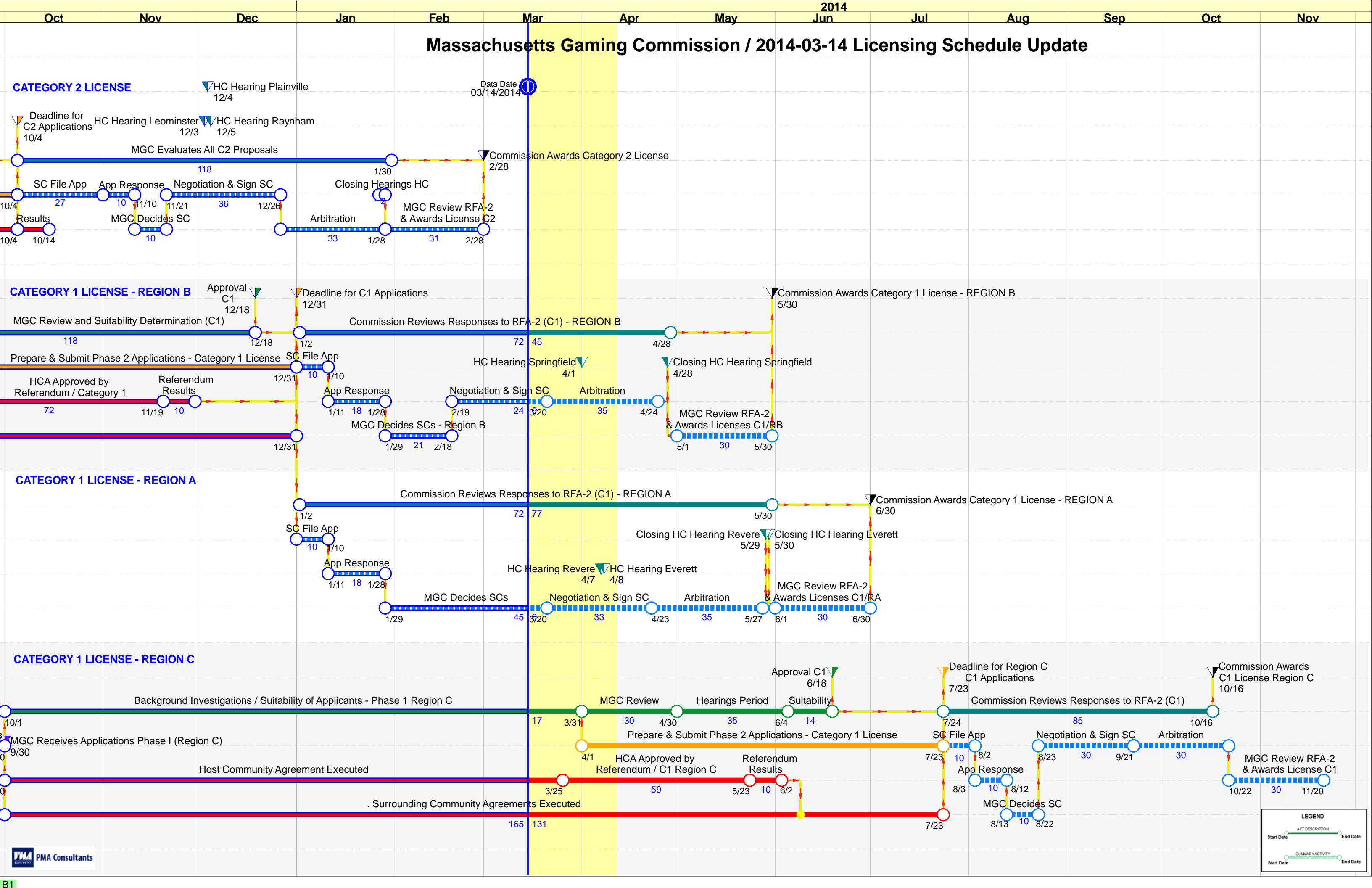


# Massachusetts Gaming Commission / 2014-03-14 Licensing Schedule Update





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March 18, 2014

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

RE: Region C Request for Comments

Dear Chairman Crosby and Commissioners:

Thank you for the opportunity to submit comments regarding the current schedule in Region C and how to improve the competitive environment for gaming in that Region. KG Urban Enterprises, LLC (“KG”) remains fully committed to developing a world class gaming facility in New Bedford and through that process bringing much needed jobs and economic growth to the Region. However, KG’s development efforts have been hindered by certain misconceptions held by the gaming industry concerning the Commission’s delay in opening the Region to commercial bidders and the likelihood of a tribal casino operating in the Region. To permit KG to fully address those concerns and to ensure a competitive process, KG respectfully submits that the Commission should extend the RFA-2 filing deadline for Region C to October 23, 2014.

Again, thank you for providing KG with an opportunity to comment.

Very truly yours,

A handwritten signature in blue ink that reads "Barry M. Gosin". The signature is written in a cursive, flowing style.

Barry M. Gosin

March 14, 2014

Massachusetts Gaming Commission  
84 State Street, 10<sup>th</sup> Floor  
Boston, MA 02109

Dear Massachusetts Gaming Commission,

On behalf of Mass Gaming & Entertainment, LLC, we respectfully submit the following as my client considers its interest in pursuing the Category 1 license in Region C:

- 1) A request for a variance from regulation 205 CMR 122, pursuant to 205 CMR 102.3(4); and
- 2) Comments on the Region C application timeline.

Chapter 23k of An Act Establishing Expanded Gaming in the Commonwealth, Chapter 194 of the Acts of 2011 (the "Act") is fundamentally designed to obtain the greatest possible benefits from licensing gaming establishments in the Commonwealth by selecting successful applicants through a competitive selection process. Further, Chapter 23k, Section 1(10) states that the Commission's authority shall be construed broadly to implement Chapter 23k. Adopting the requested variance and adjustment of the application timeline will advance the purposes of Chapter 23k by 1) encouraging competition for the Category 1 license in Region C and 2) promoting the sustainable financial viability of the Region C gaming establishment.

Part 1: Request for a Variance from Regulation 205 CMR 122

We are requesting a variance from the Commission's regulation (which would apply to all applicants for a Category 1 license in Region C) concerning how the amount of capital investment is calculated. We believe that certain items excluded from the calculation pursuant to 205 CMR 122.04 should be included to be consistent with industry norm for what would count towards a project budget and to right-size the investment for the size and risks of the Region C market. Our specific request is explained further at the end of this Part 1.

Background:

Section 10(a) of the Act reads in part:

*Section 10. (a) The commission shall set the minimum capital investment for a category 1 license; provided, however, that a gaming licensee shall make a capital investment of not less than \$500,000,000 into the gaming establishment which shall include, but not be limited to, a gaming area, at least 1 hotel and other amenities as proposed in the application for a category 1 license; and provided further, that the commission shall determine whether it will include the purchase or lease price of the land where the gaming establishment will be*

*located or any infrastructure designed to support the site including, but not limited to, drainage, utility support, roadways, interchanges, fill and soil or groundwater or surface water contamination issues....*

The recited section of the Act calls for a minimum capital investment of \$500 million and permits the Commission to determine whether the cost of land and certain infrastructure improvements will be included in the calculation of the capital investment. Pursuant to 205 CMR 122.04(1) and (4), the Commission has excluded land and off-site infrastructure costs from this calculation. Further, pursuant to the rest of 205 CMR 122.04, the Commission additionally has excluded several other legitimate, and significant, out-of-pocket project costs from this calculation that commonly are considered as part of a project budget, including by lenders for financing purposes.

We have put together a legitimate out-of-pocket project budget of approximately \$700 million, which is well in excess of the \$500 million requirement, but which does not meet the minimum capital investment as limited under 205 CMR 122. Only approximately \$375 - \$400 million of our current preliminary project budget would count towards the minimum capital investment pursuant to 205 CMR 122.

Consequently, although my client is prepared to spend substantially over \$500 million, as required by the Act, in order to satisfy 205 CMR 122, if it were to participate in Region C, it would be forced to spend more than what it believes the Region C gaming establishment can support. Therefore, under the current regulation without a variance, my client likely would decide to not compete for the Category 1 license in Region C because such a high expenditure would not be a financially prudent business decision based on the gaming market in Region C.

Importantly, the Act does not require the calculation of the capital investment to exclude items excluded under 205 CMR 122. The Act explicitly discusses land and certain infrastructure improvements, and gives the Commission the discretion to include or exclude such costs. Further, by omission, the Act does not contemplate the exclusion of certain other legitimate and significant project costs excluded under 205 CMR 122.04.

**Rationale:**

We respectfully provide the following rationales for this requested variance from regulation 205 CMR 122, which rationales correspond to the requirements in 205 CMR 102.3(4) for granting a variance:

**1. Granting the variance is consistent with the purposes of M.G.L. c. 23k.**

Adopting the requested variance will further the purposes of Chapter 23k by a) encouraging competition for the Category 1 license in Region C and b) promoting the sustainable financial viability of the Region C gaming establishment.

Potential applicants interested in Region C, after understanding the consequences of 205 CMR 122, may determine that the required capital investment under the regulation (which exceeds what the Act requires) is too burdensome and carries too much risk, and

therefore, elect to not pursue the Region C license.

Region C poses unique risks, which the applicants for the Category 1 licenses in Regions A and B do not face. Specifically:

- a. Most importantly, a tribal casino may open in Region C, making the Region C applicants the only ones that need to consider the possibility of another full resort casino in their region. Further, the tribal casino would not pay gaming taxes, so it would have a major competitive advantage by having the ability to spend significantly more on marketing and promotions to acquire and retain customers. In addition, a tribal casino would operate under a different set of operating standards and potentially conduct Internet gaming even though commercial operators could not. Although no one knows when a tribal casino will be built, if ever, Region C applicants must take the possible impact on their operations from a tribal casino into account when determining an appropriate capital budget for Region C.
- b. Due to the substantial competition around Region C, the Region C licensee likely will face a smaller market than the licensees in Regions A and B, even before a potential tribal casino opens. The Category 2 licensed facility will be located at Plainridge Racetrack, in very close proximity to Region C. Further, Twin River Casino and Newport Grand Slots in Rhode Island are much closer to Region C than the other regions.<sup>1</sup>

Consequently, the Region C licensee rationally cannot spend as much as the other Category 1 licensees. Overbuilding, or building more for the sake of building more (even if the market does not justify the supply), leads to underutilization and financial distress, which both the Region C licensee and Commonwealth should want to avoid.

**2. Granting the variance will not interfere with the ability of the Commission or the Bureau to fulfill its duties.**

A number of the excluded costs in 205 CMR 122.04, such as land, pre-opening interest expenditure, off-site infrastructure improvements, and upfront mitigation costs are legitimate project costs, which a casino developer or any other type of commercial developer would consider project costs.

Further, with a project budget of over \$500 million, Mass Gaming & Entertainment, LLC can develop, and intends to develop, a world-class gaming destination. It can still deliver the “wow factor”, but it needs to fit the size of the project to the size and risks of the market.

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<sup>1</sup> The Mohegan Sun and Foxwoods casinos in Connecticut are approximately the same distance to Springfield as to the potential Region C locations.

A first-class development which is financially responsible not only allows the Commission to fulfill its duties but helps it to do so. The requested variance would not interfere with the Commission or the Bureau in doing their duties with respect to reviewing the Phase 2 applications and awarding the Category 1 license in Region C to a deserving applicant and project which will be an asset for the region.

**3. Granting the variance will not adversely affect the public interest.**

Granting the variance will not adversely affect the public interest. Conversely, not granting the variance would adversely affect the public interest, especially for the public and communities located in Region C. The region needs economic development, including a catalyst for further employment and tourism, and a truly competitive process to award the Category 1 license in Region C will support those objectives by encouraging better proposals. Furthermore, forcing the licensee in Region C to spend more in capital investment than what the Region may be able to justify puts the financial viability of the gaming establishment at risk, when the sustainable financial health of the gaming establishment will be best for the Region C economy. The Act finds and declares that these are truly important aspects of the Act.

**4. Not granting the variance would cause substantial hardship to the person requesting the variance.**

Not granting the variance would cause substantial hardship since it will discourage Mass Gaming & Entertainment, LLC (and likely other potential applicants) from pursuing the Region C license. To require applicants to spend more than what Region C can support in light of the region's unique risks and competitive dynamics creates a hardship.

For the reasons provided above, we believe that the requirements to grant a variance are satisfied and granting the variance would benefit the Commonwealth.

**Request:**

We request a variance from regulation 205 CMR 122 (to apply to all applicants for a Category 1 license in Region C) such that subparts 1, 2, 3, and 4 in 205 CMR 122.04 are included in the calculation of the capital investment.

We are not requesting that the other subparts of 205 CMR 122.04 be included in the calculation of the capital investment, even though most or all of such costs would generally be accepted as part of a project budget, including by lenders for financing purposes, and all require invested capital.

Part 2: Comments on the Region C Application Timeline

Although it is difficult at this stage to assess the amount of time that will be necessary for applicants in Region C to be ready to submit their RFA-2 applications, we propose a revised RFA-2 application deadline of December 31, 2014, subject to our variance request being resolved by March 31, 2014, which will attract more eligible Phase 1 approved applicants to consider bidding for the Region C license.

Considerable time will be necessary for applicants to complete the following tasks in a thoughtful and comprehensive manner:

1. Negotiate and enter into a host community agreement, and subsequently, for the host community to conduct a public referendum;
2. Negotiate and enter into surrounding community agreements;
3. Obtain zoning approvals;
4. As part of the MEPA process, prepare an Environmental Notification Form (ENF) and receive a scoping certificate from the Executive Office of Energy and Environmental Affairs after a period of public comment; and
5. Prepare the RFA-2 application, which is very comprehensive.

Further, in the event any of the applicants have additional qualifiers in connection with their application in Region C, the Commission will need time to investigate those parties.

We sincerely appreciate your consideration of our variance request and comments on the timeline.

Sincerely,

*/s/ John M. Donnelly*

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John Donnelly

Donnelly Clark

On behalf of Mass Gaming & Entertainment, LLC



# KOPELMAN AND PAIGE, P.C.

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March 17, 2014

**Jonathan M. Silverstein**

jsilverstein@k-plaw.com

BY ELECTRONIC MAIL  
AND BY FIRST CLASS MAIL

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

Re: City of New Bedford Comments on Region C Timeline

Dear Chairman Crosby and Members of the Commission:

This office serves as special counsel to the City of New Bedford (“City”) concerning the City’s review of potential proposals to develop a Category 1 gaming facility in the City. Please accept this letter as the City’s response to the Commission’s request for public comment “on the Region C schedule and how [the Commission] can improve the competitive environment in Region C given the upcoming RFA-2 application deadline of July 23, 2014.” As discussed below, the City submits that the Commission can significantly improve the competitive environment in Region C by taking two actions: (a) extending the RFA-2 application deadline by sixty (60) days, to September 22, 2014; and (b) granting a variance to all Region C applicants from the requirement in 205CMR119.01(7) that the referendum election required under G.L. c.23K, §15(13) take place prior to submission of the RFA-2 application.

A. Developments Subsequent To The Commission’s Adoption Of The Region C Timeline Warrant Reconsideration Of That Timeline

As the Commission has noted, the current Region C schedule was adopted by the Commission in May 2013, and the City is mindful of the Commission’s desire to conduct its business in an efficient and expeditious manner. However, the City submits that a number of developments have occurred since the Commission established the timeline that warrant revisiting the RFA-2 deadline for Region C in order to foster competition..

First, only one applicant filed a RFA-1 application for Region C by the September 2013 deadline. The City submits that this paucity of applicants was not anticipated at the time the Commission adopted the current Region C timeline. This fact alone warrants taking steps to foster competition.



**KOPELMAN AND PAIGE, P.C.**

Stephen Crosby, Chairman  
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Second, in light of the lack of competitive applications for the Region C license, competition for that license can only come from applicants who unsuccessfully sought other licenses. When the Commission established the current timeline, it was anticipated that the Category 2 license may be issued in December 2013 and the Category 1 licenses for Regions A and B would be issued in April 2014. This would have allowed unsuccessful bidders for those licenses more time to enter the Region C competition. Now, the Region A license is not expected to be awarded until the end of June—less than one month prior to the current RFA-2 deadline for Region C. Under this timeline, the unsuccessful bidder for the Region A license would be precluded from competing in Region C.<sup>1</sup> Though not as severe, the unsuccessful bidders for the Category 2 license also face substantial temporal obstacles to entering the Region C competition.

Much has changed since the Commission established the Region C timeline in May of last year. The City submits that the determination of whether and to whom to issue a Category 1 license for Region C is of sufficient importance to warrant reexamination of that timeline and adjustment of the timeline to foster competition in the region. Therefore, the City respectfully requests that the Commission extend the current RFA-2 deadline by 60 days to September 22, 2014.

B. The Commission May Properly Waive The Requirement That The Statutorily-Required Ballot Vote Occur Prior To Submission Of An RFA-2 Application

Pursuant to the Commission's regulations, 205 CMR 119.01(7), an RFA-2 application must contain "a certificate showing that the applicant has received a certified and binding vote on a ballot question at an election in the host community in favor of the license." Though the ballot vote itself is a requirement of the Expanded Gaming Act, G.L. c.23K, §15(13), the requirement that the vote take place prior to submission of a final application is not. Accordingly, this requirement may properly be waived, in the discretion of the Commission, pursuant to 205 CMR 102.03(4) ("Waiver Regulation").

The Commission has already waived this requirement for two specific applicants.<sup>2</sup> The City proposes that the Commission waive this requirement and allow all potential host communities in Region C to hold their elections on or before November 4, 2014. As set forth below, each of the criteria listed in the Waiver Regulation is satisfied, and the Commission therefore has the discretion to grant the proposed waiver.

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<sup>1</sup> Also unexpected was the substitution of one of the Region B applicants for a Region A applicant, which further limited the number of potential competitors for the Region C license.

<sup>2</sup> For Cordish in Leominster, the Commission granted a short waiver of the certification requirement. For Mohegan Sun in Revere, the Commission granted a two-month waiver of the election requirement itself.

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Stephen Crosby, Chairman  
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1. Granting the waiver would be consistent with the purposes of G.L. c.23K

The premise upon which the Commission has solicited public comment regarding the Region C timeline is the fundamental goal of the Expanded Gaming Act itself—to foster competition in order to maximize the regional and state-wide benefits of expanded gaming. By voting now to grant a waiver from the pre-application election requirement, the Commission will further this goal by allowing for maximum participation in the Region C competition. Under such a waiver, and in conjunction with a modest 60-day extension of the RFA-2 application deadline, none of the unsuccessful applicants for other licenses will be precluded from competing for the Region C license. This is clearly consistent with the goals of the Act.

2. Granting the waiver would not interfere with the ability of the Commission or the Investigations and Enforcement Bureau to fulfill their duties

Granting the requested waiver would not interfere with the Commission's or IEB's fulfillment of their duties. Waiving the pre-application election requirement would not delay the Commission's evaluation of the RFA-2 submissions of Region C applicants. The Commission would continue to charge applicants for the costs of such review, and the choice of an applicant to submit a RFA-2 application prior to the required election would be its own risk. Similarly, any remaining suitability investigation/review by IEB, and resultant determinations by the Commission, would in no way be impaired or delayed by waiver of this requirement, which only relates to the host community referendum election.

Though the Commission may choose to modify its current goal of making the Region C license decision by the end of November 2014, it would not necessarily have to do so. During the intervening period between the proposed RFA-2 submission date of September 22, 2014 and the election deadline of November 4, 2014, the Commission could continue with all of the other aspects of its review and processing of the applications. Further, any surrounding community issues (designations and, if necessary, arbitrations) would be resolved during this timeframe. Immediately after the November 4 election, the Commission could complete its deliberations and vote on whether and to whom to issue the Region C license. In the event the Commission determined more time was required to make this determination, a short extension of its November 2014 goal (e.g., until the end of December 2014) would be a small price for maximizing the competitive environment in Region C.

3. Granting the waiver would not adversely affect the public interest

For the reasons previously discussed, waiving the pre-application election requirement of 205 CMR 119.01(7) would not adversely affect the public interest and, to the contrary, would substantially further the public interest in competition in Region C. Moreover, granting the waiver would result in a significantly more informed electorate, in that voters would have the full RFA-2 application available for review at the time of the election and would have had the benefit of a longer

**KOPELMAN AND PAIGE, P.C.**

Stephen Crosby, Chairman  
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period of public comment and debate on the proposal. Accordingly, the statutory purpose of having voters in potential host communities approve proposed gaming establishments would be far better served by granting the waiver than by denying it.

4. Denying the waiver would cause substantial hardship to the City, as well as to other potential host communities and applicants

As a potential host community to a Category 1 gaming facility, the City's goals are consistent with those of the Commission. The City has an interest in maximizing competition, finding the best potential developer/operator, evaluating the best potential site and making a fully-informed decision based upon the broadest range of proposals. The competitive environment in Region C has already been adversely affected by uncertainty regarding the potential for a tribal gaming facility in Taunton. Were the Commission to deny the requested waiver and adhere to its current RFA-2 deadline of July 23, the interests of both the Commission and the City would be substantially undermined. Indeed, it is possible that rigid adherence to the regulations and the current timeline would effectively preclude the City from entering into a Host Community Agreement at all. Forcing the City to make a decision of this magnitude on a purely procedural basis, and not based upon a reasoned, substantive evaluation of the merits of all potential proposals, would cause substantial hardship to the City and its voters.

C. Conclusion

With minor adjustments to the Region C schedule, and a waiver of the pre-application election requirement to allow potential host communities to vote on gaming establishment proposals up through the November 4, 2014 election, the competitive environment in Region C would be significantly enhanced, without substantially delaying the Commission's review of applications or potential award of a Category 1 license for the region. The City urges the Commission to take these modest but effective steps to further the goals of the Expanded Gaming Act and the interests of the people of the City, Region C and the Commonwealth.

Thank you for your consideration. Please do not hesitate to contact me if I or the City can provide any further information regarding this matter.

Very truly yours,



Jonathan M. Silverstein

JMS/jam

cc: Hon. Jonathan F. Mitchell



TO: Commissioners

FROM: John S. Ziemba

CC: Rick Day, Executive Director  
Catherine Blue, General Counsel

DATE: March 18, 2014

RE: Involuntary Disbursement Petitions:  
City of Everett to Mohegan Sun Massachusetts, LLC  
Town of Saugus to Wynn MA, LLC

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**Findings Required for Involuntary Disbursement Petition Decisions:** Pursuant to 205 CMR 114.03, the Commission may approve an Involuntary Disbursement Petition upon a finding that:

1. “[T]here is a reasonable likelihood that the community will be designated a surrounding community pursuant to 205 CMR 125.01”;
2. “[T]he request is reasonable in scope”; and that
3. “[T]he risk that the community will not be able to properly determine the impacts of a proposed gaming establishment without the requested funds outweighs the burden of the actual financial cost that will be borne by the applicant.”

**City of Everett Petition** (Full Petition and Response included in Commissioners packets for the meetings on 1/28/14- 1/29/14)

1. ConsultEcon, Inc. 545 Concord Ave, Cambridge, MA 02138 Socio-economic impact \$35,000 Grant
2. WorldTech, 300 Trade Center, Suite 5580, Woburn, MA 01801 Traffic \$50,000 Grant
3. Kopelman and Paige, PC 101 Arch St, 12th Floor, Boston, MA 02110 Legal \$60000 Grant

[Arguments regarding whether Everett is or is not a surrounding community are not included here].

### **Arguments Raised by Mohegan Sun and Response by Everett**



Massachusetts Gaming Commission

1. In its reponse to Everett's involuntary disbursement, Mohegan Sun argues that the scope is unreasonable.

In a further filing with the Commission (February 12, 2014), Everett argues that its request is reasonable and consistent with the procedures of the Commission. Everett takes issue with Mohegan's Sun's argument that the proposed scope of work is excessive and states that "[g]iven the pattern of recalcitrance on the part of the applicant, the scope may over-estimate the number of such events necessary for counsel to attend." It also notes that Mohegan Sun will not be charged for meetings not required.

Note: attached please see similar consultant and legal fees requests relating to the City of Everett.

2. Mohegan Sun argues that the maximum request should be required up-front.

Everett argues that its request to receive the entire disbursement up front is consistent with the Commission's regulations, but agrees that if Mohegan or the Commission would prefer an alternative billing arrangement, it would agree to do so, provided that fees incurred by consultants are satisfied.

3. Mohegan Sun it is being asked to "pay for Everett's campaign against Everett."

Everett argues that Mohegan's claim is false" in that Everett has not campaigned against Mohegan Sun's project.

4. Mohegan Sun's states that it should not be required to pay for expenses related to its petition for designated as a surrounding community

Everett states that argument is misplaced. Everett argues that these expenses are consistent with the Expanded Gaming Act and statute and that Everett should not be penalized for having to utilize this process.

5. Mohegan Sun claims that the amount requested exceeds the \$50,000 statutory amount.

Everett also argues that Mohegan Sun's Argument that the amount requested exceeds \$50,000 does not reflect the reality of the amount of consultant fees and community disbursements incurred by applicants across the Commonwealth.

Mohegan Sun also notes that "it has submitted with its RFA-2 and attached as exhibits hereto several independent empirical studies that show nearby municipalities and regional local businesses will experience robust economic growth as a result of the gaming establishment- with



Massachusetts Gaming Commission

retailers expanding their customer base, increasing profits, and cities and towns growing their tax base. Similarly, these studies emphatically conclude that the gaming establishment will cause no adverse impacts on public safety in nearby communities.”

.....

**Saugus Involuntary Disbursement Petition**

Town of Saugus Petition (Full Petition and Response included in Commissioners packets for the meetings on 1/28/14- 1/29/14)

Economic Development Consulting:	\$5,000-10,000
Traffic/Road Expert Analysis:	\$10,000-15,000
Legal Services	\$15,000-20,000
TOTAL:	<u>\$30,000-45,000</u>

Wynn MA, LLC Response to Petition (Full Petition and Response included in Commissioners packets for the meetings on 1/28/14- 1/29/14)

Wynn notes that extensive information has been provided as part of its MEPA filings

Wynn notes that “[t]o facilitate our review of the foregoing, Wynn engaged outside experts to provide a thorough analysis of potential impacts. Attached please find a copy of the following studies: (i) RKG Associates Inc.’s “Impact of the Wynn Resort Casino on Neighboring Communities” dated August 29, 2013; (ii) TMG Consulting’s “Gaming Market Assessment” dated November 2013; and (iii) TMG Consulting’s “Projected Benefit for Regional Businesses.”

Wynn finally notes that it agrees to provide Saugus access to its consultants in an effort to avoid duplication of efforts and the incurrence of unnecessary expenses.



Massachusetts Gaming Commission



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Kevin C. Conroy  
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January 21, 2014

**By Hand and First Class Mail**

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

Re: Opposition to City of Everett's Application for Community Disbursement

Dear Chairman Crosby and Members of the Commission:

I write on behalf of gaming license applicant Mohegan Sun Massachusetts, LLC ("MSM") pursuant to 205 CMR 114.03(2) to oppose the City of Everett's Application for Community Disbursement w/o Letter of Authorization, which was filed with the Commission and served on MSM on January 13, 2013 (the "Disbursement Application").

1. **There is no Reasonable Likelihood that Everett Will Be Designated a Surrounding Community**

The Everett request should be denied because Everett does not qualify for a community disbursement under the Commission's regulations. 205 CMR 114.03 provides that the Commission may approve a disbursement application without a letter of authorization from the relevant gaming license applicant only "upon a finding that there is a reasonable likelihood that the community will be designated a surrounding community." 205 CMR 114.03(2)(b)(2).

Everett's primary response to the Disbursement Application's question about reasonable likelihood of being found to be a surrounding community is to incorporate by reference its Petition for Designation as a Surrounding Community ("Surrounding Community Petition"), which was also submitted to the Commission on January 13, 2013. MSM will present detailed facts and argument as to why the Commission should not designate Everett to be a surrounding community in MSM's opposition to that petition, which will be filed on or before the January 23, 2013. Accordingly, MSM's response will demonstrate also that there is no reasonable likelihood that Everett will be found to be a surrounding community. Any increased traffic in Everett as a result of the MSM resort will not have a significant and adverse effect. MSM's traffic engineers have concluded that no intersection in Everett will be significantly impacted as a result of the Revere project. See Exhibit O to Surrounding Community Petition. Everett's other claimed

impacts are speculative and will be outweighed by the benefits from employment at and spending by MSM and its patrons.

It bears noting here that, in the balance of its response to the reasonable-likelihood question in the Disbursement Application, Everett misrepresents the Metropolitan Area Planning Council's (the "MAPC's") assessment of traffic due to the MSM project. Everett states that the MAPC agrees with the city's assertion that "Everett is likely to experience a severe increase in traffic along Route 16 and Route 99 as a result of the proposed gaming establishment." Disbursement Application at 3 (emphasis added). In fact, the relevant MAPC comment says only that MAPC "believes that the Proponent has underestimated the number of trips on Route 16" and asks that the intersection of Routes 16 and 99 be studied.<sup>1</sup> The MAPC does not predict severe increases anywhere, and does not say anything about traffic on Route 99. See Exhibit N to Surrounding Community Petition at 1. In any event, the trip estimates are not underestimated. As MEPA noted in the DEIR Certificate for the project, MassDOT's DEIR comment letter indicates that it "generally agrees with the trip distribution and assignment methodology and the resulting percentages assigned to the different regions, the roadway network, and the transit network." See DEIR Certificate (MSM RFA-2 Ex. 4-72-01) at 8.

## **2. MSM Should Not Have to Pay for Everett's Campaign Against MSM's project.**

Everett's surrounding community filings appear to be just the next stage in Everett's months'-long campaign to eliminate the project proposed for Suffolk Downs land and therefore secure the Region A license for the Wynn project it is hosting. As the Commission is aware, Everett has regularly written to the Commission in its attempts to derail Wynn's competition:

- On October 2, 2013, Everett Mayor Carlo DeMaria, Jr., wrote to the Commission opposing Boston's request for a variance as to the sequence of the city's determination to proceed to a host community election prior to a suitability determination versus the applicant's request for an election.
- On December 6, 2013, Everett, through its outside counsel, submitted a six-page letter asking the Commission to prohibit MSM and Sterling Suffolk Racecourse, LLC ("Sterling Suffolk") from proceeding with a Revere-only proposal.
- Just last week, Everett asked that the Commission deem the MSM RFA-2 application be deemed administratively incomplete because the MEPA filings MSM submitted are in the name of Sterling Suffolk, not MSM.

That Everett is more interested in creating obstacles for MSM than it is interested in seeking to mitigate impacts is evidenced by the following: (1) Everett did not provide to MEPA any comments regarding potential environmental or traffic impacts in connection with either the

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<sup>1</sup> MEPA did not adopt the recommendation that further intersections be added to the scope of the EIR.



ENF or the DEIR filed by Sterling Suffolk Racecourse, LLC, when it was the applicant for what is now the Revere project. (2) So far as MSM can determine, Everett rushed into a host community agreement with Wynn without having the benefit of any traffic studies. (3) Everett has been eligible since late September to apply for funding to study the resort's impacts, but it has not done so until now.

MSM should not be required to provide Everett with tens of thousands of dollars that Everett will use to fund research and opposition to MSM's project.

**3. Everett's Request Is Deficient In Other Ways.**

Even if the Commission were to conclude that there is a reasonable likelihood Everett would be designated a surrounding community, the Disbursement Application should be denied because it does not meet the requirements that it be "reasonable in scope and that the risk that the community will not be able to properly determine the impacts of a proposed gaming establishment without the requested funds outweighs the burden of the actual financial cost that will be borne by the applicant." 205 CMR 114.03(2)(b)(2).

The request should be denied because it is excessive. One measure of the unreasonableness of the amount sought is that Everett's request totals \$145,000.00, which is almost three times the total amount that the Gaming Act designates to be put aside per applicant for community disbursements for the host and all surrounding communities.

Separately, the request should be denied because, as to each of the three components of the funding (socio-economic impact; traffic; legal), Everett asks that the Commission award the total amount of the not-to-exceed limits in the proposals, and that it order MSM to make the disbursement on an "expedited basis" before the consultants are even retained. It is unreasonable to ask MSM to pay the maximum amount that could become due in the engagement before the engagement has begun.

The request of funding for legal services should be denied for reasons specific to it. Everett asks for funds to reimburse it for counsel fees in connection with Everett's petition for designation as a surrounding community, see Disbursement Application Exhibit 3, but the Commission's regulations do not provide for petition expenses to be covered by the community disbursements. The regulations limit covered expenses to "the cost of determining the impact of the proposed gaming establishment and for the negotiation and execution of a host or surrounding community agreement." 205 CMR 114.03(2)(b)(1). Two of the other items for which payment is sought relate to negotiation, drafting, and other activities in connection with a Surrounding Community Agreement.<sup>2</sup> These items are not ripe for disbursements unless and

---

<sup>2</sup> Everett seeks legal funding for "Oversight, negotiation and drafting of Surrounding Community Agreement and general interactions with applicant's counsel" and for its outside counsel to "Coordinate and track consultant reviews, review for same for completeness, advise and assess City regarding impacts on negotiation of Surrounding Community Agreement."

Mr. Stephen Crosby  
Chairman, Massachusetts Gaming Commission  
January 21, 2014  
Page 4

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until the Commission designates Everett a surrounding community. Even then, it is not clear why Everett would need outside counsel to coordinate, track, and review for completeness the work product of consultants it is otherwise engaging. Finally, the two remaining items are vague and overbroad and are not tied to evaluating impacts or negotiating a surrounding community agreement. Under the descriptions given, Everett could easily use requested funds for other activities aimed at defeating the MSM project.<sup>3</sup>

#### **4. Conclusion**

For all of the above-stated reasons, as well as the reasons that will be stated in MSM's opposition to Everett's Surrounding Community Petition, MSM asks that the Commission deny the Disbursement Application. MSM reserves the right to expand on the arguments herein and present additional arguments in its opposition to Everett's petition.

Sincerely,



Kevin C. Conroy, Esq.

cc: Mr. John Ziemba  
Jonathan M. Silverstein, Esq.  
Bruce S. Barnett, Esq. (by electronic mail only)

---

<sup>3</sup> Everett seeks legal funding for "Attendance of at least one principal-level attorney at up to fifteen meetings (including work sessions, strategy sessions, negotiating sessions, consultant meetings, Council meetings, public forums)" and for "General research and assistance (including interface with Massachusetts Gaming Commission and attendance at its meetings as necessary, assistance with necessary zoning and other ordinance revisions, opinion letters, telephone calls, etc.)"



**KOPELMAN AND PAIGE, P.C.**  
*The Leader in Municipal Law*

101 Arch Street  
Boston, MA 02110  
T: 617.556.0007  
F: 617.654.1735  
www.k-plaw.com

January 13, 2014

**Jonathan M. Silverstein**  
jsilverstein@k-plaw.com

BY ELECTRONIC MAIL  
AND BY HAND

Mr. John Ziemba, Ombudsman  
Massachusetts Gaming Commission  
84 State Street, 10th Floor  
Boston, MA 02109

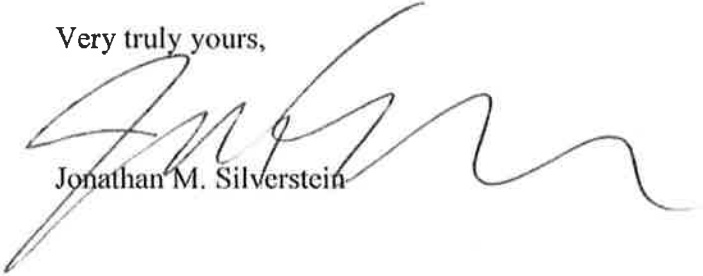
Re: City of Everett's Petition for Designation as a Surrounding Community

Dear Mr. Ziemba:

Enclosed please find one original and five copies of the City of Everett's Petition for Designation as a Surrounding Community and Request for Involuntary Disbursement along with Application for Community Disbursement w/o Letter of Authorization.

Please do not hesitate to contact me with any questions.

Very truly yours,

  
Jonathan M. Silverstein

JMS/jam  
Enc.

cc: Hon. Carlo DeMaria, Jr.  
City Solicitor  
Kevin Conroy, Esq.  
Mr. Chip Tuttle

489863/09312/0001

CERTIFICATE OF SERVICE


I, Jonathan M. Silverstein, hereby certify that on the below date, I served a copy of the foregoing City of Everett's Petition for Designation as a Surrounding Community and Request for Involuntary Disbursement along with Application for Community Disbursement w/o Letter of Authorization, by electronic mail and by first class mail, postage prepaid, to the following individuals:

Kevin C. Conroy, Esq.  
Foley Hoag LLP  
155 Seaport Boulevard  
Boston, MA 02210-2600

Mr. Chip Tuttle  
Chief Operating Officer  
Sterling Suffolk Racecourse, LLC  
525 McClellan Highway  
East Boston, MA 02128

Dated: \_\_\_\_\_

1/13/14

  
Jonathan M. Silverstein

## Thurlow, Mary (MGC)

---

**From:** Ziemba, John S (MGC)  
**Sent:** Monday, January 13, 2014 2:39 PM  
**To:** Thurlow, Mary (MGC)  
**Subject:** FW: Mohegan Sun Revere - City of Everett's Petition for Designation as a Surrounding Community  
**Attachments:** Everett Cover Letter.pdf; Everett Surrounding Community Petition.pdf; Everett Involuntary Disbursement Application.pdf

John S. Ziemba  
Ombudsman

Massachusetts Gaming Commission  
84 State Street 10th Floor  
Boston, MA 02109  
TEL 617-979-8423 | FAX 617-725-0258  
[www.massgaming.com](http://www.massgaming.com)

follow us on



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**From:** Jonathan Silverstein [<mailto:JSilverstein@k-plaw.com>]  
**Sent:** Monday, January 13, 2014 1:41 PM  
**To:** Ziemba, John S (MGC)  
**Cc:** Blue, Catherine (MGC); Conroy, Kevin (Counsel) ([kconroy@foleyhoag.com](mailto:kconroy@foleyhoag.com)); David P. Rodrigues, Esq. ([David.Rodrigues@ci.everett.ma.us](mailto:David.Rodrigues@ci.everett.ma.us)); Jamie Errickson (Comm Dev) ([Jamie.Errickson@ci.everett.ma.us](mailto:Jamie.Errickson@ci.everett.ma.us)); Carlo DiMaria ([mayorcarlo.demaria@ci.everett.ma.us](mailto:mayorcarlo.demaria@ci.everett.ma.us)); Melissa Murphy ([Melissa.Rodrigues@ci.everett.ma.us](mailto:Melissa.Rodrigues@ci.everett.ma.us)); Jeffrey T. Blake  
**Subject:** Mohegan Sun Revere - City of Everett's Petition for Designation as a Surrounding Community

Good afternoon, John:

Attached please find PDF copies of the City of Everett's Petition for Designation as a Surrounding Community and Application for Community Disbursement W/O Letter of Authorization, together with cover letter. The bound original and five bound copies will be hand-delivered to you this afternoon.

Attorney Conroy, as counsel for the applicant, is copied on this email and will receive a hard copy by first class mail. At Kevin's request, I am also sending a courtesy copy by mail to Chip Tuttle.

Please do not hesitate to contact me with any questions.

Best regards,  
Jonathan

Jonathan M. Silverstein  
Kopelman and Paige, P.C.  
101 Arch Street  
12th Floor  
Boston, MA 02110

(617) 556-0007 (main)  
(617) 654-1729 (direct)  
(617) 654-1735 (fax)  
[jsilverstein@k-plaw.com](mailto:jsilverstein@k-plaw.com)

This message and the documents attached to it, if any, are intended only for the use of the addressee and may contain information that is **PRIVILEGED and CONFIDENTIAL** and/or may contain **ATTORNEY WORK PRODUCT**. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please delete all electronic copies of this message and attachments thereto, if any, and destroy any hard copies you may have created and notify me immediately.



# MASSACHUSETTS GAMING COMMISSION

PLEASE SUBMIT THIS LETTER AND ATTACHMENTS TO:  
MASSACHUSETTS GAMING COMMISSION  
ATTENTION: JOHN ZIEMBA, OMBUDSMAN  
84 STATE STREET, 10<sup>TH</sup> FLOOR  
BOSTON, MA 02109

## APPLICATION FOR COMMUNITY DISBURSEMENT W/O LETTER OF AUTHORIZATION In accordance with 205 CMR 114.03(2)(b)

TYPE OF REQUEST (choose one from drop down menu): Grant (G.L. c.44, s.53A)

1. City of Everett  
NAME OF MUNICIPALITY
2. Office of the Mayor  
MUNICIPAL DEPARTMENT THAT WOULD RECEIVE FUNDS IF GRANTED
3. Richard Viscay City Auditor and CFO  
NAME AND TITLE OF INDIVIDUAL RESPONSIBLE FOR HANDLING OF FUNDS
4. Everett City Hall, 484 Broadway, Room 31, Everett, MA 02149  
ADDRESS OF INDIVIDUAL RESPONSIBLE FOR HANDLING OF FUNDS
5. (617) 394-2270 richard.viscay@ci.everett.ma.us  
PHONE # AND EMAIL ADDRESS OF INDIVIDUAL RESPONSIBLE FOR HANDLING OF FUNDS
6. Carlo DeMaria, Jr. Mayor  
NAME AND TITLE OF INDIVIDUAL AUTHORIZED TO COMMIT FUNDS ON BEHALF OF MUNICIPALITY
7. Everett City Hall, 484 Broadway, Room 31, Everett, MA 02149  
ADDRESS OF INDIVIDUAL AUTHORIZED TO COMMIT FUNDS ON BEHALF OF MUNICIPALITY
8. (617)394-3370 mayor.carlodemaria@ci.everett.ma.us  
PHONE # AND EMAIL ADDRESS OF INDIVIDUAL AUTHORIZED TO COMMIT FUNDS
9. Mohegan Sun Massachusetts, LLC  
NAME OF APPLICANT FOR GAMING LICENSE AND CATEGORY OF LICENSE BEING APPLIED FOR
10. City of Revere  
NAME OF HOST COMMUNITY FOR APPLICANT FOR GAMING LICENSE

**TIMING OF REQUEST**

A municipality may apply for community disbursement funds without a signed letter of authorization only at certain times. Please check the box next to the statement that best describes the situation of the city or town seeking funds:

- A. 21 DAYS HAVE PASSED SINCE THE APPLICANT AND THE HOST COMMUNITY EXECUTED A HOST COMMUNITY AGREEMENT.

DATE APPLICANT AND HOST COMMUNITY EXECUTED A HOST COMMUNITY AGREEMENT

- B. THE APPLICANT IS APPLYING FOR A CATEGORY 1 (FULL CASINO) LICENSE AND THIS APPLICATION FOR FUNDS IS BEING SUBMITTED AFTER OCTOBER 2, 2013 (90 DAYS PRIOR TO DEADLINE FOR SUBMISSION OF RFA-2 APPLICATION BY APPLICANT)

- C. THE APPLICANT IS APPLYING FOR A CATEGORY 2 (SLOTS) LICENSE AND THIS APPLICATION FOR FUNDS IS BEING SUBMITTED AFTER AUGUST 5, 2013 (60 DAYS PRIOR TO DEADLINE FOR SUBMISSION OF RFA-2 APPLICATION BY APPLICANT)

**ITEMIZATION OF REQUESTED FUNDS**

Please identify below all legal, financial, and other professional services deemed necessary by the community, and for which the community now seeks funds, relative to the cost of determining the impact of the proposed gaming establishment and for the negotiation and execution of a surrounding community agreement. Documentation (e.g.- invoices, proposals, estimates, etc.) adequate for the Commission to evaluate this application in accordance with 205 CMR 114.03(2)(b)(2) must be attached to this application. Please attach additional sheets if necessary.  
(CLICK ON BOX TO INSERT TEXT)

1ConsultEcon, Inc. 545 Concord Ave, Cambridge, MA 02138 Socio-economic impact 35000 Grant

2WorldTech 300 TradeCenter, Suite 5580, Woburn, MA 01801 Ttraffic 50000 Grant

3Kopelman and Paige, PC 101 Arch St, 12th Floor, Boston, MA 02110 Legal 60000 Grant

4Name of vendor Address of vendor Type of Service Provided t Type of request

5Name of vendor Address of vendor Type of Service Provided t Type of request

6Name of vendor Address of vendor Type of Service Provided t Type of request



### INTERACTION WITH APPLICANT

To be eligible for disbursement of these funds the community must attest that a request for the funds being requested in this application was first made to the applicant directly and denied, and that a copy of this application was served on the applicant prior to being filed with the Commission. Please provide a response to each of the following:

1. Please describe the manner in which the subject funds were requested from the applicant and denied by the applicant including the date(s) on which the request was made, to whom it was made, the manner in which the request was denied (i.e.- whether the denial was in writing, verbal, or by virtue of a lack of response to the request), and the nature of any relevant conversations. Please attach a copy of any relevant written communications.

*Please see Everett's Petition for Designation as Surrounding Community, filed contemporaneously herewith. As indicated thereon, on at least four (4) separate occasions, Everett has attempted to contact the applicants to engage in surrounding community discussions and to request information and funding for impact analyses. The applicants have literally ignored every attempt by Everett to engage in such discussions.*

2. Please attach proof of service of this application on the applicant prior to it being filed with the Commission that reflects the date it was filed, the name and address of the person it was sent to, and the method of service that was used.

### JUSTIFICATION

The Commission may approve this application and grant the funds requested if it finds that there is a reasonable likelihood that the community will be designated a surrounding community pursuant to 205 CMR 125.01, that the request is reasonable in scope, and that the risk that the community will not be able to properly determine the impacts of a proposed gaming establishment without the requested funds outweighs the burden of the actual financial cost that will be borne by the applicant. Please provide a response to each of the following:

1. Please explain why the community believes it is reasonably likely that it will be designated a surrounding community. Reference may be made to the factors outlined in 205 CMR 125.01(2)(b), including the proximity of the community to the proposed gaming establishment, any connecting infrastructure, and other similar elements.

*Please see Everett's Petition for Designation as Surrounding Community, filed contemporaneously herewith. As set forth in greater detail therein, Everett is an abutting community to the Host Community, and is just three miles from the proposed facility. Route 16 (the Revere Beach Parkway) bisects Everett and provides direct access to the proposed project site. Route 16 is a frequently used cut-through to avoid the gridlock traffic on Routes 93 and 1. Everett is likely to experience a severe increase in traffic along Route 16 and Route 99 as a result of the proposed gaming establishment. Both the Regional Planning Agency (MAPC) and Everett's traffic consultant concur on this point. Moreover, Everett and Revere share many critical services, including public safety services, via mutual aid and other inter-municipal agreements.*

2. Please explain why the community believes that it will not be able to properly determine the impacts of the proposed gaming establishment without the requested funds. Include an explanation as to the interaction the community has had with the regional planning agency, if any, and why that process, if any, will not be sufficient; the interaction it has had with the host community and other prospective surrounding communities and why existing studies and reports, if any, will not be satisfactory.

*Please see Everett's Petition for Designation as Surrounding Community, filed contemporaneously herewith. The applicants have refused to engage in any discussions with Everett or to provide any impact information or funding. Everett lacks the financial resources or staff to undertake a meaningful evaluation of the impacts of the project or to negotiate a surrounding community agreement without the requested disbursement.*

3. Please provide any additional information that the community believes demonstrates that the funds being requested are reasonable in scope. For example, please explain why the costs of the services requested are a reasonable amount.

*Please see Everett's Petition for Designation as Surrounding Community, filed contemporaneously herewith. As indicated therein, the proposed consultants have provided clear and reasonable scopes of work and budgets, and the proposed fees are reasonable and consistent with those prevailing in their respective fields.*

#### CERTIFICATION BY MUNICIPALITY

*On behalf of the aforementioned municipality I hereby certify under the pains and penalties of perjury that all information contained in this application or attached hereto is accurate to the best of my knowledge and understanding. Further, I represent that I have actual authority to submit this application.*

*Carl De Maria, Jr.*

Signature of responsible municipal official

*1/9/2014*

Date

*Carl De Maria, Jr.*

Name of responsible municipal official

*Mayor*

Title

**EXHIBIT "1"**

# ConsultEcon, Inc.

December 12, 2013

Mr. David Rodrigues  
Mr. James Errickson  
City of Everett  
Everett City Hall  
484 Broadway  
Everett, MA 02149

**RE: Support for City of Everett related to neighboring community socio-economic impacts of a Mohegan Sun casino in Revere**

Dear Dave and Jamie:

Based on our discussions, following is a proposed scope of services to support the City of Everett related to neighboring community socio-economic impacts of a Mohegan Sun casino in Revere.

*ConsultEcon, Inc.* was founded in 1991 as The Office of Thomas J. Martin to provide services to clients in the areas of project and plan concept development, evaluation and implementation in the fields of visitor attractions, real estate; and tourism development. The Cambridge based firm builds on the long experience of the principals in these areas. The staff of ConsultEcon, Inc. has conducted over 700 studies nationally and internationally including market and financial feasibility studies, due diligence and economic impact studies for existing and proposed visitor venues and real estate developments.

## **SCOPE OF SERVICES**

1. Review the socio economic impact analyses prepared by Mohegan Sun and/or the City of Revere.
2. Prepare questions and comments regarding the Mohegan Sun and/or the City of Revere socio economic impact analyses as they relate to potential direct or indirect socio-economic impacts on Everett.
3. Support the City of Everett in summarizing the various studies and responses relative to impact studies.
4. Estimate the socio-economic impacts of the Mohegan Sun Casino on the City of Everett.
5. Evaluate the neighboring community agreements prepared to date for other Massachusetts communities and evaluate the terms and conditions, specifically regarding the relative population and municipal budgets, proximity and other relevant factors of the host and nearby communities as well as the extent of potential socio-economic impacts.

# ConsultEcon, Inc.

- Evaluate potential terms and conditions that are offered in the negotiations for neighboring community agreements, focused on the extent of potential impact to Everett, and the experience of other neighboring communities in negotiating agreements

## Budget and Schedule

The time frame will be as needed based on the City of Everett's needs, but is anticipated to be within two months, with follow up as needed thereafter. The City of Everett will provide direction during the process regarding adjusting work items, level of effort on any or all of the items.

Following are anticipated hours per scope item and billing rates for the personnel assigned to the assignment. The actual hours may vary by item from these estimates based on the extent that the casino applicant provides additional needed studies, the extent to which these require more or less review time and the number and duration of meetings, summary reports etc. We will bill bi-weekly with a summary of activities by work item and hours by consultant. ConsultEcon will bill the City of Everett on a time expended basis by billing rates. There will be a not-to-exceed limit of \$35,000 billed time for this assignment. Total budget will not be exceeded without prior client written authorization.

Item	ConsultEcon
1	36
2	10
3	12
4	40
5	20
6	28
	146

## Hourly Billing Rates

### ConsultEcon

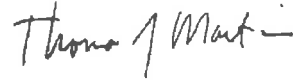
Thomas Martin, President	\$260
Robert Brais, Vice President	\$260
James Stevens, Senior Associate	\$190
Research Associate	\$125

No time will be expended on the work items beyond the total hourly budget summarized above without written direction by authorized personnel of the City of Everett. Optional services not specified in the scope of services would be add-on services billed at our usual rates plus expenses or for a negotiated fee.

# ConsultEcon, Inc.

As needed we will work with the City of Everett in preparing a mutually agreeable contract to conduct the scope of services.

Respectfully submitted



**Thomas J. Martin**  
**President**



**Robert E. Brais**  
**Vice President**

**EXHIBIT "2"**



December 11, 2013

Honorable Carlo DeMaria, Jr., Mayor  
City of Everett  
484 Broadway  
Everett, MA 02149

Attn: David Rodrigues, Assistant City Solicitor

Re: **Proposed Suffolk Downs Casino  
Transportation Peer Review Services**

Dear Mayor DeMaria:

WorldTech Engineering (WorldTech) is pleased to submit the following Scope of Services for Peer Review Services on behalf of the City of Everett ("the City") associated with the transportation plan for the proposed resort casino at Suffolk Downs ("the Applicant") in the City of Revere. Under the Massachusetts Gaming Act, the City qualifies as a designated Surrounding Community relative to the proposed gaming development and is required to reach an agreement with the Applicant setting forth the conditions to establish the proposed development in proximity to the City.

As the transportation Peer Review consultant to the City, our work will include reviewing provided documentation relative to the anticipated site-generated traffic originating in or passing through the City of Everett, the impacts caused by such traffic, and review and/or suggestion of appropriate mitigation measures. Services will include attendance at team meetings and meetings with various agencies relative to the project on the behalf of the City. WorldTech will also provide design services associated with off-site mitigation measures as required.

As the project progresses, written reports will be generated to document our thorough review of the transportation aspects of the proposed project, including study area, existing conditions, project assumptions, operational analysis, projected impacts, and recommendations. In order to meet these objectives we propose the following Scope of Services:



***I. Scope of Services***

***A. Project Scope***

1. The limits of the study area and study intersection locations within the City of Everett will be evaluated to identify if all potentially impacted locations have been adequately studied.
2. Traffic count data will be reviewed for consistency with peak travel times.
3. Available data relative to other modes of transportation (commuter rail, rapid transit, bus, etc.) will be reviewed.

***B. Existing Conditions***

1. Study area locations and other locations along potentially impacted corridors within the City of Everett will be visited to evaluate potential impacts to existing surrounding land uses, physical and operational characteristics of study roadways and intersections, traffic signal timing and phasing, existing transit facilities, and topography. Field observations will be used to verify descriptions of existing conditions in the transportation study.
2. Project assumptions relative to traffic counts including seasonal adjustment, axle correction, peak hour selection, peak hour factors, and volume balancing will be verified.
3. WorldTech will review available electronic files relative to existing conditions analysis, including macroscopic and microscopic highway capacity analysis, travel demand models, and calculations.

***C. Future No-Build Conditions***

1. WorldTech will verify background growth assumptions used in the transportation study based on historical MassDOT traffic count data for study roadways, Census data, and MAPC *MetroFuture 2035* population projections.
2. WorldTech will verify that any programmed roadway improvements or known large development projects are incorporated in the future no-build transportation network.
3. The City will be consulted with to gain concurrence with appropriate planned

projects to be included in future no-build conditions.

4. Future no-build traffic analysis will be verified for consistency with municipal and MassDOT standards and accepted practices.

***D. Project Generated Trips***

1. WorldTech will review trip generation assumptions to verify consistency with industry standards and with assumptions used for similar proposed developments in the Commonwealth of Massachusetts.
2. Distribution of estimated project generated trips and modal split will be verified based on available information, including existing travel patterns, census data, published planning studies, data from similar developments, and available travel demand models.
3. The future build traffic network and projected impacts will be verified for consistency with municipal and MassDOT standards and accepted practices.
4. Using existing traffic volume data and modeling networks in the City of Everett, traffic analyses will be performed to determine if additional locations not studied by the Applicant will be impacted by project-generated traffic.

***E. Mitigation***

1. Proposed improvements to existing roadways and intersections will be reviewed for feasibility and their adequacy to mitigate potential project impacts.
2. Available transit data will be reviewed, as required, to verify anticipated usage is reasonable and feasible based on existing, programmed, or proposed bus, rapid transit, and/or commuter rail service.

***F. Meetings***

1. WorldTech will attend project meetings and public meetings as necessary with the City, the Applicant, and appropriate reviewing agencies as requested throughout the peer review process.
2. This Scope of Services assumes attendance at up to three (3) project team meetings and two (2) public meetings will be required. Additional meetings will be billed to the City on a time and expense basis based on WorldTech wage rates at the time services are performed.

## **II. Fee**

1. The fee for the services described in the above Scope of Services shall be billed to the City on a time and expense basis at WorldTech's Standard Billing Rates in effect at the time that the services are performed. In advance of having defined project limits or a specific level of effort identified, an initial budget amount of \$50,000.00 has been established.

This limit will not be exceeded without prior authorization from the City. Such terms and fees may be extended if mutually agreed to in writing by the City and WorldTech.

2. Reimbursable expenses as may be required shall be billed to the City on a direct expense basis at 1.10 times cost. Reimbursable expenses incurred in conjunction with the performance of the work shall include, but are not necessarily limited to traffic counts, travel, parking, reproduction, telephone, materials and supplies, shipping, delivery, postage, soils analysis, police details, and printing costs, or other additional outside services as may be required and/or requested by the City.

## **III. Miscellaneous**

1. It is understood that all information that the City or the proponent has available relative to the project (i.e., existing and proposed plans, GIS mapping data, traffic data information, local ordinance and bylaws, zoning data, traffic and planning studies, etc.) will be provided to WorldTech at no cost so that we may properly review the work.
2. Unless otherwise provided for hereinbefore, the attached "General Terms and Conditions" are incorporated herein by reference, and shall be considered a part of this Agreement.
3. Execution of this letter by a duly authorized official of the City and the return of one (1) original will be sufficient authorization for WorldTech to proceed immediately with the work involved. One original is also included for the City's files.

Honorable Carlo DeMaria, Jr., Mayor  
December 11, 2013  
Page 5

We appreciate this opportunity to continue to be of service to the City of Everett. If you have any questions regarding this Agreement, Scope of Services or fee, or require additional information, please do not hesitate to contact me directly.

Sincerely,

WORLDTECH ENGINEERING, LLC



James D. Fitzgerald, P.E., LEED AP  
Director, Municipal Engineering Services

ACCEPTED: CITY OF EVERETT, MA

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**CERTIFICATION AS TO THE AVAILABILITY OF FUNDS BY PRIOR APPROPRIATION OF FUNDS FOR SERVICES RENDERED PURSUANT TO THIS AGREEMENT**

\_\_\_\_\_  
Finance Director

\_\_\_\_\_  
Date

\$ \_\_\_\_\_  
Amount Certified

\_\_\_\_\_  
PO#

\_\_\_\_\_  
Account #

## WorldTech Engineering LLC – Standard Terms and Conditions

**1. General:** The following Standard Terms and Conditions, together with the attached Proposal and Standard Fee Schedule constitute the Agreement between WorldTech Engineering, LLC (WorldTech) and the entity or person to whom the proposal is addressed (Client) for the performance of basic or additional services. The Standard Fee Schedule may be omitted for Lump Sum type Agreements.

**2. Standard of Care:** Services provided by WorldTech under this agreement shall be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession (the generally accepted professional standard care) in the same locale currently practicing under similar circumstances and at the time of the subject services. No warranty, express or implied, is included or intended by this Agreement.

**3. Payments:** Fees for services as described herein will be paid to WorldTech by the Client as the work progresses, based upon the presentation of a monthly statement for services.

Unless otherwise agreed upon, payments are due within thirty days after the rendering of our Invoices. Failure of the Client to make payments when due may be cause for suspension of services. Interest will be added to accounts in arrears at the rate of one and one-half (1.5) percent per month on the outstanding balance.

**4. Special Consultants/Subcontractors** are those defined as providing services other than those provided by normal consultants associated with WorldTech.

**5. Insurance:** WorldTech shall obtain and maintain during the performance of this Agreement its standard Insurance coverage as follows:

- Professional Liability Insurance policy during the performance of this Agreement for negligent acts, errors or omissions arising out of performance of this Agreement in the amount of \$1,000,000.
- Workmen's Compensation and Employer's Liability Insurance in compliance with statutory limits
- Commercial General Liability Insurance in the amount of \$1,000,000 per occurrence, and general aggregate for bodily injury (including death), which shall include premises, operations, completed operations and contractual liability coverage, and if services include activities below ground surface, then coverage for underground property damage, collapse and explosion hazards.
- Automobile liability coverage in the amount of \$1,000,000, combined single limit for bodily injury (including death) and property damage, including non-owned and hired vehicles.
- Valuable Papers Insurance in a sufficient amount to assure the restoration of any plans, drawings, computations, field notes or other similar data relating to work covered by this Agreement in the event of loss or destruction until final fee payment is made or all data is turned over to the Client.

WorldTech shall provide Certificates and any renewals substantiating that the required Insurance coverage is in effect and will submit said Certificates prior to commencing work associated with this Agreement. WorldTech shall notify the Client should coverage become unavailable.

**6. Indemnification:** WorldTech shall indemnify and hold the Client harmless from and against all damages, loss or expense including reasonable attorney's fees where recoverable by law to the extent caused by the negligence of WorldTech, its employees, or anyone for

whom WorldTech is legally liable in the performance of this Agreement. Nothing contained herein shall obligate WorldTech to prepare for, or appear in arbitration or litigation on behalf of the Client or to undertake additional work on matters not included herein, except in consideration of additional compensation mutually agreed upon.

**7. Electronic Media:** All electronic media shall be the exclusive property of WorldTech unless otherwise stated in WorldTech written agreement. WorldTech may agree to provide materials to Client stored electronically. Client recognizes that data, plans, specifications, reports, documents or other information recorded on or transmitted as electronic media are subject to undetectable alteration, either intentional or unintentional, due to (among other causes) transmission, conversion, media degradation, software error or human alteration. Accordingly, documents provided to client in electronic media are for informational purposes only and not an end product.

Documents will conform to specifications defined in the scope of services. The documents are submitted to Client for an acceptance period of 30 days. Any defects which Client discovers in that time period shall be reported to WorldTech for correction. WorldTech makes no warranties, either express or implied, regarding the fitness or suitability of the electronic media.

The electronic media are instruments of professional service and shall not be used in whole or in part for any other project or extensions on this project other than that for which they were created, without the express written consent of WorldTech and without suitable compensation. Any re-use without written verification or adaptation by WorldTech for the specific purpose intended will be at the Client's sole risk and without liability or legal exposure to WorldTech. Accordingly, the Client shall, to the fullest extent permitted by law, defend, indemnify and hold harmless WorldTech from any and against any and all damages, claims and losses of any kind (including defense costs) arising out of or resulting from such unauthorized reuse.

**8. Design Services / Changes to Design:** This contract and associated design fee does not include excessive changes to the working drawings after initial completion or excessive changes during the final design stage. Said changes shall be considered *Additional Services*, and shall be billed on an hourly basis at WorldTech standard billing rates in effect at the time services are performed. When excessive changes occur or are requested by the Client, WorldTech shall notify the Client in writing and request written authorization for Additional Services before proceeding with said services.

**Estimates:** As WorldTech has no control over construction costs or contractor's prices, any construction cost estimates are made on the basis of our firm's experience and judgment as design professionals, but it cannot and does not warrant or guarantee that contractor's proposals, bids or costs will not vary from its estimates.

**9. Services During Construction:** If WorldTech services include the performance of services during the construction phase of the project, it is understood that the purpose of such services, including visits to the site, will be to enable WorldTech to better perform the duties and responsibilities assigned to and undertaken by it as a design professional, and to provide the client with a greater degree of confidence that the completed work of contractors will conform generally to the contract documents.

WorldTech shall not, during such visits or as a result of observations of construction, supervise, direct or have control over Contractor's work nor shall WorldTech have authority over, or responsibility for, the

**EXHIBIT "3"**

## SCOPE OF WORK

### **NEGOTIATION OF SURROUNDING COMMUNITY AGREEMENT BETWEEN CITY OF EVERETT AND MOHEGAN SUN MASSACHUSETTS, LLC**


The City of Everett (“City”) has retained Kopelman and Paige, P.C. (“Firm”) as special counsel relative to the proposed development of a resort casino (“Project”), originally on land in the cities of Boston and Revere by Sterling Suffolk Racecourse, LLC, now proposed to be located solely on land located within the City of Revere by Mohegan Sun Massachusetts, LLC (“Mohegan”).

Although Mohegan has not yet formally designated the City as a Surrounding Community with respect to the Project, the City believes it is a surrounding community and intends to seek such designation and seeks payment from Mohegan of fees and costs incurred in connection to the Project, pursuant to M.G.L. c. 23K, § 4(7);

1. Legal Fees: The Firm will bill at the rate of four hundred and fifty dollars (\$450.00) per hour. In addition to said hourly fees, the Firm shall be reimbursed for costs and expenses incurred by it in providing the services set forth herein, which will be passed through at no mark-up. The total hourly billings for the work in the Scope of Work shall not exceed sixty thousand dollars (\$60,000.00), absent further agreement from the City.

2. Scope of Work: The Firm will provide legal counsel and assistance necessary or desirable to fully and professionally provide the following services to the City in connection with the Project.

- Research, prepare, file and present petition to Gaming Commission for designation as Surrounding Community.
- Attendance of at least one principal-level attorney at up to fifteen meetings (including work sessions, strategy sessions, negotiation sessions, consultant meetings, Council meetings, public forums, etc.)
- Oversight, negotiation and drafting of Surrounding Community Agreement and general interactions with applicant's counsel.
- Coordinate and track consultant reviews, review for same for completeness, advise and assess City regarding impacts on negotiation of Surrounding Community Agreement.
- General research and assistance (including interface with Massachusetts Gaming Commission and attendance at its meetings as necessary, assistance with necessary zoning and other ordinance revisions, opinion letters, telephone calls, etc.).



Jonathan M. Silverstein, on behalf of  
Kopelman and Paige, P.C.





**KOPELMAN AND PAIGE, P.C.**  
*The Leader in Municipal Law*

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Boston, MA 02110  
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January 13, 2014

**Jonathan M. Silverstein**  
jsilverstein@k-plaw.com

BY ELECTRONIC MAIL  
AND BY HAND

Mr. John Ziemba, Ombudsman  
Massachusetts Gaming Commission  
84 State Street, 10th Floor  
Boston, MA 02109

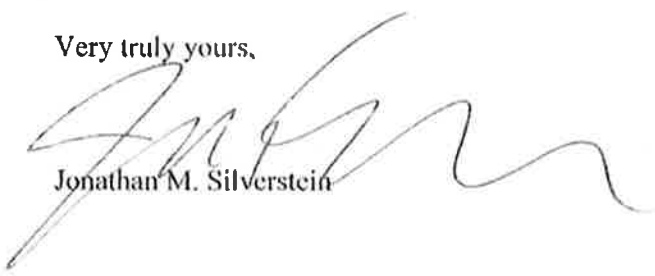
Re: City of Everett's Petition for Designation as a Surrounding Community

Dear Mr. Ziemba:

Enclosed please find one original and five copies of the City of Everett's Petition for Designation as a Surrounding Community and Request for Involuntary Disbursement along with Application for Community Disbursement w/o Letter of Authorization.

Please do not hesitate to contact me with any questions.

Very truly yours,

  
Jonathan M. Silverstein

JMS/jam

Enc.

cc: Hon. Carlo DeMaria, Jr.  
City Solicitor  
Kevin Conroy, Esq.  
Mr. Chip Tuttle

489863/09312/0001

CERTIFICATE OF SERVICE

I, Jonathan M. Silverstein, hereby certify that on the below date, I served a copy of the foregoing City of Everett's Petition for Designation as a Surrounding Community and Request for Involuntary Disbursement along with Application for Community Disbursement w/o Letter of Authorization, by electronic mail and by first class mail, postage prepaid, to the following individuals:

Kevin C. Conroy, Esq.  
Foley Hoag LLP  
155 Seaport Boulevard  
Boston, MA 02210-2600

Mr. Chip Tuttle  
Chief Operating Officer  
Sterling Suffolk Racecourse, LLC  
525 McClellan Highway  
East Boston, MA 02128

Dated: \_\_\_\_\_

1/13/14



Jonathan M. Silverstein

## Thurlow, Mary (MGC)

---

**From:** Ziemba, John S (MGC)  
**Sent:** Monday, January 13, 2014 2:39 PM  
**To:** Thurlow, Mary (MGC)  
**Subject:** FW: Mohegan Sun Revere - City of Everett's Petition for Designation as a Surrounding Community  
**Attachments:** Everett Cover Letter.pdf; Everett Surrounding Community Petition.pdf; Everett Involuntary Disbursement Application.pdf

John S. Ziemba  
*Ombudsman*

Massachusetts Gaming Commission  
84 State Street 10th Floor  
Boston, MA 02109  
TEL 617-979-8423 | FAX 617-725-0258  
[www.massgaming.com](http://www.massgaming.com)

follow us on



---

**From:** Jonathan Silverstein [<mailto:JSilverstein@k-plaw.com>]  
**Sent:** Monday, January 13, 2014 1:41 PM  
**To:** Ziemba, John S (MGC)  
**Cc:** Blue, Catherine (MGC); Conroy, Kevin (Counsel) ([kconroy@foleyhoag.com](mailto:kconroy@foleyhoag.com)); David P. Rodrigues, Esq. ([David.Rodrigues@ci.everett.ma.us](mailto:David.Rodrigues@ci.everett.ma.us)); Jamie Errickson (Comm Dev) ([Jamie.Errickson@ci.everett.ma.us](mailto:Jamie.Errickson@ci.everett.ma.us)); Carlo DiMaria ([mayorcarlo.demaria@ci.everett.ma.us](mailto:mayorcarlo.demaria@ci.everett.ma.us)); Melissa Murphy ([Melissa.Rodrigues@ci.everett.ma.us](mailto:Melissa.Rodrigues@ci.everett.ma.us)); Jeffrey T. Blake  
**Subject:** Mohegan Sun Revere - City of Everett's Petition for Designation as a Surrounding Community

Good afternoon, John:

Attached please find PDF copies of the City of Everett's Petition for Designation as a Surrounding Community and Application for Community Disbursement W/O Letter of Authorization, together with cover letter. The bound original and five bound copies will be hand-delivered to you this afternoon.

Attorney Conroy, as counsel for the applicant, is copied on this email and will receive a hard copy by first class mail. At Kevin's request, I am also sending a courtesy copy by mail to Chip Tuttle.

Please do not hesitate to contact me with any questions.

Best regards,  
Jonathan

Jonathan M. Silverstein  
Kopelman and Paige, P.C.  
101 Arch Street  
12th Floor  
Boston, MA 02110

(617) 556-0007 (main)  
(617) 654-1729 (direct)  
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[jsilverstein@k-plaw.com](mailto:jsilverstein@k-plaw.com)

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**KOPELMAN AND PAIGE, P.C.**  
*The Leader in Municipal Law*

January 13, 2014

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**Jonathan M. Silverstein**  
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BY ELECTRONIC MAIL  
AND BY FIRST CLASS MAIL

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

Re: Mohegan Sun Massachusetts, LLC—Category 1 License Application

City of Everett's Petition for Designation as a Surrounding Community  
And Request for Involuntary Disbursement

Dear Chairman Crosby and Members of the Commission:

Pursuant to 205 CMR 125.01(2), the City of Everett ("Everett") hereby petitions for designation as a Surrounding Community to the Category 1 gaming facility proposed by Mohegan Sun Massachusetts, LLC ("Mohegan"), to be located in the City of Revere ("Revere") on property owned or controlled by Sterling Suffolk Racecourse, LLC ("Suffolk"). As discussed more fully below, and although few details of the proposed "Revere only" facility and the impacts it is likely to have on nearby communities have been released, it is beyond serious dispute that Everett will be significantly and adversely affected by the Mohegan proposal.

Moreover, Everett has made numerous attempts to meet with both Mohegan and Suffolk and to obtain information and funding to evaluate the likely impacts of the project on Everett. All of these overtures were completely ignored for months, without even the courtesy of a reply. The refusal of Mohegan and Suffolk to have any dialogue whatsoever with Everett, and the concomitant inability of Everett to obtain any meaningful information or conduct a fulsome impact analyses regarding the proposal, should result in an inference in favor of Everett's Petition for designation as a Surrounding Community.

In addition to seeking designation as a Surrounding Community, Everett respectfully requests that the Commission order Mohegan to make an involuntary disbursement, pursuant to 205 CMR 114.03(2)(b), in order to enable Everett to engage impact consultants and counsel to assist it in further evaluating the likely impacts of the proposal and negotiating a Surrounding Community Agreement. Everett's Application for Community Disbursement W/O Letter of Authorization is filed herewith.

**KOPELMAN AND PAIGE, P.C.**

Stephen Crosby, Chairman  
Massachusetts Gaming Commission  
January 13, 2014  
Page 2

**A. Background**

**1. Everett's Unsuccessful Attempts To Initiate A Dialogue With Suffolk And Mohegan**

As the Commission is aware, until November 5, 2013, the proposed Suffolk project was proposed to be constructed entirely in East Boston, with Revere to host only minimal, ancillary facilities, such as horse stables. All of this changed after East Boston voted to reject the proposal, and Mohegan and Suffolk announced a new "Revere-only" proposal, whereby:

1. Mohegan will be substituted for Suffolk as the applicant for the project;
2. The entirety of the Category 1 facility would be constructed in Revere (whereas no portion of the gaming space, hotel space, retail space, restaurant space, spa space or other publicly accessible buildings was previously to be located in Revere);
3. Accordingly, new building and site design plans would need to be prepared; and
4. There will be an entirely new vehicular access/egress, which previously was to be in Boston and now will be in Revere (even closer to the City of Everett).

Prior to the November 5 election, Everett had attempted to meet with Suffolk to discuss the potential impacts of the project on Everett and to begin negotiation of a Surrounding Community Agreement. On March 6, 2012, Everett Mayor Carlo DeMaria met with Suffolk's Chief Operating Officer Chip Tuttle and made clear to Mr. Tuttle that Everett considered itself to be a Surrounding Community. Subsequent to that date, neither Tuttle nor any other representative of Suffolk engaged in any outreach to the City or made any attempts to discuss the project or its potential impacts with the City or its representatives.

Finally, after having had no contact from the applicant in over a year and a half, Everett (through its counsel) contacted Mr. Tuttle in September 2013. Specifically, by letter dated September 26, 2013 (attached as Exhibit A), the undersigned reiterated to Mr. Tuttle that Everett considers itself to be a Surrounding Community to the project and requested a meeting to discuss the matter. Everett also requested that Suffolk provide consultant funding to enable Everett to evaluate the impacts of the project and negotiate toward a Surrounding Community Agreement. Mr. Tuttle did not bother to respond to the September 26, 2013 letter.

After it became apparent that Suffolk intended to pursue its project, notwithstanding the November 5, 2013 referendum vote in East Boston, Everett once again attempted to initiate a dialogue regarding its status as a Surrounding Community. By letter dated November 29, 2013 (attached as Exhibit B), Everett's counsel again attempted to secure at least some response from Mr. Tuttle. After reiterating Everett's request for designation, the undersigned again suggested "that a meeting be scheduled...to facilitate further discussions regarding the City's requests for surrounding

## KOPELMAN AND PAIGE, P.C.

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community designation and consultant funding.” This letter concluded: “I would hope to at least receive the courtesy of a response to this correspondence.” Unfortunately, this hope was in vain, as Mr. Tuttle yet again refused to reply in any way to the November 29 letter from Everett’s counsel.

After Mohegan and Suffolk announced that Mohegan would now be the new applicant for the project (with Suffolk leasing the project site to Mohegan), Everett yet again attempted to engage in surrounding community discussions with the new applicant. On December 4, 2013, Everett’s counsel contacted Mohegan’s counsel both by telephone and email. Attached to the December 4, 2013 email (attached as Exhibit C) were copies of the September 26 and November 29 letters to Mr. Tuttle. Everett’s counsel noted that “[g]iven the short time available to initiate discussions and conduct impact analyses, and the lack of available information regarding the new ‘Revere only’ proposal, time is clearly of the essence.” Once again, there was no reply at all from the applicant.

After still having had no reply to these numerous attempts at dialogue, Everett’s counsel sent a follow-up email on December 19, 2013 (attached as Exhibit D), in a final attempt to engage Mohegan in surrounding community discussions. In this email, Everett’s counsel noted:

As you know, the City [of Everett] has for quite some time been seeking (unsuccessfully) to engage in negotiations and obtain consultant funding relative to the Suffolk Downs proposal. Suffolk Downs has literally ignored every attempt at communication by the City. The City is hopeful that, with a new applicant and new project, there will be a meaningful opportunity for dialogue that will result in a satisfactory surrounding community agreement.

Unfortunately, true to Suffolk’s prior form, Mohegan refused even to provide the courtesy of a reply to this or any of Everett’s attempts at dialogue. Consequently, Everett—a small city with very limited resources to retain consultants—has been unable to retain consultants to assist it in evaluating the many adverse impacts the City expects to experience as a result of the Mohegan proposal in Revere. This has been exacerbated by the fact that what information was previously available regarding the original proposal for East Boston may no longer be applicable, since Mohegan is now proposing an entirely new and different project in Revere—a proposal that Everett has literally seen for the first time after the filing of Mohegan’s RFA-2 application on December 31, 2013.

### **2. Mohegan’s RFA-2 Application**

On December 31, 2013, Mohegan filed its RFA-2 Application. In its application, Mohegan designates only Boston, Chelsea and Winthrop as Surrounding Communities. However, Mohegan then indicates that it intends to enter into an “omnibus Surrounding Community Agreement with Lynn, Salem, Saugus, Malden, and Medford.” Mohegan RFA-2, Detailed Answers, §5-15-01, p.2 (Exhibit E); §5-17-01, p.2 (Exhibit F). Incredibly, no mention at all is made of Everett, which is

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closer to the facility than **any** of these listed communities,<sup>1</sup> and actually **separates** Revere from the identified Surrounding Communities of Malden and Medford.

Even more incredibly, Mohegan disingenuously answers “N/A” [not applicable] in Section 5-16 of the RFA-2, entitled “Declined Communities” (Exhibit F), in response to the request to:

*Identify any community that requested a surrounding community agreement or sought to discuss its status as a prospective surrounding community, which the applicant declined.*

In light of the indisputable record set forth above, regarding Everett’s repeated requests (made to both Suffolk and Mohegan) for designation as a Surrounding Community and to negotiate a surrounding community agreement, it is clear that **Mohegan’s response in Section 5-16 is an outright and knowing falsehood.**

Moreover, Mohegan’s assertion, in Section 5-17 of the RFA-2 that it “is committed to working with the communities proximate to the resort” (Exhibit G) is belied by its conduct (and that of its predecessor applicant) in ignoring Everett’s repeated requests to meet and begin surrounding community discussions.

### **3. Suffolk (Not Mohegan) Finally Responds—After Filing Of The RFA-2 Application**

As noted above, neither Suffolk nor Mohegan ever gave Everett the courtesy of a response to the many efforts to engage in discussions regarding Everett’s request for surrounding community status. On January 7, 2014—a week after filing of the RFA-2 application and just a few days before the deadline for filing the instant Petition—Suffolk’s Chip Tuttle sent a combative and bizarre letter to Everett’s counsel (attached as Exhibit H), purporting to respond to Everett’s request (more than three and a half months prior) for designation as a Surrounding Community.

As an initial matter, Everett still has received no communication whatsoever from Mohegan, which is now purportedly the applicant for this project. It is Everett’s understanding that Suffolk is simply the proposed landlord for the project, and it is not clear why Mr. Tuttle took it on himself to communicate with a proposed Surrounding Community, where it is the applicant who is supposed to engage in such a dialogue.

Moreover, the January 7, 2014 letter contains a number of bizarre, offensive and wholly irrelevant statements and demands. First, Mr. Tuttle demands that Everett provide “[e]vidence that this request [for designation] is simply not an effort to impede the Revere project’s application,

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<sup>1</sup> Indeed, Salem is **approximately four times farther** from the facility than Everett.



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given the City of Everett's official prior public efforts...to do so." This assertion references prior letters from Everett's Mayor and counsel regarding variance requests by Suffolk and the need for a new host community vote on the "Revere only" proposal. It comes as no surprise that Everett, as the Host Community for a competing project, would prefer to see its project receive the Category 1 license for Region A. It is likewise understandable that Everett officials exercised their First Amendment rights, when the Commission has solicited comments and has considered important and novel questions regarding the Suffolk project. Thus, the undersigned's letter to the Commission of December 6, 2013, arguing that the November 5, 2013 vote was inadequate to permit the "Revere only" proposal to proceed, was not an improper "attempt to derail the Revere project" as suggested by Mr. Tuttle.<sup>2</sup> Rather it was the proper exercise of Everett's constitutional right to petition government.<sup>3</sup>

The fact that Everett understandably would prefer to see its project succeed and has advocated on its behalf on issues pertinent to the project does not disqualify it from seeking surrounding community status and does not legitimize the conduct of Suffolk and Mohegan in refusing to engage in discussions with Everett. As set forth below, in the event Mohegan is awarded the Region A license, Everett will be significantly and adversely impacted by the project, and it has every right to seek protection from and mitigation for such effects, pursuant to Chapter 23K.

Second, Mr. Tuttle appears to suggest Everett will not be considered a Surrounding Community to the Revere project unless it provides "[e]vidence that the proponents of the Everett project are negotiating with all communities within the same degrees of proximity to its facility as the closest border of Everett is from the Revere casino project." This argument is patently absurd. As a preliminary matter, the City of Everett's request for designation as a Surrounding Community to the Mohegan Project should not be reviewed based upon the actions of a private developer seeking to construct another project. Moreover, Everett's request for designation is not based solely upon geographic proximity (though, of course, that is one of the criteria for designation under both the statute and the Commission's regulations). Even by Suffolk's own estimates (which, as discussed below, were deemed to be understated by the Metropolitan Area Planning Commission and by Everett's own traffic consultant) **hundreds** of peak-hour trips will be traveling to the Revere project through Everett along already overburdened roadways.

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<sup>2</sup> In contrast to Mr. Tuttle's refusal to discuss surrounding community status with a competing host community, Wynn Resorts has not refused to engage in surrounding community discussions with Boston based upon Boston's attempt to "derail" the Everett project by baselessly claiming host community status.

<sup>3</sup> It is noteworthy that at least one member of the Commission agreed with Everett's position that a new vote would be required, ultimately resulting in the Commission's determination to grant a variance from its regulations to allow this to happen. It is also noteworthy that the December 6 letter, of which Mr. Tuttle complains, emphasized Everett's concerns regarding the applicant's refusal to engage in surrounding community discussions and the unfair and untenable position in which this conduct would leave Everett. Unfortunately, this prediction has been all too accurate.

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Third, Mr. Tuttle makes the inflammatory, reckless and completely unsupported suggestion that the Investigations and Enforcement Bureau (“IEB”) found “some indication of involvement of [improper] individuals related to the City’s consideration of the Everett project and the securing of permits and other approvals for the project.” The sections of the IEB report cited by Mr. Tuttle in support of this false and salacious statement do not even remotely support it. Mr. Tuttle concludes by stating that (presumably, before agreeing to meet with Everett to discuss surrounding community status), “we will need to receive certain assurances from the City to ensure that our dealings will not trigger adverse consequences that would affect our or Mohegan Sun’s ability to secure a license.” The suggestion that Mohegan would suffer “adverse consequences” by complying with its statutorily-mandated obligation to negotiate in good faith with a Surrounding Community—i.e. that Mohegan could be “tainted” by negotiating a surrounding community agreement with Everett—is as ludicrous as it is offensive.

Tellingly, Mr. Tuttle’s letter contains no indication that he (or, more importantly, Mohegan) would be willing to meet with Everett to begin good-faith negotiations regarding Everett’s request for designation as a Surrounding Community.

**B. Everett Should Be Designated A Surrounding Community**

**1. Everett Should Receive a Favorable Inference, Based Upon the Applicants’ Dilatory Conduct**

As a preliminary matter, Everett submits that it should receive a favorable inference on its petition, based upon the applicants’ abject refusal, as described above, to meet with Everett or even to respond to Everett’s repeated requests to engage in discussions regarding its request for designation as a Surrounding Community.

It appears to be completely unprecedented for an applicant to simply refuse to speak to a potential surrounding community and to ignore repeated requests for dialogue from the community. Even where applicants have disagreed with claims of surrounding community status, they have at least engaged in a good faith discussion of the issue. Here, both Mohegan and Suffolk have snubbed numerous written and verbal requests to discuss Everett’s request for designation.<sup>4</sup> Just as disturbing is the complete lack of information provided to Everett regarding the proposal and the impacts it is likely to have on Everett. Coupled with the lack of consultant funding, the applicants’ conduct has severely impeded Everett’s ability to meaningfully evaluate the expected impacts of the project.

This conduct not only demonstrates the bad faith of the project proponents toward Everett (presumably, as evidenced by Mr. Tuttle’s January 7, 2014 letter, because Everett is a competing

<sup>4</sup> Mr. Tuttle acknowledged his failure to engage in discussions with Everett at the Commission’s November 7, 2013 meeting, when he indicated he had responded to every other request for surrounding community status, except Everett’s. Transcript, Nov. 7, 2013, p.214, l. 6 – p.215, l.7.

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Host Community), but it is wholly inconsistent with the Commission's repeated directives to applicants to engage with potential surrounding communities early and in good faith. By flatly refusing to meet or even respond to Everett, or to provide Everett with any data or other impact analyses, Mohegan and Suffolk have intentionally subverted the process contemplated by the Commission. The resultant lack of information similarly deprives the Commission and its consultants of information that could be used in fully evaluating the likely impacts of the Mohegan Sun proposal on Everett.

The lack of such information, resulting from the applicants' own dilatory conduct, should not be held against Everett. Rather, the City respectfully submits that the Commission should hold this lack of information against the applicant and draw an inference in favor of Everett's status as a Surrounding Community (though Everett submits that its proximity to the Host Community and the project site, as well as the other information set forth in this Petition, is sufficient to support its Surrounding Community status without the need for any such inference).

**2. Everett is Likely to Experience Significant and Adverse Traffic Impacts from the Mohegan Project<sup>5</sup>**

As noted above, Everett abuts Revere to the west. Numerous local roads provide ready access across the Everett/Revere border and to the project site. Even more significant, however, is the fact that two major routes commonly used to avoid the limited-access highway system—Route 16 and Route 99—traverse Everett. These two roads intersect at Sweetser Circle, a high-traffic and high crash rotary, before Route 16 (also known as the Revere Beach Parkway) continues eastbound, providing direct access to Revere and the Suffolk Downs property, located approximately 2.5 miles from the Everett line, at the intersection of Route 16 and Route 1A. Missing movements between Route 99 and Route 16 are completed via a connector road to Santilli Circle, a signalized traffic circle which also experiences oversaturated conditions and a high frequency of crashes.

Route 99 is entirely maintained by the City of Everett. Though Route 16, including Sweetser and Santilli Circles, is ostensibly under the control of the state Department of Conservation and Recreation ("DCR"), DCR performs very little maintenance on that road, and such maintenance (as well as public safety response) in actuality falls to Everett. **Mohegan has acknowledged that "Route 16 is the corridor expected to carry regional (external) Resort trips to and from the west."** Exhibit F, §5-17-01, p.2.

Patrons or employees of the proposed Mohegan facility traveling from metro-north and northwestern communities (such as Arlington, Burlington, Malden, Medford, Somerville, Winchester and Woburn), as well as from points north via I-93 (such as Manchester, NH) and Route

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<sup>5</sup> The facts and conclusions set forth in this section, unless otherwise indicated, are supported by the Affidavit of Everett's traffic consultant, James D. Fitzgerald, P.E., LEED AP, of WorldTech Engineering, attached hereto as Exhibit I.

## KOPELMAN AND PAIGE, P.C.

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Massachusetts Gaming Commission  
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3 (such as Lowell), and from central and western Massachusetts via Route 2, and anyone seeking to avoid I-93 (which is more circuitous and frequently gridlocked, particularly at peak hours and on weekend evenings) are expected to routinely use Route 16 to access the Mohegan project. Indeed, internet mapping systems automatically route drivers bound for Suffolk Downs from each of those locations (and many more) through Everett on Route 16. (E.g., Google Map directions, attached as Exhibits J-1 through J-10).<sup>6</sup>

In its initial Infrastructure Improvements Plan presentation (attached as Exhibit K), prepared by Vanasse Hangen Brustlin, Inc. (“VHB”), Suffolk indicated that 7 percent of approaching traffic and 17 percent of departing traffic would arrive at the original Suffolk Downs resort site via Route 16 through Everett. (Exhibit K, p.3). Despite this finding by Suffolk’s consultant, no traffic analyses were performed along Route 16 in the City of Everett, while several intersections along Route 1A and Route 107, each carrying only 2 percent of project-generated trips, were analyzed within the City of Revere (See Exhibit K, p.4).

It is anticipated that Mohegan will argue that most drivers visiting the project from the west and northwest will travel south on I-93 and then backtrack north on Route 1, thereby avoiding Everett. This is simply not a tenable argument. Anyone, who has sat in gridlocked traffic on I-93 coming into Boston on a Friday evening, knows that drivers will always look for ways to avoid that highway. Route 16 through Everett is clearly going to be a routine cut-through for patrons and employees of the facility. Additionally, taxis traveling between Logan Airport and Boston proper frequently use Route 16 and other surface streets in Everett as cut-through routes to avoid tolls in the Harbor tunnels and on the Tobin Bridge; it must be assumed that taxis bringing patrons to the Mohegan facility would do the same. As noted above, the now-defunct East Boston proposal estimated that 7 percent of approaching trips and 17 percent of departing trips would use Route 16 through Everett.

Moreover, the regional planning agency (“RPA”) that serves both Everett and Revere, the Metropolitan Area Planning Council (“MAPC”), in reviewing the East Boston proposal, specifically found that **“the Proponent has underestimated the number of trips on Route 16 and should re-evaluate the trip assignment and distribution assumptions.”** MAPC explicitly identified “Route 16 and Route 99 (Broadway) in Everett” as an intersection requiring specific impact analysis. (MAPC Comment Memorandum, Oct. 11, 2013, attached as Exhibit L) [emphasis added].<sup>7</sup> Therefore, the already substantial percentage of project trips acknowledged by Suffolk’s own consultant as traveling through Everett was deemed to be too low by the MAPC. Importantly, MAPC has issued a letter supporting Everett’s petition for designation as a Surrounding Community to the Mohegan project. (Attached as Exhibit M).

<sup>6</sup> The undersigned hereby certifies that the attached directions were produced automatically as shown, with no attempts to manipulate the results to depict a route through Everett.

<sup>7</sup> Mohegan’s new plan to move the entire facility into Revere, including a new access drive in Revere, only brings the project closer to Everett, thereby increasing the likelihood of drivers cutting through Everett to travel to the facility.

## KOPELMAN AND PAIGE, P.C.

Stephen Crosby, Chairman  
Massachusetts Gaming Commission  
January 13, 2014  
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In addition Route 16 is the most obvious cut-through to avoid the Callahan Tunnel, which is frequently at a standstill, and the Sumner Tunnel, which requires a substantial toll. This is demonstrated by the fact that the state Department of Transportation (“MassDOT”) itself is detouring vehicles traveling to East Boston and Logan Airport through Everett along Route 16, while the Callahan Tunnel is under construction. (MassDOT Detour Advisory and Map, attached as Exhibit N).

In a December 30, 2013 memorandum (attached as Exhibit O), provided to Everett for the first time as an attachment to Mr. Tuttle’s January 7, 2014 letter, VHB claims there will be no significant and adverse impact on Everett, because the project will produce only “226 and 312 vehicle trips west and east of Route 99, respectively” along Route 16, representing increased traffic volumes of 4% and 6%, respectively. The following should be noted:

- VHB provides no basis or methodology for reaching these conclusions;
- Both MAPC and Everett’s traffic consultant WorldTech have concluded that these numbers are underestimated;
- Even the underestimated number of vehicle trips acknowledged by VHB is far greater than the number of vehicle trips deemed by the Commission, other applicants, **and even Mohegan itself**, to support the designation of various towns as Surrounding Communities to other projects:
  - o The Commission designated the Town of Bolton as a Surrounding Community to the Category 2 proposal in Leominster, where its consultant found that peak hour traffic could be as high as **100-150 trips** on Route 117, which would be “significant” (Surrounding Community Petition Analysis for Town of Bolton, dated Nov. 20, 2013, p.13-14);
  - o Greenman-Pedersen, Inc. (“GPI”), the independent traffic consultant retained by the Pioneer Valley Planning Commission (“PVPC”) pursuant to this Commission’s RPA process, stated that “the Town of West Springfield is considered the most heavily impacted [community] in relation to traffic” generated by the MGM Category 1 proposal in Springfield, based upon its determination that “**approximately 135 trips** are expected to utilize roadways in Town during the Friday evening commuting hour.” (Exhibit S, p.27). This conclusion caused MGM to make West Springfield the only community it voluntarily designated as a Surrounding Community without first executing a Surrounding Community Agreement.
  - o **Mohegan itself** designated six towns as Surrounding Communities to its Category 1 proposal in Palmer, where its analysis for traffic generated by that project through those towns only ranged from **less than 10 to 112** Friday peak-hour trips. (Exhibit T, p.7)—i.e. **one-tenth to one-third** of the trips through Everett that Suffolk acknowledges will be generated by the Mohegan proposal.

## KOPELMAN AND PAIGE, P.C.

Stephen Crosby, Chairman  
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- VHB's peak-hour trip estimates represent a 4 percent increase in traffic along Route 16 in Everett west of Route 99 and a 6 percent increase east of Route 99. This is a significant increase in traffic during an already congested time period on already congested roads.
- VHB claims that trips generated from within Everett would be dispersed enough over the local roadway to be negligible and that Route 99 would not attract external trips. This argument is unfounded. Local trips from within Everett (and, based on Google Maps directions to Suffolk Downs, a significant portion of Malden) would be channelized into already-congested arterials in Everett, including Route 99 (Broadway), Main Street, and Ferry Street, to access Route 16. Based on the gravity model used for the Wynn resort in Everett, 3.7 percent of patrons are anticipated to come from Everett and Malden. Although no data has been provided to enable Everett's traffic consultant to determine the trip distribution for the Mohegan project, it is reasonable to assume it will be similar based on the site's proximity to Everett. This is a significant portion of project-related traffic that will feed into Everett's local street network. In fact, VHB notes a discrepancy of 86 peak-hour trips along Route 16 crossing Route 99, indicating that approximately 27.5 percent of the project-generated trips assigned to Route 16 are turning off at Route 99, likely either via Sweetser Circle or Second Street.

In light of the above, it is clear that (even using the applicant's own unsupported and understated estimates) hundreds of peak-hour trips, and thousands of daily trips, will be generated through Everett, along already congested roadways, as a result of the Mohegan project. This traffic generation is far higher than for many communities throughout the state that have already been designated as Surrounding Communities by the Commission, other applicants, and even by Mohegan itself. It is simply not credible, therefore, for Mohegan to suggest that Everett will not be significantly and adversely impacted by the Revere project. Accordingly, Everett respectfully requests that its Petition be approved and that the Commission designate it a Surrounding Community.

### 3. Everett's Demographics and Proximity to the Project Site are such that it is Likely to Experience Significant Housing, Public Safety and Code Enforcement Impacts<sup>8</sup>

The City of Everett is a working class city with a population of approximately 42,500. It borders both Boston (to the south) and Revere (to the east). Everett also shares critical roadway infrastructure with Revere and has mutual aid agreements with Revere regarding police, fire, homeland security and other public safety matters. (See, e.g., Exhibits Q and R). The Suffolk Downs site is just 2.5 miles or less from the Everett border by car.

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<sup>8</sup> The following facts, unless otherwise indicated, are supported by the accompanying Affidavit of Everett's Executive Director of Planning and Development, James Errickson (attached as Exhibit P).

**KOPELMAN AND PAIGE, P.C.**

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The estimated median family income in Everett is \$46,674—far below the statewide median of \$62,859. Residential rents in Everett are also far below the regional average, making Everett attractive to service-sector and other low-wage employees. As of the 2010 Census, over 40 percent of Everett’s population is foreign-born (nearly three times the statewide average), a nearly 12 percent increase since 2000, giving Everett the 4<sup>th</sup> highest proportion of foreign born residents in Massachusetts. During this time, the overall population in Everett also increased by 9.3 percent (nearly three times the statewide average), cementing Everett’s place as one of the most densely populated communities in the region.

The combination of relatively low (and decreasing) incomes, low rents and abundance of multi-family residential housing stock has created a crisis in Everett in terms of code enforcement and public safety. Illegal apartments (many of them extremely unsafe), illegal rooming houses and “hot-bedding” (a term used to describe a room shared by multiple persons or families in shifts, most commonly occurring in communities with high populations of low-paid migrant and service workers) are very common and constantly being found by City officials. Numerous instances of threats to public safety (blocked fire exits, dangerous electrical connections, illegal space heaters, basement apartments, lack of bathroom facilities) have taxed the City’s inspectional services and public safety departments. Though the Mayor has made this issue a priority, the City simply does not have the resources to address the expected intensification of this problem that would occur with the influx of additional low-wage residents that would likely result from operation of the project.

In addition, Everett has a long-standing problem with code and zoning enforcement regarding industrial properties used as junkyards, sand and gravel operations, scrap metal stockpiling, building materials recycling and related uses. Accordingly, though the complete lack of communication or project details from the applicants makes it difficult to predict with assurance, it is very likely that Everett will experience a significant amount of heavy truck traffic and code enforcement issues during construction of the Mohegan project.

**4. Conclusion and Request For Involuntary Disbursement**

For the reasons set forth above, it is beyond serious dispute that Everett will be significantly and adversely impacted by the Mohegan Sun casino proposed just 2.5 miles away in the abutting city of Revere. Accordingly, Everett respectfully requests that the Commission designate it as a Surrounding Community.

In addition, Everett requests that the Commission approve its Application for Involuntary Disbursement, filed contemporaneously herewith. Although the fact that Everett will experience significant and adverse impacts cannot be seriously questioned, the specific nature and full extent of those impacts cannot yet be known, in light of the applicants’ refusal to provide project

**KOPELMAN AND PAIGE, P.C.**

Stephen Crosby, Chairman  
Massachusetts Gaming Commission  
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specifications, impact analyses or consultant funding in order to allow the City to meaningfully evaluate the expected impacts. Everett has received good-faith proposals from three consultants (legal, traffic impact and social/economic impact), who are prepared to assist it in evaluating impacts and negotiating a Surrounding Community Agreement. Based upon Everett's prior working relationships with these consultants, as well as the undersigned's substantial experience in representing communities in connection with proposed gaming facilities, the proposed rates and budgets are reasonable and consistent with industry norms. However, Everett simply does not have the funds available to engage these consultants without a disbursement from Mohegan.

Everett's good faith efforts to engage in discussions and obtain voluntary disbursements through a letter of authorization have been stonewalled by both Suffolk and Mohegan. Moreover, Suffolk opted not to participate in the RPA process established by the Commission (and Mohegan has not attempted to engage the MAPC to date), so Everett was not able to obtain the information and analyses it needs through that process. It is therefore clear that the only way Everett will be able to evaluate the impacts of the project and fairly negotiate a Surrounding Community Agreement is through the Involuntary Disbursement process.

Accordingly, the City of Everett hereby requests:

1. That the Commission designate Everett as a Surrounding Community to the Mohegan project; and
2. That the Commission approve Everett's Application for Involuntary Disbursement, and direct Mohegan to make the disbursement on an expedited basis, in order to allow Everett to retain consultants immediately to assist it in evaluating impacts and negotiating a Surrounding Community Agreement with Mohegan.



**KOPELMAN AND PAIGE, P.C.**

Stephen Crosby, Chairman  
Massachusetts Gaming Commission  
January 13, 2014  
Page 13

Thank you for your consideration of this very important matter. As always, please do not hesitate to contact me if I can provide any further information to assist the Commission in evaluating the City's requests.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jonathan M. Silverstein", written in a cursive style.

Jonathan M. Silverstein

JMS/jam

Enc.

cc: Hon. Carlo DeMaria, Jr.  
Kevin Conroy, Esq.  
Mr. Chip Tuttle

489129/09312/0001

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COMMUNITY**

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- C. Email, dated December 4, 2013 (Silverstein to Conroy)
- D. Email, dated December 19, 2013 (Silverstein to Conroy)
- E. Mohegan RFA-2, Detailed Answer 5-15-01
- F. Mohegan RFA-2, §5-16, p.197
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- H. Letter dated January 7, 2014 (Tuttle to Silverstein) (without attachments)
- I. Affidavit of James D. Fitzgerald, PE, LEED
- J. (J-1 through J-10) Google Maps Directions to Suffolk Downs from various locations
- K. Suffolk Downs Infrastructure Improvements Plan Presentation
- L. MAPC DEIR Comment Memorandum, October 11, 2013
- M. MAPC Support Letter, dated January 7, 2014
- N. MassDOT Detour Advisory
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- P. Affidavit of James Errickson
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- S. Greenman-Pedersen, Inc., *Technical Memorandum - Proposed MGM Development, Springfield, MA, Regional Traffic Peer Review*, dated December 20, 2013 (excerpt)
- T. Beals & Thomas, *Report of Impacts on Nearby Communities, Mohegan Sun Massachusetts*, dated October 21, 2013 (excerpt)





Scott C. Crabtree  
Town Manager

Town of Saugus  
Town Hall  
298 Central Street  
Saugus, Massachusetts 01906

JZ

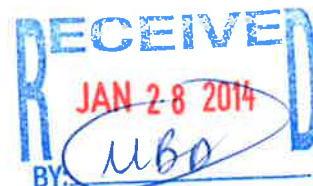
January 28, 2014

hand-delivered  
on 1/28.

Telephone: (781) 231-4111  
Fax: (781) 231-4068

**BY HAND DELIVERY**

Mr. Stephen Crosby, Chair  
Massachusetts Gaming Commission  
84 State Street, 10<sup>th</sup> floor  
Boston, MA 02109



*Re: Petition for Involuntary Disbursement - Wynn MA, LLC (Everett)*

Dear Chairman Crosby:

This letter is sent on behalf of the Town of Saugus (the "Town" or "Saugus"), in order to petition for an involuntary disbursement of impact funding in connection with Wynn MA LLC's application for a casino in Everett, Massachusetts.

In connection with its efforts to analyze and/or secure designation as a "surrounding community" of the Wynn casino, Saugus has sought impact funding directly from the applicant, Wynn. That correspondence is memorialized in the attached, Exhibits A-C. To date, although the parties have met once, and the Town will make every effort to proceed cooperatively on this matter, no agreement has yet been reached on this subject, creating the need for this formal Petition.

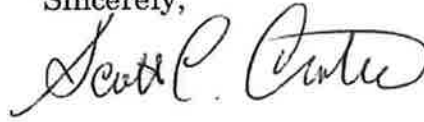
In light of the facts and circumstances surrounding this process, Saugus has not had a practical opportunity or sufficient time to perform a thorough and detailed "net impact" analysis. A significant factor in this regard is that the Town's resources are such that securing independent consultants and experts -- including to analyze of the background/source information upon which Wynn is basing its opposition to Saugus' designation as a "surrounding community" -- imposes an undue financial burden on the Town. (Notably, too, Wynn itself has yet to provide Saugus-specific analysis in opposition to the Town's petition.)

For this reason, the Town hereby requests funding for impact analysis, through involuntary disbursements, of the applicant Wynn, in the amounts set forth in the attached Exhibit A. We further welcome any guidance the Commission may wish to offer in order to assist in establishing a protocol for this process.

**Mr. Stephen Crosby, Chair**  
**January 28, 2014**  
**Page 2 of 2**

Thank you for your and the Commission's attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott C. Crabtree". The signature is fluid and cursive, written over a light background.

**Scott C. Crabtree, Esq.**  
**Town Manager**

**Enclosures**

cc (by electronic mail): **Kim Sinatra, Esq.**  
**Jacqui Krum, Esq.**  
**Mr. John Tocco**  
**George K. Atanasov, Esq.**

A



**Town of Saugus**  
Town Hall  
298 Central Street  
Saugus, Massachusetts 01906

**Scott C. Crabtree**  
Town Manager

Telephone: (781) 231-4111  
Fax: (781) 231-4068

January 10, 2014

**BY HAND DELIVERY AND REGULAR MAIL**

George K. Atanasov, Esq.  
Mintz Levin Cohn Ferris Glovsky and Popeo PC  
One Financial Center  
Boston, MA 02111

***Re: Request for Impact Funding – Wynn Application***

Dear Mr. Atanasov:

This letter is sent on behalf of the Town of Saugus (the “Town” or “Saugus”), in connection with its petition in support of “surrounding community” designation in the Wynn Resorts application.

As noted in that petition, due to the facts and circumstances surrounding this process to date, Saugus has not had a practical opportunity or sufficient time to perform a more thorough and detailed impact analysis than set forth in its petition. If the issue of “net impact” needs to be resolved through formal process in presentations before the Commission, the Town’s resources are such that securing appropriate consultants and experts will impose an undue financial burden on the Town. For this reason, through you, the Town hereby requests funding for impact analysis directly from the applicant, Wynn Resorts.

At this time, the scope and nature of this effort is prospective and may change. Nonetheless, the Town has asked three outside vendors/entities for rough estimates of the fees that may be charged in taking this process through an anticipated and scheduled hearing date of January 23, 2013.



George K. Atanasov, Esq.  
January 10, 2014  
Page 2 of 2

Those estimates are set forth as follows:

Economic Development Consulting:	\$5,000-10,000
Traffic/Road Expert Analysis:	\$10,000-15,000
Legal Services	\$15,000-20,000
<b>TOTAL:</b>	<b>\$30,000-45,000</b>

We are of course willing to work on this matter with you cooperatively, including the manner in which this may be expedited most efficiently, a process for refunding any unused funds, and/or whether there may need to be involvement from the Commission in handling this administratively.

Due to the tight timeline, we ask for a response from Wynn on this inquiry by the close of business on Monday, January 13, 2014, in order that the Town may seek this funding through a petition directed to the Massachusetts Gaming Commission seeking involuntary disbursements from the applicant, to the extent that may be necessary.

Please do not hesitate to call me if you have any questions. Thank you for the consideration.

Sincerely,



Scott C. Crabtree, Esq.  
Town Manager

cc (by electronic mail): Ms. Jacqui Krum, Wynn Resorts

**B**



January 14, 2014

Scott C. Crabtree, Esq.  
Town Manager  
Town of Saugus  
298 Central Street  
Saugus, MA 01906

Re: Request for Impact Funding – Wynn Resort in Everett

Dear Mr. Crabtree,

We are in receipt of our letter dated January 10, 2014 addressed to George K. Atanasov, Esq. requesting funding for impact analysis related to our application for a proposed development to be located in the City of Everett, Massachusetts. Per your letter, we understand and appreciate that the Town of Saugus has not had an opportunity to perform a thorough and detailed impact analysis and trust that you will undertake to do so within the timeframe established by the Massachusetts Gaming Commission.

Prior to the filing of our response to the RFA-2 application, we commissioned an economic impact study from a reputable consulting firm, a copy of which is attached as Attachment 5-02-02 RKG Neighboring Comm Report to our response. The report concluded that there will be "significant, positive indirect economic impacts on the neighboring communities from the one-time and ongoing employment and potential incremental local spending generated by the project."

In addition, per the Massachusetts Environmental Policy Act (MEPA), we have conducted extensive studies regarding mitigation for the proposed project including a detailed study and analysis of transportation (water, rail, roadways, bicycle, pedestrian, etc.), air quality and greenhouse gas emissions, wetlands and waterways, storm water, groundwater, wastewater and water supply, geotechnical, solid and hazardous wastes, construction management and historic and archaeological resources. The results are set forth in our Draft Environmental Impact Report ("DEIR") filed with the Executive Office of Energy and Environmental Affairs on December 16, 2013. As you may know, the MEPA process is specifically designed to elicit input from the general public and local, regional and state agencies. We have been actively engaged in the MEPA process and are confident that this process will have the intended result of enabling all interested parties, including the Town of Saugus, to participate. In furtherance of this process, we would be pleased to meet with you and your representatives to deliver the DEIR and to discuss the impacts, the vast majority of which are positive and none of which would have an adverse economic impact on the Town of Saugus.



In an effort to move this process forward efficiently and responsibly, we can provide you with a copy of any reports that you may need and access to any of our consultants for the purpose of enabling your analyses. In doing so, we hope to avoid duplication of efforts and the incurrence of unnecessary expenses.

Please do not hesitate to contact me at (702) 328-4787 or via e-mail at [jacqui.krum@wynnresorts.com](mailto:jacqui.krum@wynnresorts.com) if you have any questions or concerns.

Regards,

A handwritten signature in black ink that reads "Jacquie Krum". The signature is written in a cursive style with a large, looping initial "J".

Jacqui Krum  
Senior Vice President and General Counsel

C



**Scott C. Crabtree**  
Town Manager

**Town of Saugus**  
Town Hall  
298 Central Street  
Saugus, Massachusetts 01906

Telephone: (781) 231-4111  
Fax: (781) 231-4068

January 17, 2014

**BY REGULAR AND ELECTRONIC MAIL**

Jacqui Krum, Esq.  
Senior Vice President and General Counsel  
Wynn Resorts Development  
3131 Las Vegas Boulevard  
South Las Vegas, NV 89109

***Re: Town of Saugus – Impact Funding***

Dear Attorney Krum:

Upon review of your letter dated January 14, 2014, it is apparent that Wynn Resorts does not intend to voluntarily provide funding to the Town of Saugus in order that the Town may secure independent analysis of the impacts of Wynn's proposed resort in nearby Everett, Massachusetts. As a result, the Town has little choice but to petition the Massachusetts Gaming Commission for the same.

Given the statements in your letter that the proposed Wynn Resort in Everett will have only positive economic impacts on Saugus, we similarly presume that Wynn intends to oppose the Town's efforts to secure "surrounding community" designation in connection with the Wynn application, and will proceed formally in that regard as well. (As noted in our petition, we also believe that that the relevant factors accompanying that designation, and impacts on Saugus in the event that a new Wynn Resort is built in Everett, would go well beyond potential environmental impacts -- which is MEPA's jurisdiction.)

We are happy to meet with you or any of Wynn's representatives to discuss these matters and review any material you believe supports your position, and/or to determine whether there is an opportunity to reach a cooperative agreement. With that said, considering that a hearing on the Town's petition for "surrounding community" designation is currently scheduled to proceed before the MGC on

Jacqui Krum, Esq.  
January 17, 2014  
Page 2

January 28, 2014, we respectfully submit that if such a meeting is to occur, it would be best completed during the week of January 20<sup>th</sup>.

Thank you for your consideration, and feel free to call me anytime to discuss the issues set forth above.

Sincerely

A handwritten signature in cursive script, reading "Scott C. Crabtree". The signature is written in black ink and is positioned above the printed name and title.

Scott C. Crabtree, Esq  
Town Manager

cc (by electronic mail): George K. Atanasov, Esq.

## Voluntary Disbursements

### Everett/Revere

#### Grant 1

<b>a</b>	Kopelman		2/13/13	Flat fee \$100,000 through Phase 2 Application including HCA
<b>b</b>	Sasaki Associates	\$50,000	2/13/13	Principal \$195-\$300 Project mgr \$85-195 Pro. Designers \$85-195 Architects \$85-195 Planners/Interiors \$70-\$85 Support Staff \$55-\$70

#### Grant 2

<b>a</b>	Kopelman –Legal	\$60,000	6/5	Services after Phase 2 @ \$375/hr.
<b>b</b>	World Tech Engineering	\$30,000	6/5	Principal \$200 Director/PM \$180 Sr. PE?Planner \$155 Project Engineer: \$115 Jr. Engineer \$80 CAD/Tech \$60 Admin\$55
<b>c</b>	A.J. Jennings	\$35,000	6/5	Principal \$165 Senior Planner \$135 Support Planner \$75 Admin \$55
<b>d</b>	Consult Econ	\$4,900	6/5	

#### Grant 3

<b>a</b>	Consult Econ- Economic Peer Review	\$ 69,000	12/13/13	President \$260 V. President \$260 Senior Assoc. \$190 Research Assoc. \$125
<b>b</b>	BSC Group- Urban Renewal Plan	\$125,000	12/13/13	Existing conditions Inventory \$27,500; Market Analysis \$10,000; Labor \$122,800

#### Grant 4

<b>A</b>	World Tech Engineering – Traffic Consultations	\$149,850	01/24/14	Peer Review Services \$100,000; Traffic Signal Investigation \$1,200 per location; \$850 per location – if four or more location; budget amount of \$8,500.00
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**Involuntary Disbursements**

**EVERETT**

<b>A</b>	Consult Econ	\$35,000		President \$260 V. President \$260 Senior Assoc. \$190 Research Assoc. \$125
<b>B</b>	WorldTech Engineering	\$50,000		
<b>C</b>	Kopelman & Paige	\$60,000		\$450.00 per hour
<b>D</b>	Johnson Consulting – Economic Analysis	\$20,000		

**SAUGUS**

<b>A</b>	CDM Smith – Traffic Study	\$15,000		
<b>B</b>	Community Reinvestment Associates –Economic Development	\$9,600.00		\$160.00 per hour
<b>C</b>	Arrowwood Peters LLP – Legal Fees	\$16,104.35		No detail provided