative action program of equal opportunity for minorities, women and veterans on construction jobs, including residents of the City of Boston, as a surrounding community;
26. Detailed information about proposed jobs, both construction and permanent, part time and full time, salary and benefits, including residents of the City of Boston, as a surrounding community;
27. Detailed projections for revenue, with a breakdown by slots, tables, retail, restaurant, night club/events, and otherwise;
28. Details on design and esthetic review, and/or plans, including for amenities around the site for the public; and
29. Any and all other relevant information, including a list of all information you have provided to the City of Everett.

If you are not able to provide this information, please provide a timeline of when you will be able to so provide it. Any undue delay from the Wynn development team in providing such information creates a hardship on the City of Boston, particularly the residents and businesses of Charlestown, and precludes effective mitigation of the analysis of impacts on the City of Boston occasioned by the proposed project.

B. Timeline

Overall, as the City of Boston is an agreed upon surrounding community, the City of Boston needs to better understand the development, and rapidly, so that we can assess impacts. Mr. Tocco stated at the November 7, 2013, MGC public meeting, that in the next thirty (30) days two additional studies will be released by the Wynn team: (1) a regional transportation plan, and (2) an aggressive water transportation plan. We look forward to reviewing these studies, and remind your team, that a release of this type of pertinent information to Boston in the month of December leaves little time for the City of Boston to review, analyze and precede towards mitigation in keeping with the Massachusetts Gaming Commission deadlines. We encourage your team to release drafts of these studies and the DEIR to the City of Boston in advance so that we can review them in earnest.

C. Technical Briefings

We would like to continue with these technical meetings in order to review the proposed Wynn development. We hope to meet with your team again the week of December 9th. Please let me know what time works best for your technical staff, in particular the transportation team.

Page 4 of 4

Chris Gordon, Dirigo Group/Wynn

Friday, December 6, 2013

Thank you and we look forward to receiving the requested material and meeting with the Wynn development team to further discuss these matters.

Very truly yours,



Elizabeth Dello Russo

Senior Assistant Corporation Counsel

CC: *Via Electronic Mail*

Steve Tocco, President and CEO, ML Strategies

John Ziembra, Ombudsman, Massachusetts Gaming Commission

Exhibit C

1/9/14

Information Requests - elizabeth.dellorusso@boston.gov - City of Boston Mail



Chris Gordon
to STocco, Elizabeth

12/9/13



Liz

We have reviewed your letter dated December 6th (received on the 7th) requesting information regarding Wynn Everett. Many of these items have been presented and discussed in our recent meetings on environmental impacts, transportation, and water shuttles – thank you for arranging and attending those meetings. As we have discussed, much of the updated information you have requested will be in our Draft Environmental Impact Report, scheduled to be filed on December 16th (Monday). We will hand deliver a hard copy of the document to your office on Monday, as we did with the Environmental Notification document when it was filed, and look forward to discussing its content in detail with your team.

As our team is very busy completing all required steps to make sure that document, as well as our gaming application (also due this month), are as informative as they can possible be, we would like to postpone our meeting with your team scheduled for Wednesday at 10AM and discuss dates in the near future we could hold the meeting.

Chris

Exhibit D

1/9/14

Wednesday Meeting - elizabeth.dellorosso@boston.gov - City of Boston Mail

Elizabeth DelloRusso <elizabeth.dellorosso@boston.gov>

12/18/13



to Chris

Hi Chris,
I have just received the Wynn DEIR filing. The City will be reviewing this document. Just as your December 9th e-mail asked to postpone our December 11th scheduled meeting in order to file this document, it seems logical to me that prior to our next meeting, we should allow the City to have adequate time to review this filing so that we can have a more educated discussion.

Best,
Liz

Elizabeth Dello Russo
Senior Assistant Corporation Counsel
Executive Director, Gaming Development
City Hall, Room 620
Boston, MA 02201
(617) 635-4037
Elizabeth.DelloRusso@Boston.Gov

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Attachment 2



January 10, 2014

Via Electronic Delivery

Elizabeth S. Dello Russo, Esquire
Senior Assistant Corporation Counsel
City of Boston, Law Department
City Hall, Room 620
Boston, MA 02201

Re: Extension of Time Period Request dated January 9, 2014 by the City of Boston ("City")

Dear Ms. Dello Russo:

We are writing in response to the January 9, 2014 letter you wrote to Chairman Crosby requesting an extension of thirty (30) days to the January 13, 2014 deadline for communities to submit a letter assenting to any designation of a community as a surrounding community. Unfortunately, the Commission did not receive this letter in time to allow the commissioners to deliberate this matter at its last Commission meeting before the January 13, 2014 deadline.

Therefore, the Commission will not be able to extend this deadline, as you requested, before it expires. However, in order to allow the City to meet the regulatory requirements specified in 205 CMR 125.01, we recommend that the City consider assenting to the designation of surrounding community status but reserving a right to claim host community status, should the City deem it advisable to do so.

As you are aware, the Commission does not plan to designate any communities, either those that petition to be designated as a surrounding community or those designated as a surrounding community in an RFA-2 application, until February 6, 2014, or potentially later. February 6 is approximate to the February 10 date specified in your letter. If the City determines that it qualifies for host community status before such date, the City could notify the Commission. Further, as noted by the Commission previously, host community status will be part of the RFA-2 evaluation process.

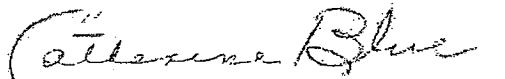
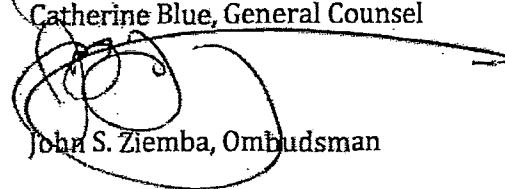
Massachusetts Gaming Commission

Elizabeth Dello Russo, Esquire
Page Two
January 10, 2014

We hope this is a remedy to the timing constraints you raised. If you believe it necessary to continue to request an extension, please notify us so that we can put the issue before the Commission at a future meeting.

As of this date, the next regularly scheduled meeting of the Commission is January 23, 2014. Please let us know if you have any further questions or concerns.

Sincerely,


Catherine Blue, General Counsel

John S. Ziemba, Ombudsman

cc: ***Via Electronic Delivery:***
Chairman Stephen Crosby
Massachusetts Gaming Commissioners
John Stefanini, DLA Piper
Kevin Conroy, Foley Hoag
Daniel Gaquin, Mintz Levin
Steve Tocco, ML Strategies
William F. Kennedy, Nutter McClennen & Fish
Mary Marshall, Nutter McClennen & Fish

Massachusetts Gaming Commission

84 State Street, 10th Floor, Boston, Massachusetts 02109 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com

Before the

MASSACHUSETTS GAMING COMMISSION

Petition of the City of Boston for an Emergency Hearing With Respect to Massachusetts Gaming Commission's Designation of the City of Boston as a Surrounding Community within Region A and With Respect to Other Matters in Connection With Wynn, MA, LLC Application for a Category 1 License

I. INTRODUCTION

The purpose of this Petition is to request an emergency hearing before the Massachusetts Gaming Commission (the "Commission") on or before February 18, 2014, so that the City of Boston (the "City") may present its concerns and request that the Commission defer its designation of the City as a Surrounding Community within Region A for a minimum of an additional thirty (30) days until March 18, 2014, granting the City an extension of time as previously requested. The City is forced to make this extraordinary request in this emergency manner because information that is critical to the City's evaluation of (a) what type of agreement the City is entering into, and (b) what the impacts of this development are, has not been supplied to the City. Any designation by the Commission would unduly harm the City and reward the Applicant. Therefore, the City also requests that the Commission compel Wynn, MA, LLC ("Wynn" or the "Applicant") to produce requested documentation and further information necessary to evaluate Wynn's proposal.

II. DISCUSSION

On December 31, 2013, Wynn filed a RFA-2 Application seeking a Category 1 License to authorize the development of a resort destination casino at the former Monsanto site with the Commission, and provided the City with an electronic file containing sections of such filing. On January 9, 2014, the City filed a request with the Commission asking for a further extension of the deadline for the filing of surrounding community petitions and designation assent letters as

specified in 205 CMR 125.01 until February 10, 2014, for the reasons set forth in the City's letter request. See Attachment 1: City's Request for an Extension.

On January 10, 2014, the Commission denied the City's request, noting that the Commission's schedule did not allow for it to consider the City's request and recommended "that the City consider assenting to the designation of surrounding community status but reserving a right to claim host community status should the City deem it advisable to do so." See Attachment 2: Commission Denial. In its letter, the Commission further states, "if the City determines that it qualifies for host community status ... the City could notify the Commission." See Attachment 2: Commission Denial. The Commission's letter also noted "If you believe it is necessary to continue to request an extension, please notify us so that we can put the issue before the Commission at a future meeting." See Attachment 2: Commission Denial.

By a petition filed with the Commission on January 13, 2014, in accordance with the requirements of M.G.L. c. 23K and 205 CMR 1.00 et. seq. (the "Gaming Act") and with the direction provided by the Commission in its letter of January 10, 2014, the City petitioned for designation as a surrounding community, in order to preserve the interests of the City and its residents from the siting and development of a resort destination casino as proposed by Wynn. The City did not waive its right to assert host community status. See Attachment 3: City's January 13, 2014 Petition. In its January 13, 2014 Petition, the City asked that the Commission: (i) reconsider its denial of the City's request for an extension; and (iv) compel Wynn to cooperate fully with the City, providing any and all information requested by the City so that it may best evaluate its status as host or surrounding community and properly understand and evaluate the Wynn Proposal in relation to the City. See Attachment 3: City's January 13, 2014 Petition.

The Commission has set February 18, 2014 as the date that it will designate those communities which have status as Surrounding Communities, and has set February 19, 2014 as the beginning of the thirty (30) day "statutory negotiation period" within which surrounding communities must enter into surrounding community agreements. If no agreement is reached within the "statutory negotiation period," the city or town will be subject to binding arbitration.

A. The City requests an Emergency Hearing to express its concerns that the Commission deadline of February 18, 2014 for designation of the City as a surrounding community and thus beginning the thirty (30) day time period for negotiations is prejudicial to the City because the City is still trying to obtain relevant information and assessments from the Applicant.

The interests of the Gaming Act, the Commission, and the public are all best served by a mitigated gaming development. At this juncture, the City is not able to properly assess status or mitigation because the Applicant has not provided enough information or analysis in order to do so. The Commission should not rush into a designation under these circumstances. If the Commission designates the City a surrounding community on February 18, 2014, it will greatly prejudice the City's rights pursuant to the Gaming Act.¹

The Commission's failure to grant this requested extension and its action to designate Boston as a Surrounding Community on February 18th, 2014 would begin a statutorily mandated thirty (30) day negotiation period followed by binding arbitration to the extent that accord is not voluntarily reached within this 30 day period. The Commission must defer taking any action which would be prejudicial to the City and limit its rights and protections under the Gaming Act.

1. The Commission's potential action is prejudicial to the City because the City is seeking and reviewing information and assessments from the Applicant regarding the impacts of the Applicant's proposed development.

The City still has not been able to obtain necessary relevant information regarding Wynn's proposed resort destination casino on the former Monsanto site in Boston and Everett ("Wynn Proposal"). See Attachment 1: City's Request for Extension and Attachment 3: City

¹ See M.G.L. c. 23K, § 15: "No applicant shall be eligible to receive a gaming license unless the applicant meets the following criteria and clearly states as part of an application that the applicant shall...

(8) provide to the commission a signed agreement between the host community and the applicant setting forth the conditions to have a gaming establishment located within the host community; provided, however, that the agreement shall include a community impact fee for the host community and all stipulations of responsibilities between the host community and the applicant including stipulations of known impacts from the development and operation of a gaming establishment;

(9) provide to the commission signed agreements between the surrounding communities and the applicant setting forth the conditions to have a gaming establishment located in proximity to the surrounding communities and documentation of public outreach to those surrounding communities; provided, however, that the agreement shall include a community impact fee for each surrounding community and all stipulations of responsibilities between each surrounding community and the applicant, including stipulations of known impacts from the development and operation of a gaming establishment." M.G.L. c. 23K, § 15 (8)-(9).

January 13, 2014 Petition. Despite promising conversations which occurred earlier last month, the filing of the DEIR noted below, a presentation of the Wynn Proposal in the Charlestown neighborhood of Boston last week, and the City's repeated written requests, there has not yet been sufficient sharing of information from Wynn necessary to inform the City's evaluation of the Wynn Proposal.

The information that has been shared, such as the Draft Environmental Impact Report ("DEIR"), contains incorrect information and assumptions, and demonstrates a lack of study and review by Wynn on development issues. On December 16, 2013, Wynn filed its DEIR with the Secretary of the Office of Energy and Environmental Affairs ("EOEA") Massachusetts Environmental Policy Act Unit ("MEPA"), providing a copy to the City on December 18, 2013. The DEIR consists of approximately 4,731 pages which the City and its outside consultants have reviewed and provided comment upon to MEPA on February 11, 2014. See Attachment 4: City's February 11, 2014 MEPA Comment. The City's February 11, 2014 MEPA's Comment includes detailed review and comment by the City and its technical, transportation, and environmental impact experts relative to the Wynn Proposal. It specifically notes transportation and environmental impact issues which Wynn has not addressed in the DEIR. See Attachment 4: City's February 11, 2014 MEPA Comment.

The City's rights and abilities to analyze the resort destination casino proposed by Wynn have been limited due to the minimal substantive information that Wynn has shared with the City with respect to certain aspects of the Wynn Proposal, including access to the site, and the failure of the proposal to reflect the City's approved plans for pedestrian, vehicular and bike improvements to Sullivan Square, Rutherford Avenue and Alford Street which have long been studied and planned, with the input of all impacted stakeholders. So too the City is not yet able to assess the as yet unquantifiable but demonstrable and negative environmental impacts to due increased congestion, and construction period impacts; public health and safety impacts; housing stock, property value and zoning requirements; educational impacts, including problem gaming and proximity to the youth population; social and neighborhood development impacts as well as other factors. See Attachment 1: City's Request for Extension; Attachment 3: City's January 13, 2104 Petition and Attachment 4: City's February 11, 2014 MEPA Comment.

The City remains hopeful that information and analysis that has not yet been forthcoming will be so. The City has engaged and will continue to engage all of its relevant departments to review and analyze the information which is provided by Wynn. But at this time, the City (and the Applicant) are not able to properly define impacts, without the Applicant engaging in additional study and providing additional information. Therefore, the City asks that the Commission defer its designation.

2. The Commission's potential action of designating the City a surrounding community on February 18, 2014 is prejudicial to the City because the City is still seeking information regarding its status as either a host or surrounding community.

Information that has been provided by Wynn to the City, including sections of the Wynn RFA-2, exclude information which has been provided to the Commission, certain elements of which are relevant to the City's review and the type of agreement the City will enter into. The question of host or surrounding community status for the City is a fact-specific and detail-oriented analysis that requires thoughtful and thorough review in accordance with the provisions of the Gaming Act; making the need for information from Wynn crucial to the City's review.

The City again asks the Commission to compel Wynn to produce the requested information² as well as any other information which would be relevant to the City's inquiry, including but not limited to:

- any and all memoranda, letters, emails or agreements to lease or otherwise acquire the land in Everett and Boston required or regarding the Wynn Proposal, including but not limited to the land currently owned by the MBTA, and Parcel C;³
- a site plan that reflects the land that is currently under agreement;
- details as to participation in any profits from the casino operations for any of the property owners impacted by the Wynn Proposal;
- necessary details as to transportation management and mitigation;⁴

² The City notes that after discussions with Wynn on February 12, 2014, this same list of requests was provided to Wynn.

³ See Wynn RFA-2, Question 2-4: Land, Attachment 2-04-05.

⁴ See City's Comment Letter to MEPA on the Wynn DEIR.

- further detail on operational issues including transportation demand management strategies to abate the transportation impacts;⁵
- details pertaining to the staging and management of the remediation of the Site as required in order to enable the Wynn Proposal;⁶
- any usage agreement or any agreement regarding entertainment with the Boston Symphony Orchestra and TD Garden, which Wynn's RFA-2 states serve as the primary entertainment venues for Wynn MA;⁷ and
- any permit chart or required or expected permits, approvals and land acquisition which will be required, including those required from the City.⁸

While the City has begun its review of the Wynn RFA-2 and just provided comments to MEPA on the Wynn DEIR, its review is far from complete – as is that of MEPA and other interested agencies as set forth above - and requires substantial additional information and analysis from Wynn. Given the materials that the City now has available, the City cannot see how the Commission will be able to make a definitive determination as to the City status as a surrounding community status on or before February 18, 2014.⁹

The City asks that the Commission reconsider the City's request for an extension, given the important public interests which must be protected and the fact that there is sufficient time for the Commission to grant this extension without impacting the Commission's projected timeframe for the issuance of Category 1 Licenses. Moreover, the City requests that the Commission follow a timeline for the issuance of a Category 1 License in Region A similar to the timeline which is being followed in Region C.

⁵ Id.

⁶ See Wynn RFA – 2, Question 4: Permit Chart, attachment 4-69; and City's Comment Letter to MEPA on the Wynn DEIR.

⁷ See Wynn RFA-2, Section 3 Economic Development, §3-33; C-01-01; Section 1: Meeting Unmet Needs, §1-5, attachments 1-05-02, 1-05-04.

⁸ See Wynn RFA – 2, § 4-69, § 4-70: Permit Chart and attachments; § C-01-01.

⁹ The City notes that the Commission also should be reviewing information provided to assess whether the site plans and other documentation is accurate and reflective of land agreements because it has bearing on the City's status.

III. SUMMARY OF PETITION REQUESTS

The City requests an emergency hearing on or before February 18, 2014 to enable the City to present its concerns to the Commission. Furthermore, the City, without waiving its right to assert host community status, asks that the Commission defer its designation of the City as a Surrounding Community within Region A for at least an additional thirty (30) days until March 18, 2014, granting the City an extension of time as previously requested. Finally, the City requests that the Commission compel Wynn to produce requested documentation and further information without further delay.

Respectfully submitted,

THE CITY OF BOSTON

On behalf of Mayor Martin J. Walsh
By its Attorney,
Eugene L. O'Flaherty, Corporation Counsel


Elizabeth Dello Russo, BBO # 670045
Senior Assistant Corporation Counsel
City of Boston
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CERTIFICATE OF SERVICE

I hereby certify that on this date a true copy of the above document was served upon the following by electronic and/or U.S. mail:

Jacqui Krum
Senior Vice President and General Counsel
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Las Vegas, NV 89109

Daniel O. Gaquin, Esquire
Mintz Levin Cohn Ferris Glovsky and Popeo PC
1 Financial Center,
Boston, MA 02110

Stephen P. Tocco
ML Strategies
One Financial Center
Boston, MA 02111

2/13/2014
Date


Elizabeth Dello Russo

Dated: February 13, 2014

Attachment

1



CITY OF BOSTON
LAW DEPARTMENT
City Hall, Room 615 Boston, MA 02201

Martin J. Walsh
Mayor

William F. Sinnott
Corporation Counsel

January 9th, 2014

Via Electronic Delivery

Chairman Stephen Crosby
Massachusetts Gaming Commissioners
Massachusetts Gaming Commission
84 State Street, 10th Floor
Boston, MA 02109

RE: *Extension of the Time Period for the City of Boston to Take any Action Which May Be Required in Accordance with the Requirements of 205 CMR 125.01*

Dear Chairman Crosby and Massachusetts Gaming Commissioners:

The City of Boston (the "City") understands that the Massachusetts Gaming Commission (the "Commission") has extended the deadline for the filing of surrounding community petitions and designation assent letters as specified in 205 CMR 125.01 until January 13th, 2014. While the City is appreciative of this extension, it respectfully requests a further, meaningful extension of time of thirty (30) days, until February 10th, 2014 in order to determine what action, if any, the City is required to take in accordance with the provisions of 205 CMR 125.01, or other relevant provisions of M.G.L. c. 23K and 205 CMR 1.00 et. seq (the "Gaming Act"). In addition, the City also requests that to the extent necessary, the Commission grant a waiver of the stated time periods set forth in 205 CMR 125.01 in accordance with the provisions of 205 CMR 102.03(4)(2). Discussions with the Applicant Mohegan Sun which occurred this week indicated that they would be receptive to an extension of these time periods.

The Commission's deadline for the filing of RFA-2 Applications was December 31st, 2013. Due to the federal holiday on January 1st, 2014, the severe weather event on January 2nd and 3rd, 2014 when the City abided by the Governor's declared state of snow emergency, ceasing all but the most essential emergency governmental services, and the inauguration of Martin J. Walsh as Mayor of the City of Boston on January 6th, 2014, the City has not had sufficient time to review the RFA-2 Applications. Illustrative of the insufficient time for review is the fact that collectively the RFA-2 Applications are approximately 43,000 pages, while collectively, as of

this filing, Mayor Walsh has been Mayor of the City of Boston for approximately eighty (80) hours. Moreover, the redaction of relevant information, lack of satisfactory information and clarity in the applications made such review impossible and supports the waiver of the time periods as set forth in greater detail below.

As previously noted, the City has had little interaction with and has limited understanding of the revisions to the proposed Mohegan Sun resort destination casino at Suffolk Downs. See the City's letter dated December 9th, 2013 to the Commission attached as Exhibit A. Similarly, the City has had an extremely limited interaction with the developers of the proposed Mohegan Sun resort destination casino. Similarly, the City has had an extremely difficult time obtaining relevant information regarding the proposed resort destination casino on the former Monsanto site in Boston and Everett. See the City's letter dated December 6th, 2013 attached as Exhibit B.

The City knows that the question of host or surrounding community status is a fact-specific and detail-oriented analysis that requires thoughtful and thorough review in accordance with the provisions of the Gaming Act. The City requires the extension so that it can review the voluminous RFA-2 filings which have been made by both Applicants to request additional information and clarification of such filings, and to receive detailed input from the Applicants as to each of their proposals.

The City's Request

Given these facts as well as those set forth in greater detail below, the City is respectfully requesting that the Commission vary the requirements of the Commission's regulation set forth at 205 CMR 125.01 in accordance with the provisions of 205 CMR 102.03(4). To grant the requested waiver which will provide the requested extension in accordance with 205 CMR 102.03(4), the Commission must find that:

1. Granting the waiver is consistent with the purposes of the Gaming Act;
2. Granting the waiver will not interfere with the ability of the Commission or its Investigations and Enforcement Bureau ("IEB") to fulfill its duties;
3. Granting the waiver will not adversely affect the public interest; and
4. Not granting the waiver would cause substantial hardship to the person requesting the waiver.

For reasons set forth in greater detail below, all of these conditions have been satisfied and support the City's request.

First, granting the requested waiver is consistent with the purposes of the Gaming Act because the public interests protected by such Gaming Act will be served and the regulatory requirements will be fulfilled. See 205 CMR 102.03(4)(1). The additional time gives the City

Chairman Stephen Crosby
January 9th, 2014
Page 3

the ability to review the facts presented by both of the Applicants and, potentially for the Applicants to amend their RFA-2 filings so as to comply with the requirements of 205 CMR 125.01.

Granting the requested waiver will not interfere with the ability of the Commission or the IEB to fulfill its duties. *See* 205 CMR 102.03(4)(2). In fact, the additional time will run in parallel with the Commission's own review of the Applicants' filings and the Revere referendum, and allow for the City to review the newly available information and to engage in meaningful and effective communications with each of these Applicants.

Granting the waiver will further the public interest because the City and its citizens will be afforded the first meaningful opportunity to review each of the casino proposals – for which it may be either a host or surrounding community – so as to better understand and protect the public interest. *See* 205 CMR 102.03(4)(3).

Failure to grant the waiver would cause a substantial hardship to the City because it would require: (a) the City to make determinations without the ability to evaluate the facts presented by each of the Applicants and to understand its status; (b) preclude the ability to enter into meaningful discussions and negotiations with each of the Applicants as contemplated in the Gaming Act; (c) unfairly place the City in an unequal and reactive negotiation position with each of the Applicants in a manner which violates the spirit and intent of the Gaming Act. *See* 205 CMR 102.03(4)(4).

It is our understanding that the Commission will take several weeks to undertake a review of the Applications as filed, potentially making other information available to the City and other interested parties, and has scheduled a briefing before the Commission by both Applicants on January 22nd, 2014. The City will monitor this briefing with interest. The additional thirty (30) days will afford the City the necessary time to evaluate all relevant information in a manner which best serves the public interest consistent with the purposes of the Gaming Act.

Mohegan Sun

On December 31st, 2013 the City received two (2) un-indexed unsystematic file boxes of materials from the new Applicant for the resort destination casino at Suffolk Downs, Mohegan Sun Massachusetts, LLC (“MSM”). These materials are a portion of the completed RFA-2 Application seeking a Category 1 License for a resort destination casino located at the Suffolk Downs site. The City notes that certain portions of the RFA-2 Application have not been provided to the City and are designated as “confidential” or described in insufficient detail for the City to make a considered evaluation. Given these deficiencies, the City requires additional time and input from MSM to discern what its status is with respect to the proposed Suffolk Downs resort destination casino.

In its addenda to Section 5-15-01 of its RFA-2, MSM notes that:

In addition to Chelsea, MSM and Sterling Suffolk Racecourse, LLC (Suffolk Downs) representatives have been in discussions with Boston and Winthrop. The issues presented by Boston and Winthrop, given the locations of those communities and their proximity to the resort, call for individual Surrounding Community Agreements with each. While no agreements have been reached, MSM through its partner Suffolk Downs has reached out to each community, as shown in letters to each municipality that are provided in Attachments 5-15-03 and 5-15-04. In the spirit of cooperation and outreach to these new community partners, MSM affirms its support for Suffolk Downs' past efforts to reimburse the City of Winthrop for consultant and other expenses associated with analyzing the potential impacts of expanded gaming on the Suffolk Downs property (See Attachments 5-15-05 and 5-15-06.)

MSM's RFA-2 language noted above fails to note that it, not Sterling Suffolk Racecourse, LLC ("SSR"), is now the Applicant. The language does not track the requirements of a surrounding community designation specified in 201 CMR 125.01. It does not indicate that it will make sure that SSR honors its outstanding commitments to the City in accordance with the terms of the Host Community Agreement it had negotiated, certain provisions of which continue in full force and effect. It speaks only to an affirmation of SSR's prior commitments to Winthrop. It alludes to outreach but, in fact, MSM has only this week begun to engage in meaningful dialogue with the City, presumably due to its need to focus its attention on the City of Revere and the Commission, including obtaining variances from provisions of the Gaming Act. It is essential that additional information and clarification be provided to the City, together with specific commitments as to the terms of a surrounding community agreement to the extent one is appropriate, as soon as possible so that it may better understand the details of the MSM proposal and take appropriate action in accordance with the provisions of the Gaming Act and other applicable law.

Wynn, MA

On December 31st, 2013, the City also received an electronic file from Wynn MA, LLC ("Wynn") which is a portion of the completed RFA-2 Application seeking a Category 1 License to authorize the development of a resort destination casino at the former Monsanto site. As with MSM, certain of the relevant portions of the RFA-2 Application have not been provided to the City. The same issues presented with respect to the MSM proposal hold true for the Wynn RFA-2 Application and similarly preclude the City's ability to take appropriate action in accordance with the provisions of the Gaming Act and other applicable law. In Section 5-15 of its RFA-2, Wynn states:

Wynn has acknowledged that the City of Boston is a "surrounding community," but it has not yet done so in accordance with applicable law and regulation because the parties have not reached terms for a final agreement. Following the City of Boston's acknowledgement in early September 2013 that it is not a "host community" to the proposed Wynn Resort in Everett, representatives of Wynn MA and the City of Boston have actively engaged in active, ongoing discussions

and correspondence. The discussions have focused on impacts to the Charlestown neighborhood with an emphasis on traffic/transportation infrastructure.

It is not clear why Wynn has expressly chosen, by its own admission, *not* to make a designation in accordance with the Gaming Act. The City also notes that, as with MSM, Wynn has only just begun to engage in meaningful dialogue with the City. Enclosed please find as Exhibit C an email in December from a member of the Wynn team to the City which indicated that its efforts with the Commission and MEPA filings precluded its ability to meet with the City. Enclosed please find as Exhibit D further communication from the City which indicates its willingness to meet with the Wynn team following its review of the Commission and MEPA filings. Today the City received a letter from Wynn which asks for the City's assent to its status as a surrounding community in accordance with the provisions of 205 CMR 125.01. For the reasons noted above, the City cannot execute such assent until the further time and additional information has been provided.

Conclusion

Without waiving the right for the City to assert Host Community status, to the extent that the facts and attendant circumstances so warrant, the City asks that the Commission postpone the deadline for any requisite filings which may be required in accordance with the provisions of 205 CMR 125.01 in order to afford appropriate time to make the requisite inquiry directly of the casino Applicants and receive the relevant information in order to determine Boston's status. This will enable the City to best protect the interests of its citizens.

The City respectfully submits that such further extension is warranted due to:

- The reasonable need for additional time for all of the reasons described above;
- The lack of specificity and clarity in each of the RFA-2 filings noted above as to the City's designation/status as a surrounding or host community within the meaning of the Gaming Act;
- The failure of each of the Applicants to follow the guidance and procedures set forth in 205 CMR 125.01 (to the extent that surrounding community status is appropriate); and
- The inadequacy of the information provided by each of the Applicants to the City both in the RFA-2 and in prior, limited, discussions with the City.

In meetings with MSM and Wynn representatives this week, the City received assurances that it would be provided with any information that it needed, including revisions to each of the Applications if necessary, and that both Applicants would endeavor to expeditiously address the City's concerns and enter into appropriate agreements as required by the Gaming Act. Given these assurances and for the reasons set forth herein, additional time is required to provide the City with the ability to discern the facts and confirm that these promises are backed by action.

Chairman Stephen Crosby
January 9th, 2014
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The City reiterates its request for a thirty (30) day extension until February 10th, 2014, including the issuance of a waiver to the extent necessary, so that the City has an adequate opportunity to review the information which has been filed, receive other information from the Applicants, and evaluate such information accordingly.

Very truly yours,



Elizabeth Dello Russo
Senior Assistant Corporation Counsel

Enclosures

Cc Via Electronic Delivery:

John Ziemba, Massachusetts Gaming Commission
Catherine Blue, Massachusetts Gaming Commission
John Stefanini, DLA Piper
Kevin Conroy, Foley Hoag
Daniel Gaquin, Mintz Levin
Steve Tocco, ML Strategies
William F. Kennedy, Nutter McClennen & Fish
Mary Marshall, Nutter McClennen & Fish

Exhibit A



THOMAS M. MENINO
Mayor

CITY OF BOSTON LAW DEPARTMENT

City Hall, Room 615
Boston, MA 02201

WILLIAM F. SINNOTT
Corporation Counsel

December 9, 2013

VIA ELECTRONIC SUBMISSION

Chairman Stephen Crosby
Massachusetts Gaming Commissioners
Massachusetts Gaming Commission
84 State Street, Suite 720
Boston, MA 02109

RE: *Response of the City of Boston to MGC's Request for Comments on the Proposed Suffolk Downs Casino in Revere*

Dear Chairman Crosby and Massachusetts Gaming Commissioners:

The Commission has requested public comments in connection with the Commission's review of Suffolk Downs' revised casino proposal which purports to locate the gaming establishment in Revere. As a preliminary matter, the City of Boston has not been provided with sufficient information from Sterling Suffolk Racecourse, LLC, or its new gaming partner Mohegan Sun (collectively "Suffolk Downs") as to the revised proposal. Without such information the City cannot determine its status as a host or surrounding community. In order to protect the integrity of the vote cast by the residents of East Boston, the City of Boston must understand the details of the Suffolk Downs-Revere plan. We ask that the Commission defer its vote on whether Suffolk Downs may proceed with its application until the appropriate information has been provided and analysis undertaken with respect to the City of Boston's status.

On November 5, 2013, voters in Ward 1 of the City of Boston voted not to allow a gaming establishment¹ licensed by the Commission in East Boston. Since that vote, Suffolk Downs has approached the Commission with a plan to move to Revere, the so called "Plan B" option. The City of Boston has no direct knowledge of Suffolk Downs' plans, as Plan B has not been presented to the City of Boston. In the absence of information from Suffolk Downs, the City of Boston is unable to provide definitive comments as to whether Plan B includes a gaming establishment in East Boston; yet given its understanding of the site, it is difficult for the City to understand how the "gaming establishment" would not include East Boston.

¹ A gaming establishment is defined by the Gaming Act to be "the premises approved under a gaming license which includes a gaming area and any other nongaming structure related to the gaming area and may include, but shall not be limited to, hotels, restaurants and other amenities." M.G.L. c. 23K, § 2.

Massachusetts Gaming Commission
Comments on the Proposed Suffolk Downs Casino in Revere
December 9, 2013
Page Two

The City of Boston knows that the question of host community status is a fact-specific and detail-oriented analysis that requires thoughtful and thorough review in accordance with the provisions of the Gaming Act. In the absence of such information and analysis, the City of Boston must reserve its rights to further examination and determination, through the appropriate regulatory and legal channels. We ask that the Commission defer its consideration of the vote as such vote is premature and should only be undertaken after appropriate information has been supplied and the analysis has been undertaken by the City and the citizens of East Boston after seeing and understanding Plan B.

As the Commission reviews the matter of whether or not Suffolk Downs may proceed with a gaming application on Plan B, we ask that the Commission consider the comments set forth by the City of Boston and pay particular attention to the development and use of the East Boston portion of the land. In the absence of direct knowledge of facts to the contrary, the City of Boston maintains that the City of Boston is a host community to the Suffolk Downs site.

Thank you for your consideration and we look forward to working with the Commission on these matters. Please do not hesitate to contact me with any questions you may have.

Very truly yours,



Elizabeth Dello Russo
Executive Director of the HCAC
Senior Assistant Corporation Counsel

Exhibit B



THOMAS M. MENENDO
Mayor

**CITY OF BOSTON
LAW DEPARTMENT**

City Hall, Room 615
Boston, MA 02201

WILLIAM F. SINGHOTT
Corporation Counsel

December 6, 2013

Via U.S. Mail and Electronic Delivery

Chris Gordon, Project Manager
Wynn Consultant - Dirigo Group
Wynn Massachusetts LLC
27 Norwood Street #302
Everett, MA 02149

RE: *Proposed Wynn Resort in Massachusetts*

Dear Project Manager Gordon,

In anticipation of our meeting scheduled next Wednesday, I am writing to express concern regarding the delay in providing and responding to information requests. As you know, our technical teams have met on October 22, 2013, November 19, 2013, and December 3, 2013. Despite our repeated requests, we have yet to be presented with meaningful information which would allow for us to understand and mitigate impacts from the proposal.

As we have continually expressed, it is vital that the City of Boston protect the interests of the residents, families, businesses of and visitors to the City of Boston, and particularly the residents of Charlestown. We are concerned that to date, at this late hour, information has not been provided to allow for the proper analysis and/or mitigation of the effect of the proposed Wynn casino on the City and on the neighborhood.

The following is a summary of information that the City is continuing to seek so that we can properly analyze the effect of the proposed development, as only the City is best positioned to do.

A. Information Requests

In order to have a productive meeting, and so that the City of Boston is best prepared to understand the development and its impacts, please provide the City of Boston with the following:

1. The two (2) PowerPoint presentations that were provided on October 22, 2013, updated with the new transportation information as discussed;
2. The detailed transportation and traffic study, taking into consideration Sullivan Square, the Alford Street bridge, and the current City of Boston plans for Rutherford Avenue, as well as precise traffic counts, starting from the City's numbers, as we discussed;
3. A comprehensive list of any information regarding Rutherford Ave. or other planned transportation improvements, that the Wynn team is seeking from the City of Boston;
4. A draft mitigation plan to address infrastructure burdens and costs for the City;

5. Preliminary DEIR for City review before filing with MEPA;
6. A comprehensive environmental impact study, including impact on the Mystic River, if not included in the DEIR;
7. Additional information about site remediation, including the Phase III RAP that was filed with DEP in August 2013 and how remediation will be done in tandem with project development, amount of soil to be removed, and amount of fill. Also, if capping in place is proposed, information on the ventilation systems and stack locations for the parking garage;
8. Description of the electrical, space heating and energy systems, as well as all onsite power generation being considered;
9. Construction management plan – which will include a schedule and sequence of activities describing how construction workers and materials will get to/from the site; where staging will be located; what the traffic impacts are;
10. Information on dredging, including the time it will take, construction-period impacts on surrounding water-dependent users
11. A hot spot air quality analysis for the study area with an emphasis on Sullivan Square;
12. Detailed description, including conceptual plans, and evaluation of traffic mitigation measures proposed on roadways in the City of Boston. These would include any site access improvements on Broadway that may extend into the City of Boston along Alford Street;
13. Detailed description of any proposed travel demand management plans to help limit the volume of site generated traffic;
14. Detailed description and evaluation of proposed traffic mitigation plans for Wellington Circle, Santilli Circle and Sweetser Circle that, if implemented, would allow easier site access from the north and perhaps reduce volumes entering and exiting the site from the south via Boston streets;
15. Detailed analysis of projected changes in travel demands at the Sullivan Square MBTA station and evaluation of the station capacity to handle any increased ridership demands;
16. Detailed plans and analysis regarding the incorporation of any proposed shuttle bus services at the Sullivan Square MBTA station showing bus staging, loading and circulation areas;
17. Details about the “living shoreline” restoration;
18. Impact of sea level rise on ferry clearance at the Alford Street bridge;
19. Expected change in roadway-generated emissions with a 3% water transit mode share;
20. Details on where contaminated dredge spoils and soil will be disposed of; including if they will be transported by water or land and what the proposed routes are;
21. Details on whether the catamarans will have heads, and if so, if there will there be a pump-out at the project site;

Additionally, the City of Boston is still interested in any and all addition impact studies and Wynn's plans for mitigating the following:

22. A social impact study and a public safety proposal - including any assessment of compulsive gaming, public safety, drunk driving, impact on quality of life;
23. Plans for outreach and effect on local businesses, the Boston hotel market, Charlestown businesses;
24. A proposal for a marketing program with minority, women and veteran businesses enterprises and contractors, including residents of the City of Boston, as a surrounding community;
25. A proposal for affirmative action program of equal opportunity for minorities, women and veterans on construction jobs, including residents of the City of Boston, as a surrounding community;
26. Detailed information about proposed jobs, both construction and permanent, part time and full time, salary and benefits, including residents of the City of Boston, as a surrounding community;
27. Detailed projections for revenue, with a breakdown by slots, tables, retail, restaurant, night club/events, and otherwise;
28. Details on design and esthetic review, and/or plans, including for amenities around the site for the public; and
29. Any and all other relevant information, including a list of all information you have provided to the City of Everett.

If you are not able to provide this information, please provide a timeline of when you will be able to so provide it. Any undue delay from the Wynn development team in providing such information creates a hardship on the City of Boston, particularly the residents and businesses of Charlestown, and precludes effective mitigation of the analysis of impacts on the City of Boston occasioned by the proposed project.

B. Timeline

Overall, as the City of Boston is an agreed upon surrounding community, the City of Boston needs to better understand the development, and rapidly, so that we can assess impacts. Mr. Tocco stated at the November 7, 2013, MGC public meeting, that in the next thirty (30) days two additional studies will be released by the Wynn team: (1) a regional transportation plan, and (2) an aggressive water transportation plan. We look forward to reviewing these studies, and remind your team, that a release of this type of pertinent information to Boston in the month of December leaves little time for the City of Boston to review, analyze and precede towards mitigation in keeping with the Massachusetts Gaming Commission deadlines. We encourage your team to release drafts of these studies and the DEIR to the City of Boston in advance so that we can review them in earnest.

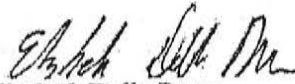
C. Technical Briefings

We would like to continue with these technical meetings in order to review the proposed Wynn development. We hope to meet with your team again the week of December 9th. Please let me know what time works best for your technical staff, in particular the transportation team.

Page 4 of 4
Chris Gordon, Dirigo Group/Wynn
Friday, December 6, 2013

Thank you and we look forward to receiving the requested material and meeting with the Wynn development team to further discuss these matters.

Very truly yours,



Elizabeth Dello Russo
Senior Assistant Corporation Counsel

CC: *Via Electronic Mail*
Steve Tocco, President and CEO, ML Strategies
John Ziemba, Ombudsman, Massachusetts Gaming Commission

Exhibit C

1/9/14

Information Requests - elizabeth.dellorusso@boston.gov - City of Boston Mail

12/9/13



Chris Gordon

to STocco, Elizabeth

Liz

We have reviewed your letter dated December 6th (received on the 7th) requesting information regarding Wynn Everett. Many of these items have been presented and discussed in our recent meetings on environmental impacts, transportation, and water shuttles – thank you for arranging and attending those meetings. As we have discussed, much of the updated information you have requested will be in our Draft Environmental Impact Report, scheduled to be filed on December 16th (Monday). We will hand deliver a hard copy of the document to your office on Monday, as we did with the Environmental Notification document when it was filed, and look forward to discussing its content in detail with your team.

As our team is very busy completing all required steps to make sure that document, as well as our gaming application (also due this month), are as informative as they can possible be, we would like to postpone our meeting with your team scheduled for Wednesday at 10AM and discuss dates in the near future we could hold the meeting.

Chris

Exhibit D

1/9/14

Wednesday Meeting - elizabeth.dellorusso@boston.gov - City of Boston Mail

Elizabeth DelloRusso <elizabeth.dellorusso@boston.gov>

12/18/13



to Chris

Hi Chris,

I have just received the Wynn DEIR filing. The City will be reviewing this document. Just as your December 9th e-mail asked to postpone our December 11th scheduled meeting in order to file this document, it seems logical to me that prior to our next meeting, we should allow the City to have adequate time to review this filing so that we can have a more educated discussion.

Best,

Liz

Elizabeth Dello Russo
Senior Assistant Corporation Counsel
Executive Director, Gaming Development
City Hall, Room 620
Boston, MA 02201
[\(617\) 635-4037](tel:(617)635-4037)
Elizabeth.DelloRusso@Boston.Gov

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Attachment

2



January 10, 2014

Via Electronic Delivery

Elizabeth S. Dello Russo, Esquire
Senior Assistant Corporation Counsel
City of Boston, Law Department
City Hall, Room 620
Boston, MA 02201

Re: Extension of Time Period Request dated January 9, 2014 by the City of Boston ("City")

Dear Ms. Dello Russo:

We are writing in response to the January 9, 2014 letter you wrote to Chairman Crosby requesting an extension of thirty (30) days to the January 13, 2014 deadline for communities to submit a letter assenting to any designation of a community as a surrounding community. Unfortunately, the Commission did not receive this letter in time to allow the commissioners to deliberate this matter at its last Commission meeting before the January 13, 2014 deadline.

Therefore, the Commission will not be able to extend this deadline, as you requested, before it expires. However, in order to allow the City to meet the regulatory requirements specified in 205 CMR 125.01, we recommend that the City consider assenting to the designation of surrounding community status but reserving a right to claim host community status, should the City deem it advisable to do so.

As you are aware, the Commission does not plan to designate any communities, either those that petition to be designated as a surrounding community or those designated as a surrounding community in an RFA-2 application, until February 6, 2014, or potentially later. February 6 is approximate to the February 10 date specified in your letter. If the City determines that it qualifies for host community status before such date, the City could notify the Commission. Further, as noted by the Commission previously, host community status will be part of the RFA-2 evaluation process.

Massachusetts Gaming Commission

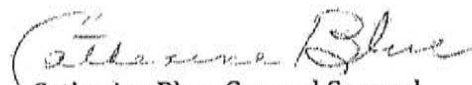
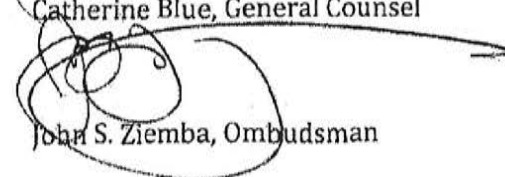
84 State Street, 10th Floor, Boston, Massachusetts 02109 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com

Elizabeth Dello Russo, Esquire
Page Two
January 10, 2014

We hope this is a remedy to the timing constraints you raised. If you believe it necessary to continue to request an extension, please notify us so that we can put the issue before the Commission at a future meeting.

As of this date, the next regularly scheduled meeting of the Commission is January 23, 2014. Please let us know if you have any further questions or concerns.

Sincerely,


Catherine Blue, General Counsel

John S. Ziemba, Ombudsman

cc: **Via Electronic Delivery:**
Chairman Stephen Crosby
Massachusetts Gaming Commissioners
John Stefanini, DLA Piper
Kevin Conroy, Foley Hoag
Daniel Gaquin, Mintz Levin
Steve Tocco, ML Strategies
William F. Kennedy, Nutter McClennen & Fish
Mary Marshall, Nutter McClennen & Fish

Massachusetts Gaming Commission

84 State Street, 10th Floor, Boston, Massachusetts 02109 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com

Attachment

3

Before the
MASSACHUSETTS GAMING COMMISSION

Petition of the City of Boston in Accordance With the Requirements of 205 CMR 125.01 and With Respect to Other Matters With Respect to RFA-2 Application filed by Wynn, MA, LLC Seeking a Category 1 License

I. INTRODUCTION AND BACKGROUND

On December 31, 2013, Wynn MA, LLC (“Wynn” or the “Applicant”) filed a RFA-2 Application seeking a Category 1 License to authorize the development of a resort destination casino at the former Monsanto site with the Massachusetts Gaming Commission (the “Commission”), and provided the City of Boston (the “City”) with an electronic file containing sections of such filing. The Commission, on its own account or by request of another municipality not the City of Boston, extended the deadline for the filing of surrounding community petitions and designation assent letters as specified in 205 CMR 125.01 from January 10, 2014 until January 13th, 2014. On January 9, 2013, the City of Boston (the “City”) filed a request with the Commission asking for a further extension of time until February 10th, 2014 for the reasons set for the City’s letter request. See Attachment 1: City’s Request for an Extension.

On January 10, 2014, the Commission denied the City’s request, stating that the Commission’s schedule did not allow for it to consider the City’s request and recommended that the City assent to the designation as a surrounding community but reserve its right to claim host status. See Attachment 2: Commission Denial. Specifically, the Commission recommended “that the City consider assenting to the designation of surrounding community status but reserving a right to claim host community status should the City deem it advisable to do so.” See Attachment 2: Commission Denial. In its letter, the Commission further states, “if the City determines that it qualifies for host community status ... the City could notify the Commission.” See Attachment 2: Commission Denial.

Therefore, in accordance with the requirements of M.G.L. c. 23K and 205 CMR 1.00 et. seq (the "Gaming Act"), specifically 205 CMR 125.01, and other relevant provisions of the Gaming Act and with the direction provided by the Commission in its letter of January 10, 2014, without waiving its right to assert host community status, the City petitions for designation as a surrounding community in order to preserve the interests of the City, its residents, businesses and visitors from the siting and development of a resort destination casino as proposed by Wynn. See Attachment 2: Commission Denial.

As previously noted, the City has not, despite repeated requests, been able to obtain relevant information regarding Wynn's proposed resort destination casino on the former Monsanto site in Boston and Everett ("Wynn Proposal"). See the City's letter dated December 6th, 2013 attached as Exhibit B to Attachment 1. The sections of the Wynn RFA-2 which have been provided to the City, exclude information which has been provided to the Commission, certain elements of which are relevant to the City's review. The City and its technical review team, consisting of City personnel and outside consultants with specific transportation and environmental expertise, is reviewing the Draft Environmental Impact Report ("DEIR") which was filed by Wynn on December 16, 2013, and a copy of which was provided to the City on or by December 18, 2013. The DEIR consists of approximately 4,731 pages. As set forth in the City's Request for an Extension, the City's rights and abilities to analyze the resort destination casino proposed by Wynn have been limited due to the minimal information that Wynn has shared with the City to date.

The question of host or surrounding community status for the City is a fact-specific and detail-oriented analysis that requires thoughtful and thorough review in accordance with the provisions of the Gaming Act; making the need for information from Wynn crucial to the City's review. Given that, it had requested an extension to: (a) review the voluminous RFA-2 filing and the DEIR which have been made by Wynn; (b) request additional information and clarification of such filings from Wynn and the Commission as appropriate; and (c) receive detailed input from Wynn with respect to its proposal, and while reserving its full rights and ability to claim host community status, the City is filing this petition in accordance with the above stated regulations and as directed by the Commission.

The City requests that the Commission compel Wynn and other applicants to engage in frank and open conversations with each of the interested communities. In a meeting with Wynn representatives this week, the City received assurances that it would be provided with any information that it needed, including revisions to the Application, if necessary. Also, the Applicant agreed to expeditiously address the City's concerns and enter into appropriate agreements as required by the Gaming Act. The City remains concerned that all appropriate action be taken to preserve and protect the public interest and to protect the best interests of the citizens of Boston and asks for the Commission's diligent assistance in that regard as again reiterates it request for additional time so that it may better understand the Wynn Proposal and interact with the Applicant. The City has engaged and will continue to engage all of its relevant departments to review and analyze the information which is provided by Wynn.

II. DISCUSSION

A. Need for Petition not Merely Assent - The Applicant's Failure to Follow 205 CMR 125.01

The process and procedure by which a municipality is designated a surrounding community in accordance with the Gaming Act are set forth in 205 CMR 125.01(1). This section allows for designation by the applicant and assent by the municipality in certain instances. A municipality will attain status as a surrounding community in accordance with the Gaming Act, if it is: "*designated as a surrounding community by an applicant for a Category 1 or Category 2 license in the RFA-2 application, written notice of which designation shall be provided by the applicant to the community's chief executive officer as defined in MGC c. 4, s. 7, cl. Fifth B, at the time the application is filed with the commission.*" (Emphasis added.) This process was, by its own admission as set forth below, intentionally not followed by Wynn in its RFA-2 submission, thus compelling the City to submit this Petition, while reserving its rights to claim host community status if the facts so warrant.

In Section 5-15 of its RFA-2, Wynn states:

Wynn has acknowledged that the City of Boston is a "surrounding community," *but it has not yet done so in accordance with applicable law and regulation because the parties have not reached terms for a final agreement.*

It is not clear why Wynn has expressly chosen, by its own admission, *not* to make a designation in accordance with the Gaming Act. It also did not provide a timely notice to the City's Chief Executive Officer as required in accordance with 205 CMR 125.01. On January 9th, 2014, more than a week after the submission of Wynn's RFA-2 to the Commission and following its meeting with Mayor Martin J. Walsh, Mayor Walsh received a letter from Wynn which asks for the City's assent to its status as a surrounding community in accordance with the provisions of 205 CMR 125.01. See Attachment 4: Wynn Letter to Mayor Walsh. Wynn's January 9th Letter does not acknowledge that its RFA-2 submission is intentionally deficient on the designation of Boston as a surrounding community in accordance with the applicable law and regulation, does not correct the deficiency in the Application, nor does it provide the Letter to Mayor Walsh as a supplement to its Application. For these reasons, the City cannot execute such assent given the inadequacy of the Wynn RFA-2 submission, and thus must in accordance with the direction provided by the Commission in its January 10, 2014 Letter, while reserving its rights as set forth above, petition for designation as a surrounding community in accordance with the provisions of 205 CMR 125.01(1) c and 205 CMR 125.01(2). See Attachment 2: Commission Denial.

B. Petition for Designation in Accordance with 125.01

The City qualifies as, at a minimum, a surrounding community to the Wynn Proposal based upon a review of the stated criteria noted in 205 CMR 125.01(2). Moreover, the City may, in fact be a host community. A review of the relevant information is needed by the City to evaluate its position. The City, even in the absence of an opportunity for meaningful review of the relevant materials on the Wynn Proposal – both that which it has in hand and has requested – notes the following factors in support of its Petition: the proposed Casino's geographic location with respect to the City of Boston, and particularly the Charlestown neighborhood; the point of access to the proposed casino; negative impact upon the City's transportation and other infrastructure given significantly increased vehicular volume especially impacting Alford Street, Sullivan Square and Rutherford Avenue, all of which have been the subject of significant study by the City and which have direct and adverse transportation impacts on the residents of Charlestown; the as yet unquantifiable but demonstrable and negative environmental impacts due to increased congestion, and construction period impacts; public health and safety impacts; housing stock, property value and zoning requirements; educational impacts, including problem

gaming and the proximity to youth population; social and neighborhood development and dynamic impacts, as well as other factors.

While the City has begun its review of the Wynn Proposal, its review is far from complete, and requires substantial additional information from Wynn. Given the materials that the City now has available, it is unclear to the City how either the City or the Commission will be able to make a definitive determination as to the surrounding community status on or before February 6th, 2014 as the Commission states in the Commission's Denial; Attachment 2, denying the City's request for an extension of time. The City asks that the Commission reconsider its denial of the City's request for an extension, given the important public interests which must be protected and the fact that there is sufficient time for the Commission to grant this extension without impacting the Commission's projected timeframe for the issuance of Category 1 Licenses in accordance with the terms and provisions of the Gaming Act.

Without waiving the right for the City to assert host community status, the City asks that the Commission: (i) reconsider its denial of the City's request for an extension; (ii) declare that the City is, in the alternative a surrounding community in accordance with the provisions of 205 CMR 125.0; (iii) compel Wynn to amend its Application to properly designate the City of Boston; and (iv) compel Wynn to cooperate fully with the City, providing any and all information requested by the City so that it may best evaluate its status as host or surrounding community and properly understand and evaluate the Wynn Proposal in relation to the City.

III. SUMMARY OF PETITION REQUESTS

The City asks that the Commission reconsider its Denial of the City's request for an extension. In the absence of an extension, without waiving its rights to host community status, the City petitions in accordance with 205 CMR 125.01 for designation by the Commission as a surrounding community within the meaning of the Gaming Act and assents to the designation as a surrounding community on the terms set forth herein. The City further petitions the Commission to compel Wynn to cooperate fully with the City, providing any and all information requested by the City so that it may best evaluate its status as host or surrounding community and properly understand and evaluate the Wynn Proposal in relation to the City.

Respectfully submitted,

THE CITY OF BOSTON

On behalf of Mayor Martin J. Walsh
By its Attorney,
William F. Sinnott, Corporation Counsel

A handwritten signature in black ink, appearing to read "Elizabeth Dello Russo", written over a horizontal line.

Elizabeth Dello Russo, BBO # 670045
Senior Assistant Corporation Counsel
City of Boston
Boston City Hall, Room 620
Boston, MA 02201
(617) 635 - 4037
Elizabeth.dellorusso@boston.gov

CERTIFICATE OF SERVICE

I hereby certify that on this date a true copy of the above document was served upon the following by electronic and/or U.S. mail:

Kim Sinatra, Esquire
Secretary of Wynn MA, LLC
3131 Las Vegas Boulevard South
Las Vegas, NV 89109

Jacqui Krum, Esquire
Senior Vice President and General Counsel
Wynn Resort Development
3131 Las Vegas Boulevard South
Las Vegas, NV 89109

Daniel O. Gaquin, Esquire
Mintz Levin Cohn Ferris Glovsky and Popeo PC
1 Financial Center,
Boston, MA 02110

Stephen P. Tocco
ML Strategies
One Financial Center
Boston, MA 02111

January 13, 2014
Date



Elizabeth Dello Russo

Dated: January 13, 2014

Attachment 1



CITY OF BOSTON
LAW DEPARTMENT
City Hall, Room 615 Boston, MA 02201

Martin J. Walsh
Mayor

William F. Sinnott
Corporation Counsel

January 9th, 2014

Via Electronic Delivery

Chairman Stephen Crosby
Massachusetts Gaming Commissioners
Massachusetts Gaming Commission
84 State Street, 10th Floor
Boston, MA 02109

RE: *Extension of the Time Period for the City of Boston to Take any Action Which May Be Required in Accordance with the Requirements of 205 CMR 125.01*

Dear Chairman Crosby and Massachusetts Gaming Commissioners:

The City of Boston (the "City") understands that the Massachusetts Gaming Commission (the "Commission") has extended the deadline for the filing of surrounding community petitions and designation assent letters as specified in 205 CMR 125.01 until January 13th, 2014. While the City is appreciative of this extension, it respectfully requests a further, meaningful extension of time of thirty (30) days, until February 10th, 2014 in order to determine what action, if any, the City is required to take in accordance with the provisions of 205 CMR 125.01, or other relevant provisions of M.G.L. c. 23K and 205 CMR 1.00 et. seq (the "Gaming Act"). In addition, the City also requests that to the extent necessary, the Commission grant a waiver of the stated time periods set forth in 205 CMR 125.01 in accordance with the provisions of 205 CMR 102.03(4)(2). Discussions with the Applicant Mohegan Sun which occurred this week indicated that they would be receptive to an extension of these time periods.

The Commission's deadline for the filing of RFA-2 Applications was December 31st, 2013. Due to the federal holiday on January 1st, 2014, the severe weather event on January 2nd and 3rd, 2014 when the City abided by the Governor's declared state of snow emergency, ceasing all but the most essential emergency governmental services, and the inauguration of Martin J. Walsh as Mayor of the City of Boston on January 6th, 2014, the City has not had sufficient time to review the RFA-2 Applications. Illustrative of the insufficient time for review is the fact that collectively the RFA-2 Applications are approximately 43,000 pages, while collectively, as of

this filing, Mayor Walsh has been Mayor of the City of Boston for approximately eighty (80) hours. Moreover, the redaction of relevant information, lack of satisfactory information and clarity in the applications made such review impossible and supports the waiver of the time periods as set forth in greater detail below.

As previously noted, the City has had little interaction with and has limited understanding of the revisions to the proposed Mohegan Sun resort destination casino at Suffolk Downs. See the City's letter dated December 9th, 2013 to the Commission attached as Exhibit A. Similarly, the City has had an extremely limited interaction with the developers of the proposed Mohegan Sun resort destination casino. Similarly, the City has had an extremely difficult time obtaining relevant information regarding the proposed resort destination casino on the former Monsanto site in Boston and Everett. See the City's letter dated December 6th, 2013 attached as Exhibit B.

The City knows that the question of host or surrounding community status is a fact-specific and detail-oriented analysis that requires thoughtful and thorough review in accordance with the provisions of the Gaming Act. The City requires the extension so that it can review the voluminous RFA-2 filings which have been made by both Applicants to request additional information and clarification of such filings, and to receive detailed input from the Applicants as to each of their proposals.

The City's Request

Given these facts as well as those set forth in greater detail below, the City is respectfully requesting that the Commission vary the requirements of the Commission's regulation set forth at 205 CMR 125.01 in accordance with the provisions of 205 CMR 102.03(4). To grant the requested waiver which will provide the requested extension in accordance with 205 CMR 102.03(4), the Commission must find that:

1. Granting the waiver is consistent with the purposes of the Gaming Act;
2. Granting the waiver will not interfere with the ability of the Commission or its Investigations and Enforcement Bureau ("IEB") to fulfill its duties;
3. Granting the waiver will not adversely affect the public interest; and
4. Not granting the waiver would cause substantial hardship to the person requesting the waiver.

For reasons set forth in greater detail below, all of these conditions have been satisfied and support the City's request.

First, granting the requested waiver is consistent with the purposes of the Gaming Act because the public interests protected by such Gaming Act will be served and the regulatory requirements will be fulfilled. See 205 CMR 102.03(4)(1). The additional time gives the City

Chairman Stephen Crosby

January 9th, 2014

Page 3

the ability to review the facts presented by both of the Applicants and, potentially for the Applicants to amend their RFA-2 filings so as to comply with the requirements of 205 CMR 125.01.

Granting the requested waiver will not interfere with the ability of the Commission or the IEB to fulfill its duties. *See* 205 CMR 102.03(4)(2). In fact, the additional time will run in parallel with the Commission's own review of the Applicants' filings and the Revere referendum, and allow for the City to review the newly available information and to engage in meaningful and effective communications with each of these Applicants.

Granting the waiver will further the public interest because the City and its citizens will be afforded the first meaningful opportunity to review each of the casino proposals – for which it may be either a host or surrounding community – so as to better understand and protect the public interest. *See* 205 CMR 102.03(4)(3).

Failure to grant the waiver would cause a substantial hardship to the City because it would require: (a) the City to make determinations without the ability to evaluate the facts presented by each of the Applicants and to understand its status; (b) preclude the ability to enter into meaningful discussions and negotiations with each of the Applicants as contemplated in the Gaming Act; (c) unfairly place the City in an unequal and reactive negotiation position with each of the Applicants in a manner which violates the spirit and intent of the Gaming Act. *See* 205 CMR 102.03(4)(4).

It is our understanding that the Commission will take several weeks to undertake a review of the Applications as filed, potentially making other information available to the City and other interested parties, and has scheduled a briefing before the Commission by both Applicants on January 22nd, 2014. The City will monitor this briefing with interest. The additional thirty (30) days will afford the City the necessary time to evaluate all relevant information in a manner which best serves the public interest consistent with the purposes of the Gaming Act.

Mohegan Sun

On December 31st, 2013 the City received two (2) un-indexed unsystematic file boxes of materials from the new Applicant for the resort destination casino at Suffolk Downs, Mohegan Sun Massachusetts, LLC ("MSM"). These materials are a portion of the completed RFA-2 Application seeking a Category 1 License for a resort destination casino located at the Suffolk Downs site. The City notes that certain portions of the RFA-2 Application have not been provided to the City and are designated as "confidential" or described in insufficient detail for the City to make a considered evaluation. Given these deficiencies, the City requires additional time and input from MSM to discern what its status is with respect to the proposed Suffolk Downs resort destination casino.

In its addenda to Section 5-15-01 of its RFA-2, MSM notes that:

In addition to Chelsea, MSM and Sterling Suffolk Racecourse, LLC (Suffolk Downs) representatives have been in discussions with Boston and Winthrop. The issues presented by Boston and Winthrop, given the locations of those communities and their proximity to the resort, call for individual Surrounding Community Agreements with each. While no agreements have been reached, MSM through its partner Suffolk Downs has reached out to each community, as shown in letters to each municipality that are provided in Attachments 5-15-03 and 5-15-04. In the spirit of cooperation and outreach to these new community partners, MSM affirms its support for Suffolk Downs' past efforts to reimburse the City of Winthrop for consultant and other expenses associated with analyzing the potential impacts of expanded gaming on the Suffolk Downs property (See Attachments 5-15-05 and 5-15-06.)

MSM's RFA-2 language noted above fails to note that it, not Sterling Suffolk Racecourse, LLC ("SSR"), is now the Applicant. The language does not track the requirements of a surrounding community designation specified in 201 CMR 125.01. It does not indicate that it will make sure that SSR honors its outstanding commitments to the City in accordance with the terms of the Host Community Agreement it had negotiated, certain provisions of which continue in full force and effect. It speaks only to an affirmation of SSR's prior commitments to Winthrop. It alludes to outreach but, in fact, MSM has only this week begun to engage in meaningful dialogue with the City, presumably due to its need to focus its attention on the City of Revere and the Commission, including obtaining variances from provisions of the Gaming Act. It is essential that additional information and clarification be provided to the City, together with specific commitments as to the terms of a surrounding community agreement to the extent one is appropriate, as soon as possible so that it may better understand the details of the MSM proposal and take appropriate action in accordance with the provisions of the Gaming Act and other applicable law.

Wynn, MA

On December 31st, 2013, the City also received an electronic file from Wynn MA, LLC ("Wynn") which is a portion of the completed RFA-2 Application seeking a Category 1 License to authorize the development of a resort destination casino at the former Monsanto site. As with MSM, certain of the relevant portions of the RFA-2 Application have not been provided to the City. The same issues presented with respect to the MSM proposal hold true for the Wynn RFA-2 Application and similarly preclude the City's ability to take appropriate action in accordance with the provisions of the Gaming Act and other applicable law. In Section 5-15 of its RFA-2, Wynn states:

Wynn has acknowledged that the City of Boston is a "surrounding community," but it has not yet done so in accordance with applicable law and regulation because the parties have not reached terms for a final agreement. Following the City of Boston's acknowledgement in early September 2013 that it is not a "host community" to the proposed Wynn Resort in Everett, representatives of Wynn MA and the City of Boston have actively engaged in active, ongoing discussions

and correspondence. The discussions have focused on impacts to the Charlestown neighborhood with an emphasis on traffic/transportation infrastructure.

It is not clear why Wynn has expressly chosen, by its own admission, *not* to make a designation in accordance with the Gaming Act. The City also notes that, as with MSM, Wynn has only just begun to engage in meaningful dialogue with the City. Enclosed please find as Exhibit C an email in December from a member of the Wynn team to the City which indicated that its efforts with the Commission and MEPA filings precluded its ability to meet with the City. Enclosed please find as Exhibit D further communication from the City which indicates its willingness to meet with the Wynn team following its review of the Commission and MEPA filings. Today the City received a letter from Wynn which asks for the City's assent to its status as a surrounding community in accordance with the provisions of 205 CMR 125.01. For the reasons noted above, the City cannot execute such assent until the further time and additional information has been provided.

Conclusion

Without waiving the right for the City to assert Host Community status, to the extent that the facts and attendant circumstances so warrant, the City asks that the Commission postpone the deadline for any requisite filings which may be required in accordance with the provisions of 205 CMR 125.01 in order to afford appropriate time to make the requisite inquiry directly of the casino Applicants and receive the relevant information in order to determine Boston's status. This will enable the City to best protect the interests of its citizens.

The City respectfully submits that such further extension is warranted due to:

- The reasonable need for additional time for all of the reasons described above;
- The lack of specificity and clarity in each of the RFA-2 filings noted above as to the City's designation/status as a surrounding or host community within the meaning of the Gaming Act;
- The failure of each of the Applicants to follow the guidance and procedures set forth in 205 CMR 125.01 (to the extent that surrounding community status is appropriate); and
- The inadequacy of the information provided by each of the Applicants to the City both in the RFA-2 and in prior, limited, discussions with the City.

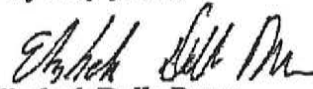
In meetings with MSM and Wynn representatives this week, the City received assurances that it would be provided with any information that it needed, including revisions to each of the Applications if necessary, and that both Applicants would endeavor to expeditiously address the City's concerns and enter into appropriate agreements as required by the Gaming Act. Given these assurances and for the reasons set forth herein, additional time is required to provide the City with the ability to discern the facts and confirm that these promises are backed by action.

Chairman Stephen Crosby
January 9th, 2014

Page 6

The City reiterates its request for a thirty (30) day extension until February 10th, 2014, including the issuance of a waiver to the extent necessary, so that the City has an adequate opportunity to review the information which has been filed, receive other information from the Applicants, and evaluate such information accordingly.

Very truly yours,



Elizabeth Dello Russo
Senior Assistant Corporation Counsel

Enclosures

Cc Via Electronic Delivery:

John Ziemba, Massachusetts Gaming Commission
Catherine Blue, Massachusetts Gaming Commission
John Stefanini, DLA Piper
Kevin Conroy, Foley Hoag
Daniel Gaquin, Mintz Levin
Steve Tocco, ML Strategies
William F. Kennedy, Nutter McClennen & Fish
Mary Marshall, Nutter McClennen & Fish

Exhibit A



THOMAS M. MENINO
Mayor

CITY OF BOSTON
LAW DEPARTMENT

City Hall, Room 615
Boston, MA 02201

WILLIAM F. SINNOTT
Corporation Counsel

December 9, 2013

VIA ELECTRONIC SUBMISSION

Chairman Stephen Crosby
Massachusetts Gaming Commissioners
Massachusetts Gaming Commission
84 State Street, Suite 720
Boston, MA 02109

RE: *Response of the City of Boston to MGC's Request for Comments on the Proposed Suffolk Downs Casino in Revere*

Dear Chairman Crosby and Massachusetts Gaming Commissioners:

The Commission has requested public comments in connection with the Commission's review of Suffolk Downs' revised casino proposal which purports to locate the gaming establishment in Revere. As a preliminary matter, the City of Boston has not been provided with sufficient information from Sterling Suffolk Racecourse, LLC, or its new gaming partner Mohegan Sun (collectively "Suffolk Downs") as to the revised proposal. Without such information the City cannot determine its status as a host or surrounding community. In order to protect the integrity of the vote cast by the residents of East Boston, the City of Boston must understand the details of the Suffolk Downs-Revere plan. We ask that the Commission defer its vote on whether Suffolk Downs may proceed with its application until the appropriate information has been provided and analysis undertaken with respect to the City of Boston's status.

On November 5, 2013, voters in Ward 1 of the City of Boston voted not to allow a gaming establishment¹ licensed by the Commission in East Boston. Since that vote, Suffolk Downs has approached the Commission with a plan to move to Revere, the so called "Plan B" option. The City of Boston has no direct knowledge of Suffolk Downs' plans, as Plan B has not been presented to the City of Boston. In the absence of information from Suffolk Downs, the City of Boston is unable to provide definitive comments as to whether Plan B includes a gaming establishment in East Boston; yet given its understanding of the site, it is difficult for the City to understand how the "gaming establishment" would not include East Boston.

¹ A gaming establishment is defined by the Gaming Act to be "the premises approved under a gaming license which includes a gaming area and any other nongaming structure related to the gaming area and may include, but shall not be limited to, hotels, restaurants and other amenities." M.G.L. c. 23K, § 2.

Massachusetts Gaming Commission
Comments on the Proposed Suffolk Downs Casino in Revere

~~December 9, 2013~~

Page Two

The City of Boston knows that the question of host community status is a fact-specific and detail-oriented analysis that requires thoughtful and thorough review in accordance with the provisions of the Gaming Act. In the absence of such information and analysis, the City of Boston must reserve its rights to further examination and determination, through the appropriate regulatory and legal channels. We ask that the Commission defer its consideration of the vote as such vote is premature and should only be undertaken after appropriate information has been supplied and the analysis has been undertaken by the City and the citizens of East Boston after seeing and understanding Plan B.

As the Commission reviews the matter of whether or not Suffolk Downs may proceed with a gaming application on Plan B, we ask that the Commission consider the comments set forth by the City of Boston and pay particular attention to the development and use of the East Boston portion of the land. In the absence of direct knowledge of facts to the contrary, the City of Boston maintains that the City of Boston is a host community to the Suffolk Downs site.

Thank you for your consideration and we look forward to working with the Commission on these matters. Please do not hesitate to contact me with any questions you may have.

Very truly yours,



Elizabeth Dello Russo
Executive Director of the HCAC
Senior Assistant Corporation Counsel

Exhibit B



THOMAS M. MENENDO
Mayor

**CITY OF BOSTON
LAW DEPARTMENT**

City Hall, Room 615
Boston, MA 02201

WILLIAM E. SANDROTTI
Corporation Counsel

December 6, 2013

Via U.S. Mail and Electronic Delivery

Chris Gordon, Project Manager
Wynn Consultant - Dirigo Group
Wynn Massachusetts LLC
27 Norwood Street #302
Everett, MA 02149

RE: *Proposed Wynn Resort in Massachusetts*

Dear Project Manager Gordon,

In anticipation of our meeting scheduled next Wednesday, I am writing to express concern regarding the delay in providing and responding to information requests. As you know, our technical teams have met on October 22, 2013, November 19, 2013, and December 3, 2013. Despite our repeated requests, we have yet to be presented with meaningful information which would allow for us to understand and mitigate impacts from the proposal.

As we have continually expressed, it is vital that the City of Boston protect the interests of the residents, families, businesses of and visitors to the City of Boston, and particularly the residents of Charlestown. We are concerned that to date, at this late hour, information has not been provided to allow for the proper analysis and/or mitigation of the effect of the proposed Wynn casino on the City and on the neighborhood.

The following is a summary of information that the City is continuing to seek so that we can properly analyze the effect of the proposed development, as only the City is best positioned to do.

A. Information Requests

In order to have a productive meeting, and so that the City of Boston is best prepared to understand the development and its impacts, please provide the City of Boston with the following:

1. The two (2) PowerPoint presentations that were provided on October 22, 2013, updated with the new transportation information as discussed;
2. The detailed transportation and traffic study, taking into consideration Sullivan Square, the Alford Street bridge, and the current City of Boston plans for Rutherford Avenue, as well as precise traffic counts, starting from the City's numbers, as we discussed;
3. A comprehensive list of any information regarding Rutherford Ave. or other planned transportation improvements, that the Wynn team is seeking from the City of Boston;
4. A draft mitigation plan to address infrastructure burdens and costs for the City;

5. Preliminary DEIR for City review before filing with MEPA;
6. A comprehensive environmental impact study, including impact on the Mystic River, if not included in the DEIR;
7. Additional information about site remediation, including the Phase III RAP that was filed with DEP in August 2013 and how remediation will be done in tandem with project development, amount of soil to be removed, and amount of fill. Also, if capping in place is proposed, information on the ventilation systems and stack locations for the parking garage;
8. Description of the electrical, space heating and energy systems, as well as all onsite power generation being considered;
9. Construction management plan – which will include a schedule and sequence of activities describing how construction workers and materials will get to/from the site; where staging will be located; what the traffic impacts are;
10. Information on dredging, including the time it will take, construction-period impacts on surrounding water-dependent users
11. A hot spot air quality analysis for the study area with an emphasis on Sullivan Square;
12. Detailed description, including conceptual plans, and evaluation of traffic mitigation measures proposed on roadways in the City of Boston. These would include any site access improvements on Broadway that may extend into the City of Boston along Alford Street;
13. Detailed description of any proposed travel demand management plans to help limit the volume of site generated traffic;
14. Detailed description and evaluation of proposed traffic mitigation plans for Wellington Circle, Santilli Circle and Sweetser Circle that, if implemented, would allow easier site access from the north and perhaps reduce volumes entering and exiting the site from the south via Boston streets;
15. Detailed analysis of projected changes in travel demands at the Sullivan Square MBTA station and evaluation of the station capacity to handle any increased ridership demands;
16. Detailed plans and analysis regarding the incorporation of any proposed shuttle bus services at the Sullivan Square MBTA station showing bus staging, loading and circulation areas;
17. Details about the “living shoreline” restoration;
18. Impact of sea level rise on ferry clearance at the Alford Street bridge;
19. Expected change in roadway-generated emissions with a 3% water transit mode share;
20. Details on where contaminated dredge spoils and soil will be disposed of; including if they will be transported by water or land and what the proposed routes are;
21. Details on whether the catamarans will have heads, and if so, if there will there be a pump-out at the project site;

Additionally, the City of Boston is still interested in any and all addition impact studies and Wynn's plans for mitigating the following:

22. A social impact study and a public safety proposal - including any assessment of compulsive gaming, public safety, drunk driving, impact on quality of life;
23. Plans for outreach and effect on local businesses, the Boston hotel market, Charlestown businesses;
24. A proposal for a marketing program with minority, women and veteran businesses enterprises and contractors, including residents of the City of Boston, as a surrounding community;
25. A proposal for affirmative action program of equal opportunity for minorities, women and veterans on construction jobs, including residents of the City of Boston, as a surrounding community;
26. Detailed information about proposed jobs, both construction and permanent, part time and full time, salary and benefits, including residents of the City of Boston, as a surrounding community;
27. Detailed projections for revenue, with a breakdown by slots, tables, retail, restaurant, night club/events, and otherwise;
28. Details on design and esthetic review, and/or plans, including for amenities around the site for the public; and
29. Any and all other relevant information, including a list of all information you have provided to the City of Everett.

If you are not able to provide this information, please provide a timeline of when you will be able to so provide it. Any undue delay from the Wynn development team in providing such information creates a hardship on the City of Boston, particularly the residents and businesses of Charlestown, and precludes effective mitigation of the analysis of impacts on the City of Boston occasioned by the proposed project.

B. Timeline

Overall, as the City of Boston is an agreed upon surrounding community, the City of Boston needs to better understand the development, and rapidly, so that we can assess impacts. Mr. Tocco stated at the November 7, 2013, MGC public meeting, that in the next thirty (30) days two additional studies will be released by the Wynn team: (1) a regional transportation plan, and (2) an aggressive water transportation plan. We look forward to reviewing these studies, and remind your team, that a release of this type of pertinent information to Boston in the month of December leaves little time for the City of Boston to review, analyze and precede towards mitigation in keeping with the Massachusetts Gaming Commission deadlines. We encourage your team to release drafts of these studies and the DEIR to the City of Boston in advance so that we can review them in earnest.

C. Technical Briefings

We would like to continue with these technical meetings in order to review the proposed Wynn development. We hope to meet with your team again the week of December 9th. Please let me know what time works best for your technical staff, in particular the transportation team.

Page 4 of 4
Chris Gordon, Dirigo Group/Wynn
Friday, December 6, 2013

Thank you and we look forward to receiving the requested material and meeting with the Wynn development team to further discuss these matters.

Very truly yours,



Elizabeth Dello Russo
Senior Assistant Corporation Counsel

CC: Via Electronic Mail
Steve Tocco, President and CEO, ML Strategies
John Ziemba, Ombudsman, Massachusetts Gaming Commission

Exhibit C

1/9/14

Information Requests - elizabeth.dellorusso@boston.gov - City of Boston Mail

12/9/13



Chris Gordon

to STocco, Elizabeth

Liz

We have reviewed your letter dated December 6th (received on the 7th) requesting information regarding Wynn Everett. Many of these items have been presented and discussed in our recent meetings on environmental impacts, transportation, and water shuttles – thank you for arranging and attending those meetings. As we have discussed, much of the updated information you have requested will be in our Draft Environmental Impact Report, scheduled to be filed on December 16th (Monday). We will hand deliver a hard copy of the document to your office on Monday, as we did with the Environmental Notification document when it was filed, and look forward to discussing its content in detail with your team.

As our team is very busy completing all required steps to make sure that document, as well as our gaming application (also due this month), are as informative as they can possible be, we would like to postpone our meeting with your team scheduled for Wednesday at 10AM and discuss dates in the near future we could hold the meeting.

Chris

Exhibit D

1/9/14

Wednesday Meeting - elizabeth.dellorusso@boston.gov - City of Boston Mail

12/18/13



Elizabeth DelloRusso <elizabeth.dellorusso@boston.gov>

to Chris

Hi Chris,

I have just received the Wynn DEIR filing. The City will be reviewing this document. Just as your December 9th e-mail asked to postpone our December 11th scheduled meeting in order to file this document, it seems logical to me that prior to our next meeting, we should allow the City to have adequate time to review this filing so that we can have a more educated discussion.

Best,

Liz

Elizabeth Dello Russo
Senior Assistant Corporation Counsel
Executive Director, Gaming Development
City Hall, Room 620
Boston, MA 02201
(617) 635-4037
Elizabeth.DelloRusso@Boston.Gov

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Attachment 2



January 10, 2014

Via Electronic Delivery

Elizabeth S. Dello Russo, Esquire
Senior Assistant Corporation Counsel
City of Boston, Law Department
City Hall, Room 620
Boston, MA 02201

Re: Extension of Time Period Request dated January 9, 2014 by the City of Boston ("City")

Dear Ms. Dello Russo:

We are writing in response to the January 9, 2014 letter you wrote to Chairman Crosby requesting an extension of thirty (30) days to the January 13, 2014 deadline for communities to submit a letter assenting to any designation of a community as a surrounding community. Unfortunately, the Commission did not receive this letter in time to allow the commissioners to deliberate this matter at its last Commission meeting before the January 13, 2014 deadline.

Therefore, the Commission will not be able to extend this deadline, as you requested, before it expires. However, in order to allow the City to meet the regulatory requirements specified in 205 CMR 125.01, we recommend that the City consider assenting to the designation of surrounding community status but reserving a right to claim host community status, should the City deem it advisable to do so.

As you are aware, the Commission does not plan to designate any communities, either those that petition to be designated as a surrounding community or those designated as a surrounding community in an RFA-2 application, until February 6, 2014, or potentially later. February 6 is approximate to the February 10 date specified in your letter. If the City determines that it qualifies for host community status before such date, the City could notify the Commission. Further, as noted by the Commission previously, host community status will be part of the RFA-2 evaluation process.

Massachusetts Gaming Commission

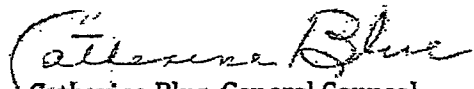
84 State Street, 10th Floor, Boston, Massachusetts 02109 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com

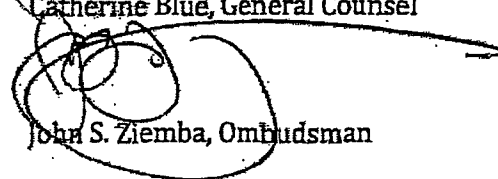
Elizabeth Dello Russo, Esquire
Page Two
January 10, 2014

We hope this is a remedy to the timing constraints you raised. If you believe it necessary to continue to request an extension, please notify us so that we can put the issue before the Commission at a future meeting.

As of this date, the next regularly scheduled meeting of the Commission is January 23, 2014. Please let us know if you have any further questions or concerns.

Sincerely,


Catherine Blue, General Counsel


John S. Ziemba, Ombudsman

cc: ***Via Electronic Delivery:***
Chairman Stephen Crosby
Massachusetts Gaming Commissioners
John Stefanini, DLA Piper
Kevin Conroy, Foley Hoag
Daniel Gaquin, Mintz Levin
Steve Tocco, ML Strategies
William F. Kennedy, Nutter McClennen & Fish
Mary Marshall, Nutter McClennen & Fish

Massachusetts Gaming Commission

84 State Street, 10th Floor, Boston, Massachusetts 02109 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com

Attachment

4



CITY OF BOSTON • MASSACHUSETTS
OFFICE OF GAMING ACCOUNTABILITY
City Hall, Room 620 Boston, MA 02201

February 11, 2014

Via U.S. Mail & Electronic Delivery

Secretary Richard K. Sullivan, Jr.
Executive Office of Energy and Environmental Affairs
Attn: MEPA Office
100 Cambridge St., Suite 900
Boston MA, 02114

RE: *EOEEA #15060*
Draft Environmental Impact Report (DEIR) Review of the Wynn Resort

Dear Secretary Sullivan:

The City of Boston is pleased to have the opportunity to comment on the Draft Environmental Impact Report (DEIR) submitted by Wynn MA, LLC ("Wynn") for the above referenced project. The City of Boston is committed to enhancing and protecting the quality of life of all Boston residents, workers, businesses, visitors and tourists, and with respect to the impacts of this project, the City of Boston is particularly concerned for those who live and work in Charlestown.

Attached please find the City of Boston's Comment Letters to the Wynn DEIR.

- Attachment A: Boston Transportation Department Comment Letter
- Attachment B: City of Boston Environment, Energy & Open Space Comment Letter
- Attachment C: City of Boston Parks & Recreation Department Comment Letter
- Attachment D: Boston Redevelopment Authority Comment Letter

Thank you for your consideration, review and adoption of the City of Boston's thorough comments. Please do not hesitate to contact me with any questions you may have.

Very truly yours,

Elizabeth Dello Russo
Director, Office of Gaming Accountability
Senior Assistant Corporation Counsel

Secretary Sullivan
February 11th, 2014
Page 2

Cc: Via Electronic Delivery

Brian Swett, Chief of the City of Boston Environment, Energy & Open Space Cabinet

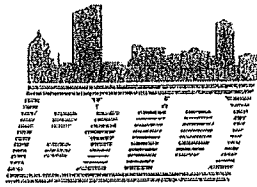
James Gillooly, Commissioner of the Boston Department of Transportation

Antonia Pollock, Director of the Boston Parks Department

Brian Golden, Director of the Boston Redevelopment Authority

John Ziemba, Massachusetts Gaming Commission

Attachment A:
Boston Transportation Department
Comment Letter



BOSTON
TRANSPORTATION
DEPARTMENT

February 11, 2014

ONE CITY HALL SQUARE • ROOM 721
BOSTON, MASSACHUSETTS 02201
617-635-4680 • FAX 617-635-4295

Via U.S. and Electronic Mail

Secretary Richard K. Sullivan

Executive Office of Energy and Environmental Affairs

Attn: MEPA Office

100 Cambridge Street, Suite 900

Boston, MA 02214

**Reference: EOEEA# 15060
Wynn Resort
Transportation**

Dear Secretary Sullivan:

The City of Boston Transportation Department (BTD) is pleased to have the opportunity to comment on the Draft Environmental Impact Report (DEIR) submitted by Wynn, MA, LLC ("Wynn") for the above referenced project. The City of Boston is committed to enhancing and protecting the quality of life of all Boston residents and, with respect to the impacts of this project, is particularly concerned for those who live and work in Charlestown. The project will have significant impacts on roadways as well as pedestrian, transit and bicycle facilities located in Boston as described in the DEIR.

Independent of the incredible volume of data included in the DEIR we regrettably find that the DEIR does not thoroughly or accurately describe the transportation impacts of the project in Boston nor does it offer adequate mitigation of those impacts. Of principal concern is the assessment of Sullivan Square and Rutherford Avenue. As noted in our comments on the Expanded Environmental Notification Form (EENF) for this project, the City of Boston has just completed a three-year long planning process defining improvements for Sullivan Square and Rutherford Avenue that are intended to enhance the urban environment with greater pedestrian connectivity and new land development opportunities. The anticipated approximately \$100 million roadway improvement project will remove existing roadway grade separations that form a barrier for pedestrian and bicycle travel east-west across Sullivan Square and Rutherford Avenue.

The DEIR fails to accurately define future traffic operations in Sullivan Square and along Rutherford Avenue in several ways.

1. The DEIR makes erroneous assumptions regarding the anticipated future roadway conditions substantially overstating the capacity of the roadway system and thereby providing an overly optimistic portrayal of future traffic operations. (Six through travel lanes are assumed on Rutherford Avenue where four lanes are proposed.)
2. The DEIR may understate the volume of vehicular traffic generated by the proposed development and thereby understate the operational impacts on Boston streets. (The trip generation rates applied to the gaming component of the project may be low.)
3. The DEIR discussion of impacts on traffic operations is limited to overall intersection operating levels of service thereby failing to acknowledge operational problems indicated by other intersection performance measures presented in the DEIR. (High intersection volume-to-capacity ratios, individual lane groups operating at poor levels of service and projected vehicle turn-lane queues exceeding the capacity of the proposed turn lanes are indicated at multiple intersections where the overall intersection operating level of service may have been deemed "acceptable".)

With regard to traffic mitigation plans substantial additional work must also be completed or the City of Boston will bear an exceptional burden. For example:

- Very limited physical improvements are proposed for Sullivan Square along with a vague commitment to fund further study and design efforts.
- Conceptual plans have not been offered to define these improvements and assess their feasibility.
- Similarly, no plans have been provided relative to suggested improvements at the I-93 Off-ramp/Cambridge Street intersection in Boston.
- No mitigation has been offered for intersections along Rutherford Avenue that are likely to experience congestion and significant impacts from the project.

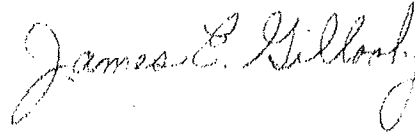
Analyses of "interim" traffic conditions, prior to the implementation of all off-site improvements and after the project opening, have not been provided. The City is very concerned that the applicant may not be able to implement transportation mitigation strategies that are effective and compatible with the City's plans to enhance the urban environment in Sullivan Square and along Rutherford Avenue. The City voiced these concerns previously in our comments on the EENF, and would like to reiterate that important point here.

The City's concern that the applicant may not be able to effectively implement transportation mitigation strategies go beyond Sullivan Square and Rutherford Avenue. These concerns also extend to the main site driveway intersection with Broadway. At this location a widening of Alford Street in Boston is proposed as part of the overall site access plan. This widening will require land takings from at least two parcels located within the City of Boston and additional parcels in Everett.

There is no discussion in the DEIR of the status of negotiations for acquisition of these parcels. Additionally, the analysis of the future driveway operations suggest that the scope of the improvements proposed may be inadequate leading to the need for even more takings. The reported analysis results show inadequate storage capacity for several turn lanes at the intersection. Also, the intersection may actually operate at or above capacity during peak hours depending upon how pedestrians are accommodated at the proposed traffic signal.

The issues raised above are discussed in greater detail in the attached technical memorandum prepared by our technical staff and consultant team. Additional issues are also raised in the memorandum. Once again we thank you for providing us with the opportunity to comment on the Wynn DEIR. Should the project move forward we anticipate filing comments on future Massachusetts Environmental Policy Act submittals by the applicant.

Sincerely,



James E. Gillooly,
Interim Commissioner
Boston Transportation Department

All attachments are incorporated by reference hereto:

- A. City of Boston Transportation Department Comment Letter by and through Stantec Consulting
- B. City of Boston Environment, Energy & Open Spaces Cabinet Comment Letter
- C. City of Boston Parks and Recreation Department Comment Letter

To:	James Gillooly Boston Transportation Department	From:	Rick Bryant, Stantec South Burlington, VT
File:	195310830	Date:	February 11, 2014

**Reference: EOEEA#15060
Wynn Resort - Transportation**

The following comments are offered by Stantec regarding the December 16, 2013 Draft Environmental Impact Report (DEIR) prepared for the *Wynn Everett* development (EOEEA #15060) in Everett, Massachusetts. The comments are grouped in three sections. The first section provides a detailed discussion of the most critical transportation issues raised in our review of the DEIR. The second section provides a follow-up discussion to issues raised in the BTM's comment letter on the Expanded Environmental Notification Form (EENF). The third section raises new issues not discussed in the first two sections.

A. Principal Issues

The overall we find that the DEIR does not adequately define the anticipated transportation impacts of the proposed development on Boston streets nor does it fully define a suitable traffic mitigation plan for these impacts. Deficiencies with the DEIR include:

- Erroneous assumptions regarding future roadway conditions;
- Underestimation of site generated traffic volumes;
- Failure to consider all intersection performance measures;
- Missing mitigation plans;
- Missing interim conditions analyses; and,
- Feasibility of proposed mitigation plans.

Each of these items is discussed below.

1. *Erroneous Assumptions*-The DEIR attempts to analyze future No Build and Build traffic operations in Sullivan Square and along Rutherford Avenue. For this analysis assumptions were made regarding future lane use and traffic control configurations for the roadways in question. The assumptions made in the DEIR however, are inconsistent with the current conceptual roadway plans for the corridor.

For Rutherford Avenue/Alford Street passing through Sullivan Square the DEIR assumes that three through travel lanes are provided per direction. The current plan only includes two travel lanes per direction. Using the six-lane cross section for the analysis yields significantly better operating results for intersections along Rutherford Avenue/Alford Street than would be obtained using a four-lane cross section. Within Sullivan Square the most critical intersection appears to be the Main Street/Rutherford Avenue intersection (Location #53d) where the DEIR projects Level of Service (LOS) E peak hour operations with traffic delays of 73.2 seconds per vehicle. If analyzed



Reference: EOEEA#15060
Wynn Resort - Transportation

with only two through lanes per direction, the delays would creep higher, very likely above 80 seconds per vehicle, into the LOS F range. The DEIR offers no mitigation for this anticipated, project-induced, change in level of service from LOS E to LOS F. Since Sullivan Square is a "gateway" intersection to the subject site, an adequate mitigation plan must be developed for this location that complements the goals of the City's recent planning effort for this area. In this regard, enhanced pedestrian mobility in an east-west direction across Rutherford Avenue is a primary objective. Provision of three through travel lanes per direction in combination with the proposed dedicated northbound and southbound left-turn lanes on Rutherford Avenue would result in an "unfriendly", seven-lane pedestrian crossing. Provision of a suitable "walk" signal phase for such a long crossing would also have substantial negative impacts on vehicle traffic operations.

Another inconsistency between the City roadway plans and DEIR assumptions occurs at the Rutherford Avenue/Austin Street intersection (Location #54). The City has proposed eliminating the grade separation at this intersection that brings Rutherford Avenue below Austin Street. The DEIR makes no mention of this change. Likewise, the traffic analysis provided for this location appears to assume that through traffic volumes on Rutherford Avenue will continue to pass under Austin Street for future conditions rather than through a modified at-grade, signalized intersection. This change puts another 2200 PM peak hour vehicles through the proposed at-grade intersection that were not accounted for in the DEIR analysis. The City's own analysis of this location shows that it will operate at capacity under future conditions without the Wynn Everett project built. The DEIR reports LOS C operations under future No Build conditions. Consequently, no mitigation has been proposed for this intersection, or other locations along Rutherford Avenue, that may be impacted by the removal of the grade separation. Past analyses completed by the City indicate that the addition of Wynn Everett traffic to Rutherford Avenue will exacerbate peak hour congestion levels generating a need to consider traffic mitigation measures.

2. *Low Trip Generation Estimates*-Independent of the above, it appears that the DEIR may have underestimated project-related traffic impacts at all study area intersections, not just the Boston intersections, due to the low trip generation rates used to estimate gaming-related traffic volumes. Further review of the trip generation forecasts should be conducted and the traffic and impact analyses should be updated if significantly higher trip estimates are determined for the project.

An initial concern is that the DEIR presents remarkably different traffic forecasts relative to those presented in the EENF for the project. As shown in Table 1, the EENF anticipated 4378 Saturday peak hour vehicle trips at the project site. That figure has since been reduced by 60 percent to 1750 vehicle trips in the DEIR. For both the Friday and Saturday peak hours the revised trip estimates for the entire project in the DEIR are lower than the estimates provided for just the gaming component of the project in the EENF. Since the gaming component of the project has not changed since the EENF filing, these adjusted estimates appear to be primarily attributable to a change in the traffic generation model employed. Clearly, the new model yields far less conservative traffic impacts. Consideration of more conservative traffic forecasts is recommended given the uniqueness of this proposal and the difficulty associated with the identification of suitable comparable facilities where relevant trip generation studies could be completed.



Reference: EOEAA#15060
 Wynn Resort - Transportation

Time Period	Estimated Site Generated Vehicle Trips		
	ENF		DEIR
	Gaming Only	Entire Project	Entire Project
Friday, Daily	14,872	29,384	21,552
Friday, Peak Hour	1486	2715	1484
Saturday, Daily	18,078	35,754	25,456
Saturday, Peak Hour	2710	4378	1750

Table 1 Comparison of Trip Generation Estimates

The EENF used Institute of Transportation Engineers (ITE) trip rates to estimate traffic volumes for the non-gaming components of the project and referenced a study conducted for an urban casino in Pittsburg, Pennsylvania to determine trips for the gaming component. However, the Pittsburg study referenced casino attendance data collected at the existing Majestic Star and Trump casinos in Indiana rather than actual vehicle count data for the Pittsburg site. There is no reference to the Indiana data in the DEIR. Presumably, the applicant has determined since filing the EENF that the Indiana data is no longer relevant. (No explanation is given for rejection of the Indiana data.) After apparently dismissing the data considered suitable for the EENF filing, the DEIR develops trip estimates based on new counts done at existing casinos in Queens, New York and in Montreal Canada. Counts were also done at an urban casino in Philadelphia, Pennsylvania but this data was not used in the analysis. The vehicle trip generation rates (vehicle trips per gaming position) calculated using the Philadelphia data were excluded from consideration as they were higher than the rates observed at the other two casinos. However, as shown in Table 2, the reported Philadelphia rates are comparable to the peak hour rates derived from the Indiana data and used in the EENF. Given the uncertainty of the future traffic generation of the proposed gaming facility with its expected monopolistic status in eastern Massachusetts, consideration should at least be given to including the observed Philadelphia trip rates in calculating a trip rate to be applied in the DEIR.

Reference: EOEAA#15060
Wynn Resort - Transportation

Peak Hour	Vehicle Trips per Gaming Position			
	Casino de Montreal, Montreal (3714 gaming positions)	Resort World Casino at Aqueduct, New York (5000 gaming positions)	Sugarhouse Casino, Philadelphia (1956 gaming positions)	ENF (based on Indiana data relating to 3265 slot machines)
Friday, PM	0.28	0.30	0.43	0.37
Saturday, PM	0.32	0.33	0.55	0.68

Table 2 Comparison of Trip Generation Rates

Independent of the above, some adjustment in the DEIR trip estimates may be appropriate based solely on examining the Aqueduct, New York trip data. Tables provided in the DEIR appendix indicate that the gaming component of the proposed project will generate 1108 Friday PM peak hour vehicle trips and 1220 Saturday peak hour vehicle trips. These figures assume nearly 4000 gaming positions with ten percent transit access, ten percent tour bus access and three percent water shuttle access. At the New York site referenced above with 5000 gaming positions, 1494 Friday PM peak hour vehicle trips and 1642 Saturday PM peak hour vehicle trips were recorded. No information was provided regarding the extent of non-auto travel mode use at the New York site other than to note that subway service is available to the site. Based simply on the count of gaming positions at the existing and proposed facilities, the proposed Wynn casino would generate 80 percent of the traffic observed at the New York casino. The figures used in the DEIR represent only 74 percent of the New York total. Consequently, the DEIR trip estimates may be low by at least six percent. However, unlike the New York site, the Wynn site does not have direct subway access. Once differences in mode choice are accounted for the DEIR trip estimates appear even further understated. Conceivably there could be a ten to 20 percent difference in transit use between the two sites which, if considered, would indicate that the DEIR trip estimates are low by 15 to 25 percent. Understating the project related trip generation results in an understatement of anticipated project impacts at area intersections.

3. *Consideration of All Intersection Performance Measures*-The DEIR generally limits the discussion of project impacts at study area intersections to changes in overall operating level of service. This is understandable given the large number of intersection/time period/scenario combinations to consider. However, by providing only summary information in the discussion, real operating deficiencies are overlooked. One must review the summary tables in the report appendix to compare Build condition versus No Build conditions in a side-by-side manner for most performance measures. These tables show the performance of individual lane groups at an intersection but do not report the overall intersection volume-to-capacity ratio. This information is only available by looking through the hundreds of capacity analysis worksheets included in the appendix. Examination of the more detailed information contained in the appendix raises questions about the relevance of the level of service results discussed in the main report.

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Returning again to the example of the Main Street/Rutherford Avenue intersection in Sullivan Square, the text in the DEIR on page 4-97 states that overall the intersection will operate at LOS E. It also states that the northbound left-turn movement and the westbound approach will operate at LOS F. However, the text neglects to mention anticipated queuing problems at the intersection as well. Footnotes to Table 4-23, which describes the Build condition traffic operations for all intersections, indicate that the "Volume exceeds capacity- Queue is theoretically infinite" on the northbound left-turn and westbound approaches. Other footnotes indicate that the 95th percentile volumes for these movements and also for the eastbound left-turn movement exceed capacity indicating that the "actual 95th percentile queues may be longer" than reported. The table and/or the text do not discuss whether or not the proposed turn lanes will provide adequate storage for the projected queue lengths. At this intersection the proposed northbound left-turn lane length is only 80 feet. The reported average queue for this movement is 360 feet with the added caveat, per the footnote, that the "queue is theoretically infinite". A queue of 360 feet will readily block the adjacent through travel lanes and the adjacent upstream intersection located only 200 feet away. The overall Build condition volume-to-capacity ratio for this intersection is not reported in Table 4-23. This can only be found on the capacity analysis worksheet in the appendix. The overall volume-to-capacity ratio for the Build condition PM peak hour is 1.13 indicating that the overall traffic demands at the intersection will exceed the capacity by 13 percent with the Wynn Everett development. The actual volume-to-capacity ratio will be even higher if adjustments to the project trip generation estimates are made as suggested above. Likewise, the volume-to-capacity ratio is much higher if only two through travel lanes are assumed on Main Street as proposed under the current City plan.

Without discussing all of the specifics of the operational problems anticipated at the Main Street/Rutherford Avenue intersection with the Wynn Everett project built, the DEIR suggests the need to make changes to the City plan to accommodate "all proposed development through Sullivan Square". However, the challenge at Sullivan Square and along Rutherford Avenue is that the City plan did not anticipate the development of such a large traffic generator on the City line just north of Sullivan Square. The DEIR demonstrates that there is little or no reserve capacity in the City plan to support the Wynn Everett project. It took three years of public process to agree on the current plan. Reaching agreement on the significant changes that would need to be made to the current plan to support the Wynn Everett project, if even feasible, could require an equally long timeframe.

4. *Missing Mitigation Plans*-The scoping decision on the EENF directed the applicant to prepare 80-scale plans for proposed mitigation measures. The drawings would presumably aid reviewers in assessing the feasibility of proposed improvements. Of particular concern at this point in project development is the availability of right-of-way to complete any recommended roadway widenings as well as to identification of any physical constraints that would preclude implementation of the improvements. The DEIR does provide 80-scale drawings of improvements proposed in the vicinity of the site driveway which extend into Boston. Comments on these plans are provided below. However, the DEIR lists other improvements to be made in Boston including widening the I-93 Northbound off-ramp at Cambridge Street and adding a lane to Main Street at Maffa Way. No plans are provided to describe these improvements. It is unknown whether or not they can be constructed without impacting adjacent structures and/or requiring the acquisition of additional right-of-way. Consequently, it is not known if

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implementing these improvements is feasible. Plans should be provided for these improvements as well as other improvements that may be proposed by the applicant after reconsideration of the Wynn Everett project's traffic impacts on Rutherford Avenue and at Sullivan Square.

5. *Missing Interim Conditions Analysis*-The mitigation measures deemed necessary to support the project related traffic increases should be implemented concurrent with the opening of the facility. The MassDOT Draft Section 61 Finding included in the report lists \$30.6 million in transportation system improvements that will be completed prior to project opening. As noted above, it may be appropriate to add to this list once the traffic impact analysis of Boston streets is updated. The current draft of the Section 61 Finding only offers funding for the 25 Percent Design of plans to improve Sullivan Square. (There is no commitment to fund preparation of plans for the related Rutherford Avenue improvements.) Consequently, it is expected that the Wynn Everett project, if approved, will be generating trips on Boston streets long before the City's proposed improvement plans will be constructed. The DEIR should therefore also have provided an analysis of "interim" conditions prior to the full reconstruction of Sullivan Square and Rutherford Avenue. Some interim improvements have been offered for Sullivan Square, primarily signal timing changes, but the full analysis of these improvements is not provided in the DEIR. This analysis is warranted as the DEIR shows vehicle queuing problems in Sullivan Square and LOS F traffic operations at the Route 1 Ramps/Rutherford Avenue intersection under existing PM peak hour conditions.
6. *Feasibility of Proposed Mitigation Plans* - As noted above the DEIR has not included drawings of proposed traffic mitigation measures on Boston streets that would allow the City to assess the feasibility of implementing the improvements. One location for which drawings are provided is the main site driveway intersection with Broadway. At this location a widening of Alford Street in Boston is proposed as part of the overall site access plan. This widening will require landtakings from at least two parcels located within the City of Boston and additional parcels in Everett. The roadway right-of-way line is showed shifting to the west to accommodate two northbound left-turn lanes on Alford Street in Boston resulting in a taking of up to 12 feet along the frontage of the site labeled "carwash" on the plans. The right-of-way line also shifts approximately five feet to the east on the east side of the roadway resulting in takings from #173 Alford Street. There is no discussion in the DEIR of the status of negotiations for acquisition of the additional right-of-way needed. To the north of the driveway in Everett a taking of approximately 20 feet is proposed from land owners on the west side of Broadway in order to provide a southbound right-turn lane entering the site. The status of negotiations to acquire right-of-way in this area is also not reported in the DEIR. If the right-of-way cannot be expanded the mitigation cannot be built as proposed and future intersection operations will not be at the same level as described in the DEIR.

The proposed access plan also shows an abrupt shift in roadway alignment heading southbound on Alford Street from the site driveway. The west side curb line shifts to the east by approximately eight feet between the north and south sides of Dexter Street. Dexter Street is approximately 60 feet wide and the shift is accomplished in this distance with limited guidance to drivers in the form of lane striping. A smoother, safer transition would require shortening the northbound left-turn lanes into the site or taking land from the parcel located just south of Dexter Street on the west side of the road labeled "Boston Water and Sewer Commission". The plans suggest that even

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if the Boston Water and Sewer Commission were to agree to a taking from this parcel, the degree of the taking would be limited by the proximity of the building on the site to the existing property line. The building is located only four feet from the existing right-of-way line. Shortening of the left-turn lanes may not be advisable for reasons described below.

The DEIR reports that the site drive intersection will operate at an "acceptable" LOS D during peak hours. Again, a closer look at all the intersection performance measures is warranted. The Saturday Build condition PM peak hour capacity analysis worksheets show that the 95th percentile queue for the northbound left-turn lanes is 434 feet. The plans show storage of only 390 feet per lane. Additionally, the reported 434 feet queue length carries with it a footnote indicating that the 95th percentile volume exceeds capacity and that the actual queue may longer. As such, it may not be advisable to shorten the northbound left-turn lanes in order to "soften" the southbound through lane alignment shift.

One approach to lessen the above queue concern would be to reassign the signal green time to the benefit of the northbound left-turn movement. However, timing readjustments would mean taking signal green time away from either the site driveway or southbound through movements. The capacity analysis worksheets show these movements also operating with long queues and 95th percentile volumes exceeding capacity. Consequently, lessening the problem on the northbound approach would only exacerbate anticipated problems on other approaches.

Of course, the vehicle queuing conditions described above are premised on the fact that the intersection operates with an overall Saturday volume-to-capacity ratio of only 0.80 (80 percent of capacity) as reported in the capacity analysis worksheet. A detailed review of the worksheet indicates that the site driveway, northbound left-turn movement and southbound through movement, (the "critical" movements in the intersection), use eight, 18 and 41 percent of the intersection's capacity, respectively, during the Saturday, Build peak hour. The reported lost time associated with signal phase transitions from green to red should account for 15 seconds per signal cycle or another 13 percent of the intersection capacity. Combined, the critical vehicle movements and lost time use 80 percent of the intersection capacity as noted on the worksheet. However, the worksheet indicates that a 29-second long "all-walk" signal phase will be provided to accommodate pedestrian movements at the intersection. The capacity analysis worksheet provides no value for pedestrian conflicts per hour. Since the critical movement/lost time analysis, which excluded consideration of pedestrian movements, provided a volume-to-capacity ratio that matched the figure reported on the worksheet, it can be assumed then that the capacity analysis did not account for any pedestrian signal phase calls. If the pedestrian signal phase were called every cycle then the volume to capacity ratio would increase to 1.04 indicating that the site driveway intersection would be operating at 104 percent of capacity. Above capacity operations typically create a multitude of queuing and delay issues.

In light of the above it is questionable as to whether or not the proposed site access improvements can be constructed as proposed and whether or not the improvements will provide sufficient capacity to move traffic in and out of the facility without creating congestion up and down Broadway and Alford Street. The uncertainty is further heightened by the possibility that the traffic analyses completed to date understate the expected site traffic generation.



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B. EENF Comments Update

The BTM submitted a comment letter to the MEPA Unit regarding the EENF filed for the Wynn Everett project. Several of the topics raised in the comment letter are reviewed below in the context of new information provided in the DEIR.

1. *City of Boston Permitting*-The site access plans presented in the DEIR confirm that the project will, at a minimum, require an access permit from the Public Improvements Commission of the Boston Public Works Department. Similarly, the proposed roadway improvements in Charlestown trigger the need for a community outreach process. The EENF failed to acknowledge the need for a permit and public review process. Table 1-2 of the DEIR now notes local permits required to implement off-site traffic mitigation measures in the City of Boston.
2. *Project Viability, Boston Streets*-The viability of the Wynn Everett project from a transportation perspective was questioned at the EENF stage. It was doubtful that improvements necessary to accommodate site access could be built within the available roadway right-of-way along Alford Street and Broadway. The plans provided in the DEIR, as described above, confirm that additional right-of-way will be required to build the improvements. Project viability remains in doubt until evidence is provided that the required land takings can be accomplished. Similarly, doubt remains as to whether not project related traffic mitigation can be provided along Rutherford Avenue and within Sullivan Square that is compatible with City plans to transform the urban environment along this corridor. The DEIR commits to further study of this issue but at this point in the process a viable plan has not defined. The Build condition capacity analysis results indicate that development of such a plan will be challenging.
3. *Project Viability, Broadway*-Earlier concerns for the viability of required mitigation measures along Broadway extend to intersections north of the site in Everett. The DEIR confirms that land takings, yet to be accomplished, are also necessary adjacent to Broadway in Everett. Also of concern is projected traffic operations at the Beachman Street/Broadway intersection located just north of the proposed site driveway. The DEIR indicates that even with mitigation in place this northern "gateway" intersection will operate at Level of Service F with travel demands in excess of capacity for some lane groups (volume-to-capacity ratios as high as 1.51 on Broadway northbound - heading away for the Wynn Everett site) under Build peak hour conditions. Associated with the over-capacity conditions are projected long vehicle queues on Broadway. If this intersection cannot handle the traffic demands placed upon it, it will create another barrier for site access from the north. Of greater concern is the likelihood that vehicle queues will spill back into other intersections north and south along Broadway including the site access driveway intersection with Broadway. Problems at this intersection will create congestion on Alford Street in Boston.
4. *Project Viability, Revere Beach Parkway*-The BTM sought confirmation that proposed improvements at Santilli Circle along the Revere Beach Parkway could in fact be constructed given the parkway's status as a historic roadway. The DEIR has not provided any information regarding the Massachusetts Historical Commission and the Massachusetts Department of Conservation and Recreation perspective on the suggested changes.

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5. *Project Viability, Wellington Circle*-The BTD expressed concerns that no traffic mitigation was proposed for Wellington Circle at the EENF stage of the project review. Failure to mitigate the already congested conditions at Wellington Circle could force project traffic to seek alternative routes adding to the project related traffic demands in the City of Boston at Sullivan Square. The DEIR indicates that traffic operations during the Friday PM peak hour will degrade from LOS D under existing conditions to LOS F under Build conditions. Mitigation is offered solely in the form of funds to investigate and design possible improvements. No commitments are offered to ensure that changes to increase intersection capacity will actually be implemented prior to project opening.
6. *Transit Use*-BTD questioned the EENF assumption that ten percent of site visitors would use public transportation to access the site given its significant distance from the nearest Orange Line station. The DEIR has not provided any new information to support this assumption. In fact, the DEIR assumes that another three percent of site visitors will use a proposed ferry service to reach the site. No data is provided to support this estimate. Analyses assuming lower levels of non-auto usage would have provided a more conservative, if not more realistic, traffic impact assessment.

Questions were also raised regarding the feasibility of accommodating shuttle buses, as many as twenty per hour, at existing Orange Line stations. The DEIR cites a possible shuttle bus stop at the Wellington Orange Line station. However, there is no information provided to demonstrate that the MBTA will make this space available to Wynn Everett. Likewise, there is no discussion of the suitability of this one space to serve the needs of multiple shuttle buses. There is no discussion of possible shuttle bus links to the Sullivan Square Orange Line station. This station, located closer to downtown Boston, would likely see greater project related travel demands than the Wellington Station.

7. *Parking*-The adequacy of the proposed parking supply at the project site was questioned particularly in light of the very high traffic volume forecasts presented in the EENF. The DEIR has substantially decreased the traffic forecasts as described above which in turn suggests reduced parking demands. However, even with the lower traffic demands the parking analysis presented in the DEIR indicates that the on-site parking supply will not satisfy the peak period demands. This analysis assumes that one hundred percent of the parking supply will be available to all users at all times. Typically for a high-turnover parking used by the public "design capacity" is between 85 and 95 percent of the total space count. Using design capacity as a reference indicates that the on-site parking supply will be inadequate much more frequently than described in the DEIR. Given the lack of public off-site parking facilities in the immediate site vicinity, excess parking demands will add to area traffic congestion as visitors search for spaces on neighborhood streets in Everett and perhaps in Boston.

Concerns were also shared with the Wynn team regarding the proposed use of public parking garages in downtown Malden to serve employee parking demands. These garages are generally full during the day. Plans have been proposed to construct a minor league baseball park in Malden. The park, when built, will create parking demands to fill the garages during summer evenings as well. The DEIR does not address this potential conflict. In general, the employee parking strategy assumes that certain off-site parking facilities will meet the employee parking



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demand. No data has been presented to confirm that the parking facilities that would be used in fact have spaces available.

8. *Bicycle Access*-Bicycle access to the subject site was raised as another City concern. Detailed plans for bike access within Everett were presented in the DEIR. Any discussion of connections to Boston was limited to the inclusion of the Everett Waterfront Plan in the report appendix. The Waterfront Plan describes connections to Boston but no drawings or maps are provided. The DEIR should provide a more comprehensive discussion of the possible Boston bike connection and describe steps that the applicant will take to ensure that the bike connections are in place prior to project opening.

C. Additional Comments

The following comments are provided based on a review the DEIR and raise new issues not addressed above.

1. *Peak Hours*-The DEIR traffic analysis is limited to consideration of just the weekday PM and Saturday PM peak hours. These hours were chosen as they represent the peak traffic hours of the proposed gaming facility. However, EIR traffic investigations typically consider AM peak hour traffic operations as well. While it is acknowledged that trip generation for the gaming use will be much lower during the weekday AM commuter peak hour than during the PM peak hour, this is not the case with the proposed hotel use. Institute of Transportation Engineers (ITE) trip rates for hotels indicate that AM peak hour trip generation rates are comparable to PM peak hour trip generation rates. When ITE daily trip rates are applied to the proposed 500-room hotel they indicate that the hotel would generate 4085 daily vehicle trips. Consequently, the hotel trip generation alone exceeds the MEPA review threshold for preparation of an EIR (3000 daily trips). As such, if the hotel were proposed as a free-standing project, its' EIR would be expected to provide traffic analyses for both AM and PM peak hour conditions. Of course, the traffic study area for such an EIR would not be as extensive as the one required for the Wynn Everett project. It is recommended that the applicant provide AM peak hour traffic analyses for intersections where mitigation is proposed to ensure that any improvements made to the transportation system as a consequence of the Wynn Everett development will perform at an acceptable level during both AM and PM peak hour conditions.
2. *Build "Real" Traffic Conditions*-For certain intersections in the project study area the applicant presents alternative Build condition traffic flow networks and analyses. These are referred to as "real" peak hour conditions suggesting that the base traffic forecasts are not realistic. It describes the "unreal" conditions as overly conservative condition whereas gaming related traffic volumes typically associated with the Friday, late evening (after 6 PM) activity levels are superimposed on the existing commuter peak period (4-6 PM) traffic flows. The DEIR offers the real analysis on the basis that this combination of "peak on peak" traffic flows will never occur in reality. However, the trip rates applied in the study are derived in part from counts done at an existing casino in Queens, New York. The "late evening" data used to derive the trip rates actually relates to the 6 to 7 PM hour on a Friday. This time period is only slightly removed from the local commuter peak period. Consequently, the conservativeness of the peak on peak analysis appears to be overstated in the DEIR making the "real" analysis much less relevant.

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3. *Site Access Drive*-The proposed site access plan, Figure 4-43A, shows what appears to be an access to the on-site parking garage just a few hundred feet west of Broadway. The median treatment on the drive suggests that left-turns would be permitted from the garage at this point onto the access drive. Analyses should be provided to better understand how this on-site intersection will operate and to determine whether or not vehicle queues spilling back from Broadway will impede traffic flow at this location. Likewise, the on-site driveway could impact traffic operations at the Site Driveway/Broadway intersection.
4. *Alternative Site Access*-Figure 4-45 of the DEIR shows an alternative site access plan that leaves the site access drive at its existing location, that is, along the alignment of Horizon Way. The DEIR provides no explanation as to why this driveway alternative is under consideration and no detailed analysis of its operation. The available storage capacity for turn lanes on Broadway and the site driveway are diminished under this plan relative to the preferred plan. As such, it may experience greater operational problems than those identified above for the preferred plan. More importantly, a portion of the driveway would be located in the City of Boston. This could change the status of the City of Boston from a Surrounding Community to a Host Community. This change of status would presumably complicate the project review process with the Massachusetts Gaming Commission. A far more rigorous discussion of this plan: its purpose; anticipated operations; queuing conditions; right-of-way impacts; and, impacts to internal intersection operations is warranted.
5. *Site Access Plan*-The Site Driveway/Broadway intersection plans show two northbound lanes on Alford Street at Dexter Street delivering traffic to four northbound lanes (two left-turn lanes and two through lanes) on Alford Street at the Site Driveway. Given the short separation between the two intersections, this configuration is likely to lead to imbalanced lane use on the northbound Alford Street approach at the Site Driveway. (Through vehicles are not likely to be split evenly between the two through lanes. Left-turning vehicles are not likely to split evenly between the two left-turn lanes.) This potential lane imbalance should be considered in the intersection operations analyses completed for the Site Driveway intersection.
6. *Water Access*-The DEIR notes that private boats will be able to motor up the Mystic River to the project site. For taller boats, the drawbridge on Alford Street in Boston will need to open thereby stopping vehicular traffic flow on the principal site access route. No analysis has been provided to indicate whether the Wynn Everett project will require more frequent bridge openings and to determine the impact of these openings on traffic flow.
7. *Background Development Trips*-The DEIR lists a number of background development projects considered in developing No Build traffic flow networks. Several of these are quite large such as the 2.14 million square feet North Point development in Cambridge. The DEIR however shows relatively nominal changes in traffic volumes between Existing and No Build conditions for intersections near this site. Additional information regarding trip generation and distribution assumptions for the background development projects should be provided.
8. *Route 1Ramps/Rutherford Avenue Intersection*-The Route 1Ramps/Rutherford Avenue intersection was found to be operating at LOS F under existing weekday PM peak hour conditions in the DEIR with queuing concerns on several approaches. Under future No Build conditions the



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reported level of service improves to LOS C. No explanation is given as to why conditions would improve at this location progressing from Existing to No Build conditions. Presumably background traffic growth would increase travel demands and worsen operations. Build condition results show LOS D operations with continued vehicle queue concerns. There is no discussion provided of possible mitigation measures at this intersection.

9. *Tour Bus Parking/Loading*-The DEIR assumes that ten percent of gaming patrons will arrive by tour bus. No information is provided regarding parking and loading areas for tour buses.

Attachment B:
**City of Boston Environment, Energy
& Open Space Cabinet**
Comment Letter



Environment, Energy and Open Space
CITY OF BOSTON

February 11, 2014

Via U.S. and Electronic Mail
Secretary Richard K. Sullivan
Executive Office of Energy and Environmental Affairs
Attn: MEPA Office
100 Cambridge Street, Suite 900
Boston, MA 02214

Reference: EOEEA# 15060
Wynn Resort

Dear Secretary Sullivan:

The City of Boston Environment, Energy and Open Space Cabinet is pleased to have the opportunity to comment on the Draft Environmental Impact Report (DEIR) submitted by Wynn MA, LLC ("Wynn") for the above referenced project. The City of Boston is committed to enhancing and protecting the quality of life of all Boston residents and, with respect to the impacts of this project, is particularly concerned for those who live and work in Charlestown. The project as described in the DEIR will have significant impacts on Boston.

The issues raised by this development are discussed in greater detail in the attached technical memorandum prepared by our technical staff and consultant team. Once again we thank you for providing us with the opportunity to comment on the Wynn DEIR. Should the project move forward we anticipate filing comments on future Massachusetts Environmental Policy Act submittals by the applicant.

Sincerely,

Brian Swett
Chief of the Environment, Energy &
Open Space Cabinet

All attachments are incorporated by reference hereto:

- A. City of Boston Transportation Department Comment Letter
- B. City of Boston Environment, Energy & Open Spaces Cabinet Comment Letter
- C. City of Boston Parks and Recreation Department Comment Letter
- D. Boston Redevelopment Comment Letter



Memorandum

To: Elizabeth Dello Russo, Brian Swett, Maura Zlody, and Jacob Glickel

From: Jane Wheeler

Date: February 11, 2014

*Subject: Draft Environmental Impact Report (DEIR) Review
Wynn, EOOEA No. 15060*

This memorandum presents CDM Smith's comments on the Wynn Draft Environmental Impact Report (DEIR) filed with the Massachusetts Environmental Policy Act (MEPA) Office on December 16, 2013.

Regional Impacts

1. The DEIR does not consider induced growth in Everett or surrounding communities. However, descriptions of the project throughout the DEIR suggest that impacts and benefits that are commonly known to induce development are anticipated. The DEIR asserts that the project will result in economic revitalization and job creation. The project will be readily accessible by automobile and transit to surrounding communities. According to the DEIR, new zoning and the presence of the project will allow the area around the site in Everett to be "revitalized and energized with public, retail, and corporate activities" (p. 2-7).
2. Will this project force out other jobs and businesses in the region? The proponent should provide a more complete analysis of the impacts on the region of the proposed project as compared to other alternatives and provide the City with a copy of the economic analysis referenced at the February 4 public meeting in Charlestown.

Air Quality

1. The casino is proposed to be constructed on property highly contaminated with arsenic, lead, and other chemicals. The construction period will extend over three years, and approximately 120,000 cubic yards of soil will be excavated and removed from the site. The DEIR contains a generic list of fugitive dust control measures. However, given the soil movement duration, intensity and potential for PM2.5 and hazardous air pollutant exposure, a more quantitative analysis should be performed, with benefits and commitments to specific mitigation measures necessary to protect residents during the construction period. Specifically:
 - The proponent should conduct microscale dispersion modeling for worst-case excavation and site grading activities and the highest heavy metal and toxic contaminant concentrations found in the soil, and compare predicted concentrations at the site property boundary with PM2.5 National Ambient Air Quality Standards and MassDEP Allowable Ambient Levels (AALs) for toxic

air pollutants. The proponent should identify and quantify specific dust management practices necessary to maintain pollutant concentrations below the standards and guidelines at all times.

- The proponent should include site perimeter PM_{2.5} monitoring and action levels in the Release Abatement Measure Plan submitted to the MassDEP for controlling contaminant releases during earthwork activities.
 - The proponent should commit to the following:
 - To prevent contaminated soil re-entrainment on local streets install one to two inches of gravel no less than ten (10) feet in length at truck entrance and egress points and require tire washing of all construction vehicles leaving the site with proper provisions for runoff
 - Enforcement of MGL C. 85 Section 36, "Construction and loading of vehicles to prevent dropping of load on way," on site and at any staging and marshalling locations
 - Regular vacuum cleaning of streets and sidewalks
 - Minimizing aggregate piles and excavated materials
 - Any aggregate piles and excavated materials on the site overnight will be sprayed with Soil Cement or calcium chloride to ensure that it materials do not blow off site
 - The proponent should calculate the daily and hourly truck volumes necessary for construction, including transport of soil to and from the site.
 - The proponent should identify truck routes, and evaluate diesel particulate matter exposure of residents along those routes.
2. The DEIR mesoscale analysis shows that emissions of volatile organic compounds (VOCs), nitrogen oxides (NO_x) (and presumably particulate matter, PM_{2.5}) will be greater for the 2023 Project Case than for the 2023 No-Build Case. At least one federal approval (U.S. Army Corps of Engineers dredging permits listed in Table 1-2) is required. The FEIR should address, therefore, the applicability and requirements of General Conformity for the direct and indirect air quality impacts of the project. The predicted mesoscale air pollutant increases should be evaluated with respect to the Massachusetts State Implementation Plan (SIP), and for effects on local air quality.
 3. MOBLIE6.2 has been replaced by the MOVES model (specifically MOVES2010b) as the U.S. EPA's official model for criteria air pollutant and greenhouse gas emissions from roadway vehicles. The U.S. EPA's grace period for allowing MOBILE6.2 for project-level conformity determinations expired on December 20, 2012. The latest U.S. EPA model should be used for the emissions modeling.
 4. Whether or not General Conformity is triggered by the project, the FEIR should include a microscale dispersion modeling analysis for Sullivan Square. The additional levels of traffic and congestion in this area that will result from the proposed Wynn casino project will lead to increased local emissions of air pollutants, including carbon monoxide (CO), VOCs, NO_x and particulate matter (PM₁₀ and PM_{2.5}). Given that urban levels of PM_{2.5} and NO_x are often

found at levels close to National Ambient Air Quality Standards (NAAQSs), an air quality modeling study should then be conducted to determine whether emissions from the project will lead any exceedances of NAAQSs.

5. The DEIR states that air quality impacts from project equipment and stacks will be limited to clean-burning natural gas for heating and hot water. However, the project will include ventilation of a large underground parking garage. The FEIR should include dispersion modeling for this parking garage stack, in combination with other exhaust stacks from Project equipment, and take into consideration the potentially severe aerodynamic downwash effects of the 386-foot-tall building. This modeling would ensure that design of the parking garage stack and all Project stacks would be done to ensure NAAQS and MassDEP toxic air pollutant Allowable Ambient Levels would not be exceeded.
6. The FEIR should evaluate the location of the proposed fresh air intakes for the casino tower. The Mystic generating station is located 1000-1500 feet to the southwest of the proposed project, with exhaust stack heights of 305 feet.
7. The FEIR should include the locations of all on-site emission sources, including the parking garage stack, bus idling locations, and boat idling locations, and consideration of siting these emissions sources to minimize off-site air pollutant exposures.
8. The FEIR should also identify the number of shuttle buses expected to provide service, the fuel that will be used to power the shuttles and the frequency of service from each served location. If there will be layover times at the project site, the FEIR should identify those location(s) and describe how bus drivers will be accommodated so that idling is not used for heat or cooling during layovers (e.g. a break room with access to food and beverages).
9. As previously agreed to by the project's Permitting and Planning Consultant, an analysis should be conducted to determine if the 3% water shuttle mode share will result in fewer greenhouse gas (GHG) emissions than if the 3% were added to the vehicle mode share. The results should be included in the FEIR. The analysis should identify the type of fuel to be used by the water shuttle and the amount that would be used for all potential trip connections.
10. A central-pay process should be used for the payment of any parking fees.

Energy & Greenhouse Gas Analysis

1. The GHG "baseline case" should be updated from the minimally required current Massachusetts Building Code, based on IECC 2009, to the newer IECC 2012, which will be the Massachusetts Building Code by July 2014.
2. The DEIR does not include an analysis of construction-related GHG emissions. While the GHG policy does not require such analysis, it is recommended that the FEIR include an analysis of construction-related GHG emissions because construction will constitute a significant activity due to the extensive remediation required on the project site. The analysis should be done for a non-

retrofitted fleet and diesel-fueled 50+ horsepower construction equipment and for a fleet and equipment retrofitted with EPA- or California Air Resources Board-approved technologies.

Climate Change Preparedness and Sea Level Rise

1. It appears that the proponent is seeking an exemption under 310 CMR 9.32(a)(a) – Categorical Restrictions on Fill and Structures - claiming that the proposed fill is permitted in flowed tidelands for certain purposes such as shoreline stabilization and elimination of shoreline irregularities. Further information should be provided.
2. The proponent should demonstrate that the proposed fill and associated loss of storage will not result in adverse increases in flood level stages at the project site or in adjacent locations.
3. Portions of the property are correctly identified as “Land Subject to Coastal Storm Flowage” and as “Bordering Land Subject to Flooding” (BLSF), which is defined by the MassDEP as “an area which floods from a rise in a bordering waterway or water body. Such areas are likely to be significant to flood control and storm damage prevention.” The MassDEP regulations set forth in 310 CMR 10.57 clearly define the requirements for developing within areas classified as Bordering Land Subject to Flooding (BLSF). One of the main functions of BLSF is to retain and detain flood waters, and development within BLSF requires the creation of compensatory floodplain storage. It is recommended that compensatory storage be provided to offset the proposed fill. It should also be noted that 310 CMR 10.57(4) requires that the compensatory storage have an unrestricted hydraulic connection to the adjacent water body, which has not been demonstrated.
4. Chapter 6.2.1 of the DEIR includes the statement that “Due to its protected location upriver from much of the harbor, wind driven waves are not considered to be an important factor in the Project’s design.” After the Nor’easter of 1978 the USGS took high water measurements around the greater Boston area, and immediately upriver of the proposed project site a high water measurement of 10.2 feet NAVD88 (11’ NGVD29) was taken on the Amelia Earhart dam. There is currently no FEMA documentation showing potential surge/stillwater elevations, but the proponent should consider all available information when setting Finished Floor Elevations (FFE) and locating critical infrastructure. The MassAudubon Society offered a similar comment, and the proponent addressed it by proposing a “living shoreline” fringe. While a living shoreline will help mitigate wave action, it is not likely to prevent it.
5. The DEIR states in 6.2.1 “To prepare for impacts, parking garage entrances and other openings into below-grade spaces will be elevated above this [critical flooding] level as well, or sufficiently flood proofed to avoid inundation for coastal storms.” However, it is recommended that the proponent revisit these elevations based on the updated 100-year flood elevation, taking wind driven wave action into consideration as well.
6. The DEIR states in 6.2.1 “Projections for future changes in flood elevations for the 100-year storm event reflect a modest increase for the Project Site.” Additionally, the DEIR later states in 6.2.1 “During the preparation of this document, Draft Flood Insurance Rate maps (FIRM) were

released for the adjacent areas of Suffolk County. While new flood levels have not been established for the Project Site the Suffolk County maps are undergoing public review and comment and it is anticipated that based on the draft FIRM, the estimated 100 year flood level on the Project Site may increase by one foot. The Project design is safely above the current 100 year flood levels as well as potential increased levels similar to Suffolk County." The proposed maps show an adjacent increase of three feet, not one foot. A three foot increase is not moderate, and this puts the retail wing only 4.2 inches above updated 100-year flood levels.

7. The DEIR does not provide information on the project's emergency preparedness/sheltering plans and emergency access during predicted flooding, severe heat, and severe precipitation conditions. The FEIR should provide the following information regarding preparedness and resiliency assessment and planning:
 - Mitigation strategies to reduce energy consumption
 - Specific measures to reduce building energy demands on utilities and infrastructure
 - An estimate of the time in days that the project will remain operable without utility power during an extended outage
 - Any non-mechanical strategies that will support building functionality and use during an extended interruption of utility service and infrastructure
 - Measures to reduce urban heat island effect
 - Measures to accommodate rain events and more rainfall
 - Measures to accommodate extreme storms and high winds
 - Hard and/or soft landscape elements as velocity barriers to reduce wind or wave impacts
 - Any additional strategies to addressing sea level rise and or severe storm impacts
8. The discussion of sea level rise does not include impact to the proposed dock or water shuttle operation. How will the Alford Street bridge clearance be affected?

Contaminated Materials and Hazardous Waste Remediation

1. Chapter 12 of the DEIR, Solid and Hazardous Wastes, does not provide any specific details regarding additional site investigation requirements, areas or quantities of contaminated media, proposed remediation methods, schedules, costs or other details of future site response actions.
2. Chapter 12 does not provide any detailed discussion of solid waste issues or proposed solutions associated with the project.

3. The July 26, 2013 Certificate on the EENF notes that the project area is a disposal site subject to cleanup under the Massachusetts Contingency Plan (MCP) and that response actions that are required must be addressed in the required EIR. The DEIR notes that site cleanup in compliance with the MCP is planned, but does not provide much detail as to how that will be accomplished. The discussion of the Phase III selected remedial alternatives is very limited, and no discussion of the schedule of the Phase IV Remedy Implementation Plan (RIP) is provided. The EENF Certificate specifically requested that the DEIR provide an estimate of cleanup costs, identify who will conduct and fund the cleanup, and address how impacts to the Mystic River and surrounding communities will be prevented.
4. No estimate of cleanup costs is provided in the DEIR; however this information should be available from the Phase III Remedial Action Plan (RAP). The DEIR implies that the project owner will be responsible for conducting and funding the site cleanup. Prevention of impacts to the Mystic River and surrounding communities during cleanup is not adequately addressed in the DEIR.
5. The EENF Certificate also noted that the DEIR should specify a pre-design investigation in advance of construction. While the DEIR does provide some discussion of site investigation activities completed to date, it does not clearly identify pre-design investigation plans. The Certificate identifies dewatering and air monitoring as areas to be addressed in the DEIR. These items are mentioned but are not described in any detail.
6. Table 1-2 and Chapter 18 of the DEIR do not reference MassDEP permits required for remediation.
7. In summary, the DEIR provides a general discussion of the site history, MCP response actions, site contamination, and potential remedial alternatives for site soils. It does not provide details on the planned response actions to address the contamination present at the site.

LEED Certification

1. Overall, the proponent does not dismiss potentially achieving LEED platinum. Some credits require construction before they can be verified and the credit granted. At this early point in the design, for example, it may not be possible to predict the 35% water use reduction in WE Cr.3 but the final engineering may result in that or better. Thus the 2 points are in the MAYBE column. With 67 credits being pursued and 31 considered possible, we believe it is ultimately feasible for the project to achieve 80 or more credits and reach LEED Platinum.
2. Does LEED certification apply to the entire development, including the hotel, gaming and retail components?
3. Moving the following credits to the Yes column as strategic goals would net an additional points:
 - MR Cr.5 Regional Materials: The proponent should commit to a 20% goal. Other LEED Gold casinos achieved 43%. This is better for regional economies and LEED goals.

- MR Cr.4 – 20% Recycled Materials: It may be possible to reuse ground up materials as non-structural fill and landscaping.
- MR Cr.7 Certified Wood: While this credit may add costs, it is typically achievable.
- EQ Cr.4.3 Low-Emitting Materials Flooring: the majority of flooring manufacturers can meet these threshold limits. Flooring represents the largest indoor surface in the project. This credit should be achieved as it will have significant impact on visitor and employee health, productivity and comfort. The proponent should have custom carpeting tested and achieve this point. Cost of testing the materials is negligible relative to the overall project investment.
- IEQ 8.1 Daylight and Views: Proponent claims to “set a new standard” for gaming facilities yet the gaming component seems to be a typical “black box.” The proponent should pursue this credit or at least provide significant daylight and views to the gaming component. Other LEED Gold casinos obtained this point with skylights and clerestories.
- MR Credit 1.1 Reuse: While this credit is listed in the “Likely” column, the narrative discusses lack of any existing components for reuse.

Environmental Justice

1. Chapter 2.6 of the DEIR states that the local community “includes significant representation of minority groups and low-income households.” If any of the adjacent communities meets the MA Executive Office of Energy and Environmental Affairs (EEA’s) Environmental Justice (EJ) definition, the EEA’s EJ Policy requires an “enhanced EIR analysis of impacts and mitigation.” The EEA EJ policy further states that, “Enhanced analysis of impacts and mitigation may include analysis of **multiple air impacts** [emphasis added]; data on baseline public health conditions within the affected EJ Population; analysis of technological, site planning, and operational alternatives to reduce impacts; and proposed on-site and off-site mitigation measures to reduce impacts and increase environmental benefits for the affected EJ Population. The EJ status of Everett and adjacent and nearby communities should be determined without delay so that the FEIR will include the process and results of the assessment used to determine whether or not an EJ analysis applicability threshold has been exceeded. For EJ communities, the FEIR should include results of a microscale dispersion modeling analysis for PM2.5, CO and NOx for the traffic intersections in these communities with both the greatest traffic volumes, and those most affected by project traffic.
2. Pursuant to the Commonwealth’s EJ Policy, enhanced public participation is required because the project exceeds the ENF threshold for wastewater generation. EJ populations may also include surrounding communities (not just Everett).The FEIR should describe how public participation has been enhanced to engage EJ populations.

Transportation Demand Management (TDM)

1. Chapter 2.1.3 of the DEIR states that the proposed project will result in “pedestrian-friendly streets.” The proponent should provide more detail on the urban design elements of the project as they relate to Broadway/Alford Street, the proposed Orange Line station at Assembly Square (scheduled for completion in fall 2014) and possibly a new station on the Newburyport/Rockport Commuter Rail.
2. In Chapter 2.4, the DEIR states that the “proponent has committed to providing a shuttle service from the Project Site to nearby MBTA subway stations and other transportation hubs.” These stations and hubs should be identified. It is not clear whether any of these “transit hubs” will be located in Boston or surrounding communities. The EENF referenced shuttle buses that would link the project to “Logan International Airport, North Station, South Station, and other major transportation hubs.”
3. The FEIR should provide more detail on the parking management strategies and the unifying of the Broadway streetscape and related improvements described in Chapter 2.6.
4. Figure 4-15 provides a map of existing and planned pedestrian and bicycle facilities within the vicinity of the project. Additional information on the proposed facilities should be provided including, but not limited to, current materials and conditions, widths, crosswalks, and compliance with accessibility standards, resulting in a pedestrian and bicycle level of service (LOS) analysis.
5. Chapter 4.4.1.1 states that “the primary Project Site driveway will be designed and constructed...consisting of...sidewalks and bicycle accommodations.” The proponent should provide additional detail and images on these accommodations include widths, materials, whether or not the facilities are separated, etc.
6. Chapter 4.4.1.3 states that “Lower Broadway will be widened approaching the primary Project Site driveway to accommodate a right-turn lane to enter the Project, bicycle lanes, and sidewalks, while maintaining two (2) through travel lanes per direction.” Typically, as the number of lanes in each direction increases, average vehicle speeds increase making a roadway less inviting to bicyclists. The proponent should consider alternatives to basic bike lanes including buffered bike lanes or cycle tracks to further support the “context of Complete Streets design.”
7. Chapter 4.5.4.1 – Pedestrian Improvements
 - More information is needed regarding pedestrian connectivity outside of the site. For example, will pedestrian access be possible from the Alford Street Bridge?
 - The proponent should provide additional detail on the connection of the Project Site to the Mystic River Parkway trail system via the proposed pedestrian/bicycle underpass under the MBTA Newburyport/Rockport Commuter Rail.

8. Comment MAPC-28 discusses on-site showers, lockers and changing facilities to encourage patrons and employees to bicycle to the site. The response to that comment is that Chapter 4 "includes a description of the specific inducements to encourage patron and employee use of alternative modes of transportation to single-occupant vehicles to access the Project site." The DEIR, however, does not specifically mention shower/locker facilities for employees.
9. Chapter 4.5.4.3 – Traffic Reduction Strategies
 - Parking Cash-Out program – if the casino is providing free parking for employees, the project should allow employees to receive a subsidy for walking, biking or taking transit to work and not utilizing their designated space. The MassRIDES program will likely be able to advise the proponent on the implementation of this policy. Employers can allow staff to set aside pre-tax dollars to purchase transit passes or pay vanpool fares. As of January 1st, 2014 the transit benefit limit is \$130. This is part of the MassRIDES program which is mentioned in this chapter.
 - Charging a market rate for use of parking facilities by both patrons and employees on a daily basis is known to reduce vehicle miles travelled (VMT). Monthly passes are not encouraged as they induce driving. – Comment MAPC-32 specifically mentions employee/patron parking fees. The response to that comment does not specifically state whether parking will/will not be free for employees and patrons.
 - More information is needed about the eligibility for and benefits of the proposed MBTA Corporate Pass Program. For example, does it provide a subsidy to employees who use it?
 - We recommend consideration of these additional strategies:
 - Membership and active participation in an existing Transportation Management Association (TMA) or, if one does not exist in a useful area, work with other employers to create a TMA
 - We recommend that the proponent have a conversation with Massport about sharing its shuttle system since Massport already has a shuttle that serves East Boston and Chelsea during morning hours before the T is running
 - The Transportation Coordinator should be an on-site employee whose only job would be to manage patron and employee transportation, vendor deliveries and other transportation issues
 - On-site information about MassRIDES
 - Transit pass subsidies for all employees including contract employees and those working part-time
 - Pre-tax payroll deduction for transit pass purchase
 - Onsite transit pass distribution or sales
 - Maintenance of a database of employee information for ridematching/planning purposes – home address, commuting mode, work hours, etc.
 - Guaranteed/Emergency Ride Home program for non-drivers and high occupancy vehicle (HOV) users

- Posting and onsite availability of public and private transit schedules with rate information
 - Providing the same information on Web sites and through e-mails, newsletters and at employee orientations
 - Payroll deduction for the purchase of bicycles and accessories
 - Direct deposit of paychecks
 - An on-site ATM
 - Car sharing such as Zipcar (includes Z2B, a program for businesses).
 - Free or low cost, occasional parking for transit commuters who may sometimes need to drive
 - Expanding the Hubway bike sharing program at the project site and nearby MBTA stations
10. Why is the TDM monitoring program described in Chapter 4.5.4.4 only planned for 5 years after project completion? TDM should be measured and adjusted over the life of the facility. As demand between modes shift, so should the measures to support transportation. Employee results should be reported for full-time, part-time and contract employees, not in full-time equivalents (FTE).

Stormwater

1. There is still no clear presentation of the quantity of impervious area under existing versus proposed conditions, but the drainage analysis in Appendix H shows that impervious area will increase under proposed conditions. If the impervious area is increased by the project, the site will be considered a "new development" under the MA Stormwater Standards. Hence, the project is incorrectly called a redevelopment. The Stormwater Checklist should be corrected to show that it is a new development that should fully meet the MA Stormwater Standards.

Dredging and Wetlands

1. The proponent states that Waters of the U.S. define the federal jurisdictional area only and that, "this resource is not directly relevant to this MEPA documentation..."; however Waters of the U.S. also define the limit of MassDEP jurisdiction pursuant to the Section 401 of the Clean Water Act and thus is relevant because the issuance of a Section 401 Water Quality Certification is a state action. The need for a Water Quality Certification and compliance with 314 CMR 9.00 are not identified in Chapter 8.1 or in Table 8-4. Later in Chapter 8.1.5., the proponent addresses 314 CMR 9.00 relative to dredging. There is an apparent disconnect between subsections.
2. The proponent continues to define the proposed dredging as "maintenance dredging." Per the EENF, the most recent Chapter 91 license for dredging was issued in 1922. The proponent should provide Chapter 91 License(s) references documenting past dredging as licensed activities. Also, the proponents should request verification from MassDEP that such a 91-year lapse between dredging activities still constitutes maintenance dredging.
3. The proponent states that "the majority of the proposed dredge footprint lies within the historic channel alignment and its associated side slopes," which suggests some dredging is outside the channel and therefore not maintenance dredging. The proponent should provide more

information on dredging – particularly whether MassDEP considers it to be “maintenance” and whether any dredging will occur in Boston.

4. The proponent states that water access is an integral part of the project’s “transportation-mitigation and environmental-remediation effort,” thereby justifying the need for dredging. However, given the small percentage of casino patrons (3%) that are expected to access the casino via water, there does not appear to be a clear need for channel dredging, especially given the potential for releasing contaminated sediment from the area to be dredged. Further justification should be provided on the need for dredging.
5. The proponent should present sediment analytical data in the FEIR. Chapter 8 states that testing was completed but provides only cursory review of the results.
6. The proponent states that the proposed mechanical dredging yields less turbidity than hydraulic dredging. Hydraulic dredging uses suction to dredge sediment and one would expect the suction, or vacuum, to limit turbidity compared to the clamshell method.
7. The FEIR should describe how dredging will proceed in compliance with all time of year (TOY) restrictions protective of all fishes.
8. Wetlands mitigation measures identified in Chapter 8 are too general and do not adequately describe measures to mitigate anticipated impacts. The mitigation chapter should describe the schedule and responsibilities for carrying out the various mitigation measures, as well as what monitoring will be conducted and by whom.

Shellfish Bed Restoration

1. What measures will be used to prevent bedding material from washing away in storm tides/surges? Define the monitoring period and monitoring protocols in the FEIR so agencies can comment on efficacy of proposed monitoring program.
2. Identify potential problems and corresponding corrective actions, i.e. adaptive management plan.
3. The proponent states filter feeders improve local water quality. Based on the effectiveness of filter feeders to improve water quality, will the proposed 15,000 s.f. of restored beds yield measureable water quality benefits in this location? Is there a monitoring plan to document this stated benefit?
4. The proponent should provide a citation to support the statement that oyster beds prevent beach/shoreline erosion. Based on size and location, what is the anticipated benefit at this location, and what monitoring will be prosecuted to document this benefit is realized? Provide examples of where similar projects have been successful.

5. The proponent should obtain approval from the Massachusetts Division of Marine Fisheries that the restoration plan is viable.

Living Shoreline

1. In response to CZM Comment No. 6 regarding softer shoreline edges, the proponent refers to the living shoreline as described in Chapter 8.1.3 (pg. 8-14) and depicted on Figure 8-6. The proponent should describe how a living shoreline with a seaward edge of rock and a landward margin defined by a vertical bulkhead is a "soft edge."
2. The proponent should address the long-term sustainability of the living shoreline relative to accelerated sea-level rise. What is the life expectancy of this feature with a rising sea level?

Chapter 91

1. The proponent identifies waterfront pedestrian connections to adjacent waterfront paths. However, all easements to make necessary connections are not yet secured. The status of all required easements should be included in the FEIR. All required easements, or options for easements, should be secured before this criterion is determined to be met under Chapter 91 regulations. The Boston Harbor Association had some good suggestions in their comments on the Municipal Harbor Plan to ensure that offsite amenities are completed within a reasonable timeframe.

Mitigation

1. The mitigation chapter should describe the schedule and responsibilities for carrying out the various mitigation measures.
2. What monitoring will be conducted and by whom to ensure that mitigation goals are accomplished?

Construction

1. To accurately portray overlapping activities, durations, sequencing, etc., the FEIR should include a detailed construction schedule (preferably in a bar chart or similar graphical format) that shows all activities (including onsite and offsite mitigation) and reflects time-of-year (TOY) restrictions for dredging.
2. Sections 15.2.5 and 15.2.6 in the DEIR indicate only that a Construction Management Plan will be prepared that will include measures to mitigate noise and vibration impacts. The vibration section says that pile driving will be necessary, with no other specifics. Given that there will be four underground levels, and construction in a historic fill area adjacent to the Mystic River, there could be extensive pile driving over the three-year construction period. Residents of Somerville and Charlestown will have direct line-of-site exposure to this noise transmission over water. The proponent should provide a detailed construction noise analysis, especially for pile driving, and a commitment to mitigation (e.g., predrilling all holes, and using impact muffling materials).

3. Proposed work hours per day for each project element, in sequence, should be outlined in the FEIR.
4. The following Best Available Control Technologies (BACT) and other best management practices (BMP) should be employed to minimize noise impacts. Measures should include but are not limited to:
 - Securing any decking on roadways so that there is no rattling when traffic passes over
 - Using vehicles and equipment with either ambient-sensitive or manually adjustable back-up alarms
 - Properly sizing impact equipment such as hoe rams, pile drivers and jackhammers and powering them only to the degree needed to perform the work
 - Installing noise suppression enclosures on hoe rams
 - Placing stationary noise-producing equipment such as pumps and generators as far away as possible from residential and sensitive receptor locations
 - Keeping engine housing panels on all equipment closed and, when not in use, shutting off equipment
 - Where feasible, building screening to provide light shielding for area residents and other sensitive receptors
5. The FEIR should include a detailed description of the noise study conducted since submission of the DEIR.

Attachment C:
City of Boston Parks & Recreation
Department
Comment Letter

BOSTON

Martin J. Walsh, Mayor

February 11, 2014

Richard K. Sullivan, Jr.
MEPA Office
Executive Office of Energy and Environmental Affairs
100 Cambridge St., Suite 900
Boston MA, 02114

RE: EOEEA #15060, DEIR for Wynn MA, LLC

Dear Mr. Sullivan:

This letter is in response to the request for comments on the DEIR for the development proposed by Wynn MA, LLC. The City of Boston Parks and Recreation Department has reviewed the project - in particular for potential impacts to Ryan Playground and the parks that will be provided through the Sullivan Square realignment and Article 80 redevelopment in Charlestown.

The proposed project should be carefully analyzed for the following potential impacts:

- Connection to current planning processes underway for Ryan Playground and Sullivan Square;
- Congestion in the vicinity of the parks, and a "hotspot" analysis of compromised intersections;
- Increased vehicular, MBTA and tour bus traffic volume on pedestrian access to the parks;
- Inclusion of the build out of the Article 80 parcels freed by the realignment of Sullivan Square;
- Increased vehicular, MBTA and tour bus traffic on the air quality around the parks.

This Department recommends that the proposed Wynn development should integrate Ryan Playground into its planning and development processes. Ryan Playground is approximately less than .5 miles from the proposed Wynn development and directly on the most heavily travelled point of egress to the site. Ryan Playground is an active recreation area and efforts should be made to ensure that the Wynn development does not detract, and rather enhances the pedestrian, bicycle and vehicular access to that important park. Also, there should be no negative impacts to the parking available at Ryan Playground.

Further, the proposed Wynn development should be assessed for potential connections to the pedestrian environment, parks and greenway that will be developed in the vicinity of Sullivan Square through the disposition of land from the traffic realignment. These parks and pedestrian ways will be developed by the Article 80 process, as part of the BRA's redevelopment of the intersections around Sullivan Square.



Boston Parks and Recreation Department
1010 Massachusetts Ave., Boston, MA 02118 / Tel.: 617-635-4505 / Fax: 617-635-3173



It must be noted that the Wynn DEIR included the proposed roadway improvements at Sullivan Square to the benefit of its analysis. However, it apparently omitted the significant proposed build out of the parcels that will be freed for Article 80 redevelopment by the realignment of Sullivan Square. The significant proposed build out of Sullivan Square should be included in the Wynn DEIR analysis.

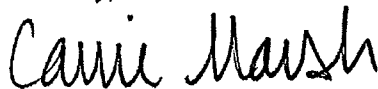
This Department is concerned about the potential for congestion, increased traffic volume, and decreased accessibility around Ryan Playground and the parks that will be developed through the Article 80 process at Sullivan Square. The Wynn DEIR indicated that most of the intersections around Sullivan Square had a decreased level of service (LOS) with the Wynn development, even with the omission of the future build out of the parcels around Sullivan Square through the Article 80 process.¹

Ryan Playground is an active recreational area that generates a vehicular, bicycle and pedestrian traffic. The traffic generated by Ryan Playground should also be included in the Wynn analysis, and the impacts of the Wynn development on the congestion and access to the park should be mitigated.

With regard to the air quality around the parks, this Department is concerned about the air quality issues that will be generated by increased traffic congestion around the parks, and also the potential air quality impacts generated by the remediation of the toxic site.²

Finally, this Department would like to recommend that any community benefits that are negotiated for the development, should consider the mitigation of impacts to Ryan Playground, and the proposed improvements to Sullivan Square.

Sincerely,



Carrie Marsh, Executive Secretary
Boston Parks and Recreation Commission

cc: Elizabeth DelloRusso, Senior Assistant Corporation Counsel, City of Boston

¹ The Parks Department incorporates by reference hereto the Comment Letter of the Boston Transportation Department and the Stantec Consulting memorandum.

² The Parks Department incorporates by reference hereto the Comment Letter of the City of Boston Environment, Energy and Open Spaces Cabinet.

Attachment D:
Boston Redevelopment Authority
Comment Letter

Boston Redevelopment Authority

Boston's Planning & Economic
Development Office

Martin J. Walsh, Mayor

One City Hall Square
Boston, MA 02201-1007
Tel 617-722-4300
Fax 617-248-1937

February 11, 2014

Via U.S. and Electronic Mail

Secretary Richard K. Sullivan
Executive Office of Energy and Environmental Affairs
Attn: MEPA Office
100 Cambridge Street, Suite 900
Boston, MA 02214

Reference: EOEEA# 15060
Draft Environmental Impact Report (DEIR) Review, Wynn MA, LLC

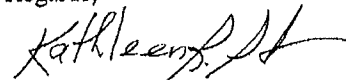
Dear Secretary Sullivan:

Thank you for this opportunity for the Boston Redevelopment Authority (BRA) to comment on the Draft Environmental Impact Report (DEIR) submitted by Wynn MA, LLC ("Wynn") for the above referenced project.¹ The BRA joins the City of Boston in its review of the Wynn DEIR.

The BRA, together with the City of Boston Transportation Department and the community, has engaged in a multi-year planning process for improvements for Sullivan Square and Rutherford Avenue in Charlestown. The BRA notes that the Wynn DEIR fails to accurately review the Wynn proposal in light of that planning process. Please see the City of Boston Comment Letters, incorporated by reference hereto, for extensive comments on this issue.

Thank you again for the opportunity to comment on the Wynn DEIR. We ask that you accept and incorporate the City of Boston's thorough review.

Regards,



Kathleen R. Pedersen
Senior Project Manager
Environmental Review Specialist

¹ The BRA notes that Wynn has no filings before the BRA, including no filings pursuant to the Article 80 Development Review Process.

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION

Suffolk, ss.

In the Matter of:

Application of PPE Casino Resorts MA LLC

Application of Springfield Gaming and Redevelopment LLC

Application of Raynham Park LLC

Application for a License to Operate a Category 2
gaming establishment pursuant to M.G.L. c.23K §20

**DETERMINATION AND ISSUANCE OF A LICENSE TO OPERATE A
CATEGORY 2 GAMING ESTABLISHMENT**

I. Authority

PPE Casino Resorts MA LLC, (“PPE”), Springfield Gaming and Redevelopment LLC (“SGR”) and Raynham Park LLC (“Raynham”) (hereinafter referred to as “Applicant” or jointly as “Applicants”) each submitted to the Massachusetts Gaming Commission (hereinafter “Commission” or “MGC”) an application for a Category 2 Gaming License to operate a Gaming Establishment. The Commission has the authority to issue a single Category 2 Gaming License (“License”) pursuant to M.G.L. c.23K.

II. Background

On or before January 15, 2013, the Commission received an RFA-1 application from each Applicant. Each Applicant then underwent a thorough investigation by the Investigation and Enforcement Bureau (“IEB”). Pursuant to 205 CMR 101.01, a public meeting or an adjudicatory hearing was held before the full Commission at the conclusion of the investigation to determine the suitability of each Applicant. The Commission held a public meeting to determine the suitability of PPE on July 11, 2013; the Commission held an adjudicatory proceeding to determine the suitability of Raynham on July 26, 2013; and the Commission held an adjudicatory proceeding to determine the suitability of SGR on September 18 and 19, 2013. The Commission issued a **POSITIVE** determination of suitability for each Applicant, deeming each Applicant

suitable to hold a gaming license and eligible to file an RFA 2 application for a Category 2 gaming license.

Each Applicant submitted a Host Community Agreement to the Commission in accordance with 205 CMR 123.02(3). A referendum vote pursuant to G.L. 23K, §15(13) was held in the Host Community for each Applicant and each Applicant received a majority vote in favor of a Gaming Establishment being located in the Host Community.

Each Applicant submitted an RFA-2 Application, in accordance with 205 CMR 118.01(2), to the Commission on October 4, 2013 (including all amendments and additions thereto, the “RFA-2 Application”). Pursuant to 205 CMR 118.04(1) (e), the Commission heard an informal presentation from each Applicant explaining its RFA-2 Application on October 7, 2013. The Commission held surrounding community public hearings on

_____ to receive comments from residents of the surrounding communities impacted by the proposed Gaming Establishment. The Commission also accepted written submissions from the public. The Commission held Host Community public hearings on _____ to receive comments from the residents of the Host Community, pursuant to G.L. 23k, §17(c).

The Applicants have executed agreements with all designated Surrounding Communities and Impacted Live Entertainment Venues and with the Massachusetts State Lottery and have submitted those agreements to the Commission.

All of the Applicants for the License underwent the same evaluation process. Each section of each Applicant’s RFA 2 application was reviewed by professional consultants and independent evaluators who assisted the Commissioner responsible for that section in his or her review. Each Commissioner presented a report and recommendation on his or her section. The Commissioners reviewed all of the reports and discussed the recommendations made by each Commissioner at public meetings of the Commission on February 24-28, 2014. The Commission made a determination on the issuance of a Category 2 gaming license on February 28, 2014.

III. Findings

In evaluating the Applicants for a Category 2 license, the Commission considered all information in the RFA-1 and RFA-2 applications of each Applicant, the presentations made by each Applicant to the Commission, the comments received by the Commission in writing and at the surrounding and host community meetings and any testimony taken regarding the Applicants at Commission public meetings.

The Commission considered, in accordance with G.L. c.23K, §18, the ability of each of the three Applicants in:

1. Protecting the lottery from any adverse impacts due to expanded gaming including, but not limited to, developing cross-marketing strategies with the lottery and increasing ticket sales to out-of-state residents;
2. Promoting local businesses in host and surrounding communities, including developing cross-marketing strategies with local restaurants, small businesses, hotels, retail outlets and impacted live entertainment venues;
3. Realizing maximum capital investment exclusive of land acquisition and infrastructure improvements;
4. Implementing a workforce development plan that utilizes the existing labor force, including the estimated number of construction jobs a proposed gaming establishment will generate, the development of workforce training programs that serve the unemployed and methods for accessing employment at the gaming establishment;
5. Building a gaming establishment of high caliber with a variety of quality amenities to be included as part of the gaming establishment and operated in partnership with local hotels and dining, retail and entertainment facilities so that patrons experience the diversified regional tourism industry;
6. Taking additional measures to address problem gambling including, but not limited to, training of gaming employees to identify patrons exhibiting problems with gambling and prevention programs targeted toward vulnerable populations;
7. Providing a market analysis detailing the benefits of the site location of the gaming establishment and the estimated recapture rate of gaming-related spending by residents travelling to out-of-state gaming establishments;
8. Utilizing sustainable development principles including, but not limited to: (i) being certified as gold or higher under the appropriate certification category in the Leadership in Environmental and Energy Design program created by the United States Green Building Council; (ii) meeting or exceeding the stretch energy code requirements contained in Appendix 120AA of the Massachusetts building energy code or equivalent commitment to advanced energy efficiency as determined by the secretary of energy and environmental affairs; (iii) efforts to mitigate vehicle trips; (iv) efforts to conserve water and manage storm water; (v) demonstrating that electrical and HVAC equipment and appliances will be EnergyStar labeled where available; (vi) procuring or generating on-site 10 per cent of its annual electricity consumption from renewable sources qualified by the department of energy resources under section 11F of chapter 25A; and (vii) developing an ongoing plan to submeter and monitor all major sources of energy consumption and undertake regular efforts to maintain and improve energy efficiency of buildings in their systems;
9. Establishing, funding and maintaining human resource hiring and training practices that promote the development of a skilled and diverse workforce and access to promotion

opportunities through a workforce training program that: (i) establishes transparent career paths with measurable criteria within the gaming establishment that lead to increased responsibility and higher pay grades that are designed to allow employees to pursue career advancement and promotion; (ii) provides employee access to additional resources, such as tuition reimbursement or stipend policies, to enable employees to acquire the education or job training needed to advance career paths based on increased responsibility and pay grades; and (iii) establishes an on-site child day-care program;

10. Contracting with local business owners for the provision of goods and services to the gaming establishment, including developing plans designed to assist businesses in the commonwealth in identifying the needs for goods and services to the establishment;
11. Maximizing revenues received by the commonwealth;
12. Providing a high number of quality jobs in the gaming establishment;
13. Offering the highest and best value to create a secure and robust gaming market in the region and the commonwealth;
14. Mitigating potential impacts on host and surrounding communities which might result from the development or operation of the gaming establishment;
15. Purchasing, whenever possible, domestically manufactured slot machines for installation in the gaming establishment;
16. Implementing a marketing program that identifies specific goals, expressed as an overall program goal applicable to the total dollar amount of contracts, for the utilization of: (i) minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the design of the gaming establishment; (ii) minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the construction of the gaming establishment; and (iii) minority business enterprises, women business enterprises and veteran business enterprises to participate as vendors in the provision of goods and services procured by the gaming establishment and any businesses operated as part of the gaming establishment;
17. Implementing a workforce development plan that: (i) incorporates an affirmative action program of equal opportunity by which the Applicant guarantees to provide equal employment opportunities to all employees qualified for licensure in all employment categories, including persons with disabilities; (ii) utilizes the existing labor force in the commonwealth; (iii) estimates the number of construction jobs a gaming establishment will generate and provides for equal employment opportunities and which includes specific goals for the utilization of minorities, women and veterans on those construction jobs; (iv) identifies workforce training programs offered by the gaming establishment; and (v) identifies the methods for accessing employment at the gaming establishment;

18. Whether the Applicant has a contract with organized labor, including hospitality services, and has the support of organized labor for its application, which specifies: (i) the number of employees to be employed at the gaming establishment, including detailed information on the pay rate and benefits for employees and contractors; (ii) the total amount of investment by the Applicant in the gaming establishment and all infrastructure improvements related to the project; (iii) completed studies and reports as required by the commission, which shall include, but need not be limited to, an economic benefit study, both for the commonwealth and the region; and (iv) whether the Applicant has included detailed plans for assuring labor harmony during all phases of the construction, reconstruction, renovation, development and operation of the gaming establishment; and
19. Gaining public support in the host and surrounding communities which may be demonstrated through public comment received by the commission or gaming applicant.

Based on the above factors, the Commission generally adopts the following findings of fact for each Applicant for each section of its RFA 2 application:

a. Overview

	PPE	SGR	Raynham
Criteria			
Massachusetts Brand			
Destination Resort			
Outward Looking			
Competitive Environment			
Meeting Unmet Needs			
Collaborative Marketing			
Diverse Workforce and Supplier Base			
Broadening the Region's Tourism Appeal			

b. Finance

	PPE	SGR	Raynham
Criteria			
Financial Capability			
Ability of the Applicant to Obtain Project Capital			
Current Financial Strength of the Applicant			
Expected Return over the Term of the License			
Investment Plan			

Commitment to Spend Required Capital			
Timing of Total Development			
Consistency Between Quality/Scope of Proposed Facility and Expected Market Penetration and Financial Results			
Market Assessment			
Gaming Revenue Projections and Market Share (Before Competition)			
Gaming Revenue Projections and Market Share (After Competition)			
Operations Plan			
Understanding of Internal Controls			
Consistency of Business Plan with Expected Financial Returns			
Financial Projection Analysis			
Additional Topics Reviewed- Financial Suitability			

c. Economic development

	PPE	SGR	Raynham
Criteria			
Tourism			
Support for External Business Components			
Job Creation			

d. Building & Site Design

	PPE	SGR	Raynham
Criteria			

e. Mitigation

	PPE	SGR	Raynham
Criteria			
Community Support			
Traffic and Offsite Impacts			
Measures to Promote Responsible Gaming and Address Problem Gambling			
Protect and Enhance the Lottery			

IV. Comparative Discussion

1. Overview

2. Finance

3. Economic development

4. Building & Site Design

5. Mitigation

V. Conclusion

Upon reviewing all of the requirements of c.23K, the regulations under 205 CMR 101 et seq., the information provided by members of the public and the information provided in the Applicants' RFA 1 and RFA 2 applications, the Commission has determined that the Category 2 gaming establishment license is issued to _____.

The gaming establishment is defined as: _____.

The term of the license commences _____ and runs for a period of 5 years.

The Category 2 gaming establishment license will be issued subject to the following conditions:

1. Compliance with all of the requirements of M.G.L. c. 23K, as now in effect and as hereafter amended and 205 CMR 101 et seq, as now in effect and as hereafter amended.
2. Compliance with all applicable federal, state and local laws, rules and regulations, now in effect or as hereafter amended or promulgated.
3. The debt equity requirements as established by the Commission's regulations.
4. Payment of the license fee as required by c. 23K and 205 CMR 121.00
5. Payment of assessments made pursuant to 205 CMR 121.00
6. Compliance with the terms and conditions of the host community agreement, surrounding community agreements, impacted live entertainment agreements, lottery agreements and all federal, state and local permits and approvals required to construct and operate the gaming establishment.
7. Compliance with the construction plans, specifications, and timelines as approved by the Commission.
8. If the Applicant is a racing licensee pursuant to M.G.L. c. 128A and c. 128C, as now in effect and as hereafter amended, compliance with the terms of c. 23K, c.128A, c. 128C and the rules and regulations promulgated thereunder.
9. Other specific conditions:
[include here any conditions arising from the phase 1 suitability determination as well as any conditions arising out of the review of the RFA 2 application.]

SO ORDERED

MASSACHUSETTS GAMING COMMISSION

Stephen P. Crosby, Chairman

Gayle Cameron, Commissioner

James F. McHugh, Commissioner

Bruce Stebbins, Commissioner

Enrique Zuniga, Commissioner

DATED: _____

DRAFT

MASSACHUSETTS GAMING COMMISSION ILEV PETITION ANALYSIS



PETITIONER: EASTERN STATES EXPOSITION (ESE)
APPLICANT: MGM SPRINGFIELD

February 14, 2014

INTRODUCTION AND OVERVIEW

The Live Entertainment Venue has submitted to the Commission a petition to be designated as a Impacted Live Entertainment Venue to the Applicant's proposed gaming establishment in accordance with G.L. c. 23K, §§ 4(33) and 17(a) and 205 CMR 126.01(2). The Applicant has submitted a response to the petition.

In making its determination, the Commission must consider the definition of impacted live entertainment venue as set forth in MGL C 23k, §2 (“a not-for-profit or municipally-owned performance venue designed in whole or in part for the presentation of live concerts, comedy or theatrical performances, which the commission determines experiences, or is likely to experience, a negative impact from the development or operation of a gaming establishment.”) and factors in G.L. c. 23K, §§ 4(39) including distance from the gaming establishment, venue capacity, and the type of performance offered by that venue.

In accordance with 205 CMR 126.01(2): “the commission will consider whether the applicant intends to include a geographic exclusivity clause in the contracts of entertainers at the proposed gaming establishment, or in some other way intends to limit the performance of entertainers within Massachusetts.”

The Commission must review, in accordance with G.L. c. 23K, §§ 4(33) and 17(a) and 205 CMR 125.01(2)(b), the Applicant's entire application; the Applicant's RFA-2 detailed plan of construction; any independent evaluations; any pertinent information received from the entertainment venue, the Applicant, the Applicant's host community, and the public; and any additional information that the Commission determined to be beneficial in making its determination. The Commission's regulations lay out the criteria that the Commission should consider in making its determination:

1. Not for profit/municipally owned venue
2. Type of performance
3. Proximity
4. Venue Capacity
5. Potential Negative Impacts
 - a. Applicant geographic exclusivity clause
 - b. Other

This document lays out the criteria and provides the legal framework that the Commission must consider, an executive summary of the issues, and pertinent information from the entertainment venue's petition, the Applicant's response, consultant analysis, relevant RFA-2 application question responses, and other relevant materials. Please see accompanying documents for full entertainment venue petition, applicant response, and consultant analysis.

1. VENUE OWNERSHIP

Legal Framework

In determining whether a venue is a impacted live entertainment venue, the commission . . . will evaluate whether: . . . the venue meets the definition of ‘impacted live entertainment venue’ (“a not-for-profit or municipally-owned performance venue designed in whole or in part for the presentation of live concerts, comedy or theatrical performances, which the commission determines experiences, or is likely to experience, a negative impact from the development or operation of a gaming establishment.”) as set forth in G.L. c.23K, §2

Executive Summary

By agreement of all parties, Eastern States Exposition (ESE) is a Massachusetts non-profit agricultural, educational and entertainment organization founded in 1916 located on 175 acres in West Springfield, Massachusetts, with the Federal public charity designation 501 (c) 3.

2. PROXIMITY

Legal Framework

In determining whether a venue is a impacted live entertainment venue, the commission shall consider: . . . factors including, but not limited to, the venue's distance from the gaming establishment, venue capacity and the type of performances offered by that venue”)

Executive Summary

By agreement of all parties, the Eastern States Exposition (ESE) is situated on 175 acres in West Springfield, approximately 1.9 miles away from the proposed MGM Springfield.

3. VENUE CAPACITY/TYPE OF PERFORMANCES

Legal Framework

In determining whether the venue is an ILEV the commission shall consider factors including, but not limited to, venue capacity and the type of performances offered by that venue) a G.L. c.23K, §4(39): (“

Executive Summary

MGM Springfield is not building its own ticketed entertainment venue but instead has agreement with existing venues. The agreement in place with the MCCA obliges MGM to underwrite a minimum of four events each year at the MassMutual Center—including a variety of marketing/promotion, co-promoting, booking and scheduling activities. The Host Community Agreement with the City of Springfield, through SPADC, obliges MGM to underwrite a minimum of three events each at Symphony Hall and CityStage each year—including a variety of marketing/promotion, co-promoting, booking and scheduling activities—for at least five years.

ESE’s Xfinity Arena and the Coliseum offer 6,500 and 6,000 seats respectively while MassMutual Center has 8,000 seats. The MassMutual Center is capable of staging, and has historically staged, events that are similar to events held at both the Xfinity Arena and the Coliseum. Symphony Hall and CityStage are much less likely to offer competitive entertainment product. Each of these competitive similarities are identified as considerations in 205 CMR 126.01(2).

At the request of the Commission, ESE provided an event listing for 2013 and 2014. According to HLT, the types of events ESE programs outside of the Big E do not appear to conflict with the live entertainment offerings proposed by MGM for MassMutual and Symphony Hall (e.g., Cirque du Soleil, Celebrity Tennis Event, Extreme Sports). Outside of the live entertainment events taking place at the Xfinity Arena and the Coliseum during the 17-day Big E fair, the majority of ESE events consist of:

- Agricultural, equine or animal focused events such as: Northeastern Poultry Congress, New England Spring Classic Dog Show, Massachusetts Morgan Horse Show.
- Convention/Trade Show/Consumer Show events such as: Auto Parts Swap n’ Sell, Railroad Hobby Show, the Fiber Festival of New England, and the New England Powersports Expo.

A. ILEV PETITION

ESE hosts more than 100 events including live shows, trade shows, agricultural competitions and shows, and educational and entertainment events throughout the year, including the annual BigE.-which is the largest cultural event on the Eastern Seaboard and the fifth (5th) largest fair in North America hosting nearly 1.5 million fairgoers annually. In addition, ESE operates the Storrowton Village Museum including daily educational events and Storrowton Tavern, both of which are open to the public year-round. ESE also presents live concerts, comedies and theatrical performances at its outdoor Xfinity Arena (the "Venue") at various times during the calendar year, including during the *Big E*. The Venue has a capacity of over 6,500 seats. The fairgrounds include the storied Coliseum, the seat of the regional AHL for generations until the mid-1970's, with seating capacity for 6,000.

B. APPLICANT RESPONSE

ESE is home to more than 100 shows and events including The Big E, the largest fair in the Northeast, as well as Storrowton Village Museum and Storrowton Tavern, which are open year-round. The ESE was founded in 1916 and is a not-for-profit agricultural and educational institution. During The Big E, several free concerts are held at Xfinity Arena, which is located in The Big E's Outdoor Arena. The Xfinity Arena has seating for over 6,000. Previous acts include: Hunter Hayes, Symphonic Sounds of Elvis, Randy Houser, Kix Brooks, Austin Mahone and The Beach Boys.

The remainder of the year, the ESE hosts several other trade and hobby shows such as the Springfield Motorcycle Show, Auto Parts Swap N' Sell, Northeastern Poultry Congress Show, Railroad Hobby Show, Great Barrington Kennel Club Dog Show, Springfield RV, Camping & Outdoor Show, Springfield Sportsmen's Show and Kids Fun Fair & Traveling Zoo.

The only time that the ESE hosts concerts is during The Big E, with any and all other events primarily trade and hobby show driven. ..Moreover, live entertainment is ancillary to the ESE's offerings that include trade shows, agricultural competitions and the Big E as well as the Storrowtown Tavern and Village Museum. As such, it is not a live entertainment venue but rather a multi-faceted cultural venue that happens to include live entertainment at certain times during the year - clearly not the type of venue entitled to ILEV status.

C. CONSULTANT ANALYSIS

THE MGM PROPOSAL to support existing Springfield entertainment venues and entertainment product (e.g., sports teams). MGM's Category 1 casino Application includes:

- An agreement with the Massachusetts Convention Center Authority ("MCCA"), the owners of the MassMutual Center (a multi-purpose convention center and arena complex with 80,000 sq. ft., of meeting/exhibit/ballroom space connected to an 8,000-seat arena), to underwrite a specified number of entertainment events at the arena for a minimum of eight years. The MassMutual Center arena, (see Appendix A), adjacent to the proposed MGM casino, is host to the Springfield Falcons (AHL Hockey) and Springfield Armor (NBA Development League) teams. In addition to the Armor and the Falcons, the arena also hosts concerts and sports and entertainment events such as the Harlem Globetrotters, Disney on Ice, and Justin Moore. In 2013, MGM sponsored the Professional Bull Riders as well as Pitbull at the venue.
- A Host Community Agreement with the City of Springfield to underwrite a specified number of events at Symphony Hall and CityStage. These two venues are owned and operated by the City through the Springfield Performing Arts Development Corporation ("SPADC"). Symphony Hall is the larger of the two venues located at 34 Court St. (see Appendix B) with a 2,611 seat auditorium, while CityStage (located at 150 Bridge St.) is more modestly sized at 479 seats. Symphony Hall is located adjacent to the proposed MGM casino and CityStage is located a few blocks away. Performances at the venues include: Man of La Mancha, St. Jude Concert for Kids and Todd Oliver and Friends, and The Irish Comedy Tour. In 2013, MGM sponsored the music act Boys II Men at Symphony Hall. ESE's petition focuses on MGM's agreement with the above venues to underwrite, co-promote, book and schedule a minimum number of entertainment events annually at these venues (four at MassMutual Center and a combined six at Symphony Hall/CityStage).

THE EASTERN STATES EXPOSITION: The ESE generates 2.5 million visits/annually (1.5 million to the 17-day fair itself) and \$500 million in annual operating revenues. The ESE is a multi-faceted operation dedicated to the "creative, industrial and agricultural resources of the Northeast." Financially self-sufficient, the ESE consists of various operating elements, including:

The Big E annual fair—a 17-day event, in continuous operation, for more than 90 years that showcases New England agriculture and culture. The Big E uses the entire ESE site for a variety of programming purposes. The significance of the Big E to overall ESE operations was best summarized by Eugene Cassidy (ESE CEO) at the January 28, 2014 Commission hearing where he stated that "82% of annual ESE revenue occurs during the 17-day Big E and "without the fair and its ability to attract large crowds by offering an array of top quality live concerts and comedy performances and other year round scheduled events that provide the economic underpinning of our year around operation, the world of Agriculture, agricultural Best Practices and education and the Regional Economy suffers."

Entertainment Venues—These venues are primarily used to support the Big E but also host other events throughout the year, specifically:

- o *The Coliseum* – a 6,000 seat indoor arena hosting concerts, agricultural/equestrian events, animal shows (e.g. dog shows), sporting and entertainment events such as Symphony presentations, archery competitions and a 3-ring circus.
- o *Xfinity Arena* – a seasonal outdoor stage and arena with capacity for 6,500. Generally used for musical/concerts acts.

Trade and Consumer Show Buildings—The ESE houses several buildings on the site that support Big E requirements and are used throughout the year, including:

- o *The Better Living Center* (123,000 sq. ft.)—used for hosting trade/consumer show events such as: The Original Western Massachusetts Home Show, Equine Affaire and the Springfield Sportsmen's Show.
- o *The Mallary Complex* (129,400 sq. ft.) used for hosting agricultural shows and sales & youth fairs. Mallary, in conjunction with other ESE buildings is used for large consumer shows such as Springfield Camping Show, and Equine Affaire.
- o *The Young Building* (55,000 sq. ft.)—hosts various antiques and collectibles shows, college fairs and craft shows.
- o *The Stroh Building* (28,000 sq. ft.)—hosts trade/consumer and craft shows. We understand these buildings host the majority of the trade and consumer shows held in the Springfield area. The ESE buildings are much larger than the exhibit halls located at the MassMutual Center.
- o *Storowtown Village Museum* – a recreated village of nine 18th and 19th century buildings from Massachusetts and New Hampshire. Storowtown hosts living history programs and educational events.

At the request of the Commission, ESE provided an event listing for 2013 and 2014. Outside of the live entertainment events taking place during the 17-day Big E fair, the majority of ESE events consist of:

- *Agricultural, equine or animal focused events* such as: Northeastern Poultry Congress, New England Spring Classic Dog Show, Massachusetts Morgan Horse Show.
- *Convention/Trade Show/Consumer Show* events such as: Auto Parts Swap n' Sell, Railroad Hobby Show, the Fiber Festival of New England, and the New England Powersports Expo.

Similar seating capacities—The Xfinity Arena and the Coliseum offer 6,500 and 6,000 seats respectively while MassMutual Center has 8,000 seats. The MassMutual Center is capable of staging, and has historically staged, events that are similar to events held at both the Xfinity Arena and the Coliseum. Symphony Hall and CityStage are much less likely to offer competitive entertainment product. Each of these competitive similarities are identified as considerations in 205 CMR 126.01(2)

4. POTENTIAL NEGATIVE IMPACT/ ENTERTAINER EXCLUSIVITY CLAUSE

Legal Framework

In making its determination, the Commission must consider the definition of impacted live entertainment venue as set forth in MGL C 23k, §2 (“a not-for-profit or municipally-owned performance venue designed in whole or in part for the presentation of live concerts, comedy or theatrical performances, which the commission determines experiences, or is likely to experience, a negative impact from the development or operation of a gaming establishment.”)

Executive Summary

ESE asserts that potential negative impact the agreements between MGM and each of the Massachusetts Convention Center Authority and Springfield Performing Arts Development Corp may have on the live entertainment offering at ESE. ESE further asserts that they will likely be forced to compete with and be unable to secure and contract with top quality entertainers to perform at the Venue once MGM's gaming establishment is operational. As a result, ESE anticipates that the quality and number of live entertainment performances at the Venue will be negatively impacted and significantly compromised.

MGM Springfield is not building its own ticketed entertainment venue. MGM states in their application that through cross-marketing relationships with other area entertainment venues, they anticipate that area entertainment venues will benefit from, rather than be negatively impacted by MGM Springfield. MGM Springfield also states in their application an intention to promote regional institutions and great cultural destinations in Western Massachusetts to the visitors and guest of MGM Springfield. MGM does not plan to impose radius restrictions that preclude performances at ESE.

HLT advises that the ILEV legislation was intended to identify and protect venues that present “live concerts, comedy or theatrical performances, which the commission determines experiences, or is likely to experience, a negative impact from the development or operation of a gaming establishment.” Therefore, the ESE as a whole does not qualify as an ILEV. The Xfinity Arena and Coliseum might be eligible. HLT believes that both the Xfinity Arena and the Coliseum buildings potentially meet the definition of an ILEV to the extent that they offer live entertainment events during the 17 days of the Big E. However, according to HLT, the types of events ESE programs outside of the Big E do not appear to conflict with the live entertainment offerings proposed by MGM for MassMutual and Symphony Hall (e.g., Cirque du Soliel, Celebrity Tennis Event, Extreme Sports). Therefore, based on ESE historical programming and the restrictions already offered by MGM during the Big E, HLT believes that the potential negative impact from the Casino development on live entertainment offerings at Xfinity Arena and the Coliseum is limited to none.

A. ILEV PETITION

As the Commission is further aware, it is typical of gaming establishments, such as the one with respect to which MGM has submitted its application, to host numerous "top-act" entertainment performances. It is also typical of contracts for such performances to contain limitations and restrictions prohibiting entertainers from performing within a certain radius from the gaming establishment venue, often for a significant length of time. As such, ESE will likely be forced to compete with and be unable to secure and contract with top quality entertainers to perform at the Venue once MGM's gaming establishment is operational. As a result, ESE anticipates that the quality and number of live entertainment performances at the Venue will be negatively impacted and significantly compromised.

B. APPLICANT RESPONSE

The only time that the ESE hosts concerts is during The Big E, with any and all other events primarily trade and hobby show driven. At the outset, MGM Springfield recognizes that the ESE and the Big E are important regional institutions and great cultural destinations that MGM Springfield desires to promote to the visitors and guest of MGM Springfield. To this end, MGM Springfield is willing to cross market and promote ESE and the Big E, will agree not to impose radius restrictions that preclude performances at ESE and will agree not to book material ticketed performances during the Big E Fair.

Indeed under these conditions, the ESE clearly stands to benefit from the Springfield project. Conversely, ESE is not likely to suffer nor has it provided any evidence that it will likely be negatively impacted as required by the Gaming Act and Impacted Live Entertainment Regulations (ILEV) Regulations.

Moreover, live entertainment is ancillary to the ESE's offerings that include trade shows, agricultural competitions and the Big E as well as the Storowtown Tavern and Village Museum. As such, it is not a live entertainment venue but rather a multi-faceted cultural venue that happens to include live entertainment at certain times during the year -clearly not the type of venue entitled to ILEV status. Finally, the Gaming Act provides a safety net for not for profit entertainment venues through a dedicated fund established by G.L. c. 23K, § 59(a)(2) to subsidize touring shows administered through the Massachusetts Cultural Council.

MGM Springfield's overall approach to entertainment venues is built on three main principles:

- *Do No Harm* -MGM Springfield will impose no punitive radius restrictions on any noncasino-affiliated Massachusetts-based entertainment venues; .

- *Co-Promote* -MGM Springfield will promote the programming provided by these Massachusetts-based entertainment venues, through cross-marketing on its website, social media, and other marketing channels; and
- *Leverage* -MGM Springfield will attempt to “block book” entertainment acts through not only the Springfield-based venues but in collaboration with other appropriate Massachusetts-based venues so that the region and Commonwealth might have access to certain musical and entertainment acts, which may only be feasible as part of a multiple venue tour. See MGM Springfield RFA-2 Application Attachment 5-19-01.

It is important for the MGC to recognize that MGM Springfield is not building its own ticketed entertainment venue. Through cross-marketing relationships with other area entertainment venues, we anticipate that area entertainment venues will benefit from, rather than be negatively impacted by MGM Springfield. MGM Springfield has put these principles into action over the last year.

As well documented in its RFA 2 application, MGM Springfield has endeavored to work collaboratively with a wide range of entertainment venues and organizations over the last several months including: Sponsorship and Marketing Agreement with Riverside Park Enterprises, Inc. (more commonly referred to as “Six Flags”); Non-exclusive Joint Marketing and Joint Cooperation Agreement with Springfield Performing Arts Development Corporation (operators of Symphony Hall and CityStage and a member of MPAC, the Massachusetts Performing Arts Collaborative); An Agreed Upon Non-exclusive Joint Marketing and Joint Cooperation Agreement with Massachusetts Convention Center Authority, owner of the MassMutual Center; Sponsorship Agreement with HWS Basketball, LLC in support of the Springfield Armor; Sponsorship of Falcons Hockey Entertainment, LLC (more commonly known as the “Springfield Falcons”); and A collaborative partnership with the Boston Symphony Orchestra with respect to its summer venue at Tanglewood.

MGM Springfield has offered ESE a Cross Marketing and Non-Competition Agreement that will serve to address ESE's concerns. Highlights of the proposed agreement include: MGM Springfield will promote ESE events through on-property marketing placements and signage on a monthly basis; MGM Springfield will make tickets of the annual BIG E Fair available for purchase online through the Project homepage, on-site at the Project, and to MGM employees through the M Life Insider Employee Portal or similar in-house employee portal and channels; MGM Springfield will send targeted e-mails promoting events at the Venue as designated by ESE in accordance with Section 1.1(a) to M Life members in the Springfield and surrounding areas, the number and frequency of which shall be determined in MGM’s reasonable discretion; MGM Springfield will promote events at ESE through its various social media channels (including Facebook and Twitter); and MGM Springfield will agree to participate in a marketing strategy meeting on periodic basis, to align event calendars, leverage each other’s contacts and

relationships, and to otherwise cross-promote each other's businesses. To address competition concerns the proposed Agreement includes the following provisions: MGM shall not enter into any agreement with any performer or show which, through a radius restriction or otherwise, precludes performances by that performer or show at the Venue. ESE shall refrain from entering into any agreement with any performer or show which precludes performances by that performer or show at the Project or the Springfield Sites.

In the event MGM fails to include such radius restriction exemption in any contract or otherwise inadvertently prohibits a performance in violation of this paragraph, MGM shall grant a waiver to such visiting performer or show at the written request of ESE. ESE shall not be entitled to any other remedy for breach of this Section 2.2. Except as mutually agreed by the Parties, MGM shall not book a material ticketed performance at the Project or the Springfield Sites during the period (typically September – October each year) of the ESE's annual Big E Fair.

Here, the only factors ESE relies upon and alleges to be the basis for ILEV status is potential increased competition to its ancillary live entertainment offerings. ESE does not meet the criteria for ILEV Status. While ESE is located approximately 2 miles from the proposed MGM Springfield site, ESE stands to benefit from the development of the project as opposed to suffer any negative impact. ESE alleges that it will be forced to compete to secure top quality entertainers and that the quality and number of live entertainment acts will be significantly impacted and compromised. Despite its dubious status as an ILEV under the statute and regulations, the proposed cross marketing and non-competition agreement more than addresses these issues and demonstrates the potential for MGM Springfield to greatly enhance the marketing of ESE events through its highly coveted advertising and other programs.

In its petition, ESE fails to acknowledge any benefit to its own offerings through the development of MGM Springfield whether a formal agreement is reached or not. For example, MGM Springfield has previously represented to the Big E and hereby commits that we will not prohibit any act from performing at the ESE as a condition of performing at one of the City Venues, and further that we not only leave open... but believe both facilities can mutually benefit from...block booking. Considering the lack of any evidence of negative impacts and the likeliness of positive impacts, ESE is not entitled to ILEV status under the Gaming Act or ILEV Regulations. Further, considering that live entertainment is ancillary to ESE's overall attractions including trade shows, agricultural competitions, and the Big E as well as the Storowtown Tavern and Village Museum, ESE should not be granted ILEV status based on the fact that it includes a smattering of live entertainment in the form of concerts, theater productions and other performances. Despite its not for profit status, ESE is a major attraction in the region and not likely to be negatively impacted by the opening of MGM Springfield.

Finally, the Gaming Act provides other remedies for not for profit entertainment venues to seek grant money through the Massachusetts Cultural Council if they wish to subsidize touring shows and artists: G.L. c. 23K, § 59(a)(2).

C. CONSULTANT ANALYSIS

ESE claims that MGM's agreements to underwrite a minimum number of events at the MassMutual Center, Symphony Hall, and CityStage will divert "top-act" entertainment to these competitive venues thereby reducing the number and quality of live performances ESE is able to offer. ESE submitted a petition for consideration as an ILEV on January 3, 2014. MGM responded on January 13, 2014 with a blanket rebuttal that included two other Springfield-based ILEV petitioners (i.e., Majestic Theater and the Massachusetts Performing Arts Coalition)

ESE's petition is quite broad, addressing a range of operations, venues and activities on "not-for-profit or municipally-owned performance venue designed in whole or in part for the presentation of live concerts, comedy or theatrical performances, which the commission determines experiences, or is likely to experience, a negative impact from the development or operation of a gaming establishment."

ESE's January 3, 2014 petition for ILEV status requests that the Commission designate the entire ESE as an ILEV. The petition, ESE's subsequent response to MGM's rebuttal, an economic impact study prepared for the ESE by Regional Economic Models Inc. (with an apparent focus on the entire Big E, excluding the balance of ESE operations) and the January 28, 2014 presentation by ESE President Eugene Cassidy in front of the Commission, all speak to the value of the ESE and the potential negative impact from the development and operation of the proposed MGM Casino. The ILEV legislation was intended to identify and protect venues that present "live concerts, comedy or theatrical performances, which the commission determines experiences, or is likely to experience, a negative impact from the development or operation of a gaming establishment." Therefore, the ESE as a whole does not qualify as an ILEV. The Xfinity Arena and Coliseum might be eligible.

In determining whether a petitioning venue qualifies for ILEV status, the Commission shall consider distance between venues, venue capacity, type of performances and any intentions with respect to operating restrictions (e.g., geographic exclusivity clauses for entertainers). While MGM has not incorporated a performance venue within its proposed casino complex, MGM has entered into agreements with external live entertainment venues that are potentially competitive to the Xfinity Arena and the Coliseum (i.e., MassMutual Center, Symphony Hall and CityStage). MGM has offered the ESE a "Cross-Marketing and Non-Competition Agreement" that, among other commitments: 1) prevents MGM from imposing radius restrictions on any performer (this

commitment is also imposed on ESE with respect to the MassMutual Center, Symphony Hall and CityStage) as well as 2) prevents MGM from booking “material ticketed” performers during the Big E. Despite the restrictions suggested in the Cross-Marketing and Non-Competition Agreement, ESE believes that MGM’s support of these venues will put ESE at a competitive disadvantage in attracting and booking top-quality entertainment acts.

CONCLUSIONS: In our view, designation of ESE as an ILEV is not warranted as the likelihood of a negative impact (and the quantum of any impact) to Xfinity Arena and the Coliseum is relatively small. HLT believes that both the Xfinity Arena and the Coliseum buildings meet the definition of an ILEV to the extent that they offer live entertainment events during the Big E. However, the types of events ESE programs outside of the Big E do not appear to conflict with the live entertainment offerings proposed by MGM for MassMutual and Symphony Hall (e.g., Cirque du Soleil, Celebrity Tennis Event, Extreme Sports). Therefore, based on ESE historical programming and the restrictions already offered by MGM during the Big E, HLT believes that the potential negative impact from the Casino development on live entertainment offerings at Xfinity Arena and the Coliseum is limited to none.

The following should be taken into account: The majority of ESE revenue is generated during the Big E (Eugene Cassidy at the January 28, 2014 Commission meeting: “82% of our revenue is derived from the 17-day event”). MGM acknowledges the value and importance of entertainment events to the Big E and has to enter into a broader agreement that would commit MGM to “not book material ticketed performances during the Big E Fair.”

In our view, designation of ESE as an ILEV is not warranted as the likelihood of a negative impact (and the quantum of any impact) to Xfinity Arena and the Coliseum is relatively small. MGM could (and probably should) ensure the minimization of any impact through an extension of their offer of not booking “material ticketed performances during the Big E” by providing an exclusion period no less than 30 days before and 30 days after the Big E to ensure no overlap

D. APPLICATION

1-3 From the very beginning, MGM Springfield was designed as the world’s first truly outward-looking city-integrated resort. With a nod to the City’s historic past, we wanted to recreate a unified Downtown that was capable of drawing visitors from near and far. Our “inside-out” design prioritizes “external” integration over “internal” integration and connects MGM Springfield to the streetscape, the local community and its businesses and citizens. In order to organically engage the community and create natural links to the outside, MGM Springfield’s casino is surrounded by numerous non-gaming activities, all of which are easily accessible by multiple entry points. MGM Springfield physically integrates the City’s heritage into modern architecture in a way that honors the City’s past and remains warm and inviting to visitors.

MGM Springfield's incorporation of the historic façade of 73 State Street, improvement of the riverfront experience and resurrection of the trolley bus system will sit as testimonies of historic Springfield in the new Downtown. MGM Springfield has been designed specially to produce a "LIVE, WORK, PLAY" atmosphere for the community. We have struck a very important balance that provides a unique and compelling destination that appeals to visitors and complements the region's assets to create the complete entertainment experience. We aim to create a "No Business Left Behind" mentality in which Springfield's existing businesses and tourist attractions benefit from the economic spill-over from MGM Springfield.

1-5 MGM Springfield has established numerous cross-marketing relationships in Springfield and throughout Western Massachusetts. These relationships aim to create a visitor experience that is amplified because of increased choice and opportunities for visitors. We intend to actively cross-market attractions such as the MassMutual Center, Springfield's Symphony Hall and CityStage, the Museum Quadrangle, the Basketball Hall of Fame, Six Flags New England in Agawam, a selection of golf courses and ski resorts, as well as other entertainment venues, including MPAC venues and Tanglewood. We have entered into or are pursuing joint marketing and cooperation agreements with all of these enterprises. In partnership with the Greater Springfield Convention and Visitors Bureau (GSCVB), of which we, the Museum Quadrangle and Basketball Hall of Fame are members, MGM Springfield intends to actively promote both organizations through in-house promotions and promotions among our employees. We will commit to hosting employee family events at each of the facilities and to buy blocks of tickets for customer events and promotions. In addition, we have entered into discussions with the Basketball Hall of Fame to develop a more substantial partnership.

1-6 MGM Resorts has a long history of working closely with tourism, convention and economic development agencies and associations to enhance the tourism experience in the markets in which we operate. Our marketing strategy to encourage visitors from outside of Massachusetts (both domestically and internationally) will include leveraging the MGM brand, including our Company's existing marketing relationships and expertise, our M life loyalty program, and transportation through collaborations with bus, train and airplane stakeholders. We intend to collaborate with local, regional and state tourism, convention and development agencies, including the Greater Springfield Convention and Visitors Bureau, MassPort and the Massachusetts Office of Travel and Tourism. We wish to partner with existing tourism and convention assets, in particular the MassMutual Center, to cross-market Springfield to out-of-state tourism and business customers and agencies. From a gaming perspective, MGM Springfield can leverage our national and global branch office network. MGM Springfield also will conduct an extensive marketing effort, leveraging the Company's existing relationships with national and international travel agencies (online and traditional), tour operators and airline and bus partners to develop marketing programs designed to bring more visitors to the destination. If awarded the license, MGM Springfield would like to lend our expertise and relationships, when

appropriate, to help both MOTT and MassPort devise ways to attract more Chinese visitors to Massachusetts. It is good business for MGM Springfield and good business for the Commonwealth.

2-35 MGM Springfield has commissioned a study from HR&A Advisors that details the economic benefits to the Commonwealth and the region. For purposes of its analysis, HR&A defined the region as the four counties comprising Western Massachusetts. The study evaluates a number of both positive and potentially negative economic factors resulting from the project. The HR&A study concludes that the economic impact of the Project is overwhelmingly positive as a result of positive economic factors, including the recapture of gaming revenue from surrounding states, visitor spending outside the Project at other regional businesses, spin-off benefits from new jobs created at MGM Springfield and ongoing spending by MGM Springfield with regional vendors, all of which far outweigh any potential negative impacts.

2.36 MGM Springfield anticipates approximately 50% of gaming revenue and more than 50% of non-gaming revenue will come from out-of-state visitors. Of those out-of-state visitors, MGM Springfield anticipates that over 70% will be derived from customers who will either are or will become M life members. Enclosed in the response are three tables that show anticipated out-of-state gaming and non-gaming revenues for the first five years of operation on best, average and worst case scenarios. MGM Springfield's marketing plan includes leveraging the M life loyalty program and cross-marketing with MGM Resorts' existing properties and customers residing out-of-state (including Connecticut, New York and Canada), collaborating with local, regional and national meeting and tourism partners, cross-marketing with other local entertainment venues and attractions – in particular the MassMutual Center – sponsoring and promoting regional special events and partnering with local, regional and national bus, train and airline operators. We intend to market to our rich M life database in strategically selected cities, and to work with both MOTT and MassPort to encourage greater international visitation to the Commonwealth. Currently, we have not targeted junket operators for MGM Springfield.

3-33 MGM Springfield will integrate with local entertainment venues through its proposed collaborations with the MassMutual Center, Symphony Hall/CityStage, the Massachusetts Performing Arts Coalition, Tanglewood, as well as other regional entertainment venues. MGM Springfield's approach will be to leverage our marketing strength and entertainment relationships in an attempt to "block book" entertainment acts not only for Springfield but also for other appropriate Massachusetts entertainment venues. MGM Springfield is committed to underwriting, co-promoting and booking at least a combined twelve events per year at MassMutual Center, Symphony Hall and CityStage. We will market these events aggressively to our M life database, and will use them as inducements to attract visitation to MGM Springfield. In Springfield, MGM Springfield has made a commitment to sponsor the MassMutual Center's two home teams – the Springfield Armor (NBA D-League) and Springfield Falcons (American

Hockey League). MGM Springfield will leverage these relationships to promote the games to our M life database and will benefit from patronage from event-goers before and after games. MGM Springfield was the lead sponsor for the MAAC Men's College Basketball Tournament that was held in March 2013 at the MassMutual Center.

4-14 One of the guiding principles of MGM Springfield is the embrace of the "Live, Work, Play" concept. MGM Springfield will strive to increase the appeal of Springfield and the South End for existing residents and to attract new young professionals to the City. MGM Springfield's amenity offerings will enhance the appeal of Springfield's existing entertainment options, such as the MassMutual Center, Symphony Hall and CityStage. Rather than just seeing a show at one of these venues, visitors can have a complete entertainment experience in the Downtown. Springfield's surrounding communities will benefit from the introduction of a portfolio of widely diverse restaurants. The overarching philosophy of our venues is to source locally grown fresh ingredients. The depth and availability of local providers allows MGM Springfield to introduce locally sourced materials at almost every level of our offerings. In doing so, we financially support local business owners and greatly reduce the carbon footprint of our finished product. Through national known celebrity chefs, local restaurateurs and locally sourced materials, we hope to help Springfield stand out as a destination for superior quality dining that will compel visitors to stay longer and dine. The MGM Springfield apartments will offer a new option for those residents that prefer to live in buildings with modern facilities. These apartments will target young professionals who want to live near MGM Springfield's ample supply of retail and entertainment options. MGM Springfield intends to serve the surrounding community by organizing events that promote regional businesses and artists in the Project's Outdoor Plaza. We hope to host events such as vendor showcases, farmers' markets, food/beer/wine festivals, arts & crafts fairs and live music from local artists. In addition, we anticipate that these and similar events will increase traffic at local restaurants and bars.

4-21 MGM Springfield will be a high-caliber facility built with a number of amenities that were strategically chosen to both increase visitation and complement the other amenities in Springfield and the region. For particulars, please refer to Attachments 4-01-01, 4-02-1, 4-14-01, 4-19-01, 4-20-01 and 4-33-01. We intend to lease a good portion of our retail space to Massachusetts-based businesses. In addition, some of our restaurants will be operated by Massachusetts-based entities. Our regional retail and restaurant operator partners are highlighted in Attachment 4-22-01 and we have discussed numerous potential ways to incorporate food, beverage and retail vendors into MGM-operated outlets in Attachment 4-11-01. While we are not physically including local operators inside the premises of our Project, we have demonstrated how we will cross-market with and promote local businesses in Attachments 3-14-01, 3-25-01 and 3-26-01, and we have included local agreements as part of our response to 3-24. For our busing programs, we expect to partner with both Tour & Travel as well as Line Run operators. In order to have a successful bus

program in the highly competitive North East market, operators advised us that our incentive package for players has to be appealing, including promotional credits, food and retail.

4-22 Non-gaming entities within the boundaries of the gaming establishment complex generally will be owned by MGM Springfield, with the principal exception of outsourced retail and potentially some of the food and beverage venues. Many of the outsourced retail and food and beverage venues will be managed by or in cooperation with local or regional partners. MGM Springfield envisions situations when MGM Springfield may wish to block rooms at neighboring hotels, particularly to accommodate gaming customers. In addition, there will be many situations when our hotel will be at capacity, and we will redirect our customers to area hotels or the GSCVB website. MGM Springfield intends to truly partner with the MassMutual Center to enhance and complement Springfield's existing convention and conference business. Our sales team and the MassMutual Center sales team will be working closely together, and MGM Springfield will work with the MassMutual Center and area hotels to block rooms for these groups. MGM Springfield believes it is essential to incorporate both regional restaurateurs and food and beverage vendors into MGM Springfield. Because of the outward-looking nature of MGM Springfield, local restaurants within walking distance of the resort will thrive. Just as important, restaurants and bars located on the public trolley route also will gain exposure to MGM Springfield's visitors. MGM Springfield has established numerous cross-marketing relationships in Springfield and throughout Western Massachusetts. We aim to create a visitor experience that is amplified because of increased choice and opportunities. We intend to cross-market attractions such as the Museum Quadrangle, Basketball Hall of Fame, Six Flags New England in Agawam, golf courses, ski resorts, Symphony Hall and City Stage as well as other entertainment venues.

4-33 MGM Springfield will build a 35,000 square-foot outdoor retail component that will be accessible from Main Street. We will strive to create an entertainment destination complex, which will attract millions of customers annually, that is outward-facing and designed to be a catalyst for the development of other retail activity. We intend to implement marketing programs that support surrounding restaurants and retail businesses. The "Outdoor Plaza" of retail will include a selection of local and regional retailers who will benefit from the traffic and visibility provided by their location. In addition, MGM Springfield will use the "Outdoor Plaza" to host community events that promote regional businesses. Attachment 4-11-01 provides further detail relating to our proposed retail program. As part of our "No Business Left Behind" approach, we will seek to partner with local retail businesses in terms of our own procurement activities, as well as the provision of retail services to MGM Springfield employees and guests. In addition, we will promote our neighboring businesses by placing local visitor and business guides, such as the GSCVA Visitors Guide, in our hotel rooms and public areas.

Reilly, Janice (MGC)

From: Griffin, Jill (MGC)
Sent: Monday, February 24, 2014 11:40 AM
To: Reilly, Janice (MGC)
Subject: FW: Proposed ESE Blue Tarp Cross-Marketing Agreement

Both parties would like the emails to be provided to the commissioners.

-----Original Message-----

From: Cassidy, Eugene [mailto:ecassidy@thebige.com]
Sent: Sunday, February 23, 2014 10:04 AM
To: Mathis, Michael
Cc: mcrest@bulkley.com; Nosal, Jed M. (JNosal@brownrudnick.com); Nastasia, Martin T.; Griffin, Jill (MGC); Chase Donald R.; Cassidy, Eugene
Subject: Re: Proposed ESE Blue Tarp Cross-Marketing Agreement

Dear Mike,
Clearly, MGM is precisely where it intended to be from the very beginning as respects to Eastern States Exposition. MGM has avoided then stalled until beyond the 11th hour: until no meaningful collaborative first person dialogue could occur.

We at ESE are more than disappointed. We are confident this behavior is a failure that runs counter to the regional interests promoted by the spirit of the legislation.

Speaking on behalf of a volunteer 165 member board of trustees, who work diligently on behalf of this region, I wish you success. And pray the Massachusetts Gaming Commission sees clearly this initial failure for the sake of Springfield, and the region.

All the best,
Gene

This message emanates from a hand held device. Please forgive spelling, punctuation and grammar issues as well as any perceived curtness.

> On Feb 22, 2014, at 11:41 PM, "Mathis, Michael" <mmathis@mgmresorts.com> wrote:

>

> Gene,

>

> Thank you for taking the time to follow-up today.

>

> We appreciate your theme of partnership and look forward to discussing
> all the different ways that our two organizations can collaborate for
> our mutual benefit if we are fortunate enough to be awarded the
> Western MA license, including MGM's potential financial support of
> different acts in your venues as you propose.

>

> However, we do not believe it is appropriate for ESE to use the threat
> of delaying our licensing through ILEV status to negotiate those terms
> now. We are not willing to negotiate "partnership" terms under those
> conditions. What we will do, what we have done, and what we believe

> was envisioned by the Gaming Act, is to commit to cross-marketing
> support to allay any concerns that ESE may have that it will be
> adversely impacted by our development.
>
> Much of what you discuss in your email is well beyond the key
> components the Commission cited to in providing us more time to
> address our issues. It is very apparent that we not only disagree on
> whether ESE is entitled to ILEV status under the law and Commission
> regulations but also what rights such a designation would provide to
> your organization. MGM has worked hard over the past months to put
> good faith offers forward to address ESE's concerns despite our
> position that ESE is not entitled to ILEV status in an attempt to lay
> the foundation for a strong working relationship going forward. We,
> however, decline your request to unilaterally designate ESE an ILEV
> as a condition of any further discussions.
>
> Regardless of Monday's outcome, MGM will stand by its commitments in its February 20, 2014 cross marketing
agreement. We will also remain committed to working with ESE going forward.
>
> Also, with respect to your prior request, we agree with you that all of our correspondence over the last week (and we
would say from the inception) should be in front of the Commission for its consideration on Monday.
>
> Mike
>
>
> Michael Mathis
> President - MGM Springfield
> 4882 Frank Sinatra Dr. | Las Vegas, Nevada 89158
> Tel: +1 702 590-5581 | Cell: +1 702 525-7700 mmathis@mgmresorts.com
>
>
>
> -----Original Message-----
> From: Cassidy, Eugene [mailto:ecassidy@thebig.com]
> Sent: Saturday, February 22, 2014 12:23 PM
> To: Mathis, Michael
> Cc: mcrees@bulkley.com; Nosal, Jed M. (JNosal@brownrudnick.com);
> Nastasia, Martin T.; jill.griffin@state.ma.us; Chase Donald R.;
> Cassidy, Eugene
> Subject: Re: Proposed ESE Blue Tarp Cross-Marketing Agreement
>
> Greetings Mike.
> It was nice to finally be able to talk with you on the phone last night. However, I find myself at a difficult juncture
working from an iphone in a church parking lot after a funeral 85 miles from my office, while our attorney is on a long
planned family ski trip in Northern Maine: trying to craft an agreement between my organization and MGM. It simply
cannot be accomplished by Monday.
>
> That said, we must make progress so allow this: ESE has long been the biggest most powerful live entertainment
attraction in the region and I believe ESE can partner with MGM in a mutually beneficial way that helps build MGM's
business while helping to protect and keep secure the business of ESE, a business which provides economic horsepower
to the REGION.

>

> We both must prosper for the region to prosper. Imperil ESE, and the region suffers.

>

> ESE has proven its expansive history of economic return to this area. It MUST be noted; we are stewards. And with stewardship comes a duty beyond that which focuses on banks, bondholders and stockholders, we have a duty to the public. We are a public charity and as such we first and foremost have a duty to protect the interests of the institution. Our original proposal to "partner" with MGM was intended to accomplish that by co-sponsoring and co-promoting certain entertainment events that would give MGM a vested interest in the success of those events. That vested interest would also decrease the likelihood of negative impacts as a result of competition from MGM for similar acts in similar venues, especially around the time of and during the Big E fair.

>

> We are unique among would-be peers. I have repeated over-and-over again the term "partnership". I believe that with the draw-power of MGM you can assist us in the ever-more-difficult quest to attract first rate entertainers. (You can also put us out of the entertainment business...and more.) We spoke about acts that cost \$200k to \$300k. In a partnership agreement where MGM assists ESE to bring acts to the region, where we share as partners in the overhead and receipts, which could mean a subsidy that would be shared by both parties, or no subsidy at all depending upon success of the event. An agreement that paid attention to the need for advertizing silence to respect the business of the other party, one in which your name could be used in association with ours as a promoting "sponsor" and vice versa to "sell" our respective properties. I believe this would be a far more productive arrangement for both parties compared to the pre, post and during Big E "blackout" arrangement advocated by the Commission's consultant.

>

> As I said in our board room at the Brooks Building in January, "there is something to this". But I need your attention, creative thinking, and secure interests in this organization. Neither me nor my board can play fast or loose with this 100 year old institution that plays one of the top TEN most important roles in this region's economy.

>

> We need MGM's support.

>

> We were forced to seek protective status because we received not one moment of attentions from MGM. I now ask that you consent to the Commission's designation of ESE as an ILEV, and I give you our commitment that we will work together with MGM as stewards for this region in the next 30 days to solidify a mutually beneficial agreement.

>

> Thank you, partner.

> Gene

>

> All the best,

> Gene

> This message emanates from a hand held device. Please forgive spelling, punctuation and grammar issues as well as any perceived curtness.

>

>

>

>> On Feb 21, 2014, at 4:00 PM, "Mathis, Michael" <mmathis@mgmresorts.com> wrote:

>>

>> Gene, thanks. Let's talk at 5:30 your time. I'll send around a

>> call-in to this group (excluding, or sparing might be more accurate,

>> Jill)

>>

>> Mike

>>

>>

>> Michael Mathis

>> President - MGM Springfield

>> 4882 Frank Sinatra Dr. | Las Vegas, Nevada 89158
>> Tel: +1 702 590-5581 | Cell: +1 702 525-7700 mmathis@mgmresorts.com

>>
>>
>>
>>

>> -----Original Message-----

>> From: Cassidy, Eugene [mailto:ecassidy@thebige.com]
>> Sent: Friday, February 21, 2014 12:58 PM
>> To: Mathis, Michael
>> Cc: mcress@bulkley.com; Nosal, Jed M. (JNosal@brownrudnick.com);
>> Nastasia, Martin T.; jill.griffin@state.ma.us
>> Subject: Re: Proposed ESE Blue Tarp Cross-Marketing Agreement

>>
>> Mike
>> I am in a board meeting until 5: was not aware of your email until this Moment.

>>
>> I'll be back in my office at 5:30pm today or we can schedule a call for 8:30am tomorrow while I am en route to a funeral Mass in Lexington Mass.

>>
>>
>> All the best,
>> Gene

>> This message emanates from a hand held device. Please forgive spelling, punctuation and grammar issues as well as any perceived curtness.

>>
>> On Feb 21, 2014, at 2:20 PM, "Mathis, Michael" <mmathis@mgmresorts.com<mailto:mmathis@mgmresorts.com>> wrote:

>>
>> Gene,
>>
>> If 3 p.m. doesn't work, I'll try and stay flexible this afternoon and even over the weekend.
>>
>> Awaiting your response.

>>
>> Mike
>>
>> From: Mathis, Michael
>> Sent: Friday, February 21, 2014 10:07 AM
>> To: 'Cassidy, Eugene'
>> Cc: 'mcress@bulkley.com<mailto:mcress@bulkley.com>'; Nosal, Jed M. (JNosal@brownrudnick.com<mailto:JNosal@brownrudnick.com>); 'Nastasia, Martin T.'
>> Subject: RE: Proposed ESE Blue Tarp Cross-Marketing Agreement

>>
>> Gene,
>>
>> Are you available for a call at 3 p.m. EST today to discuss? For our side, it will be myself, our counsel Jed Nosal and his colleague Marty Nastasia.

>>
>> If that works, I can email around a call-in number. Let me know.
>>
>> Mike

>>

>>

>> From: Cassidy, Eugene [mailto:ecassidy@thebige.com]

>> Sent: Friday, February 21, 2014 9:28 AM

>> To: Mathis, Michael

>> Cc: jill.griffin@state.ma.us<mailto:jill.griffin@state.ma.us>;

>> mcross@bulkley.com<mailto:mcross@bulkley.com>; Nosal, Jed M.

>> (JNosal@brownrudnick.com<mailto:JNosal@brownrudnick.com>);

>> sns@fitzgeraldatlaw.com<mailto:sns@fitzgeraldatlaw.com>

>> Subject: RE: Proposed ESE Blue Tarp Cross-Marketing Agreement

>>

>> Dear Mike:

>>

>> Thank you for your letter of February 20, 2014. It is another explicit acknowledgment by MGM of what the Commissioners, their consultants and common sense suggests--that unless the Eastern States Exposition venues are protected, they will no doubt be subject to negative impacts as a result of the development and operation of an \$800 million casino less than 2 miles away in downtown Springfield. That alone should be sufficient to support a determination by the Commission that the Exposition venues are ILEVs and entitled to protection, regardless of what may be the limited events, the timeframes involved, or the casino operation related venues from which such negative impacts emanate. Neither the Gaming Statute or regulations contain any minimum numbers of events or timeframe requirements, and there are no provisions that suggest the Commission should base its ILEV determination upon whether the likely negative impacts will result from gaming related entertainment operations conducted on casino owned property or other ILEVs. Considering the circumstances in question, one must necessarily ask, what better time would there be for MGM to aggressively market its own entertainment events than when approximately 1.5 million people will be planning to travel to or be in the western Massachusetts region to attend the annual Big E fair? If even a small fraction of that population is enticed to attend MGM sponsored events held before, after or in lieu similar acts offered during the Big E, the negative impacts on the Exposition will no doubt be devastating.

>>

>> Your letter also asks the Commission to take certain action for which there is no authority whatsoever under either the Gaming Statute or regulations. Once there is a determination that there is or will likely be a negative impact as a result of the development or operation of a gaming establishment and an ILEV determination has been made, MGM has an affirmative obligation under the statute and regulations in question to negotiate an agreement with the ILEV. In the event the parties are not able to reach such an agreement, the regulations specifically provide a "protocol and procedure for reaching a fair and reasonable impacted live entertainment venue agreement between the applicant and the venue." That specified protocol and procedure involves a decision rendered by a neutral arbitrator or arbitrators in which MGM would be required to submit copies of all other ILEV agreements it has executed with other venues, as opposed to merely asserting those provisions of such other ILEV agreements that support its position. See 205 CMR 126. The protocol and procedure specified in the regulations does not allow an applicant to pick and choose in its discretion what it deems acceptable in terms of an ILEV agreement and then submit that agreement to the Commission for endorsement as you and MGM have.

>>

>> An obvious illustration of why such an approach was not intended under the Gaming Statute and regulations and why it is neither fair nor reasonable, is MGM's attempt to both disregard the belief expressed by the Commissioners and their consultant that adequate protection of the annual Big E needs to extend for some period before and after the fair, while also stripping the agreement of any provisions intended to create a vested interest in MGM that would encourage promotion rather than "poaching" of the Big E. For example, the protocol and arbitration process required under the gaming regulations would likely encourage MGM to consider whether it makes more sense to co-promote and sponsor entertainment at and during the Big E, taking advantage of the tens of thousands of captive attendees who will already be there, as opposed to agreeing to a 90-day "blackout." Giving MGM the option of totally ignoring either alternative by endorsing an arrangement that would allow MGM to capitalize on the Big E crowds to its exclusive advantage and to the detriment of the Exposition is both unfair and unreasonable. The position advocated by you would place the Exposition in the position of being at the complete mercy of MGM. Based upon MGM's conduct to date, that is a position with

which the Exposition is not at all comfortable, and which it is prepared to take whatever action may be necessary to try to avoid.

>>

>> Finally, and once again, the last minute, "gun to the head" take it or leave it approach MGM has elected to take calls into the question the larger question of whether it should be considered eligible to be awarded the exclusive western Massachusetts gaming license. Attempting to subvert the explicitly required protocol and procedures under the gaming regulations in order to avoid its affirmative obligations under the ILEV provisions of the gaming legislation is indicative of the type conduct likely to continue under other provisions of that legislation in the event MGM is awarded a casino license.

>>

>> That said, I remain willing to discuss, with or without counsel, the potential terms of a fair and reasonable ILEV arrangement. I would also ask that you join me in requesting that Ms. Griffin make both the MGM proposal and this response part of the Commission's record and available to the Commissioners for consideration prior to Monday's meeting in the event we are unable to reach a mutually acceptable agreement prior to that time.

>>

>> I look forward to hearing from you.

>>

>> Sincerely,

>>

>> Gene

>>

>>

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>>

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>>

>>

>> From: Mathis, Michael [<mailto:mmathis@mgmresorts.com>]

>> Sent: Thursday, February 20, 2014 6:22 PM

>> To: Cassidy, Eugene

>> Cc: jill.griffin@state.ma.us<<mailto:jill.griffin@state.ma.us>>;

>> mccress@bulkley.com<<mailto:mccress@bulkley.com>>; Nosal, Jed M.

>> (JNosal@brownrudnick.com<<mailto:JNosal@brownrudnick.com>>);

>> sns@fitzgeraldatlaw.com<<mailto:sns@fitzgeraldatlaw.com>>

>> Subject: Proposed ESE Blue Tarp Cross-Marketing Agreement

>>

>> Gene,

>>

>> Please review and advise if this proposal is acceptable.

>>

>> Myself and our counsel will make ourselves available tomorrow to discuss as necessary.

>>

>> Like you, I am looking forward to resolving this matter, and working together on what I am sure will be a long and rewarding relationship between our organizations.

>>

>> Mike

>>

>>

>> Michael Mathis

>> President - MGM Springfield

>> 4882 Frank Sinatra Dr. | Las Vegas, Nevada 89158

>> Tel: +1 702 590-5581 | Cell: +1 702 525-7700

>> mmathis@mgmresorts.com<mailto:mmathis@mgmresorts.com>

>>

>> <image001.jpg>

>>

Reilly, Janice (MGC)

From: Griffin, Jill (MGC)
Sent: Monday, February 24, 2014 11:39 AM
To: Reilly, Janice (MGC)
Subject: FW: Proposed ESE Blue Tarp Cross-Marketing Agreement
Attachments: Proposed ESE Blue Tarp Cross-Marketing Agreement 2014-02-20.pdf

See attached

From: Mathis, Michael [<mailto:mmathis@mgmresorts.com>]
Sent: Thursday, February 20, 2014 6:22 PM
To: Cassidy, Eugene (ecassidy@thebige.com)
Cc: Griffin, Jill (MGC); mcress@bulkley.com; Nosal, Jed M. (JNosal@brownrudnick.com); sns@fitzgeraldatlaw.com
Subject: Proposed ESE Blue Tarp Cross-Marketing Agreement

Gene,

Please review and advise if this proposal is acceptable.

Myself and our counsel will make ourselves available tomorrow to discuss as necessary.

Like you, I am looking forward to resolving this matter, and working together on what I am sure will be a long and rewarding relationship between our organizations.

Mike

Michael Mathis
President - MGM Springfield
4882 Frank Sinatra Dr. | Las Vegas, Nevada 89158
Tel: +1 702 590-5581 | Cell: +1 702 525-7700
mmathis@mgmresorts.com





VIA EMAIL: ecassidy@thebige.com

February 20, 2014

Eugene J. Cassidy, CFE
Eastern States Exposition
President and Chief Financial Officer
1305 Memorial Avenue
West Springfield, Massachusetts 10089

Re: The Big E/MGM Springfield Cross-Marketing Agreement

Dear Mr. Cassidy:

This letter agreement (this "Agreement") will set forth the commitment of Blue Tarp reDevelopment, LLC, as the applicant for the Western Massachusetts Region B Category 1 MGM Springfield gaming license ("MGM"), to cross-market and otherwise support the Big E fair held annually on the Eastern States Exposition grounds in West Springfield, MA (the "Big E"), in accordance with the terms of the attached executed Cross-Marketing and Non-Competition Agreement (the "Executed Offer"). This Agreement is intended by MGM to be a binding and enforceable commitment, which (i) the Eastern States Exposition ("ESE"), as the owners of the Big E, can rely upon in voluntarily withdrawing its petition for Impacted Live Entertainment Venue ("ILEV") designation (the "Petition") or (ii) the Massachusetts Gaming Commission ("Commission") can rely upon as binding on MGM should it deny ESE's Petition and should MGM be fortunate enough to be awarded a category 1 gaming license and open the proposed gaming establishment.

My understanding from viewing the Commission hearing this past Tuesday morning was that at least certain of the Commissioners did not view the Big E as an impacted live entertainment venue and concluded that any concerns that the Big E might experience negative impact from MGM's proposed development were addressed through the commitments MGM made in the draft cross-marketing and non-competition agreement which we previously proposed to ESE. However, because ESE did not accept that proposal, there was some question as to whether MGM's offer was enforceable.

We also appreciate what we interpreted to be Commissioners Zuniga and Cameron's comments related to the benefit MGM is bringing to the MassMutual Center, Symphony Hall and City Stage through commitments to sponsor concerts and events at those venues rather than compete directly with them. Within the context of the ILEV determinations, this is another reason why we believe the Big E's Petition is misguided. Under statute, ILEV designation requires that there be a "negative impact from the development or operation of a gaming establishment." M.G.L. c. 23k, § 2. We believe the statute contemplates a negative impact from competition *at the gaming*



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establishment, and *not* competitive impact from a company's support of other local venues, an objective the Gaming Act clearly encourages.

MGM is not asking ESE to accept our interpretation of the Commission's recent hearing nor the operative statutory and regulatory framework. We are simply providing context for our position and the reason why we have executed our offer, which even absent ESE's countersignature, we intend to be enforceable subject to the two conditions set forth above. MGM believes that the Executed Offer alleviates any potential argument that the Big E is likely to experience a negative impact with respect to the presentation of live concerts, comedy or theatrical performances during the period of the Big E. We understand that ESE is seeking certain financial and other commercial commitments that benefit the Big E and the ESE's organization more broadly and are willing to have that dialogue in the appropriate context. We do not believe, however, that ESE can or should use the ILEV process for a business negotiation that is outside the scope of and irrelevant to the ILEV component of the Gaming Act. We hope and expect that the Commission shares our view.

Discussed further below are the essential terms to which MGM is and is not willing to commit in this regard.

A. MGM Commitments to ESE (as reflected in the Executed Offer)

Do No Harm. In Section 2.0 of the Executed Offer, MGM has committed to not to enter into any agreement with any performer that would prevent that performer from performing at ESE's venues. Further, in that section, MGM has committed not to book any ticketed performance at the Project or the Springfield Sites during the 17-day period of the Big E (the "Restricted Period"). The language in that section is verbatim what was requested by the Big E in its last revision.

During Tuesday's Commission hearing, Mr. Hall of HLT Advisory stated that he believed that the above the Restricted Period should extend to 45 days before the Big E event and 30 days following, though I believe based on the nature of the discussion, he was not intending to be very precise in those ranges. We have not extended the Restricted Period for three reasons. First, through its proposed revision of our agreement, the Big E has acknowledged that it only reasonably needs protection during the 17-day period of the Big E, and not before or after. Second, MGM has prior contractual relationships with the owners of the MassMutual Center, Symphony Hall, and City Stage, that require essentially monthly programming of those venues. We believe it would be a breach of our commitment to agree not to program those venues beyond the Restricted Period, and certainly for the 3 months suggested by Mr. Hall's comments. Doing so would ironically result in ESE having negative impact on the MassMutual Center, Symphony Hall, and City Stage, a result certainly not intended by the Gaming Act or Commission regulations and that would contradict the positive impact MGM would bring to



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local venues. Third, we believe that the Commonwealth would be harmed by an overly broad restriction, and that the goals of the Gaming Act would be frustrated to the extent that MGM was not able to utilize entertainment for a 3 month period to drive tourism and visitation, which is a major aspect on which our business plan and gaming revenue projections are based.

Co-Promote. In Section 1.1(a) – (d) of the Executed Offer, and consistent with HLT’s findings on page 11 of its report, MGM has offered co-promotion of ESE’s venues through our website, social media, and other marketing channels. Again, other than clarifying those obligations commence with the opening of the project, the language in those subsections is verbatim what was requested by the Big E in its last revision. MGM, however, did not include ESE’s proposed subsections 1.1(e) – (f), as further noted below.

All other terms of the Executed Offer are self-explanatory and we believe consistent with the Commission’s direction to incorporate the “Page 10 and 11” recommendations from HLT’s report.

B. Terms Requested by ESE that MGM did not Accept

The Executed Offer which MGM has attached to this Agreement is based on the last version of the cross-marketing and non-competition agreement requested by ESE, as revised by ESE, with the exception of the following terms, which MGM has rejected.

Section 1.1

(e) MGM will permit the use of M-Life points to purchase admissions to the annual Big E fair.

(d) MGM will provide ground transportation shuttle service from the Project to ESE during the 17-days of the annual Big E fair.

(f) MGM and ESE will co-promote with the Venue and the Project to the motor coach industry on a year around basis.



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Section 1.2

(a) MGM will on an annual basis sponsor and co-promote at least one featured entertainment or musical event to be presented at the Xfinity Arena during the annual Big E fair. The talent will be mutually agreed upon by the Parties using MGM connections within the entertainment industry and will be billed as "MGM and ESE Presents".

(b) MGM will sponsor and co-promote on an annual basis at least one featured entertainment or musical event on the grounds of ESE or in the Coliseum at a mutually agreed upon time other than during the annual Big E fair. The event and talent will be mutually agreed upon by the Parties using MGM connections within the entertainment industry and will be billed as "MGM and ESE Presents".

I hope the terms of the Executed Offer are acceptable and that you will countersign that document and feel comfortable withdrawing the Petition. If not, it was important for MGM to demonstrate that we made every reasonable attempt to comply with the guidance the Commission provided in Tuesday's hearing, and will leave ESE to do the same, in advance of their ruling.

Sincerely,

A handwritten signature in black ink that reads "Michael Mathis". The signature is written in a cursive, slightly slanted style.

Michael Mathis
President and Chief Operating Officer

Attachments:

MGM's Executed Offer to ESE, dated 2-20-14
MGM's Executed Offer to ESE, dated 2-20-14 (redlined against MGM's 1-17-14 offer)
ESE's Revised Offer to MGM, dated 1-22-14

cc: Jill Griffin
Mark Cress, Esq.
Jed Nosal, Esq.
Seth Stratton, Esq.

MGM'S Executed Offer to ESE

Dated 2-20-14

CROSS-MARKETING AND NON-COMPETITION AGREEMENT

This Cross-Marketing and Non-Competition Agreement (the "Agreement") is entered into as of the _____ day of February, 2014 (the "Effective Date"), by and among the Eastern States Exposition, a Massachusetts non-profit corporation with an office at 1305 Memorial Avenue, West Springfield, Massachusetts ("ESE") and Blue Tarp reDevelopment, LLC, a Massachusetts limited liability company with an office located at 1441 Main Street, Springfield, Massachusetts ("MGM"). ESE and MGM are hereinafter referred to from time to time each as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, certain provisions of Massachusetts General Laws chapter 23K (the "Gaming Statute") have been enacted, in part, to both encourage cooperation among and prevent competition between institutions operated by municipally-owned and not-for-profit theatres and casino operators in the Commonwealth;

WHEREAS, MGM has proposed a destination resort casino development in downtown Springfield, Massachusetts (the "Project");

WHEREAS, ESE owns and/or operates an outdoor arena consisting of approximately 6,500 seats known as the Xfinity Arena and a 6,000-seat indoor arena known as the Coliseum, both located on the fairgrounds located at 1305 Memorial Avenue, West Springfield, Massachusetts (collectively the "Venue");

WHEREAS, pursuant to the Gaming Statute, MGM is prohibited from building a live entertainment venue that has between 1,000 and 3,500 seats at the Project;

WHEREAS, MGM has recognized the importance of maintaining and supporting municipally-owned and not-for-profit theatres and, thus, has chosen to utilize existing venues in Springfield, including the Springfield Symphony Hall, CityStage, and the MassMutual Center, all located in downtown Springfield, (collectively, the "Springfield Sites") for live shows, concerts and other entertainment to be promoted in connection with the Project rather than construct any ticketed performance venue at the Project;

WHEREAS, MGM wishes to support rather than compete with local entertainment venues; and

WHEREAS, MGM has prepared and submitted a so-called "Phase 2 Application" with the Massachusetts Gaming Commission (the "Commission") for a gaming license to construct and operate the Project;

WHEREAS, MGM and ESE desire to enter into the collaborative relationship described in Section 1 hereof;

NOW THEREFORE, in furtherance of the foregoing and in consideration of the agreements set forth below, and for ONE AND NO/100 DOLLARS (\$1.00) and other good and valuable

consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENTS

1.0 Cross-Marketing and Promoting of the Venue

1.1 Upon the opening of the Project, MGM agrees to work in good faith with ESE to cross-market with and promote the Venue as follows:

(a) MGM will promote Venue events through on-property marketing placements and signage at mutually agreed upon locations at the Project on a monthly basis during the term of this Agreement. ESE shall designate (subject to reasonable approval rights of MGM) which Venue events shall be promoted, and shall provide digital content and/or print ready graphics for this purpose.

(b) MGM will make tickets for the annual BIG E Fair at the Venue available for purchase online through the Project homepage, on-site at the Project, and to MGM employees through the M Life Insider Employee portal or similar in-house employee portal and channels.

(c) MGM will send targeted e-mails promoting events at the Venue as designated by ESE in accordance with Section 1.1(a) to M Life members in the Springfield and surrounding areas, the number and frequency of which shall be as mutually agreed upon by the Parties.

(d) MGM will promote events at the Venue designated in accordance with Section 1.1(a) through its various social media channels (including Facebook and Twitter), the number and frequency of such social media posts shall be determined in MGM's reasonable discretion as mutually agreed upon by the Parties.

1.2 To ensure that the Parties are able to most effectively cross-market and promote one another on an ongoing basis, commencing one year prior to the Project's planned opening, the Parties shall participate in marketing strategy meetings on a quarterly basis, to align event calendars, leverage each other's contacts and relationships, and to otherwise cross-promote each other's businesses.

2.0 Restrictions on Competition

2.1 MGM shall not enter into any agreement with any performer or show which, through a radius restriction or otherwise, precludes performances by that performer or show at the Venue. ESE shall refrain from entering into any agreement with any performer or show which precludes performances by that performer or show at the Project or the Springfield Sites. In the event MGM fails to include such radius restriction exemption in any contract or otherwise

inadvertently prohibits a performance in violation of this paragraph, MGM shall promptly grant a waiver to such visiting performer or show at the written request of ESE.

2.2 Except as mutually agreed by the Parties, MGM shall not book any ticketed performance at the Project or the Springfield Sites during the 17-day period of the ESE's annual Big E Fair.

3.0 Term and Termination

The term of this Agreement shall commence on the Effective Date and shall continue until the expiration or termination of the last of the cross-marketing agreements entered into between MGM and the owners of the Springfield Sites, unless terminated by the mutual written agreement of all of the Parties prior thereto.

4.0 Compliance Review

ESE acknowledges that MGM is subject to the rules, regulations, and jurisdiction of various gaming regulatory bodies and agencies, and as such, is required to perform certain background investigations in connection with material contractual relationships. ESE agrees to cooperate with such background investigations, including the completion and execution of any standard MGM corporate background forms. ESE acknowledges that MGM and others of the MGM Resorts Group (as defined below) are engaged in businesses that are or may be subject to and exist because of privileged licenses or other permits issued by governmental authorities or other sovereigns. MGM may terminate this Agreement, without penalty or prejudice and without further liability to ESE, if any of the MGM Resorts Group: (i) is directed to cease doing business with ESE by any such authority or sovereign; or (ii) determines, in its sole and exclusive judgment, that ESE, ESE's affiliates or any of its or their directors, officers, employees, agents or other representatives is, might be or is about to be engaged in or involved in any activity or relationship that could or does jeopardize any of the businesses or licenses of any of the MGM Resorts Group (including, without limitation, any denial, suspension or revocation, or the threat thereof). Further, ESE: (a) acknowledges that it is illegal for an applicant to whom a license has been denied, a licensee whose license has been revoked, or a business organization under such a person's control ("Denied Entity"), to enter into, or attempt to enter into, a contract with any of the MGM Resorts Group without the prior approval of certain gaming commissions or licensing authorities; (b) represents and warrants that it is not a Denied Entity and is not under the control of a Denied Entity; and (c) agrees that any breach of the foregoing representation and warranty will allow MGM to immediately terminate this Agreement. "MGM Resorts Group" means MGM Resorts International and its subsidiaries, partnerships, joint ventures and other affiliates.

5.0 Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns as permitted hereunder.

6.0 Prohibition on Advertising and Press Releases

6.1 Except with the prior written consent of the other Party, which may be withheld in its sole and absolute discretion, the Parties acknowledge that neither Party shall advertise, publish or otherwise disclose in any press release or other form of distribution: (i) its association with the other Party or the Project or the Venue, as the case may be; or (ii) any aspects of this Agreement.

6.2 Neither Party may use the other Party's name, marks and/or logos without the express written permission of the other Party.

7.0 Choice of Law

This Agreement shall be governed by, and construed according to, the laws of the Commonwealth of Massachusetts, without regard to any choice of law provisions thereof which would require application of the laws of another jurisdiction.

8.0 Remedies

In the event the Parties are unable to reach mutual agreement concerning any of the matters as provided in Section 1.0 of this Agreement, or either Party seeks the enforcement of any of the other terms of this Agreement or seeks damages for a breach of any obligations hereunder, it is specifically understood and agreed that any and all such disputes or claims shall be submitted to final and binding arbitration to take place in Hampden County, Massachusetts, pursuant to the rules of the American Arbitration Association, and that the prevailing party shall recover its costs and reasonable attorney's fees incurred in such arbitration proceeding.

9.0 Legal Compliance

The Parties shall perform all of their respective obligations under the Agreement in compliance with all applicable laws, ordinances, regulations, or codes.

10.0 Severability; Captions

In the event that any clause or provision of this Agreement should be held to be void, voidable, illegal, or unenforceable, the remaining portions of this Agreement shall remain in full force and effect. Headings or captions in this Agreement are added as a matter of convenience only and in no way define, limit or otherwise affect the construction or interpretation of this Agreement.

11.0 Interpretation

This Agreement shall be given a fair and reasonable interpretation of the words contained in it without any weight being given to whether a provision was drafted by one Party or its counsel.

12.0 Entire Agreement; Amendment

This Agreement contains all of the terms, promises, conditions and representations, made or entered into by and among the Parties, supersedes all prior discussions, agreements and memos, whether written or oral between and among the Parties, and constitutes the entire understanding of the Parties and shall be subject to modification or change only in writing and signed by all Parties.

13.0 Execution in Counterparts

This Agreement may be signed upon any number of counterparts with the same effect as if the signatures on all counterparts are upon the same instrument.

14.0 Authority

Each Party represents and warrants to the other Parties that it has full power and authority to make this Agreement and to perform its obligations hereunder and that the person signing this Agreement on its behalf has the authority to sign and to bind that Party.


SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first set forth above.

EASTERN STATES EXPOSITION

By: _____
Eugene Cassidy,
President

BLUE TARP REDEVELOPMENT, LLC

By: 
Michael Mathis,
President and Chief Operating Officer

MGM'S Executed Offer to ESE

Dated 2-20-14

(redlined against MGM's 1-17-14 offer)

CROSS-MARKETING AND NON-COMPETITION AGREEMENT

This Cross-Marketing and Non-Competition Agreement (the "Agreement") is entered into as of the _____ day of _____, February, 2014 (the "Effective Date"), by and among the Eastern States Exposition, a Massachusetts non-profit corporation with an office at 1305 Memorial Avenue, West Springfield, Massachusetts ("ESE") and Blue Tarp reDevelopment, LLC, a Massachusetts limited liability company with an office located at 1441 Main Street, Springfield, Massachusetts ("MGM"). ESE and MGM are hereinafter referred to from time to time each as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, certain provisions of Massachusetts General Laws chapter 23K (the "Gaming Statute") have been enacted, in part, to both encourage cooperation among and prevent competition between institutions operated by municipally-owned and not-for-profit theatres and casino operators in the Commonwealth;

WHEREAS, MGM has proposed a destination resort casino development in downtown Springfield, Massachusetts (the "Project");

WHEREAS, ESE owns and/or operates an outdoor arena consisting of approximately 6,500 seats known as the Xfinity Arena and a 6,000-seat indoor arena known as the Coliseum, both located on the fairgrounds located at 1305 Memorial Avenue, West Springfield, Massachusetts (collectively the "Venue");

WHEREAS, pursuant to the Gaming Statute, MGM is prohibited from building a live entertainment venue that has between 1,000 and 3,500 seats at the Project;

WHEREAS, MGM has recognized the importance of maintaining and supporting municipally-owned and not-for-profit theatres and, thus, has chosen to utilize existing venues in Springfield, including the Springfield Symphony Hall, CityStage, and the MassMutual Center, all located in downtown Springfield, (collectively, the "Springfield Sites") for live shows, concerts and other entertainment to be promoted in connection with the Project rather than construct any ticketed performance venue at the Project;

WHEREAS, MGM wishes to support rather than compete with local entertainment venues; and

WHEREAS, MGM has prepared and submitted a so-called "Phase 2 Application" with the Massachusetts Gaming Commission (the "Commission") for a gaming license to construct and operate the Project;

WHEREAS, MGM and ESE desire to enter into the collaborative relationship described in Section 1 hereof;

NOW THEREFORE, in furtherance of the foregoing and in consideration of the agreements set forth below, and for ONE AND NO/100 DOLLARS (\$1.00) and other good and valuable

consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENTS

1.0 Cross-Marketing and Promoting of the Venue:

1.1 Upon the opening of the Project, MGM agrees to work in good faith with ESE to cross-market with and promote the Venue as follows:

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(b) MGM will make tickets ~~off~~for the annual BIG E Fair at the Venue available for purchase online through the Project homepage, on-site at the Project, and to MGM employees through the M Life Insider Employee portal or similar in-house employee portal and channels.

(c) MGM will send targeted e-mails promoting events at the Venue as designated by ESE in accordance with Section 1.1(a) to M Life members in the Springfield and surrounding areas, the number and frequency of which shall be ~~determined in MGM's reasonable discretion~~ as mutually agreed upon by the Parties.

(d) MGM will promote events at the Venue designated in accordance with Section 1.1(a) through its various social media channels (including Facebook and Twitter), the number and frequency of such social media posts shall be determined in MGM's reasonable discretion as mutually agreed upon by the Parties.

1.2 To ensure that the Parties are able to most effectively cross-market and promote one another on an ongoing basis, commencing one year prior to the Project's planned opening, the Parties ~~agree to shall~~ participate in a-marketing strategy meetings on a quarterly ~~periodic~~-basis, to align event calendars, leverage each other's contacts and relationships, and to otherwise cross-promote each other's businesses.

2.0 Restrictions on Competition:

2.1 MGM shall not enter into any agreement with any performer or show which, through a radius restriction or otherwise, precludes performances by that performer or show at the Venue. ESE shall refrain from entering into any agreement with any performer or show which precludes performances by that performer or show at the Project or the Springfield Sites. In the

event MGM fails to include such radius restriction exemption in any contract or otherwise inadvertently prohibits a performance in violation of this paragraph, MGM shall promptly grant a waiver to such visiting performer or show at the written request of ESE. ~~ESE shall not be entitled to any other remedy for breach of this Section 2.2.~~

2.2 Except as mutually agreed by the Parties, MGM shall not book ~~a material any~~ ticketed performance at the Project or the Springfield Sites during the 17-day period ~~(typically September—October each year)~~ of the ESE's annual Big E Fair.

3.0 Term and Termination:

The term of this Agreement shall commence on the Effective Date and shall continue until the expiration or termination of the last of the cross-marketing agreements entered into between MGM and the owners of the Springfield Sites, unless terminated by the mutual written agreement of all of the Parties prior thereto.

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ESE acknowledges that MGM is subject to the rules, regulations, and jurisdiction of various gaming regulatory bodies and agencies, and as such, is required to perform certain background investigations in connection with material contractual relationships. ESE agrees to cooperate with such background investigations, including the completion and execution of any standard MGM corporate background forms. ESE acknowledges that MGM and others of the MGM Resorts Group (as defined below) are engaged in businesses that are or may be subject to and exist because of privileged licenses or other permits issued by governmental authorities or other sovereigns. MGM may terminate this Agreement, without penalty or prejudice and without further liability to ESE, if any of the MGM Resorts Group: (i) is directed to cease doing business with ESE by any such authority or sovereign; or (ii) determines, in its sole and exclusive judgment, that ESE, ESE's affiliates or any of its or their directors, officers, employees, agents or other representatives is, might be or is about to be engaged in or involved in any activity or relationship that could or does jeopardize any of the businesses or licenses of any of the MGM Resorts Group (including, without limitation, any denial, suspension or revocation, or the threat thereof). Further, ESE: (a) acknowledges that it is illegal for an applicant to whom a license has been denied, a licensee whose license has been revoked, or a business organization under such a person's control ("Denied Entity"), to enter into, or attempt to enter into, a contract with any of the MGM Resorts Group without the prior approval of certain gaming commissions or licensing authorities; (b) represents and warrants that it is not a Denied Entity and is not under the control of a Denied Entity; and (c) agrees that any breach of the foregoing representation and warranty will allow MGM to immediately terminate this Agreement. "MGM Resorts Group" means MGM Resorts International and its subsidiaries, partnerships, joint ventures and other affiliates.

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6.2 Neither Party ~~ESE~~ may ~~not~~ use the ~~MGM~~ other Party's name, marks and/or logos without the express written permission of ~~MGM~~ the other Party.

7.0 Choice of Law:

This Agreement shall be governed by, and construed according to, the laws of the Commonwealth of Massachusetts, without regard to any choice of law provisions thereof which would require application of the laws of another jurisdiction.

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In the event ~~that the Parties are unable to reach mutual agreement concerning any of the matters as provided in Section 1.0 of this Agreement, or~~ either Party seeks the enforcement of any of the other terms of this Agreement or seeks damages for a breach of any obligations hereunder, it is specifically understood and agreed that any and all such disputes or claims shall be submitted to final and binding arbitration to take place in Hampden County, Massachusetts, pursuant to the rules of the American Arbitration Association, and that the prevailing party shall recover its costs and reasonable attorney's fees incurred in such arbitration proceeding.

9.0 Governing Law: Legal Compliance:

The Parties shall perform all of their respective obligations under the Agreement in compliance with all applicable laws, ordinances, regulations, or codes. ~~The Parties agree that all legal disputes hereunder shall be resolved applying Massachusetts law.~~

10.0 Severability; Captions:

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EASTERN STATES EXPOSITION

By: _____
Eugene Cassidy,
President

BLUE TARP REDEVELOPMENT, LLC

By: _____
Michael Mathis,
~~Its Authorized Agent~~ President and Chief Operating Officer

ESE's Revised Offer to MGM

Dated 1-22-14

CROSS-MARKETING AND NON-COMPETITION AGREEMENT

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1.0 Cross-Marketing and Promoting of the Venue.

1.1 MGM agrees to work in good faith with ESE to cross-market with and promote the Venue as follows:

(a) MGM will promote Venue events through on-property marketing placements and signage ~~(determined in MGM's sole and absolute discretion)~~ at mutually agreed upon locations at the Project on a monthly basis during the term of this Agreement. ESE shall designate (subject to reasonable approval rights of MGM) which Venue events shall be promoted, and shall provide digital content and/or print ready graphics for this purpose.

(b) MGM will make tickets ~~offer~~ for the annual BIG E Fair at the Venue available for purchase online through the Project homepage, on-site at the Project, and to MGM employees through the M Life Insider Employee portal or similar in-house employee portal and channels.

(c) MGM will send targeted e-mails promoting events at the Venue as designated by ESE in accordance with Section 1.1(a) to M Life members in the Springfield and surrounding areas, the number and frequency of which shall be ~~determined in MGM's reasonable discretion~~ as mutually agreed upon by the Parties.

(d) MGM will promote events at the Venue designated in accordance with Section 1.1(a) through its various social media channels (including Facebook and Twitter), the number and frequency of such social media posts shall be ~~determined in MGM's reasonable discretion~~ as mutually agreed upon by the Parties.

(e) MGM will permit the use of M-Life points to purchase admissions to the annual Big E fair.

(d) MGM will provide ground transportation shuttle service from the Project to ESE during the 17-days of the annual Big E fair.

(f) MGM and ESE will co-promote with the Venue and the Project to the motor coach industry on a year around basis.

1.2 To ensure that the Parties are able to most effectively cross-market and promote one another on an ongoing basis, the Parties ~~agree to shall~~ participate in ~~a~~-marketing strategy ~~meeting~~meetings on ~~periodic~~monthly basis, to align event calendars, leverage each other's contacts and relationships, and to otherwise cross-promote each other's businesses including as follows:

(a) MGM will on an annual basis sponsor and co-promote at least one featured entertainment or musical event to be presented at the Xfinity Arena during the annual Big E fair. The talent will be mutually agreed upon by the Parties using MGM connections within the entertainment industry and will be billed as “MGM and ESE Presents”.

(b) MGM will sponsor and co-promote on an annual basis at least one featured entertainment or musical event on the grounds of ESE or in the Coliseum at a mutually agreed upon time other than during the annual Big E fair. The event and talent will be mutually agreed upon by the Parties using MGM connections within the entertainment industry and will be billed as “MGM and ESE Presents”.

(c) MGM will partner with ESE to promote and solicit trade shows and events using ESE expansive facilities including its 350,000 square feet of exhibit space and 175 acres of Property.

(d) MGM will have sponsorship opportunities at ESE as mutually agreed upon by the Parties.

(e) MGM may with ESE’s permission use ESE in its year around marketing and promotions.

2.0 Restrictions on Competition.

2.1 MGM shall not enter into any agreement with any performer or show which, through a radius restriction or otherwise, precludes performances by that performer or show at the Venue. ESE shall refrain from entering into any agreement with any performer or show which precludes performances by that performer or show at the Project or the Springfield Sites. In the event MGM fails to include such radius restriction exemption in any contract or otherwise inadvertently prohibits a performance in violation of this paragraph, MGM shall promptly grant a waiver to such visiting performer or show at the written request of ESE. ~~ESE shall not be entitled to any other remedy for breach of this Section 2.2.~~

2.2 Except as mutually agreed by the Parties, MGM shall not book ~~a material~~any ticketed performance at the Project or the Springfield Sites during the 17-day period ~~(typically September—October each year)~~ of the ESE’s annual Big E Fair.

3.0 Term and Termination.

The term of this Agreement shall commence on the Effective Date and shall continue until terminated by the mutual written agreement of all of the Parties.

4.0 Compliance Review.

ESE acknowledges that MGM is subject to the rules, regulations, and jurisdiction of various gaming regulatory bodies and agencies, and as such, is required to perform certain background investigations in connection with material contractual relationships. ESE agrees to cooperate with

such background investigations, including the completion and execution of any standard MGM corporate background forms. ESE acknowledges that MGM and others of the MGM Resorts Group (as defined below) are engaged in businesses that are or may be subject to and exist because of privileged licenses or other permits issued by governmental authorities or other sovereigns. MGM may terminate this Agreement, without penalty or prejudice and without further liability to ESE, if any of the MGM Resorts Group: (i) is directed to cease doing business with ESE by any such authority or sovereign; or (ii) determines, in its sole and exclusive judgment, that ESE, ESE's affiliates or any of its or their directors, officers, employees, agents or other representatives is, might be or is about to be engaged in or involved in any activity or relationship that could or does jeopardize any of the businesses or licenses of any of the MGM Resorts Group (including, without limitation, any denial, suspension or revocation, or the threat thereof). Further, ESE: (a) acknowledges that it is illegal for an applicant to whom a license has been denied, a licensee whose license has been revoked, or a business organization under such a person's control ("Denied Entity"), to enter into, or attempt to enter into, a contract with any of the MGM Resorts Group without the prior approval of certain gaming commissions or licensing authorities; (b) represents and warrants that it is not a Denied Entity and is not under the control of a Denied Entity; and (c) agrees that any breach of the foregoing representation and warranty will allow MGM to immediately terminate this Agreement. "MGM Resorts Group" means MGM Resorts International and its subsidiaries, partnerships, joint ventures and other affiliates.

5.0 Successors and Assigns.

This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns as permitted hereunder.

6.0 Prohibition on Advertising and Press Releases.

6.1 Except with the prior written consent of ~~MGM~~of the other Party, which may be withheld in its sole and absolute discretion, the ~~ESE acknowledges~~Parties acknowledge that ~~it~~neither Party shall ~~not~~ advertise, publish or otherwise disclose in any press release or other form of distribution: (i) its association with ~~MGM~~the other Party or the Project or the Venue, as the case may be; or (ii) any aspects of this Agreement.

6.2 ~~ESE~~Neither Party may ~~not~~ use the ~~MGM~~other Party's name, marks and/or logos without the express written permission of ~~MGM~~the other Party.

7.0 Choice of Law.

This Agreement shall be governed by, and construed according to, the laws of the Commonwealth of Massachusetts, without regard to any choice of law provisions thereof which would require application of the laws of another jurisdiction.

8.0 Remedies.

In the event ~~that~~the Parties are unable to reach mutual agreement concerning any of the matters as provided in Section 1.0 of this Agreement, or either Party seeks the enforcement of any of the other

terms of this Agreement or seeks damages for a breach of any obligations hereunder, it is specifically understood and agreed that any and all such disputes or claims shall be submitted to final and binding arbitration to take place in Hampden County, Massachusetts, pursuant to the rules of the American Arbitration Association, and that the prevailing party shall recover its costs and reasonable attorney's fees incurred in such arbitration proceeding.

9.0 ~~Governing Law:~~ Legal Compliance.

The Parties shall perform all of their respective obligations under the Agreement in compliance with all applicable laws, ordinances, regulations, or codes. ~~The Parties agree that all legal disputes hereunder shall be resolved applying Massachusetts law.~~

10.0 Severability; Captions.

In the event that any clause or provision of this Agreement should be held to be void, voidable, illegal, or unenforceable, the remaining portions of this Agreement shall remain in full force and effect. Headings or captions in this Agreement are added as a matter of convenience only and in no way define, limit or otherwise affect the construction or interpretation of this Agreement.

11.0 Interpretation.

This Agreement shall be given a fair and reasonable interpretation of the words contained in it without any weight being given to whether a provision was drafted by one Party of its counsel.

12.0 Entire Agreement; Amendment.

This Agreement contains all of the terms, promises, conditions and representations, made or entered into by and among the Parties, supersedes all prior discussions, agreements and memos, whether written or oral between and among the Parties, and constitutes the entire understanding of the Parties and shall be subject to modification or change only in writing and signed by all Parties.

13.0 Execution in Counterparts

This Agreement may be signed upon any number of counterparts with the same effect as if the signatures on all counterparts are upon the same instrument.

14.0 Authority.

Each Party represents and warrants to the other Parties that it has full power and authority to make this Agreement and to perform its obligations hereunder and that the person signing this Agreement on its behalf has the authority to sign and to bind that Party.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first set forth above.

EASTERN STATES EXPOSITION

By: _____
Eugene Cassidy,
President

BLUE TARP REDEVELOPMENT, LLC

By: _____
Its ~~Authorized Agent~~Manager